

Ashe County

*150 Government Circle
Jefferson, NC 28640*



Meeting Minutes - Final

Monday, August 21, 2017

9:00 AM

Commission Meeting Room

County Commission

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

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

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

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

II. Pledge of Allegiance/Opening Prayer

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

III. Approval of Minutes

[MIN 17-37](#) August 7, 2017 Regular Session Minutes

Attachments: [08-21-17 August 7, 2017 Regular Session Minutes](#)

Commissioner Rose made a motion to approve the August 7, 2017 Regular Session Minutes as written. 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

[MIN 17-38](#) August 7, 2017 Executive Session Minutes

Commissioner Rose made a motion to approve the August 7, 2017 Executive Session Minutes as written. 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

IV. Adoption of Agenda

Chairman Sands stated that an executive session to discuss legal issues needs to be added to the agenda. Commissioner Rhodes made a motion to adopt the agenda with the addition of an executive session. Vice Chairman Perry seconded the motion. The motion passed with unanimous approval.

Approved

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

V. Public Comment

Chairman Sands opened the floor for Public Comment.

Sophia Lopez of West Jefferson asked the Board to consider changing the time that Board meetings are held. She believes it is hard for citizens to attend the meetings

when they are held at 9:00 a.m. Ms. Lopez suggested holding meetings on either Tuesdays, Wednesdays, or Thursdays at 6:00, 6:30 or 7:00 p.m. She stated that a lot of citizen's voices are not being heard.

Sheriff Terry Buchanan extended the opportunity for all citizens to attend a public forum or a town hall meeting. If the citizens have concerns about the Sheriff's Office, he will hold a meeting at any time for citizens to voice their concerns.

Rose Price of Creston spoke of recent bomb threats in the County. She stated concern that the new school resource officer at Blue Ridge Elementary School has only four months of law enforcement training. Ms. Price is concerned that there may be bomb threats at schools. She also spoke regarding a recent meeting held at Creston Volunteer Fire Department. Members of the Sheriff's Office were present at the meeting, but the Sheriff did not attend the meeting.

Sheriff Buchanan made an additional comment in response to statements made by Rose Price. He would be glad to attend any meetings at any time. Also, there is a deputy currently on sick leave which is the reason the new officer has been assigned to Blue Ridge Elementary School.

No further comments were made.

VI. Presentations

[PRES 17-87](#) 9:05 AM - Public Hearing - Economic Development Director Cathy Barr - Request for a Building Reuse Grant County Match for Project Creekside

Attachments: [08-21-17 Public Hearing-Project Creekside Grant-Request for Funding Match](#)
[08-21-17 Project Creekside Resolution](#)

Economic Development Director Cathy Barr presented a request for the County to provide matching funds (\$19,375) for a Department of Commerce Building Reuse Grant (\$387,500) for Project Creekside. She told the Board that this project will create 31 new jobs in Ashe County. There will be a total capital investment in Ashe and Buncombe counties in the amount of \$43.5 million. Chairman Sands opened the Public Hearing at 9:12 a.m. Commissioner Rhodes questioned the division of capital investment between Ashe and Buncombe counties. Ms. Barr answered that there will be an investment of over \$1.5 million in Ashe County. Commissioner Rhodes stated concern for voting on a project without knowing the name of the company. He asked if the vote could be delayed until the name of the company is revealed. Ms. Barr replied that the deadline for the application to be submitted is September 6th. No further comments were made by the commissioners and no public comment was offered. The Chairman closed the Public Hearing at 9:20 a.m. Commissioner Rose made a motion to approve the Department of Commerce Building Reuse Grant for the Project Creekside - Ashe Expansion and the 5% cash match of \$19,375. Commissioner Roark seconded the motion. The motion passed 5 - 0; Commissioner Rhodes abstained from voting which resulted in a vote in the affirmative.

