

HAYWOOD COUNTY COMMISSIONERS

REGULAR MEETING – August 20, 2012

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 Upton, present. Staff members present were County Manager Marty Stamey, County Attorney Leon M. “Chip” Killian, III, Finance Director Julie Davis, Public Information Officer David Teague, and Executive Assistant/Deputy Clerk Amie Owens.

PLEDGE OF ALLEGIANCE

Chairman Swanger led the pledge of allegiance.

INVOCATION

Vice-Chairman Kirkpatrick offered the invocation.

CALL FOR PUBLIC HEARING

Chairman Swanger recognized Marty Stamey, County Manager. Mr. Stamey requested a public hearing on behalf of Jonathan Woodard, NC Department of Transportation (NCDOT) Division 14 District Engineer for the purpose of review and approval of the NCDOT Secondary Road Improvement Program for Fiscal Year 2013 for Haywood County. He noted the funding amount as \$437,840. Mr. Stamey added that questions prior to the public hearing related to the projected use of funds could be directed to the NCDOT District Office.

Chairman Swanger noted that if there were no objections, a public hearing would be scheduled for 5:30 p.m., September 10, 2012 at the regular meeting.

PUBLIC COMMENTS

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.

Wayne Justice, Douglas Knight, Kip Rollins, Derrick Shipman, Larry Bradley, Thomas Lee Willis and Ronnie Parker all addressed the board related to the support for placement and display of Confederate flags at the Confederate Memorial on the courthouse grounds. The board was shown the first, second and third national flags of the Confederacy and provided historical information related to each. All of those speaking expressed the sentiment that the flag was a symbol to honor the heritage of the region and the sacrifice of those who fought in the Civil War, not as a symbol of racism or hatred. All individuals asked that the board consider allowing a version of the flag to be displayed.

Chairman Swanger thanked all individuals for their comments and noted that this issue would be discussed under the first item of new business.

Chairman Swanger closed the public comment session.

CONSTITUENT CONCERNS

Commissioner Ensley explained that the Haywood County Fair begins this week, August 22 through August 26 at the Haywood County Fairgrounds. He noted that there would be multiple events including the firefighters' competition and lots to see and do. Commissioner Ensley encouraged citizens to attend.

DISCUSSION / ADJUSTMENT / APPROVAL OF CONSENT AGENDA

There were no adjustments to the agenda.

CONSENT AGENDA

Vice-Chairman Kirkpatrick made a motion that the consent agenda as presented be approved. Commissioner Sorrells seconded, and the motion carried unanimously.

- Approval of August 6, 2012 regular meeting minutes
- Julie Davis, Finance Director presented the final 2011-2012 fiscal year funding plan for Home and Community Care Block Grant (HCCBG) and explained that late in July additional dollars were provided to Haywood County for use with specific programs (Meals on Wheels and In-home Aide care). This new allocation requires approval by the board.
- Carmine Rocco, Health Director requested approval of a 48-month agreement for the Neopost Postage Meter with Advanced Mailing Systems. Estimated cost is \$4,696.80 and has been included in the Health Department budget.
- July 2012 Refunds, Releases, Amendments and Discoveries

Home and Community Care Block Grant for Older Adults
 County: Haywood
 July 1, 2011 through June 30, 2012

