

## **HAYWOOD COUNTY COMMISSIONERS**

**REGULAR MEETING – April 16, 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**

Commissioner Upton offered the invocation.

### **PUBLIC HEARING**

Chairman Swanger noted the first item on the agenda was a public hearing for receiving public input on the Community Development Block Grant (CDBG) Scattered Site Housing Program and Application. Chairman Swanger recognized David Teague, Grants Coordinator. Mr. Teague reminded members that this was the second public hearing for this grant application and that the purpose of this hearing is to gain public input on the plan of action for this year’s grant. He explained that the selection committee has met twice and determined that due to the number of applicants requiring home replacement, the grant funds would be better allocated by replacing four (4) homes. A prioritized listing of potential renovations was also developed in the event there were any residual funds. Mr. Teague noted that at the next regular meeting, the application would be provided to the Board for review and approval, and a recommendation that Mountain Projects, Inc. be contracted to administer the program.

Chairman Swanger asked if any individuals would like to comment regarding the CDBG Scattered Site Housing Program. No public response was received.

Chairman Swanger closed the public hearing and noted that the board would take appropriate action at the next regular meeting.

## **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. No one addressed the Board.

Chairman Swanger closed the public comment session.

## **CONSTITUENT CONCERNS**

Commissioner Ensley commented that the spring farm equipment sale took place on April 14 at the fairgrounds; this event went well. Commissioner Ensley extended his appreciation to those involved.

## **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 Upton seconded, and the motion carried unanimously.

- Approval of April 2, 2012 regular meeting minutes with one adjustment by Commissioner Ensley – during discussion about the capital project at Pisgah High School, Commissioner Ensley was misidentified as asking a question. Commissioner Sorrells asked the question.
- March 2012 Refunds, Releases, Amendments and Discoveries
- Budget Amendments:  
Julie Davis, Finance Director, explained each of the following budget amendments
  - EMS - \$250 – annual EMS awards banquet; funds are donations that have been received to cover this expense.
  - Register of Deeds - \$5,500 – temporary help expenses; amount will be from contingency. This amount will cover the department while an individual is out on Family Leave. Due to the filing of documents, this is a position that requires coverage; this amount is projected to last until the end of the budget year.
  - Emergency Management – \$10,000 – grant received from the State of NC Department of Public Safety for development of a regional Emergency Response Plan for hazardous materials.

HAYWOOD COUNTY  
 BUDGET ORDINANCE AMENDMENT  
 FISCAL YEAR 2011-2012

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, 2012.

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

Department line item	Account Number	Current Budget	Increase (Decrease)	Amended Budget
Public Safety:				-
EMS - Special programs	114370-023100 JM/FD	-	250	250
				-
				-

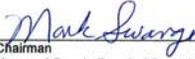
which will result in a net increase (decrease) of \$ 250 in the expenditures of the General Fund.

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
Miscellaneous Revenues:				
Contributions/Donations - EMS	110100-443940 JM/FD	-	250	250
				-
				-
			250	-

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

Adopted this the 16<sup>th</sup> of April, 2012.

  
 Chairman  
 Haywood County Board of Commissioners

ATTEST:  
  
 Clerk to the Board

<b>Explanation:</b>
To appropriate the amount of the contributions to the Jane Melvin Fund for the annual EMS awards dinner.

HAYWOOD COUNTY  
BUDGET ORDINANCE AMENDMENT  
FISCAL YEAR 2011-2012

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, 2012.

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

Department	Account Number	Current Budget	Increase (Decrease)	Amended Budget
General Government				
Register of Deeds				
Temporary wages/benefits	114180-512600		5,500	5,500
Contingency	119910-599100	283,656	(5,500)	278,156

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 16<sup>th</sup> of April, 2012.

Mark Switzer  
Chairman  
Haywood County Board of Commissioners

ATTEST: [Signature]  
Clerk to the Board

Explanation:
To cover the cost of temporary person to fill in for the department while a staff member is out for an extended period.

