

**STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL COUNTY  
BOARD OF COMMISSIONERS  
REGULAR SESSION – OCTOBER 14, 2019**

**Assembly**

The McDowell County Board of Commissioners met in Regular Session on Monday, October 14, 2019, at 4:00 p.m., at the Historic Carson House, 1805 Highway 70 West, Marion, North Carolina. The meeting was duly advertised for the change in time and location.

**Members Present**

David Walker, Chair; Tony Brown, Vice-Chairman; Barry McPeters; Lynn Greene; and Brenda Vaughn

**Members Absent**

None

**Others Present**

Ashley Wooten, County Manager; Cheryl Mitchell, Clerk to the Board

**Call to Order**

Chairman Walker called the meeting to order. The invocation was given by Vice Chairman Tony Brown, followed by the pledge of allegiance, led by Commissioner Vaughn.

**Approval of Minutes**

Commissioner McPeters made a motion to approve the September 9, 2019 Regular Session, and September 16, 2019 DSS Regular Session minutes, second by Vice Chairman Brown. By a vote of 5-0, the motion carried.

**Approval of Agenda**

Chair Walker called for any additions or deletions to the agenda. There were none.

Vice Chairman Brown made a motion to approve the agenda, second by Commissioner McPeters. By a vote of 5-0, the motion carried.

**Recognition of Hunter Safety Award**

West McDowell Middle School Principal Nakia Carson introduced Scott Page, the 2018 Southern Mountain Zone Instructor of the Year from the NC Wildlife Resources Commission. Mr. Page came to McDowell County schools in 2005 and coaches wrestling and weightlifting. He has also been a hunter safety instructor since 2005.

Mr. Page received a Henry Golden Boy rifle in recognition of the award from the WRC.

Commissioner Greene knew Mr. Page when he worked as a School Resource Officer and agreed with Mr. Carson that Mr. Page was an excellent instructor. The Board congratulated Mr. Page on his award.

### **Water Projects Update**

Mr. Wooten met with an engineer regarding resumption of the water intake/treatment plant project. The next step is to submit a conveyance application to Duke Energy. The engineer should have the application submitted on the county's behalf within the next few weeks.

Staff also discussed with the engineers looking at several possible service areas, and will bring recommendations to the next Board meeting.

### **Backcountry Trail Program**

Jason McDougald spoke at last month's meeting about a trails program. Mr. McDougald requested a \$20,000 contribution to the program to be in next year's budget.

Commissioner McPeters asked if this would be a reoccurring request. Mr. Wooten replied yes he thought it would be.

Vice Chairman Brown made a motion to table this item until the Board gets into budget discussions, second by Commissioner McPeters. By a vote of 5-0 the motion passed.

### **Building Inspections Dept Update**

Jay Suttles, Building Inspector, gave an update on the Building Inspections Department, and also presented a proposed retention and incentive salary plan.

The trades in inspections are: building, plumbing, mechanical, and electrical. An employee receiving a Level 1 standard certification would receive a 1% pay increase; a Level 2 standard certification would receive a 2% pay increase, and Level 3 standard certification would receive a 3% pay increase. In addition, an employee receives a 2% increase or increase to minimum salary of the pay grade when all four standard Level 1 certifications are achieved, an additional 3% increase or increase to minimum salary of the pay grade when all four standard Level 2 certifications are achieved, and an additional 5% increase or increase to minimum salary of the pay grade when all four standard Level 3 certifications are achieved.

Vice Chairman Brown made a motion to approve the plan, second by Commissioner Greene. By a vote of 5-0 the motion passed.

### **Board Appointments**

The Library Board has one vacancy and it was presented as a first reading. The vacancy will be advertised and applications presented at the next Board meeting.

### **West Court Office Lease Renewal**

Mr. Wooten reminded the Board of the Public Defender space the County is required to provide and a lease that was signed a year ago. The lease expires the end of the month. Although the Public Defender space is almost ready to be occupied, it is being used as a swing

space. Currently the Clerk of Court is being moved there, while those offices are being renovated. Staff inquired about a month to month lease, but the landlord will only lease on a yearly basis.