County Funding Plan
 County Services Summary

Services	Block Grant Facility		Total	NSP	Net	Total	Projected	Projected	Projected	Projected	Projected
	In-Home	Other									
Home Del Meals			\$ 64,624.00		\$ 7,214.00	\$ 71,838.00	\$ 8,110.00	\$ 13,927.00	\$ 2,905.00	\$ 3,185.00	\$ 771.00
Adult Day Care			\$ 93,997.00		\$ 103,989.00	\$ 7,180.00	\$ 111,160.00	\$ 11,996.00	\$ 9,494.00	\$ 2,502.00	\$ 1,502.00
Adult Day Health			\$ 4,425.00		\$ 4,425.00	\$ 4,425.00	\$ 4,425.00	\$ 4,425.00	\$ 4,425.00	\$ 4,425.00	\$ 4,425.00
ADHC Transport			\$ 20,210.00		\$ 2,268.00	\$ 22,478.00	\$ 2,490.00	\$ 2,490.00	\$ 2,490.00	\$ 2,490.00	\$ 2,490.00
ADHC Health			\$ 3,555.00		\$ 3,555.00	\$ 3,555.00	\$ 3,555.00	\$ 3,555.00	\$ 3,555.00	\$ 3,555.00	\$ 3,555.00
Meals Transport			\$ 13,231.00		\$ 1,470.00	\$ 14,701.00	\$ 1,470.00	\$ 1,470.00	\$ 1,470.00	\$ 1,470.00	\$ 1,470.00
Meals Transport			\$ 5,413.00		\$ 6,152.00	\$ 6,152.00	\$ 6,152.00	\$ 6,152.00	\$ 6,152.00	\$ 6,152.00	\$ 6,152.00
Meals and Assist			\$ 34,848.00		\$ 3,828.00	\$ 38,676.00	\$ 3,828.00	\$ 3,828.00	\$ 3,828.00	\$ 3,828.00	\$ 3,828.00
Meals and Home Repair			\$ 25,845.00		\$ 2,869.00	\$ 28,714.00	\$ 2,869.00	\$ 2,869.00	\$ 2,869.00	\$ 2,869.00	\$ 2,869.00
Senior Companion			\$ 38,946.00		\$ 4,327.00	\$ 43,273.00	\$ 4,327.00	\$ 4,327.00	\$ 4,327.00	\$ 4,327.00	\$ 4,327.00
In-Home Aide I			\$ 54,337.00		\$ 6,027.00	\$ 60,364.00	\$ 6,027.00	\$ 6,027.00	\$ 6,027.00	\$ 6,027.00	\$ 6,027.00
In-Home Aide II			\$ 14,438.00		\$ 1,604.00	\$ 16,042.00	\$ 1,604.00	\$ 1,604.00	\$ 1,604.00	\$ 1,604.00	\$ 1,604.00
TOTAL			\$ 111,870.00		\$ 12,707.00	\$ 124,577.00	\$ 12,707.00	\$ 12,707.00	\$ 12,707.00	\$ 12,707.00	\$ 12,707.00

Mark S. Grogan
 Signature, Chairman, Board of Commissioners

Home and Community Care Block Grant for Older Adults
 County: Haywood
 July 1, 2011 through June 30, 2012

County Funding Plan
 Provider Services Summary

Services	Block Grant Facility		Total	NSP	Net	Total	Projected	Projected	Projected	Projected	Projected
	In-Home	Other									
Home Delivered Meals			6924		7214	8176	80114	13027	51145	77	13027
Adult Day Care			23228		2502	25929	29928	8251	42494	11	8251
ADHC Transportation			4425		4917	4917	4917	4917	4917	5	4917
Adult Day Health			20210		2246	22456	22456	22456	22456	5	22456
ADHC Transportation			3555		3970	3970	3970	3511	23137	4	3511
TOTAL			116482		12799	127981	137527	16016	100000	102	16016

Mark S. Grogan
 Signature, Chairman, Board of Commissioners

Certification of required minimum local match availability:
 Required local match will be expended immediately.
 Signature: _____ Date: 7/30/12
 Title: _____

neopost **MailFinance Lease Agreement**
For use with all Neopost Products

Dealer Number 962/300647	Dealer Name ADVANCED MAILING SYSTEMS	Phone Number (800) 903-4858	Date Submitted
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Section (A) Billing Information

Company Name (Full Legal Name)
Haywood County Health Department

DBA

Mailing Address
157 Paragon Pkwy

City State Zip+4
Clyde NC 28721

County
Haywood

Contact Name
Joyce Fuchs

Email Address
jfuchs@haywoodnc.net

Phone Number
(828) 454-6675

Fax Number
(828) 452-6730

Purchase Order #

Tax Exempt? (Exemption Certificate is required if Yes)

