

HAYWOOD COUNTY COMMISSIONERS
REGULAR MEETING – September 15, 2014

CALL TO ORDER

Chairman Mark S. Swanger convened the regular meeting of the Haywood County Board of Commissioners at 5:30 p.m. in the Historic Courtroom at the Haywood County Historic Courthouse, Waynesville, North Carolina, with Chairman Mark S. Swanger, Vice-Chairman J.W. “Kirk” Kirkpatrick III, Commissioners L. Kevin Ensley, Michael T. Sorrells and Bill L. Upton present. Staff members present were County Manager Ira Dove, County Attorney Leon M. “Chip” Killian, III, Finance Director Julie Davis, Public Information Officer David Teague, and Executive Assistant/Deputy Clerk Candace Way.

PLEDGE OF ALLEGIANCE

Chairman Swanger led the Pledge of Allegiance.

CALL FOR PUBLIC HEARING

Alex Aumen, Transit Director, Mountain Projects addressed the Board requesting a call for Public Hearing for Rural Operating Assistance Program Funding Application at the October 20th 5:30 p.m. Board of County Commissioner’s meeting. He stated that these funds are available through the NC Department of Transportation. He stated that the Department of Social Services will receive funding from this, as will Haywood Public Transit. He noted that the deadline for this application is October 24th. It was agreed that the Public Hearing will be set for Monday, October 20, 2014 at 5:30 p.m. in the Historic Courtroom of the Courthouse.

Public Hearing Notice

This is to inform the public of the opportunity to attend a public hearing on the proposed Rural Operating Assistance Program (ROAP) application to be submitted to the North Carolina Department of Transportation no later than October 24, 2014 by the county of Haywood. The public hearing will be held on October 20, 2014 at 5:30pm at the Haywood County commissioners meeting in the Haywood County Court House located at 215 North Main Street, Waynesville, NC. Haywood County will provide auxiliary aids and services under the ADA for disabled persons who wish to participate in the hearing. Anyone requiring special services should contact Alex Aumen, Transit Director as soon as possible so that arrangements can be made.

The programs included in the Rural Operating Assistance Program application are:

1. Elderly & Disabled Transportation Assistance (EDTAP) Program provides operating assistance for the public transportation of elderly and disabled citizens.
2. Employment Transportation Assistance Program provides operating assistance for the public transportation of persons with employment related transportation needs.
3. Rural General Public (RGP) Program provides operating assistance for the public transportation of persons living in non-urban areas of the county.

The period of performance for Rural Operating Assistance Program funds is July 1, 2014 through June 30, 2015. The FY2015 ROAP individual program totals are:

PROGRAM	TOTAL
EDTAP	\$64,441
EMPL	\$22,260
RGP	\$68,342
TOTAL	\$155,043

This application may be inspected at the Haywood Public Transit Office located at 50 Army Drive, Clyde, NC from 8:00am to 5:00pm Monday-Friday. Written comments should be directed to Alex Aumen, 2251 Old Balsam Road, Waynesville, NC before September 18, 2014.

Commissioner Sorrells offered the invocation.

PUBLIC COMMENT SESSION

Chairman Swanger opened the public comment session. Comments are generally limited to three minutes per individual, unless the speaker is representing a group for which the comment period may be extended to five minutes.

Pat Carr addressed the Board, stating she was there representing the Haywood County Republican Party. She stated that the Haywood County Republican Party Executive Committee had passed a resolution asking for the 2011 neighborhood delineation tax maps, market factor rate and sales information for each neighborhood be put back online for all to see. She also requested this be provided to the Haywood County Republican Party, preferably a digital copy. She read and provided a copy of the resolution, along with a flash drive to the County Manager.

Eddie Cabe addressed the Board expressing concern over the Haywood County Emergency Management Ordinance. He stated that in his opinion it is ten pages of bureaucracy. He read excerpts from the ordinance, highlighting his concerns over the County Manager having control over many things, and inquired if this would apply to having control over the Sheriff.

Commissioner Ensley responded to the comment on the maps. He stated that he uses the flood maps frequently. He stated that there is a fee if a request is made for them. He also commented on the request made from Ms. Carr noting that the function of the Republican Party was to recruit and raise funds for candidates, not to be an activist group, and requested that she let the Party know that.