HAYWOOD COUNTY  
BUDGET ORDINANCE AMENDMENT  
FISCAL YEAR 2011-2012

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, 2012.

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

Department	Account Number	Current Budget	Increase (Decrease)	Amended Budget
Emergency Management				
HMEP Special Program	11 4375 523100 HMEP		10,000	10,000

which will result in a net increase of \$ 10,000 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
Restricted Intergovernmental				
HMEP Hazard Materials	11 0050 443750 HMEP		10,000	10,000

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

Adopted this the 16<sup>th</sup> day of April, 2012.

Mark Switzer  
Chairman  
Haywood County Board of Commissioners

ATTEST: [Signature]  
Clerk to the Board

Explanation:
To appropriate grant funds from State of NC Department of Public Safety, Div of Emergency Management to develop an Emergency Response Plan for hazardous materials, both fixed and transportation incidents, to host an exercise, and develop a field guide.

**ADMINISTRATIVE/AGENCY REPORTS**

041612

### **WNC Regional Livestock Center Update**

Chairman Swanger recognized John Queen, Owner/Manager of Southeast Livestock Exchange. Mr. Queen provided members with an update regarding the WNC Regional Livestock Center (WNC RLC). He provided historical information related to the development of a local facility in WNC including the partnership with WNC Communities and various other stakeholders.

Mr. Queen described the facilities including the livestock sales arena, office and educational space and sale barn. He explained that the sale barn has an overhead catwalk that allows individuals to view livestock before and after the sale. The equipment utilized in the barn promotes the most humane treatment of the livestock (goats, sheep and cattle).

Mr. Queen provided financial and employment information. Based on the number of head of cattle sold which equivocated to approximately \$18 million dollars with more than \$650,000 annual savings to farmers. He added that this is a low estimate, and based on increased fuel costs and other considerations the actual savings would be closer to \$1 million. Mr. Queen noted that there are currently 15 full time employees at the WNC RLC.

Mr. Queen explained that the WNC RLC was the National Association of Development Organization's 2011 Innovation Award Winner due to the numerous project innovations included in the development and implementation of this facility. Some of these innovations include regional relationships, use of grant funds, video internet auction sales, training and education for producers and others.

Mr. Queen concluded by explaining that the market outlook for the next 2 – 3 years is positive and that with the demand high for cattle and other livestock, producers in the region have a great potential for success.

Chairman Swanger thanked Mr. Queen for his informative presentation. Commissioner Sorrells added that it was wonderful to watch the operations of this facility. He noted that it is always busy with producers throughout the region coming to buy or sell; this is a great opportunity for the county.

Commissioner Ensley noted that farming is a difficult job. Based on current beef prices, it is good to see these individuals being rewarded for what they do. This facility will allow WNC to keep farms strong. Commissioner Ensley thanked Mr. Queen for the information.

### **Presentation 2011 State of the County Report**

Chairman Swanger recognized David Teague, Public Information Officer. Mr. Teague presented the 2011 State of the County Report. He noted that the content of the report was not strictly about the fiscal year, it was about the state of the County looking back as well as looking forward. Mr. Teague explained that some of the larger projects were highlighted including the move to the new DSS/Health Department/Building and Environmental Services facility, Santek landfill management and development of the Senior Center. He added that the report summarizes other key decisions made by the Board. There are

various types of statistics included in the report and information about individual departmental projects.

Mr. Teague, with the assistance of County Manager Stamey, highlighted the many viewing and search options possible within the document and noted that the report is available on the county's website. He explained that for those individuals who could not maneuver within the document, a printable version is available on the website or by contacting the Public Information office.

Mr. Teague explained that April is National County Government Month and the report release coincides with this celebration. The hope is that the citizens of Haywood County realize the great deal of hard work that has been accomplished on their behalf in this past year. Chairman Swanger complimented everyone involved with this report and likened it to 'cliff notes' about Haywood County.

Commissioner Sorrells commented that this provides a good overview and serves as a reminder of what has been accomplished during the year.

Commissioner Upton added that this report shows how much progress has been made in the County even during a slow economy.