Section (B) Installation Information (if different from billing information)

Company Name (Full Legal Name)
Haywood County Health Department

DBA

Installation Address
157 Paragon Pkwy

City State Zip+4
Clyde NC 28721

County
Haywood

Contact Name
Joyce Fuchs

Email Address
jfuchs@haywoodnc.net

Phone Number
(828) 454-6675

Fax Number
(828) 452-6730

Main Post Office
Waynesville Zip+4 **28786**

Use my existing POC Account Number **22134640**

Quantity	Model / Part Number	Description
1	IS330BWP5	IS-330 Base w/ 5lb. Built-in Weigh Platform & Moistener

Section (D) Payment Information

Number of Months	Monthly Payment (Plus applicable taxes)	Billing frequency
First	48	\$97.85
		Quarterly

Section (E) ACH Direct Debit (for lease payments only)

Bank Name	
Bank Contact Name	
Bank Routing Number	Bank Account Number

Section (F) Services (check all that apply)

Neopost iMeter™ / Postage Meter Rental

neoFunds Postage Management
• Download now, Pay later™ options for commercial postage

Online Advantage
• MyNeopost online postage account and postage usage monitoring
• Ink cartridge re-order email alerts, remove diagnostics and software checks

Online Postal Rates iMeter™ App
• Automatic electronic USPS Postal Rates & Fees

Online Postal Expense Management iMeter™ App
• Online reporting to monitor, track and control postage expenditures

Online USPS® E-Services iMeter™ App
• Discounted electronic Confirmation Services
• Online delivery tracking and delivery status email updates

Online E-Services with Electronic Return Receipt iMeter™ App
• USPS eServices with electronic signature proof of receipt

Rate Change Protection Contract (for external scales only)

SoftwareCare/Software Advantage (for shipping & accounting applications)

Maintenance (Provided by your authorized Neopost dealer)

Please attach a blank voided check. Deposit slips not accepted.

Section (G) Approval

This document consists of a Product Lease ("Lease") with MailFinance Inc.; and/or a Postage Meter Rental Agreement ("Rental Agreement") and an Online Services and Software Agreement with Neopost USA Inc.; and a neoFunds Account Agreement with Mailroom Finance, Inc. Your signature constitutes an offer to enter into the Lease and, if applicable, the other agreements, and acknowledges that you have received, read, and agree to all applicable terms and conditions (versions D-03-11), which are also available at <http://www.neopostinc.com/terms/Dealer-Lease-03-11.pdf>, and that you are authorized to sign the agreements on behalf of the customer identified above. The applicable agreements will become binding on the companies identified above only after an authorized individual accepts your offer by signing below, or when the equipment is shipped to you.

Authorized Signature Mark Swanger Date 8/20/12

Print Name and Title Mark Swanger, Chairman, Board of County Commissioners

MailFinance Accepted By & Date Accepted _____

MailFinance, 478 Wheelers Farms Rd, Milford CT 06461 MF-H-LeaseAgrmt-20110311 (PF)

ADMINISTRATIVE/AGENCY REPORTS

Review of Current Present/Land Use Policy

Chairman Swanger recognized David Francis, Tax Administrator. Mr. Francis provided a power point presentation highlighting the Present/land use guidelines currently utilized by the Tax Assessor's office. He explained the four criteria that must be met for the different classifications (Agriculture, Horticulture and Aquatic) for present use value. Mr. Francis provided maps depicting those properties within the county and gave an overview of the annual auditing procedures used for all.

Commissioner Ensley asked if these guidelines were new. Mr. Francis answered that these were not new, but the current guidelines and will be available online.

Chairman Swanger noted that the information was a succinct guide for landowners and he thanked Mr. Francis for his presentation.