Commissioner Greene made a motion to approve the lease, second by Commissioner McPeters. By a vote of 5-0 the motion was approved

**Glenwood Parade Road Closure Ordinance**

Request was received from the Glenwood Christmas Parade Committee for approval of *An Ordinance Declaring a Road Closure for the 2019 Glenwood Christmas Parade.*

**AN ORDINANCE DECLARING A ROAD CLOSURE  
FOR THE 2019 GLENWOOD CHRISTMAS PARADE**

**WHEREAS**, the McDowell County Board of Commissioners recognizes the tradition of the Glenwood Christmas Parade the Saturday after Thanksgiving; and

**WHEREAS**, the McDowell County Board of Commissioners acknowledge the importance of the Parade for residents of McDowell County and the region; and

**WHEREAS**, the McDowell County Board of Commissioners recognizes that this Parade requires approximately one and a half hours to install signing and traffic control, hold the Parade and for the removing of signs, traffic control, and litter;

**NOW THEREFORE BE IT ORDAINED** by the McDowell County Board of Commissioners pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

Date: Saturday, November 30, 2019

Time: 3:00 p.m. to 4:30 p.m.

Route Description: 1.64 mi. SR 1786 (Old US 221) from SR 1168 (Ashworth Rd) southward to SR 1785 (Hunt Lane)

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to protect participants and to guide vehicles around the event route.

Adopted this 14<sup>th</sup> day of October, 2019

ATTEST:

\_\_\_\_\_  
David Walker  
Chairman

\_\_\_\_\_  
Cheryl Mitchell  
Clerk to the Board

Vice Chairman Brown made a motion to approve the ordinance, second by Commissioner Vaughn. By a vote of 5-0, the motion carried.

**Tax Matters**

**Releases, Refunds, & Write-offs**

MV tax refunds	\$ 804.90
Releases over \$100	\$ 2,133.47
Refunds	\$ 10,243.55
Discoveries	\$ 169.51

Commissioner McPeters made a motion to approve the tax matters as presented, second by Commissioner Vaughn. By a vote of 5-0, the motion carried.

**Transit Public Hearing and Update**

Randall Conley, Transportation Director, gave an update on the Transit Department, and was present for the scheduled FY 2021 public hearing. Mr. Conley noted the department has a fleet of 11 vehicles, and by the end of the year he will have replaced 8 of the vehicles. The additional three will be replaced in next year's budget. Mr. Conley also noted he had applied for a Gateway Foundation grant.

Chairman Walker declared the board in a public hearing setting at 4:31pm and asked for public comments.

There were no comments.

Commissioner McPeters made a motion to go out of public hearing at 4:32pm, second by Vice Chairman Brown. By a vote of 5-0 the motion carried.

Chairman Walker noted the Board wanted to see the Transit Department become self-sufficient. Vice Chairman Brown noted he was glad the county had an operating Transportation Department due to work of the Board of Commissioners pushing for public transportation for the county.

Mr. Conley requested approval of the *Resolution for Fiscal Year 2021 Transportation Funding*:

**Resolution for Fiscal Year 2021 Transportation Funding**

**WHEREAS**, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

**WHEREAS**, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

**WHEREAS**, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

**WHEREAS**, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds.

**WHEREAS**, non-Community Transportation applicants may apply for funding for “purchase-of-service” projects under the Capital budget Section 5310 program.

**WHEREAS**, McDowell County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

**WHEREAS**, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

**NOW, THEREFORE**, be it resolved that the County Manager of McDowell County is hereby authorized to submit grant application (s) for federal and state funding in response to NCDOT’s calls for projects, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural, small urban, and urban public transportation services.

