

Ashe County

*150 Government Circle
Jefferson, NC 28640*



Meeting Minutes - Final

Monday, May 1, 2017

8:30 AM

Commission Meeting Room

County Commission

*Chairman William Sands
Vice Chair Paula Perry
Commissioner Jeff Rose
Commissioner Gary Roark
Commissioner Larry Rhodes*

WORK SESSION - 8:30 AM

Chairman Sands called the Work Session to order at 8:30 a.m. in the commissioners' meeting room at the Ashe County Courthouse.

Chairman Sands stated that the commissioners need to discuss how to handle resolutions that come to Board members for consideration. He believes it would be a good idea to discuss the resolutions in a work session prior to placing them on the agenda. By doing this, the Board would have a better understanding of the resolution.

Finance Officer Sandra Long was present to define the effects of the resolution recently forwarded to the commissioners after being passed in several counties across the state. The resolution requests the restoration to counties of the statutorily authorized appropriation of lottery funds. According to School Superintendent Phyllis Yates, the Ashe County School Board is not in favor of the resolution at this time because they do not have enough information on how this would affect Ashe County schools. One concern is if the resolution passes and more money is given to school construction, would that money be taken away from funding for classroom teachers. Commissioner Rhodes would like to hear the stance our legislators take on the issue and to have the approval of the School Board before the commissioners give consideration to adopting the resolution. Vice Chairman Perry stated that she does not want to see funding taken away from teachers. The Board agreed to table this item pending additional information being received.

Commissioner Rhodes received a resolution from Phil Trew, director of Planning and Development with High Country Council of Governments (HCCOG). Commissioner Rhodes explained that the resolution supports the reopening of Doughton Park and its facilities on the Blue Ridge Parkway. The facilities have been closed since 2010 and are in need of repairs totaling an estimated \$3.7 million. Funding for the project is not being requested from the County as grants from several sources will be pursued. However, the resolution will be an asset when requests are made for grant monies. The Board agreed to place the resolution on today's agenda.

Chairman Sands would like to begin adding the time that an agenda item will be presented to each presentation scheduled on the agenda. Chairman Sands also stated that the commissioners need a timer installed for Public Comment to assist with limiting comments to three minutes each.

Chairman Sands then opened the floor for discussion and comments from the Board regarding items on the agenda. County Attorney John Kilby spoke regarding a request made at the last Board meeting from Mr. Lee McMillan for the commissioners to consider condemnation of the Phillips property next to the Fleetwood Fire Department instead of allowing the Fleetwood Elementary School to be torn down. County Attorney Kilby does not believe that the County has the authority to condemn property for a volunteer fire department and especially a fire department that does not want the property. The fire department has already acquired the school property and the adjoining piece of property on which to build a new fire department.

County Manager Sam Yearick asked the Board to consider an addition to the agenda for the county attorney to update the Board regarding the New River Behavioral HealthCare lawsuit and to add an item to Executive Session to discuss legal matters regarding the Appalachian Materials lawsuit as provided for under G.S. 143-318.11 (a) (3) Legal Issues.

With no further discussion, Chairman Sands closed the Work Session at 8:52 a.m.

Present: 5 - Commissioner Jeff Rose, Commissioner Larry Rhodes, Commissioner William Sands, Commissioner Gary Roark and Commissioner Paula Perry

BUSINESS SESSION

I. 9:00 AM - Meeting Called to Order at the Ashe County Courthouse

Chairman Sands called the Regular Session of the Ashe County Board of Commissioners to order at 9:00 a.m.

II. Pledge of Allegiance/Opening Prayer

Vice Chairman Perry led the Pledge of Allegiance and Commissioner Rhodes offered the opening prayer.

III. Approval of Minutes

IV. Adoption of Agenda

Commissioner Rhodes made a motion to add a resolution to the agenda supporting the Doughton Park reopening project, to add a presentation by County Attorney John Kilby regarding the New River Behavioral HealthCare lawsuit, and to add an item to Executive Session for the purpose of a legal update on the Appalachian Materials lawsuit pursuant to G.S. 143-318.11 (a) (3). Commissioner Rose seconded the motion. The motion passed with unanimous approval.

Adopted

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

V. Public Comment

No comment was offered.

VI. Presentations

[PRES 17-38](#) Carolyn Shepherd - Family & Consumer Services Endowment

Carolyn Shepherd, recently retired director of Cooperative Extension, told the Board that volunteer Extension Club Association (ECA) members met several years ago for the purpose of establishing an endowment for Family Consumer Sciences. Through the sale of cookbooks and cutlery, \$17,000 was set aside in the Extension budget. This money needs to be set up in an endowment established by the County and restricted for use by the NC Cooperative Extension, Ashe County Center, Family and Consumer Sciences education programs. The commissioners will need to adopt a resolution agreeing to accept the funds. Carolyn Shepherd read an agreement to create an agency endowment. The commissioners will also need to name a person at the County who has the authority to enter into an agreement with the North Carolina Community Foundation, suggesting the finance officer as that person. Commissioner Rhodes made a motion to approve the establishment of an endowment for Family Consumer Sciences with the \$17,000 raised by ECA members. Commissioner Rose seconded the motion. The motion passed with unanimous approval.