NEW BUSINESS

082012

Chairman Swanger recognized Chip Killian, County Attorney. Mr. Killian noted that he had advised the board to look at development of a policy similar to the facilities use policy to address displays on county property. Mr. Killian recommended several things that should be included in the policy such as:

- Board of County Commissioners must remain in control of county property as required by law
- Policy should be viewpoint neutral – not favoring one viewpoint over another, where possible and all individuals considered
- First Amendment be adhered to at all costs
- Integrity of the courthouse grounds be protected
- Consider not only the intent, but the effect of displays
- Observe the requirements of GS 144.7 – official governmental flags

Mr. Killian explained that he had begun research by speaking with Director of Legislative Services who is responsible for the legislative grounds, reviewing the Legislative Services Commission Rules related to use of grounds and facilities, speaking with the engineer who is responsible for the Department of Administration pertaining to other state grounds and properties. Mr. Killian will be speaking with the Department of Cultural Resources related to historic properties and sites. He added that he would follow the direction of the board regarding policy development and noted that he has other legal resources available to provide assistance.

Chairman Swanger asked Mr. Killian to further explain the term viewpoint neutral. Mr. Killian commented that no matter the display, the County could not allow one point of view to be seen above another where there are conflicting views.

Commissioner Sorrells asked about Confederate Memorial Day and flying of or displaying the flag on that day. Mr. Stamey explained that in 1993, a request to fly the Confederate Flag on Confederate Memorial Day was approved by the board and was for 1993 only.

Vice-Chairman Kirkpatrick asked how to confirm that the State Capital honors Confederate Memorial Day with flying the flag. Mr. Killian answered that the individual at the Department of Administration was not aware of this occurrence and referred him to the Department of Cultural Resources.

Commissioner Sorrells commented that before a decision is made, as much information as possible should be gathered, especially since there is an existing memorial on the courthouse grounds. Mr. Killian noted that at the legislative buildings no displays are allowed.

Vice-Chairman Kirkpatrick asked if there were memorials at the legislative buildings. Mr. Killian explained that there were none at the legislative building; however, the old capitol building and Department of Administration do have memorials.

Chairman Swanger asked if a flag not identified under state statute as an official flag is allowed to be flown or displayed, no matter how objectionable; must all flags then be allowed? Mr. Killian explained that under the First Amendment, yes, all would be allowed.

Vice-Chairman Kirkpatrick thanked everyone for their comments and noted that the issue is not a matter of freedom of speech; it is a matter of maintenance of county property, and what is allowed on county property. He added that when making decisions regarding policy, consideration is given to ensure that the application is fair and as inclusive as possible and takes into account future actions. The difficulty with the current situation is the historical significance, as well as the fact it has been done in the past. Vice-Chairman Kirkpatrick explained that the intent is not to infringe upon anyone's freedom of speech, nor to be viewed as discriminatory. Vice-Chairman Kirkpatrick recommended further research into this issue to attempt to derive an outcome that can honor the heritage of the county without being discriminatory.

Vice-Chairman Kirkpatrick made the following motion: that the county attorney develop a proposed policy for posting, display and placement of signs, placards, flags and other displays on the courthouse grounds, to supplement or amend the existing Haywood County Facilities Use policy; that in the interim no signs, placards, flags or other displays excepting official government flags as defined by General Statute 144-7(c), shall be permitted on the courthouse grounds; and that any such unauthorized postings, displays or placements be removed by County staff. Commissioner Upton seconded; the motion carried unanimously.

Chairman Swanger inquired as to whether or not a document could be ready by the next meeting of the board. Mr. Killian indicated that he would have a draft available for review at the September 10, 2012 meeting. Chairman Swanger instructed Mr. Killian to include research of the various flags.

Commissioner Sorrells commented that since there is an existing memorial and since there has been permission granted in the past, that this be considered during policy development. Commissioner Ensley also inquired as to what the State has been observing. Mr. Killian will research.

Boiler Repair at Law Enforcement Center

Chairman Swanger recognized Dale Burris, Facilities and Maintenance Director. Mr. Burris requested release of funding of \$22,981 for boiler repair at the Law Enforcement Center. A budget amendment was completed and Bolton Corporation handled the repair.