Chairman Swanger noted that the historical comparisons are relevant and provide a comprehensive picture of the County through the years. Chairman Swanger asked Mr. Teague to provide access information and the website address – [www.haywoodnc.net](http://www.haywoodnc.net).

## **NEW BUSINESS**

### **Request for support for Waynesville Middle and Tuscola High School Odyssey of the Mind Teams**

Chairman Swanger recognized John Sears, Teacher. Mr. Sears provided members with an explanation of the Odyssey of the Mind (OM) program and the problem-solving initiatives currently performed by local teams. He highlighted that the two teams – one from Tuscola and one from Waynesville Middle School who will be competing at the World Finals Competition in Ames, Iowa during the last week in May. Mr. Sears noted the various fundraising necessary for a trip of this magnitude, explaining that the total cost was \$20,000. Mr. Sears requested any support possible from the board to help offset these costs and provided contact information for donations.

Commissioner Ensley asked about donations from the Commissioners; Chairman Swanger noted that there is a small appropriation available to support philanthropic activities. Chairman Swanger suggested a donation of \$500 for each of the teams.

Mr. Sears thanked the Commissioners, and noted that Dr. Garrett, Dr. Nolte and Mr. Bill McDonald, with the Haywood County School System, who have also supported this endeavor.

Commissioner Ensley motioned to approve a donation of \$500 for Tuscola High School and \$500 for Waynesville Middle School for the Odyssey of the Mind teams to participate in the World Finals Competition in Ames, Iowa. Commissioner Upton seconded, the motion carried unanimously.

**Approval of New Buyout Property Lease Agreement**

Chairman Swanger recognized Claire Carleton, Recreation Director. Ms. Carleton presented a new buyout property lease agreement for approval. The parcel number is 8637-81-6407 in Clyde and will be used for a personal garden.

Vice Chairman Kirkpatrick made a motion to approve the new buyout property lease agreement as presented. Commissioner Upton seconded, the motion carried unanimously.

**HAYWOOD COUNTY BUYOUT PROPERTIES**

Lease Request					
Name	PIN	Address	Ac	Usage	Recommendation
Michael Brian Smith Anna Bess Williams	8637-81-6407	3692 Broad St, Clyde	0.52	Personal garden	Recreation Advisory Bd. recommends approving lease \$1 per year

To whom it may Concern,

I am writing this letter to make my intentions known that I would like to lease the property located at 3692 Broad Street in Clyde for the period of one year at the cost of one dollar. The property will be used as a vegetable garden.

Regards,

Michael Brian Smith

3178 Broad Street, Clyde NC 28721

(919) 669-9494



***HAZARD MITIGATION PROPERTY LEASE***

NORTH CAROLINA

HAYWOOD COUNTY

**THIS LEASE AGREEMENT** (this "Lease"), made and entered into this \_\_\_ day of \_\_\_\_\_, 2012, by and between HAYWOOD COUNTY, a subdivision of the State of North Carolina and a body politic and corporate ("Lessor") and **Michael Brian Smith and wife, Anna Bess Williams**, resident(s) of Haywood County, North Carolina, (whether one or more, "Lessee");

W I T N E S S E T H:

WHEREAS, Lessor acquired the real estate described on Appendix I, attached hereto and incorporated herein by reference (the "Premises"), pursuant to the Hurricanes Francis and Ivan Hazard Mitigation Grant Program (the "Grant Program"); and

WHEREAS, Lessor is obligated under the terms of the Grant Program to own the property perpetually and prevent its reuse for residential or commercial occupancy; and

WHEREAS, Lessee desires to lease the Premises and has offered to keep and maintain the same as open space or wetlands management use including cultivation, such uses being specifically set forth in the deed to Haywood County for the Premises; and

WHEREAS, Lessor has agreed to lease the Premises to Lessee subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the rent stated herein and the covenants, terms, and conditions hereinafter set forth, Lessor does hereby let, lease, and demise unto Lessee and Lessee does hereby rent and lease from Lessor the Premises described on Appendix I.