Chairman Swanger noted that the requested maps had been online for more than a year with only one hit in the last three months of its' existence. He stated that the County cannot tie up the server with older items. He reiterated that anyone can make a public records request, and once received they are free to do anything they want to do with it noting that the County will adhere to that law.

Mr. Killian responded to the Emergency Management concern during the public comment session by stating that the Federal courts have upheld the North Carolina's Emergency Management Act found in Article 1 Chapter 166A as constitutional. He noted that it has also upheld that in times of emergency, the government can temporarily curtail activities that would otherwise be protected under the federal constitution. He noted that most counties in North Carolina have responded to the enabling authority by enacting such ordinances. He noted that the County Manager cannot remove the Sheriff who is an independently elected constitutional officer. He stated in order to protect citizens and provide emergency management, a county must have a local emergency management ordinance under the Enabling Act of the NC General Assembly.

Chairman Swanger responded that he had read the article from the Institute of Government which said the same thing, noting that these acts were endorsed by Presidents Reagan and Bush. He stated that without an ordinance, a county would not be eligible for government reimbursements after the emergency, such as we received after the floods.

CONSTITUENT CONCERNS

Commissioner Ensley thanked Senator Jim Davis and Representative Joe Sam Queen for the work they did in the passing of Senate Bill 3 which is the JMAC bill.

Chairman Swanger commented on the Clyde Fire Department's service honoring 9-11, noting that it was a great presentation and remembrance.

ADMINISTRATIVE/AGENCY REPORTS

There were no reports.

DISCUSSION / ADJUSTMENT TO AGENDA

There were no discussions/adjustments to the agenda

CONSENT AGENDA

Vice-Chairman Kirkpatrick made a motion to approve the consent agenda as presented. Commissioner Upton seconded, the motion carried unanimously.

1. Approval of September 2, 2014 regular meeting minutes.
2. Approval of August 2014 refunds, releases, amendments and discoveries – David Francis, Tax Administrator

Mr. Francis stated that there were discoveries to follow the tax bills. He stated that there was property that came out of land use that will be reflected in the report.

NEW BUSINESS

Request approval to accept lowest responsive, responsible bid for one EMS ambulance purchase

Chairman Swanger recognized EMS Director, Jim Pressley. Mr. Pressley stated that one Type 1 ambulance purchase had been approved in this year's budget. Southeastern Specialty Vehicles had the lowest bid after the formal bid process had been completed in the amount of \$133,996, and if approved they would like to move forward with the purchase.

Commissioner Upton made a motion to approve the low bid of \$133,996 for one EMS ambulance purchase and was seconded by Vice-Chairman Kirkpatrick. The motion passed unanimously.

Request approval of resolution declaring surplus vehicles/equipment from the Sheriff's Office to be sold at public auction

Chairman Swanger recognized Captain Jason Smiley from the Sheriff's Office. Captain Smiley explained that they are seeking a resolution to declare these items surplus so they can be sold at the Hemlock Street location and at the solid waste materials recovery facility in Clyde. He stated that most of the equipment has been there for at least sixteen years.

Commissioner Ensley made a motion to approve the resolution declaring surplus vehicles/equipment from the Sheriff's Office and to be sold at public auction. Commissioner Sorrells seconded the motion and it passed unanimously.



RESOLUTION
DECLARING SURPLUS PROPERTY
AND SALE OF PROPERTY VIA PUBLIC AUCTION

WHEREAS, N.C.G.S. 160A-265 authorizes The Board of County Commissioners of Haywood County to dispose of surplus property, and N.C.G.S. 160A-270 (b) authorizes sale of surplus property to be sold by public auction, and

WHEREAS, Haywood County has in its possession:

Located at HCSO Impound Lot, 201 Hemlock Street, Waynesville and Solid Waste Materials Recovery Facility,
278 Recycle Road, Clyde;

Miscellaneous surplus vehicles and equipment:

Freightliner tractor #1896
ARE Utility Truck Bed Cover
1987 Ford F250 Truck #9259
Conex Box Storage Trailer

Ford Flatbed Truck #2591
Chevrolet Work Truck #2391
MFD 6-68 Military Tanker #4538
Ford Crown Vic #0527

International Harvester Flatbed Truck #7494
International Harvester Bucket Truck #3449
BMY-Div. of Harsco 5 ton 6x6 Wrecker #A092
Ford Crown Vic #6019

No longer of use to the county.