Commissioner Upton motioned to approve the budget amendment of \$22,981 for boiler repair at the Law Enforcement Center. Vice-Chairman Kirkpatrick seconded; the motion carried unanimously.

HAYWOOD COUNTY
 BUDGET ORDINANCE AMENDMENT
 FISCAL YEAR 2012-2013

PER: _____
 JNL: _____

BE IT ORDAINED by the Board of Commissioners of Haywood County that the following amendment be made to the budget ordinance for the fiscal year ending June 30, 2013.

Section 1. To amend the General Fund, the expenditures are to be charged as follows:

Department & Account	Account Number	Current Budget	Increase (Decrease)	Amended Budget
Facilities & Maintenance:				
C/O - other equipment - Law Enforcement Ctr.	114260-555000-42633	-	22,981	22,981
Contingency	119910-599100	276,896	(22,981)	253,915

which will result in a net increase (decrease) of \$ _____ in the expenditures of the General Fund.

To provide the additional revenue for the above, the following revenues will be increased as the money has been received:

Revenue	Acct. No.	Current Budget	Increase (Decrease)	Amended Budget
				-
				-
				-
				-

Section 2. Copies of this budget amendment shall be delivered to the Budget Officer and the Finance Officer for their direction.

Adopted this the 20th of August 2012.


 Chairman
 Haywood County Board of Commissioners

ATTEST:

 Clerk to the Board

Explanation:
Emergency repair for boiler vessel #1 at Law Enforcement Center.

Request approval of two documents from Erosion Control

Chairman Swanger recognized Marc Pruett, Erosion Control Director. Mr. Pruett requested approval of two documents - the Joint Resolution between the Town of Maggie Valley and Haywood County to exercise and enforce Erosion and Sediment Control Ordinance and Slope Ordinance as well as the Memorandum of Agreement between the North Carolina Sedimentation Control Commission and Haywood County. Both of these documents were discussed during a previous meeting and the Town of Maggie Valley signed the joint resolution, in advance of the meeting.

Vice-Chairman Kirkpatrick motioned to approve the Joint Resolution between the Town of Maggie Valley and Haywood County to exercise and enforce Erosion and Sediment Control Ordinance and Slope Ordinance and the Memorandum of Agreement between the North Carolina Sedimentation Control Commission and Haywood County. Commissioner Sorrells seconded; the motion carried unanimously.

**JOINT RESOLUTION OF
THE TOWN OF MAGGIE VALLEY AND HAYWOOD COUNTY**

WHEREAS, the Town of Maggie Valley has requested that Haywood County exercise and enforce Chapter 154: Erosion and Sediment Control Ordinance and Chapter 158: Slope Ordinance within the corporate limits and extraterritorial jurisdiction of the Town of Maggie Valley; and

WHEREAS, Haywood County does hereby agree to this request; and

WHEREAS, pursuant to the execution of this agreement, both the Town of Maggie Valley and Haywood County understand that this request must be heard by the North Carolina Sediment Control Commission for their endorsement prior to any enforcement action of the Erosion Control Ordinance by the County in said jurisdictions; and

WHEREAS, by General Statute, the North Carolina Sediment Commission is the controlling authority for approval of such requests as the final action in the condoning process in the matter specific to Chapter 154: Erosion and Sediment Control.

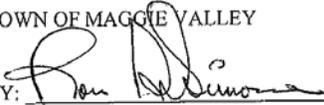
NOW, THEREFORE, it is hereby resolved by Joint Resolution of the Board of Aldermen of the Town of Maggie Valley and the Board of Commissioners of Haywood County, acting in separate regular sessions of each respective body, as follows:

1. The Town of Maggie Valley relinquishes its jurisdiction within its corporate limits and extraterritorial zoning jurisdiction with regard to local enforcement of the erosion and sedimentation program pursuant to GS 113A-60, and hereby by agreement and resolution, grants to Haywood County jurisdiction within said areas for the purpose of administering a joint program pursuant to such statute as provided in Chapter 154: Erosion and Sediment Control, County of Haywood, North Carolina Code of Ordinances.
2. The Town of Maggie Valley relinquishes its jurisdiction within the corporate limits and extraterritorial zoning jurisdiction with regard to local enforcement of the Slope Ordinance, adopted by Haywood County as set provided in Chapter 158: Slope Ordinance, and hereby adopts such ordinance pursuant to GS 153A-122 and GS 160A360(d), (f) and (g) pursuant to delegation and exercise of general police powers.
3. Haywood County Board of Commissioners does agree to exercise jurisdiction to enforce the two ordinances identified herein, within the corporate limits and extraterritorial zoning jurisdiction, pursuant to the authority set forth herein.

ADOPTED by the Board of Aldermen of the Town of Maggie Valley, North Carolina, meeting in regular session on the 14 day of August, 2012, and by the Board of Commissioners of Haywood County meeting in regular session on the 20 day of August, 2012.

TOWN OF MAGGIE VALLEY

HAYWOOD COUNTY

BY: 

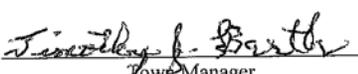
Mayor

BY: 

Chairman, Board of Commissioners

ATTEST:

ATTEST:


Town Manager


Clerk to Board of Commissioners

MEMORANDUM OF AGREEMENT
BETWEEN
THE NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
AND
HAYWOOD COUNTY, NORTH CAROLINA

This MEMORANDUM OF AGREEMENT is entered into between the **North Carolina Sedimentation Control Commission** (hereinafter, "Commission") and **Haywood County, North Carolina** (hereinafter, "Local Government," collectively, "Parties") for the purpose of clarifying their roles in the enforcement of the Sedimentation Pollution Control Act of 1973, N.C. Gen. Stat. Ch. 113A Art. 4 and any rules adopted pursuant to the Act (hereinafter collectively, "SPCA.")

Part I. Local Program Creation.

A. Model Ordinance

The Parties agree that the Commission shall do the following:

1. Per N.C. Gen. Stat. § 113A-54(1), provide a model erosion and sedimentation control ordinance (hereinafter, "model ordinance") for adoption by local governments who wish to operate a delegated local sedimentation and erosion program (hereinafter, "local program.")
2. Update its model ordinance upon changes in the SPCA.

B. Proposed Ordinance Review

The Parties agree that:

1. Local governments who chose to create and operate a local program may do so by ordinance (hereinafter, "local program ordinance.") However, the local government must submit the proposed local program ordinance to the Commission staff for review prior to adoption. Local governments must adopt the ordinance prior to submission to the Commission for approval.
2. North Carolina General Statute § 113A-60(b) requires the Commission to review, approve, approve as modified, or disapprove proposed local program ordinances based upon the minimum requirements of the SPCA.
3. The Commission shall review a local program ordinance submitted and, within 90 days of receipt thereof, shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved.

-
4. The local program's erosion and sedimentation control standards must equal or exceed those of the SPCA.

Part II. Responsibilities and Expectations of the Commission.

A. Local Program Review

The Parties agree that the Commission shall do the following:

1. Review periodically approved local programs for compliance with the SPCA. The results of the reviews shall be presented at the next quarterly meeting of the Commission.
2. If the Commission determines that any local government is failing to administer or enforce an approved erosion and sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement.
3. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

B. Training and Education for Local Programs

The Parties agree that the Commission shall provide the following:

1. Educational programs in erosion and sedimentation control directed persons engaged in land-disturbing activities, general educational materials on erosion and sedimentation control, and instructional materials for persons involved in the enforcement of the SPCA and erosion and sedimentation control rules, ordinances, regulations, and plans.
2. Manuals and publications to assist in the design, construction and inspection of erosion and sedimentation control measures.
3. Periodic review of local erosion and sedimentation control programs and through the reviews provide recommendations to improve program administration.
4. Technical assistance in review of draft erosion and sedimentation control plans for complex activities.