This Lease is executed upon the following terms and conditions:

1. Term. The term of this Lease shall commence on the 1<sup>st</sup> day of December, 2011 (the "Commencement Date") and, unless sooner terminated as herein provided, shall exist and continue for a period of one (1) year until the 30th day of November, 2012 (the "Expiration Date"); provided, however, notwithstanding any other provision of this Lease, Lessor shall have the right to terminate this Lease at any time upon not less than seven (7) days written notice to Lessee. Such notice of termination shall specify a termination date, which shall not be less than seven (7) days from the date the notice is given, and this Lease shall terminate on the date so specified.
  2. Rent. Lessee shall pay rent to Lessor in the amount of one dollar (\$1.00) for the use of each of the Premises.
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3. Renewal. This Lease shall automatically renew for successive terms of one (1) year each unless one party shall have notified the other in writing of its desire to terminate this Lease not less than thirty (30) days prior to the end of the then current term.

4. Lessor's Obligations. Lessor is leasing the Premises to Lessee in "as is condition" and makes no representations, express or implied, that the Premises is suitable for the use permitted by this Lease, or any other use. Lessor shall have no obligation of any kind, sort, or nature with regard to the Premises, nor shall Lessor have any obligation to make any payment or invest any money in, or take any other action with respect to the Premises.

5. Use of the Premises. The Premises are to be used and occupied by Lessee solely as open space and wetlands management use including cultivation and for no other purpose. Lessee shall at all times fully and properly comply with all laws, ordinances, and regulations governing the use of the Premises enacted or adopted by every lawful authority having jurisdiction over the same.

6. Rules Governing the Use of the Premises. The following rules and regulations shall govern the use of the Premises by Lessee:

(a) Lessee shall not erect any building or structure on the Premises or install any impervious surface, including, without limitation, a paved area or a concrete pad.

(b) Lessee shall not erect or post any signs on the Premises, except for "No Trespassing" signs.

(c) Lessee shall not excavate any soil or other surface or subsurface material from the Premises, and shall not dig holes or otherwise change the surface thereof, provided, however, that, subject to any restrictions of record to the contrary, Lessor agrees that Lessee may have and maintain a personal garden or other cultivation on the Premises.

(d) Lessee shall not remove any tree, other natural growth, or any natural object from the Premises (except as provided in subparagraph (h) below) unless first approved in writing by Lessor, which approval may be withheld in Lessor's sole discretion.

(e) Lessee shall not build any fires or permit any burning on the Premises and shall not cause or permit any use that will in any way increase the possibility of fire or other casualty, nor shall Lessee allow or permit the use of any firearms or explosives on the Premises.

(f) Lessee shall not cause or permit any improper noises on the Premises or allow any unpleasant odors to emanate from the Premises or otherwise annoy in any way other residents in the area.

(g) Lessee shall not alter the topography of Premises in any way and shall not fill in any part of the Premises with any material, including, without limitations, dirt, rocks, or brush.

(h) Lessee agrees to maintain the Premises by regular mowing and pruning vegetation

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to a standard that is consistent with the property maintenance of Lessee's primary residence and to the reasonable satisfaction of Lessor.

(i) Lessee shall not cause or permit Hazardous Material (as hereinafter defined) to be brought upon, kept or used in and about the Premises by Lessee, his/her, or their agents, employees, contractors, or invitees. As used herein the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and waste listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.01) or by the Environmental Protection Agency as hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (42 U.S.C. § 9601 et seq.), and any regulations promulgated thereunder and amendments thereto, and shall include all substances, materials, and waste that are or become regulated under any other applicable local, state, or federal law. Hazardous Material shall also extend to and include any substances prohibited under standard forms of fire insurance policy.

(j) Lessee shall not use the Premises in any way that is inconsistent with real estate held as vacant, open space.

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7. Assignment or Sublease. Lessee shall not voluntarily (i) assign or in any manner transfer this Lease or any estate or interest therein, (ii) permit any assignment of this Lease or any estate or interest therein by operation of law or otherwise, (iii) sublet the Premises or any part thereof, (iv) grant any license, concession or other right of occupancy of any portion of the Premises, or (v) permit the use of the Premises by any parties, other than Lessee. Lessee shall not mortgage, pledge or otherwise encumber Lessee's interest in this Lease or in the Premises.