*Attest:*

\_\_\_\_\_  
Cheryl L Mitchell  
Clerk to the Board

\_\_\_\_\_  
David Walker  
Chairman

Commissioner McPeters made a motion to approve *Resolution for Fiscal Year 2021 Transportation Funding*, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

**Planning Ordinance Discussion**

Currently the Planning Board members also serve as the Board of Adjustment. The Board of Adjustment is a quasi-judicial board that hears variance requests for several development ordinances. The Board of Adjustment holds a quasi-judicial hearing in its decision-making process. The hearing involves testimony from the person seeking a variance request or other special actions. Commissioner Vaughn asked if there had been any issues with the current Board of Adjustment also serving as the Planning Board. Vice Chairman Brown replied yes he feels there are issues being settled and the final decision being made should be made by the Board of Commissioners. Planning Board is very busy at this time, with a lot of growth around the lake. Discussion was held on the Chairman of Planning Board, and one board member serving with the Board of Commissioners to make up the Board of Adjustment. Ronald Harmon, Planning Director and Deputy County Manager of Community Development would serve as secretary to the Board of Adjustment.

The Planning Board would make a decision and if there was an appeal, it would be referred to the Board of Adjustment. Mr. Wooten noted there were some ordinances the Board would need to change the language in, due to implementing a separate Board of Adjustment.

Vice Chairman Brown made a motion to approve the Board of Adjustment contingent upon recommendation of the county attorney, second by Commissioner Greene. Discussion followed on who would serve on the Board of Adjustment. It was agreed the Board of Commissioners, along with the Planning Board Chairman and one Planning Board member serve on the Board of Adjustment. By a vote of 5-0 the motion passed.

### **Animal Services Update**

Mr. Terry DePoyster, Public Services Director, presented a request to change the operating hours for the Animal Services facility, as well as staff hours.

#### Current operating hours:

Monday-Friday: 9:30am-3:30pm

Saturday: 8am-1:00pm

Sunday: closed

#### Proposed operating hours:

Monday – closed

Tuesday-Wednesday – 10am-4pm

Thursday – 10am-6pm

Friday-Saturday – 10am-4pm

Sunday – closed

Thursday and Saturday would allow more convenient hours for the public

#### Current Staff Hours:

Monday-Friday: 7:30am-3:30pm

Saturday: 7:00am-1:00pm

Sunday: 2.5 hours cleaning/feeding

#### Proposed Staff Hours:

Monday: 8:00am – 1:00pm

Tuesday: 8:00am – 4:00pm

Wednesday: 8:00 – 4:00pm

Thursday: 8:00 – 6:00pm

Friday: 8:00am – 4:00pm

Saturday: 8:00am – 4:00pm

Sunday: 2.5 hours cleaning/feeding

Commissioner Greene made a motion to approve operating and staff hours, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

Mr. DePoyster requested working with Holland and Hamrick to design space for isolation area as new animals are brought in either for medical reasons or bite holding reasons.

Vice Chairman Brown made a motion to allow the engineer to look at the space, second by Commissioner McPeters. By a vote of 5-0 the motion passed.

### **Administrative Items**

Mr. Wooten presented a Project Budget Ordinance for Toolcraft.

Commissioner McPeters made a motion to approve the ordinance, second by Commissioner Greene. By a vote of 5-0 the motion passed.

Mr. Wooten presented the following Nebo Water System leak adjustment fee waiver requests:

Sheila Moore	\$15.68
Carroll Eckard	\$16.68
Carter Macbain	\$69.90

Vice Chairman Brown made a motion to approve all three fee waiver requests, second by Commissioner McPeters. By a vote of 5-0, the motion passed.

A request for write off of landfill transfer fees and late fees was presented due to an employee error at the scale house in 2014. Transfer fees were charged to a closed account and the operator did not obtain a signature for each of the tickets charged to the account.

Commissioner Vaughn made a motion to approve the write offs of \$808.56, second by Commissioner McPeters. By a vote of 5-0, the motion passed.

Request from William Kehler, Emergency Management Director, was presented for approval of *Resolution Designation of Applicant's Agent* for authorization to apply for a FEMA grant.