C. Concurrent Jurisdiction

The Parties agree that the Commission shall maintain concurrent jurisdiction with the local government for land-disturbing activities and may take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action.

Part III. Responsibilities and Expectations of the Local Government.

A. Enforcement

The Parties agree that the local government shall administer its own local program ordinances, through the following:

1. Enforce the provisions of the SPCA.
2. Administer the SPCA for all land-disturbing activity within its jurisdiction, including existing sites at the time the local government received program delegation. The Commission may continue to administer the SPCA over specific projects under enforcement action upon mutual agreement with the local government. The local program is not responsible for activities over which the Commission has exclusive jurisdiction.
3. Employ a sufficient number of qualified personnel. Qualified personnel shall be competent to review sedimentation and erosion control plans and conduct inspections of land-disturbing activities.
4. Provide adequate resources for plan review and compliance inspections.

B. Reporting

The Parties agree that the local government shall provide the following reports/information:

1. Monthly activity report to the Commission in the form adopted by the Commission.
2. Copy of all Financial Responsibility/Ownership forms to the Division of Water Quality (DWQ) when draft erosion and sedimentation control plans are received.
3. Copy of Notices of Violation to the appropriate regional office of DWQ.
4. Current contact information for their local program to the Division of Land Resources.

C. Sediment and Erosion Control Plans for Land-Disturbing Activity Review

The Parties agree that the local government shall review erosion and sedimentation control plans for land-disturbing activity (hereinafter, "plans") submitted to its local program under the following standards:

1. Review plans within 30 days of receipt of a new plan and within 15 days of a revised plan.
2. Approve, approve with modifications, approve with performance reservations, or disapprove draft plans in conformance with the basic control objectives contained in 15A NCAC 04B .0106.
3. Notify in writing the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations or disapproved within 30 days of receipt of a new plan and within 15 days of a revised plan.

-
4. Include in written notifications of plan approval the following:
 - a. reference to NPDES General Stormwater Permit NCG 010000,
 - b. expiration date of the approval,
 - c. the right of periodic inspection, and
 - d. condition the approval upon the applicant's compliance with federal and State water quality laws, regulations and rules.
 5. Enclose with all written permit notifications the following
 - a. NPDES General Stormwater Permit NCG 010000, and
 - b. Certificate of Approval for posting at the site of the land-disturbing activity.

D. Inspection

The Parties agree that the local government shall inspect all sites undergoing land-disturbing activity under the following standards:

- a. Periodically and regularly inspect sites undergoing land-disturbing activity within its jurisdiction. Periodically and regularly means with sufficient frequency to effectively monitor compliance with the SPCA and rules adopted pursuant to the SPCA and the local erosion and sedimentation control ordinance.
2. Document all inspections in writing, including electronic documents.
3. Inspection reports shall include, at a minimum, all information in the model sedimentation inspection report developed by the Commission.
4. Maintain inspection records for active projects in accordance with State and local record retention policies.

E. Enforcement

The Parties agree that the local government shall enforce its local program ordinance under the following standards:

1. Issue Notices of Violation (hereinafter, "NOV") for any significant violation of the SPCA, rules adopted pursuant to the SPCA, or the local erosion and sedimentation control ordinance documented in an inspection report. An NOV shall be issued to the persons responsible for the violations, pursuant to N.C. Gen. Stat. § 113A-61.1.
 2. The NOV shall specify the following:
 - a. describe the violation with reasonable particularity
 - b. request that all illegal activity cease
 - c. the actions that need to be taken to comply with the SPCA and the local ordinance
 - d. a date by which the person must comply with the SPCA and the local ordinance
 - e. inform the violator that any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and the local ordinance
-

3. Undertake appropriate enforcement actions, including injunctive relief, or assessment of civil penalties for an initial penalty or a daily penalty for continuing violations.
4. Require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation.

IN WITNESS WHEREOF, the Parties enter into this Memorandum of Agreement, this the 20 day of August 2012.