Approved

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

PRES 17-40 County Attorney John Kilby - New River Behavioral HealthCare Lawsuit Update

County Attorney John Kilby provided the Board with an update regarding the New River Behavioral HealthCare (NRBHC) lawsuit. The lawsuit was dismissed after a five year battle. He explained that employees with New River Behavioral HealthCare lost benefits after the company dissolved. This led to a lawsuit against the five counties that were included in an interlocal agreement with NRBHC. The basis for their argument was that the agreement obligated the five counties to assume responsibility of the employee's benefits. The attorney for the employees passed away two years into the lawsuit. The lawsuit sat without action for a long time afterwards. Finally it was transferred to Alexander County and then to Avery County. The court ordered 31 plaintiffs to obtain an attorney to complete the obligations of the original attorney. There were 69 plaintiffs left without an attorney who had to represent themselves. They did not pursue the case and 60 of those were dismissed. Ultimately it was determined by the courts that the agreement was not pre-audited by the five counties which made the agreement unenforceable and the lawsuit was dismissed.

GENERAL SESSION

Resolutions

RES 17-3 Resolution Approving Reopening of Facilities at Doughton Park on the Blue Ridge Parkway

Attachments: [05-01-17 Resolution Supporting Doughton Park Reopening](#)

Commissioner Rose made a motion to adopt the resolution supporting the reopening of Doughton Park facilities on the Blue Ridge Parkway. Vice Chairman Perry seconded the motion. The motion passed with unanimous approval.

Adopted

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

Other Items for Consideration

MISC 17-17 Discussion Regarding Fleetwood Fire Department & the Phillips Property

County Manager Sam Yearick explained that Fleetwood Fire Department has already purchased the Fleetwood School property to be used for the future site of the fire department and it is the decision of the fire department members on where they want to place their building. He doesn't believe the County should be involved in the decision of where they locate and that it is the County's place to partner with the fire departments. Lee McMillan spoke to the Board stating that he met with fire department members and they have been trying to find a place for their building. They decided that building on the location of the Fleetwood Elementary School is their only choice. Mr. McMillan stated that he believes the fire department could be located on the ballfield at the school. Mr. McMillan believes that the Fleetwood community does not want the school torn down. He would like to see the school property used as a homeless shelter. County Attorney Kilby explained that the Fleetwood Elementary School property is now owned by the Fleetwood

Fire Department. The County has already released its right-of-first refusal on the property. Any changes now would have to be made by the fire department. He doesn't believe the County has the right to condemn property. Commissioner Roark made a motion to set up a meeting between Fleetwood Fire Department members, Commissioner Roark, County Attorney John Kilby, and County Manager Sam Yearick to discuss all options. Commissioner Rhodes seconded the motion with the understanding that there could be costs to the County. The motion passed with unanimous approval.

Approved

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

MISC 17-18 Request for Approval of Lien on Property for the Fire Training Facility and Approval for the County Manager to Sign the Deed of Trust

Attachments: [05-01-17 Fire Association Property Lien Approval & Signature Approval](#)

County Manager Sam Yearick told the Board that the USDA, who is financing construction of the Fire Training Facility, needs the ability to place the deed of trust as lien against the Fire Training Facility. When the loan is paid off, the property lien will be removed. Commissioner Rose made a motion to approve the property lien for the Fire Training Facility and to approve the county manager to sign the Deed of Trust. Commissioner Rhodes seconded the motion. The motion passed with unanimous approval.

Approved

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

Appointments

APP 17-5 Appointment to the Local Emergency Planning Committee

Attachments: [05-01-17 LEPC Appointment](#)

Commissioner Rose made a motion to appoint Anthony Farmer to the Local Emergency Planning Committee. Commissioner Rhodes seconded the motion. The motion passed with unanimous approval.

Appointment(s) Approved

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

VII. Commissioner Comments

VIII. Announcements

IX. Executive Session

ES 17-6 Executive Session - G.S. 143-318.11 (a) (6) - Personnel Issues & G.S. 143-318.11 (a) (3) Legal Issues (Appalachian Materials Lawsuit)

Commissioner Rhodes made a motion to enter into Executive Session to discuss legal issues as provided for under G.S. 143-318.11 (a) (3) and to discuss personnel issues as

provided for under G.S. 143-318.11 (a) (6). Commissioner Rose seconded the motion. The motion passed with unanimous approval. Chairman Sands declared the Board into Executive Session at 9:57 a.m. and out of Executive Session at 10:52 a.m., with no action taken.

Approved

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

X. Adjournment

Chairman Sands made a motion to adjourn the meeting at 10:53 a.m. Commissioner Rose seconded the motion. The motion passed with unanimous approval.

Approved

For: 5 - Commissioner Rose, Commissioner Rhodes, Commissioner Sands, Commissioner Roark and Commissioner Perry

Citizens with disabilities requiring special needs to access the services or public meetings of Ashe County Government should contact the County Manager's Office three days prior to the meeting by calling (336) 846-5501.

William Sands, Chairman

Ann J. Clark, MMC, NCCCC
Clerk to the Board