NOW, THEREFORE, BE IT RESOLVED, that The Board of County Commissioners of Haywood County meeting in general session on Monday, September 15, 2014 does the following:

1. Hereby authorizes the Haywood County Captain of the Sheriff's Office to declare surplus the above listed vehicles and equipment.
2. Hereby authorizes the sale of said surplus property via public auction for parts only.
3. Hereby authorizes a public auction to be held after a 10 day publication notice, at 11:00 a.m., beginning at the Haywood County Sheriff's Office Impound Lot, 201 Hemlock Street, Waynesville; then, reconvening at 1:00 p.m. at the second location at 278 Recycle Road, Clyde. A public viewing of items will take place at both locations one hour before the auction. The high bidder for each lot must pay in cash and remove the items by 5:00 PM the business day after the auction. Buyers will purchase items as is, where is and will be responsible for all disassembly, removal, loading and transporting of items from premises.

ADOPTED this 15th day of September, 2014.


Mark S. Swanger, Chairman
Haywood County Board of Commissioners

ATTEST:

Ira L. Dove, County Manager
Clerk to the Board of Commissioners

Request approval of a resolution seeking a moratorium on hydraulic fracturing (fracking)

Chairman Swanger recognized Public Information Officer, David Teague. Mr. Teague explained that since August, the NC Mining and Energy Commission has held public hearings around the state and gathering public comment on the proposed fracking rules that were released in July. The General Assembly will begin considering these rules in early 2015. He stated that several staff members have been working on gathering and processing information and recognized Director of Erosion and Sediment Control, Marc Pruett.

Mr. Pruett explained the composition of the geology of this area, stating that it is comprised mostly of metamorphic rock, which has questionable conduciveness to hydraulic fracturing. He recommended that further studying of oil and gas production in a geographic area such as ours would be beneficial in determining whether hydraulic fracturing would be feasible. He stated that the technical staff supports the resolution to give more time to study this issue prior to the State issuing drilling permits.

Mr. Teague read the resolution to Board.

Commissioner Ensley commented that he was in support of fracking, but stressed the importance of protecting the water table and the environmental hazards that fracking could present. He stated that if it is done, we have to make sure it is done correctly. He stressed the importance of studying the problems that they have had in Pennsylvania before it is started here. He noted that is why further study is needed.

Commissioner Upton stated that more time is needed to study the issue, noting that one fact that stands out to him is that it takes five million gallons of water to pump one well.

Chairman Swanger stated that there can be no risk of contamination of the water supply, which could become a valuable commodity in years to come.

Commissioner Sorrells noted that Haywood County has the best water source around and that it needs to be protected.

Commissioner Ensley noted that if fracturing is done responsibly it could eventually cut down on the amount of oil that we need from the Middle East.

Commissioner Upton made a motion to approve the resolution seeking a moratorium on hydraulic fracturing and Commissioner Sorrells seconded. The motion passed unanimously.



RESOLUTION SEEKING
MORATORIUM ON HYDRAULIC FRACTURING

WHEREAS, Haywood County is abundant in natural resources that nourish and protect our citizens and visitors; and

WHEREAS, Haywood County's entire water supply originates within the County's boundaries, which creates a vested interest in protecting the purity and safety of our waterways; and

WHEREAS, much of Haywood County's undeveloped land is used for agricultural purposes or is publicly owned lands consisting of the Great Smoky Mountains National Park, the US Forest Service, and NC Wildlife; and

WHEREAS, in North Carolina on June 4, 2014, Gov. Pat McCrory lifted the moratorium on horizontal hydraulic fracturing (fracking) for natural gas through the Energy Modernization Act allowing permits to be issued in early 2015; and

WHEREAS, the NC Mining and Energy Commission (MEC) released proposed rules for regulating fracking in July 2014 and is currently seeking public comment; and