SEDIMENTATION CONTROL COMMISSION

HAYWOOD COUNTY, NORTH CAROLINA

By: _____
 Robin K. Smith
 Chair
 Dated: _____

By: Mark Swanger
 Commission Chair
 Dated: 8-20-2012

DIVISION OF LAND RESOURCES

By: _____
 James D. Simons
 Director
 Dated: _____

By: Allyson
 County Manager
 Dated: 8-20-2012

Approved as to Form

Approved as to Form
Joan M Killian
 Local Government Attorney
 Dated: 08/20/2012

By: _____
 Rufus C. Allen
 Assistant Attorney General and Counsel to
 the Commission
 Dated: _____

Request for approval of Information Technology Agreements and Service Orders

Chairman Swanger recognized Joey Webb, Network Administrator. Mr. Webb explained that the County Information Technology (IT) department had been reviewing internet and telephone service packages and the cost. He noted that Charter Communications had provided the best package based on the needs of the County, including an increase in internet speed and a backup system if the primary internet went down allowing the public to continue to access information. Mr. Webb added that the costs are comparable with the current service costs. Chairman Swanger cited that the County Attorney had reviewed the agreements; Mr. Killian confirmed. Vice-Chairman Kirkpatrick asked if these services were included in the current budget; Mr. Stamey confirmed.

Vice-Chairman Kirkpatrick motioned to approve the Voice Trunk Service Agreements for 81 Elmwood Way, 157 Paragon Parkway and 1620 Brown Avenue as presented. Commissioner Sorrells seconded; the motion carried unanimously.

Commissioner Upton motioned to approve the Data Transport Service Agreement and Service Order for 278 Recycle Road, 55 Buckeye Cove Road, 58 Park Street and 81 Elmwood Way as presented. Commissioner Ensley seconded; the motion carried unanimously.

Commissioner Ensley motioned to approve the Business Internet Access Video and Music Service Agreement and Service Order for 157 Paragon Parkway and 1620 Brown Avenue as presented. Commissioner Upton seconded; the motion carried unanimously.

Request approval of Haywood Community College proposed change orders for Creative Arts Building

Chairman Swanger recognized Bill Dechant, Director of Campus Development, Haywood Community College (HCC). Mr. Dechant presented three (3) proposed change orders for consideration by the board. All proposed change orders were approved by the HCC board, but not by the State Construction office.

- Proposed change order 49 - \$2,520 – repair to waterline. When overall waterline improvement project was completed, a parking lot needed to be redone and additional repairs were done to the waterline trench.
- Proposed change order 50 – \$854 – when modifying sewer line, a manhole was uncovered and needed to be raised for proper access
- Proposed change order 54 – (\$80,000) – this is a credit toward the contingency fund as the green monitoring and surround sound system will be taken out of the contract. Mr. Dechant acknowledged that a grant from the Wingate Foundation would be used to cover these expenses.

Chairman Swanger noted that he was asked why change orders from HCC are brought before the Commissioners. He explained that the use of the 1/4¢ sales tax proceeds requires board approval. If HCC had funding from another source, the board would not be involved, unless it was to provide other assistance.

Commissioner Sorrells motioned to approve proposed change orders 49, 50, and 54, contingent upon approval by the State Construction office. Commissioner Ensley seconded; the motion carried unanimously.

Mr. Dechant explained that there is no specific date for completion but the hope is to be finished in October. An open house is planned for March 1, 2013.

CLOSED SESSION

Commissioner Ensley made a motion to enter into Closed Session for Attorney/Client Privilege as provided in G.S. §143-318.11(a)(3). Vice-Chairman Kirkpatrick seconded, the motion carried unanimously.

The Board returned from closed session.

ADJOURNMENT

Commissioner Sorrells made a motion to adjourn the regular Board meeting. Commissioner Ensley seconded, and the motion carried unanimously.

The time of adjournment was 7:18 p.m. The DVD is attached by reference to the minutes.

CLERK

CHAIRMAN