8. Release and Indemnity. To the fullest extent permitted by law, Lessee shall release, indemnify, keep and save harmless Lessor, Lessor's agents, officials, and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials, and employees of Lessor, Lessee, or third persons, and to all property (including the property of Lessee) caused by, instituted, resulting from, rising out of, or accruing in connection with, directly or indirectly, the use or occupancy of the Premises by Lessee (or by any person who may be acting for Lessee or for whom Lessee is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of Lessee, Lessee's agents, employees, or invitees, or otherwise. The provisions of this paragraph shall include any claim for equitable relief or damages (compensatory or punitive) against Lessor, Lessor's agents, officials, and employees, including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost, and expenses. Expenses as used herein shall include, without limitation, the cost incurred by Lessor, Lessor's agents, officials, and employees, in connection with investigating any claim or defending any action, and shall also include attorneys' fees by reason of the assertion of any such claim against Lessor, Lessor's agents, officials, or employees. Lessee expressly understands and agrees that any insurance protection required by this Lease, or otherwise provided by Lessee, will in no way limit Lessee's

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responsibility to release, indemnify, keep and save harmless and defend Lessor as provided herein. The intention of the parties is to apply and construe this Release and Indemnity broadly in favor of Lessor.

9. Default. Lessee's failure to (i) use the Premises as provided in the Lease, (ii) comply with the rules and regulations governing of the use of the Premises, (iii) provide and keep in force the required insurance, or (iv) comply with any other term or condition of this Lease shall constitute an Event of Default. Upon the occurrence of an Event of Default Lessor shall notify Lessee in writing of such default and if the Event of Default has not been cured or corrected within fifteen (15) days of the giving of such notice this Lease shall automatically terminate.

10. Notices. All notices given hereunder shall be made in writing. Such notices shall be deemed given when personally delivered or deposited in the United States mail, certified or registered mail, postage prepaid, addressed to the respective party at the address shown below unless a different address shall have been provided in writing:

If to Lessor: Haywood County  
215 North Main Street  
Waynesville, North Carolina 28786  
Attention: Marty Stamey, County Manager

If to Lessee: Michael Brian Smith  
Anna Bess Williams  
3178 Broad Street  
Clyde, NC 28786

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11. No Waiver. Lessor's failure to enforce or delay in enforcing any of the provisions, rights, or remedies in this Lease shall not be a waiver nor in any way affect the validity of this Lease or any part hereof, or the right of Lessor to enforce each and every provision, right, or remedy contained herein. No waiver of any breach of any provision of this Lease shall be held to be a waiver of any other subsequent breach of the same or any other provision.

12. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions, and understandings between Lessor and Lessee concerning the Premises. Lessee shall make no claim on account of any alleged representations contained in prior discussions, correspondence, or other documents, not set forth in this Lease. This Lease shall not be altered, amended, or changed except by a written document executed by Lessor and Lessee.

13. Time is of the essence. Time is of the essence of this Lease and the performance of all obligations hereunder.

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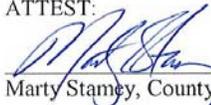
IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first written above.

LESSOR:

HAYWOOD COUNTY

By:   
Mark S. Swanger  
Chairman, Board of Commissioners

ATTEST:

  
Marty Stamey, County Manager

(SEAL)

LESSEE

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

**Property Tax Commission Appeal**

Chairman Swanger recognized David Francis, Tax Administrator. Mr. Francis noted that the request was to lower the value on a commercial property (8616-40-3231) that was scheduled to go before the Property Tax Commission. Mr. Francis explained that the property owner submitted the schedule of rents and expenses for 2009 and 2010. The request is for a reduction from \$4,378,600 to \$4,200,000.

Vice Chairman Kirkpatrick inquired that when this information is brought before the board, the owner has already agreed to this reduction. Mr. Francis confirmed.