Approved

For: 4 - Commissioner Rose, Commissioner Sands, Commissioner Roark and Commissioner Perry

Abstain: 1 - Commissioner Rhodes

[PRES 17-88](#) 9:15 AM - Economic Development Director Cathy Barr - Request for Deed of Trust Waiver for Project Creekside

Attachments: [08-21-17 Project Creekside-Deed of Trust Waiver Request](#)

Economic Development Director Cathy Barr presented a request for the Board to approve a waiver of the Deed of Trust requirement associated with approval of the Project Creekside Building Reuse Grant. Commissioner Rose made a motion to approve the Deed of Trust waiver for the Project Creekside Building Reuse Grant. Vice Chairman Perry seconded the motion. The motion passed 5 - 0; Commissioner Rhodes abstained from voting resulting in a vote in the affirmative.

Approved

For: 4 - Commissioner Rose, Commissioner Sands, Commissioner Roark and Commissioner Perry

Abstain: 1 - Commissioner Rhodes

[PRES 17-89](#) 9:20 AM - Tax Administrator Chris Lambert - Monthly Tax Report

Attachments: [08-21-17 Tax Collection Report-July 2017](#)

Tax Administrator Chris Lambert presented the Monthly Tax Report for July 2017 in the amount of \$12,006.44. Commissioner Rhodes made a motion to approve the Monthly Tax Report for July 2017 as presented. 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 17-90](#) 9:25 AM - Emergency Management Coordinator Patty Gambill - Second Reading and Approval of Ambulance Franchise Ordinance for Warrensville Volunteer Fire & Rescue

Attachments: [08-21-17 Warrensville Fire & Rescue Franchise Ordinance](#)

Emergency Management Coordinator Patty Gambill presented the second reading and request for approval of the Ambulance Franchise Ordinance for Warrensville Volunteer Fire & Rescue. Commissioner Roark made a motion to approve the Ambulance Franchise for Warrensville Volunteer Fire & Rescue as requested. 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 17-91](#) 9:30 AM - Representative Jonathan Jordan - G.S. 105-361 Statement of Amount of Taxes Due

Attachments: [08-21-17 Representative Jonathan Jordan Presentation](#)
[08-21-17 Representative Jonathan Jordan Presentation 2](#)

Representative Jonathan Jordan made the following request:

Ashe County Commissioners

150 Govt. Circle
Jefferson, NC 28640

Good morning honorable Commissioners, County Manager and staff, and citizens of Ashe County. My name is Jonathan Jordan and I live at 495 Nathan's Creek School Road in Crumpler and I currently serve as your state representative for House District 93 - Ashe and Watauga counties. I also have a solo law practice with my office here in Jefferson focusing primarily on real estate closings and estate planning and wills. I am here today to report to you on an issue that has come to my attention both as a constituent issue of citizens of Ashe County, but also as a real estate property tax issue that affects clients of mine and other local attorneys who handle real estate transactions.

Several weeks ago one of our local attorneys who also practices in real estate called to inform me of an issue one of his clients had just faced with regards to property taxes. He relayed to me that the property his client had purchased was done so in 2011 and at that time his office had acquired from the Ashe County Tax Office a certificate showing no back taxes for the last 10 years. That has been the practice in real estate closings since I opened my office as well. We obtain a tax certificate that shows a table for the past 10 years that we complete showing all of the property tax owners during that time. The document assisted the Tax Office in looking back 10 years to determine if any taxes were due on the property so that they could be taken care of at the closing, and the current year prorated between the buyer and seller. The practice had been that that certificate stood as a guarantee from the Tax office that there were no back taxes, especially because taxes older than 10 years cannot be legally enforced and collected by the tax office. The language of the current statute chapter 105-361 (a) says "the tax collector must give the person a written certificate stating the amount of any taxes and special assessments owed for the current year and for any prior year."

This attorney informed me that his client received notice with the 2017 property tax bill that in fact there were past taxes due from the year 1998. That would have been three years prior to the 10-year tax certificate that his office under perfectly correct procedure had obtained on behalf of the client for the purchase of the property. That also would have been an amount incurred by an owner several links back in the chain of title. This attorney advised that he discussed with the tax administrator the situation and that the attorney at that time understood the problem was the language in chapter 105C361 (b) that stated "When a certificate has been issued as provided in subsection (a), above, all taxes and special assessments that have accrued against the property for the period covered by the certificate shall cease to be a lien against the property." Notice how that language specifies only the period covered by the certificate and not all prior years.