RESOLUTION DESIGNATION OF APPLICANT'S AGENT North Carolina Division of Emergency Management	
Organization Name (include parent Organization)	Disaster Number:
McDowell County	FFMA-4412-DRAC
Applicant's State Designated Agency for Single Action purposes (if Designated Agency is not assigned, please indicate):	
Applicant's Fiscal Year (FY) Start	
Month: 07 Day: 01	
Applicant's Federal Employer's Identification Number	
56-6000318	
Applicant's Federal Information Processing Standards (FIPS) Number	
37-111-	
PRIMARY AGENT	SECONDARY AGENT
Agent's Name William Kehler	Agent's Name Alison Bell
Organization McDowell County EM	Organization McDowell County
Official Position Director	Official Position Finance Officer
Mailing Address 600 EAST COURT ST Marion, NC 28752	Mailing Address 600 EAST COURT ST Marion, NC 28752
City, State, Zip	City, State, Zip
Daytime Telephone 828-652-3241	Daytime Telephone 828-652-7121
Facsimile Number 828-652-0100	Facsimile Number
Pager or Cellular Number 828-925-0701	Pager or Cellular Number
<small>BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining federal state and federal financial assistance under the Robert T. Dole/Disaster Relief &amp; Emergency Assistance Act, (Public Law 101-228 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the assurances printed on the reverse side hereof. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally. PASSED AND APPROVED the 14th day of October, 2019.</small>	
GOVERNING BODY	CERTIFYING OFFICIAL
Name and Title DINO WOLFE, Chair, Board of Commissioners	Name Cheryl Mitchell
Name and Title	Official Position Clerk to the Board
Name and Title	Daytime Telephone 828-652-9121 x 1525
CERTIFICATION	
I, Cheryl L. Mitchell, (Name) duly appointed and Clerk to the Board (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of McDowell County (Organization) on the 14th day of October, 2019.	
Date: 10/15/19	Signature: Cheryl L. Mitchell

Commissioner McPeters made a motion to approve the Resolution, second by Commissioner Vaughn. By a vote of 5-0, the motion was approved.

The second reading of the change in the Overtime Policy for emergency response was presented. The change would allow overtime when a local State of Emergency was declared by the McDowell County Board of Commissioners.

Commissioner McPeters made a motion to approve the change in the Overtime Policy, second by Commissioner Vaughn. By a vote of 5-0, the motion passed.

The Finance Department had received five responses regarding financing of the following vehicles for Emergency Services, Public Services and Building Inspections.

- One 2019 Dodge Ram 4x4
- One 2019 Ford F150 4x4
- One 2019 Ford F250 4x4
- One 2020 Chevrolet Tahoe and Stryker Stretcher power load system and CPR device

BB&T responded with the lowest rate of 2.32% in the amount of \$187,221.00 for a period of four years, (8) semi-annual payments in arrears beginning April, 2020.

Mr. Wooten presented *Resolution Approving Financing Terms* for approval:

### **Resolution Approving Financing Terms**

**WHEREAS:** The McDowell County, NC (“Borrower”) has previously determined to undertake a project for the financing of vehicles & equipment (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project.

**BE IT THEREFORE RESOLVED,** as follows:

1. The Borrower hereby determines to finance the Project through Branch Banking and Trust Company (“BB&T”) in accordance with the proposal dated October 7, 2019. The amount financed shall not exceed \$187,221.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.32%, and the financing term shall not exceed four (4) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Department shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery

constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the BB&T financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 14<sup>th</sup> day of October, 2019

ATTEST:

By: \_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Chairman

Vice Chairman Brown made a motion to approve the Resolution, second by Commissioner Greene. By a vote of 5-0, the motion passed.

Mr. Wooten presented EMS non-collectible accounts totaling \$33, 380.47 for write-off.

Commissioner Greene made a motion to approve write-offs, second by Commissioner McPeters. By a vote of 5-0, the motion was approved.

Mr. Wooten presented the following budget amendments:

- GF 8 – Allocates reserved grant funds for Cooperative Extension
- GF 9 – Allocates prior year reserves and transfers funds for utilities at the new Elections building
- GF 10 – Allocates grant and reserved funds and transfers between line items in Emergency Services
- GF 11 – Allocates inmate housing, reserved funds, and transfer funds between line items in the Sheriff's Office budget
- GF 12 – Allocates reserved funds for the Senior Center
- GF 13 – Allocates Teen Court grant funds
- GF 14 – Transfers between line items in Soil and Water
- GF 15 – Transfers funds between line items for the Public Defender rent and appropriates fund balance for building purchase item from last year.