WHEREAS, Session Law 2011-276 tasks the NC Department of Environmental and Natural Resources, the Department of Commerce and the Department of Justice, in conjunction with the nonprofit Rural Advancement Foundation International (RAFI) to study the issue of oil and gas exploration, specifically the use of directional and horizontal drilling and hydraulic fracturing for natural gas production; and

WHEREAS, recommendations contained in that study have yet to be considered and may not be fully addressed in the proposed MEC rules; and

WHEREAS, fracking of underground geologic formations involves the use of chemicals and hazardous materials during construction, drilling, hydraulic fracturing, gas production and delivery, well maintenance and work over operations; and there have been documented cases of water contamination near fracking sites; and

WHEREAS, the proper safeguards must be in place to protect the public and the environment; and

WHEREAS, local governments should have the authority to make decisions regarding environmental health and should have the right to pass legislation restricting fracking in our county should we so choose.

NOW, THEREFORE BE IT RESOLVED that the Haywood County Board of Commissioners strongly urges the state to issue a moratorium on hydraulic fracturing in any part of North Carolina, including Haywood County, until a comprehensive set of environmental, public and consumer protection policies specific to shale gas extraction and fracking have been adopted into law based on the following:

1. That recommendations presented in the joint study commissioned by Session Law 2011-276 are fully addressed in the proposed MEC rules;
2. That additional scientific evidence is gathered and considered regarding the long term impact to health, human safety and the environment posed by fracking;
3. Hazardous chemical reporting procedures to the State Emergency Response Commission (SERC) and Local Emergency Planning Council (LEPC) are fully developed as described in the Emergency Planning and Community Right-to-Know Act (EPCRA) enacted by the U.S. Congress in 1986.

This is the 15th day of September 2014


Mark Swanger, Chairman
Haywood County Board of Commissioners

ATTEST: 
Ira Dove, Clerk to the Board

Request approval to negotiate an agreement with the Boys Scouts of America for use of Camp Daniel Boone by Emergency Management and Public Safety

Chairman Swanger recognized County Manager, Ira Dove. Mr. Dove stated that in the past, this site has been used to stage for search and rescue in that area and also a training site. Presently the site is requiring some construction, and the Council is seeking to have permits needed for the construction waived and give permission for the County to use that property.

Chairman Swanger confirmed that it would be a quid pro quo with exchange of use of property for forgiveness of some of the fees and Mr. Dove concurred.

Commissioner Ensley made a motion to allow the County to negotiate an agreement as stated and sign an agreement if met for a fee waiver that does not cost any money and Vice-Chairman Kirkpatrick seconded. The motion passed unanimously.

Request approval to award to lowest bidder, the contract for the Haywood Community College Sawmill Drive improvement project

Chairman Swanger recognized HCC Director of Campus Development, Brek Lanning. Mr. Lanning explained that this request is to approve the contract with the low bid from WNC Paving of \$400,000. He noted that this is contingent upon HCC paying for the electrical infrastructure line item in the amount of \$30,455 from the internal HCC Special Energy Fund account. He said that other pertinent aspects of the contract are a 75 day completion date and \$250/day liquidated damages. He noted that the contract covers removal of existing paving and achieving a suitable subgrade base for new paving, installation of street and pedestrian lighting infrastructure and fixtures, installation of new drainage infrastructure, and installation of new sidewalks.

Finance Director, Julie Davis stated that the reason that Mr. Lanning is having to bring this to the Board is because this will be paid for from unused proceeds from a County approved loan.

Commissioner Ensley made a motion to approve the contract for the lowest bidder WNC Paving for the HCC Sawmill Drive improvement project and Commissioner Upton seconded. The motion passed unanimously.

Offer to purchase school board surplus real estate in accordance with NC General Statute 115c-510

Chairman Swanger recognized Haywood County Schools Attorney, Patrick Smathers. Mr. Smathers explained that this building has been occupied by Southwestern Child Development Commission's Hazelwood Day Care Center. It has been declared surplus and is being offered to the County per statute for fair market value or a negotiated price. He stated that this is the time for the County to express the desire to purchase, and if there is none, the School Board will follow procedure to sale the property. He noted that the Southwestern Commission wants to keep the building and has the right to bid on the property. He stated that there is extensive maintenance on the building that has to be done. The daycare is still in the building; there was an agreement made several years ago that give employees of the Haywood County Schools a discount on childcare.