He told me that his client was informed that if the 1998 taxes were not taken care of, then going forward the property could not be sold because the tax office could not stamp the deed showing no delinquent taxes which is a requirement here in Ashe County in order for the Register of Deeds to record any deed transferring property. The client was understandably upset because those back taxes were from a great deal of time in the past and were originally owed by an owner several steps back in the chain of title on the property which was unfair in the opinion of the client.

So the problem seemed to be a loophole in the law that only guaranteed no back taxes during the period of the tax certificate which has always been treated as a ten-year document here in Ashe County, primarily because there is another statute in the tax laws that says back taxes after 10 years cannot be enforced through means such as wage garnishments. That was a primary reason for this attorney to contact me as the

representative of our area who could potentially introduce changes or corrections to the law.

With this situation and these questions in mind I sat down with our new Tax Administrator Mr. Chris Lambert last week to go over this issue. I want to let you commissioners and the citizens of Ashe County know upfront that Mr. Lambert could not have been more helpful in discussing this issue. He has already taken steps to ensure that the tax certificate that is obtained during a real estate closing will actually cover all prior year's taxes, not just a ten-year period, which he believed to be a misinterpretation of the statutes as they were applied in the past. Therefore, going forward the property tax calculations for most future real estate transactions should proceed smoothly.

He has changed the property tax bills to be more transparent and list any past taxes that have been uncovered and for what year and will also list any pre-payments for taxes that have been made on the property, such as when during a real estate closing the current year taxes are prorated between the seller and buyer.

The issue remains with any back taxes that are discovered now on property previously sold. However, Mr. Lambert assures me that if any citizen is faced with a situation such as the one I described in my comments today that the Ashe County tax office will work closely with that citizen and if the tax has been determined to have been overlooked due to the fault of the Ashe County Tax Office, then he will work to get those taxes waived in the normal process which means that you as commissioners will have to review and approve such waivers.

What I'd like to especially point out to the citizens of Ashe County as well as to you as commissioners is that if there are any issues with back taxes and the property owners have a tax certificate obtained at the time of closing whether in their own files or whether their attorney has a copy of that certificate, or there is any other kind of documentation regarding property taxes paid at closing, please bring that documentation to the Ashe County Tax Office so that the issue may be handled. Mr. Lambert has assured me that he will take every effort necessary to understand each particular property owners situation and resolve any problems due to the oversight of the tax office on behalf of the citizens whose taxes pay for the operation of local and state government and yours and my salaries as elected officials.

Again, commissioners I thank you very much for your time and attention and as always stand ready to work with you or the county staff if there are any needed changes in the law or any efforts in Raleigh that I can undertake on behalf of our citizens here in the High Country.

PRES 17-92 9:45 AM - County Manager Sam Yearick - Request to Fund Two New Positions at the Sheriff's Office

Attachments: [08-21-17 Sheriff's Office Funding Request for 2 Positions](#)

County Manager Sam Yearick presented a request for the Board to fund two new positions at the Sheriff's Office. He explained that both positions would be temporary full-time positions. Currently the Sheriff's Office has one detention officer that has been out of work on administrative leave for a substantial period of time. The employee has exhausted all of their accrued leave. He told the Board that the employee's existing benefits can be used to pay for the new position until June 30, 2018. If the person on leave is unable to return to work, the temporary employee will be made permanent and the temporary position will be deleted. The second request is being made because a school resource officer has been out of work due to illness. A full-time person is needed

in this position and the request is to create and fund a full-time position from September 2017 through December 2017 for a total cost of \$20,546.45 to be appropriated from the Contingency Fund. Chairman Sands asked if two road officers could be utilized for these temporary positions. County Manager Yearick answered that currently there are several officers out on medical leave. With no further discussion, Commissioner Rose made a motion to add a temporary full-time detention officer position at the jail that will expire June 30, 2018; and to add a temporary full-time school resource officer position that will expire December 31, 2017, to include salary and benefits as follows: Salary \$14,347.50, Health Insurance \$2472.60, Life Insurance \$10.35, Dental Insurance \$149.05, Social Security \$1097.59, Law Enforcement Retirement \$1183.67, Law Enforcement 401(k) \$717.38, Unemployment Insurance \$143.48, Workers Comp Insurance \$424.83, at a total cost of \$20,546.45 to be appropriated from the Contingency Fund. Commissioner Roark seconded the motion. The motion passed with unanimous approval.