Commissioner McPeters made a motion to approve GF8-GF15 as presented, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

## **Old Fort Recreation Properties Lease Discussion**

Mr. Wooten noted staff is currently looking at all recreation facilities in the county, and will bring a report to next month's meeting. Chairman Walker asked for the public to call in with any recreation needs/suggestions.

In 2008 the Town of Old Fort leased their Catawba River Road recreation properties to the county after they decided to discontinue maintenance and operation of the Town parks. Since then the County has maintained the facility along with other County-owned properties. Staff recently discovered the lease with the Town expired in 2018. The County pays for the maintenance of the properties, and per the lease the Town does not contribute financially to the maintenance of the parks.

Chairman Walker added he had received a complaint about the condition of the facility in Old Fort. Discussion was held on the length of the lease.

Commissioner Greene made a motion to go back to Town of Old Fort to request lease for five years instead of ten years, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

## **Carson House Update**

Chairman Walker noted on March 13, 1843, seventeen Justices of the Peace gathered at the home of Col. John L. Carson, now known as the Historic Carson House, to elect the government of the new county (McDowell). Construction of the Court House took two years to complete, so the business of the county government was conducted in the Carson House until the building was complete.

Beginning in August, 1991 the Board of Commissioners started meeting annually at the Historic Carson House. Due to the heat and no HVAC system in 1991 the meeting was moved to October, 1992. He added this was the 28<sup>th</sup> consecutive year of the Board meeting at the Carson House.

Commissioner McPeters made a motion to pick up the cost for tonight's meal, second by Vice Chairman Brown. By a vote of 5-0, the motion passed.

Martha Jordan, Carson House Executive Director, and Chuck Abernathy, President of the Carson House Board of Directors welcomed the Board to the Carson House.

Mr. Abernathy gave an update of some of the repairs and updates that had been made to the house.

Ms. Jordan reviewed annual events that take place at the Carson House.

Mr. Abernathy noted the Carson House Board was in discussion of constructing an interpretive center onto the back of the current house. An archaeological study would have to be completed before construction could begin. He added there would be a tour of historic homes in Marion as a fundraiser in December.

Ms. Jordan presented a water color print to the Board in appreciation of the county support.

## **Citizen Comment**

Mr. Frank Seaman, principal partner of Virtue of Defense Tactical-firearms training facility in Crooked Creek Old Fort area

- understands there has been a noise complaint issued, compressing into a 2-3 hour shooting schedule instead of 8 hour period.
- Luke Greene with Wildlife is helping with a green plan for noise complaints

Ms. Lisa Hutchins-complaint against Frank Seaman's shooting range-

- people on her property without her permission
- speeding on the dead-end road
- shooting all day and until as late as 9pm, and on Sundays and holidays
- three homeowners have looked at selling, but have been told it will be difficult to sell due to the shooting noise
- requested the board to look into the noise ordinance as a nuisance issue
- also has neighbors in Creston community complaining
- submitted letter from Aldridge family requesting stipulations to the ordinance regarding time and volume of the shooting range.

Mr. Steve Bush noted the Chamber stands behind this vibrant business and asked for the Board to find a common ground that works for the business as well as the community citizens.

## **Reports and Communications**

Mr. Wooten noted due to the Veterans Day holiday and administrative offices being closed on November 11<sup>th</sup>, by Board consensus the Regular Session meeting would be moved to November 18<sup>th</sup> at the normal time and place.

Dr. Haney returned thanks for the meal.

## **Adjournment**

There being no further business to transact at this time, upon motion by Commissioner McPeters, second by Vice Chairman Brown, the meeting was adjourned at 5:42pm.

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Cheryl Mitchell  
Clerk to the Board

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David Walker  
Chairman