Sheila Hoyle, Southwestern Child Development Commission Director approached the Board stating that they do plan on staying there, and plan to negotiate and hopefully come to an agreement to have the building.

Commissioner Upton asked if the school had any need for the building and Mr. Smathers said that cost would be too much in maintenance repairs.

Vice-Chairman Kirkpatrick made a motion to decline to purchase the surplus real estate portion of PIN# 8605-92-3366 known as Hazelwood Day Care Center and Commissioner Ensley seconded. The motion passed unanimously.

Request approval of agreement to engage Rick Hudson and Dixon Hughes Goodman, LLC for the wind-up business of the Haywood Hospital Authority

Chairman Swanger recognized County Manager, Ira Dove and County Attorney Chip Killian. Mr. Dove explained that County funds are a part of working on the wind-up of the public business of the Haywood Hospital Authority. He stated that the Commissioners wanted to get a good team together to move forward with this process. The Haywood Hospital Authority would like Rick Hudson, the former CEO of Wilson Hospital that Duke Lifepoint purchased. Dixon Hughes Goodman, LLC has offices all over including Asheville, and has done many audits for the County. He noted that what it being asked tonight is not to sign the agreements, the Hospital Authority would do that, but for the approval of the agreements because ultimately the monies are going to be public monies.

Mr. Killian stated that he reviewed these agreements. He stated that these are two engagement letters with the newly named Haywood Hospital Authority. He noted that there needs to be someone to oversee the wind-up of their affairs. These two parties will work together collaboratively during this time. The County will review every report and has full access to information that has developed during this process. He noted that everyone has been very cooperative and feels comfortable that this is a good way to go.

Chairman Swanger commented that he thought it was a good combination of unique talents.

Vice-Chairman Kirkpatrick stated that he is on the Haywood Hospital Authority and they approved the engagement of both parties at their meeting last week.

Mr. Killian noted that this agreement should last about a year, and after that, negotiations will have to take place to see it is to be extended.

Vice-Chairman Kirkpatrick made a motion to approve the agreement to engage Rick Hudson and Dixon Hughes Goodman, LLC for the wind-up business of the Haywood Hospital Authority. The motion was seconded by Commissioner Upton and passed unanimously.

Request appointment of one (1) member to the Recreation Advisory Board District 5

Chairman Swanger recognized Mr. Dove. Mr. Dove explained that in District 5, there were two applications. He reviewed the applications of Lindsey Dills and Zeb Smathers, noting that Ms. Dills had been interviewed and Mr. Smathers currently sits on the Board. After distributing and collecting ballots, he announced that Zeb Smathers had received the votes to continue on the Board.

Request appointment of one (1) member to the Clyde Zoning Board of Adjustments ETJ

Chairman Swanger recognized Mr. Dove. Mr. Dove stated that there was one applicant. He reviewed the application of Josh Best, noting that he currently lives within the ETJ.

Commissioner Upton made a motion to approve the appointment of Josh Best to the Clyde Zoning Board of Adjustments ETJ. The motion was seconded by Vice-Chairman Kirkpatrick and it passed unanimously.

Request reappointment of one (1) member to the Clyde Planning Board ETJ

Chairman Swanger recognized Mr. Dove. He stated that there was one applicant. He reviewed the application of Robert Dolman, noting that he currently lives within the ETJ.

Vice-Chairman Kirkpatrick made a motion to approve the appointment of Robert Dolman to the Clyde Planning Board ETJ. The motion was seconded by Commissioner Ensley and it passed unanimously.

Vice-Chairman Kirkpatrick commented that Ms. Dills was an excellent candidate for the Recreation Advisory Board. He said that it was explained to her that if there is no issue with the current appointment seeking reappointment, it was usually done.

Chairman Swanger agreed stating that he hopes that she will apply again.

ADJOURNMENT

Chairman Swanger asked if there was any further business.

Vice-Chairman Kirkpatrick made a motion to adjourn the regular Board meeting. Commissioner Ensley seconded; the motion carried unanimously.

The time of adjournment was 6:25 p.m. The DVD is attached by reference to the minutes.

CLERK

CHAIRMAN

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