Approved

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

[PRES 17-94](#) 9:50 AM - Sue Thompson, Ashe County Transportation Director - Approval of FY2018 Rural Operating Assistance Program (ROAP) Application

Attachments: [08-21-17 ROAP Application 2018](#)

Sue Thompson, director of Ashe County Transportation Authority, presented the FY2017/18 Rural Operating Assistance Program (ROAP). The program consists of three funding sources; the Elderly and Disabled Transportation Assistance Program (EDTAP), the Employment Transportation Assistance Program (EMP), and the Rural General Public Program (RGP). Total funds received for the three programs amount to \$128,485. The County of Ashe is the only eligible applicant for ROAP funds and all requested funds are disbursed to the County. Funds received are provided through grants from the Department of Transportation. Chairman Rhodes made a motion to approve the FY2017/18 Rural Operating Assistance Program. 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

GENERAL SESSION

Appointments

[APP 17-12](#) Appointments to the West Jefferson Planning Board Extra-Territorial Jurisdiction (ETJ)

Attachments: [08-21-17 West Jefferson ETJ Planning Board Appointments](#)

Commissioner Rhodes made a motion to reappoint Charles King and Jack Hardin to the West Jefferson Planning Board as Extra-Territorial Jurisdiction members for a three-year term. Commissioner Rose 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

APP 17-13 Appointment of Jury Commissioner**Attachments:** [08-21-17 Jury Commissioner Appointment](#)

Commissioner Rose made a motion to appoint David Boone as Jury Commissioner. 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

Resolutions**RES 17-4** Resolution - NCDOT Request to Abandon Virgil Greer Road (SR1331) from the State-maintained Secondary Road Program**Attachments:** [08-21-17 NCDOT Road Abandonment Request-Virgil Greer Rd.](#)

Commissioner Rhodes made a motion to approve a resolution requesting the NC Department of Transportation to abandon a portion of Virgil Greer Road (SR1331) from the State-maintained Secondary Road Program. 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

Other Items for Consideration**MISC 17-24** Vixster, LLC - Second Reading and Approval of Application for Solid Waste Franchise**Attachments:** [08-21-17 Vixster, LLC Franchise Approval](#)

Commissioner Rose made a motion to approve at second reading the request for a solid waste franchise for Vixster, LLC, after the first reading and approval on August 7, 2017. Commissioner Roark seconded the motion. The motion passed with unanimous approval.

Approved

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

MISC 17-25 Discussion Regarding Holding a Public Forum for Citizens to Speak about County Issues

The Board discussed holding a meeting for the purpose of allowing the public a time to come before the Board to express any concerns they have. Commissioner Roark made a motion to hold a Special Meeting on September 25, 2017 at 6:30 p.m. in the commissioners' meeting room (small courtroom) at the Ashe County Courthouse. 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

VII. Commissioner Comments

VIII. Announcements

IX. Executive Session

ES 17-15

G.S. 143-318.11 (a) (3) Legal Issues (Glendale Springs Asphalt Plant)

Commissioner Roark made a motion for the Board to enter into Executive Session as provided for under G.S. 143-318.11 (a) (3) to discuss legal issues regarding the Glendale Springs Asphalt Plant. Commissioner Rose seconded the motion. The motion passed with unanimous approval. Chairman Sands declared the Board into Executive Session at 10:23 a.m. and out of Executive Session at 11:00 a.m. with no action taken.

Approved

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

X. Adjournment

Commissioner Rose made a motion to adjourn the meeting at 11:01 a.m. Commissioner Roark 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