Commissioner Ensley asked if the written schedule had been submitted. Mr. Francis answered that it was not submitted until the hearing was scheduled.

Chairman Swanger asked if the information was coordinated between Haywood County, the taxpayers and the Department of Revenue. Mr. Francis noted that this particular instance was between Haywood County and the Property Tax Commission (PTC); the attorneys for the tax office and the PTC worked together on this case.

Chairman Swanger clarified that this was coming to this board rather than the Board of Equalization and Review due to the fact they had already adjourned from last year.

Commissioner Sorrells asked if this was information that was not available to the tax office at the time of each of the appeals, and when a final hearing was set, then the information was shared. Mr. Francis confirmed and noted that if information had been shared initially, the adjustment could have been performed at that time.

Commissioner Ensley motioned to approve the Property Tax Commission Appeal for property 8616-40-3231 as presented. Commissioner Sorrells seconded, the motion carried unanimously.

Vice-Chairman Kirkpatrick asked if there was any way to save settlement agreements so they may be utilized as examples in the future. Mr. Francis noted that this particular case involved commercial property and would be confidential. He added that requests were made for this specific information and that the value was derived from a sales ratio.

Vice-Chairman Kirkpatrick noted that this instance might have been one where the owner did not want the county to know the information; however, this proves that information is kept confidential, and by providing this information, the value was reduced.

### **Ten-year Solid Waste Management Plan – Three-Year Update**

Chairman Swanger recognized Stephen King, Solid Waste Director. Mr. King explained that the Solid Waste Management Plan was prepared in accordance with G.S. §130A-309.09A (b) for the purpose of meeting local solid waste needs and protecting public health and the environment. He explained that all four of the municipalities within the county participate in this plan. The plan outlines five specific goals:

1. To provide every citizen in Haywood County with waste disposal capacity, waste collection services and recycling/waste reduction opportunities,
2. To increase the efficiency and cost-effectiveness of the solid waste program,
3. To meet the established local waste reduction goals
4. To decrease improper waste disposal, and
5. To protect the public health and environment

Mr. King noted that there would be a public meeting on Monday, May 7, 2012 at 5:30 p.m. in the Historic Courthouse to gain public input on this plan; copies of the plan will be available on the County's website and at the Canton and Waynesville libraries.

Mr. King added that the transfer station is not closing. The building is being converted to be more user-friendly for the citizens of the County. He explained that the transfer station is not closing to the public. Mr. King commented that the facility would comply with ADA standards for patrons and noted Haywood County received the ranking of #1 in North Carolina for electronics recycling.

Commissioner Ensley thanked Mr. King for clarifying that the transfer station was not closing; the municipalities and private waste haulers will deliver their waste directly to the landfill in White Oak, as opposed to bringing it to the transfer station. The transfer station is open for citizens.

Chairman Swanger explained that the transfer function for the towns and private haulers of taking waste to the facility, dumping and then the county reloading to take to the landfill would be eliminated. This will eliminate this redundant process and be a cost-savings for the County of between \$800,000 and \$900,000.

Chairman Swanger clarified that there will be no action requested at this meeting, but rather after public input is gained. Mr. King confirmed.

Commissioner Ensley noted that recyclables could be collected from all categories 1 through 7; Chairman Swanger added that Haywood County went from 67<sup>th</sup> in the state in recycling to 14<sup>th</sup>. Chairman Swanger congratulated Mr. King for his efforts and successes.

**Request for approval of Incentive Agreement with Sonoco Plastics, Inc.**

Chairman Swanger recognized Mark Clasby, Executive Director, Haywood County Economic Development Commission. Mr. Clasby presented an incentive agreement that was negotiated with Sonoco Plastics (Sonoco). Sonoco is adding \$11 million in capital improvements to their Waynesville facility with the addition of 35 new jobs. Mr. Clasby explained that the three-year incentive agreement would be a grant back to Sonoco after their taxes are paid.

Chairman Swanger clarified that this agreement was consistent with the incentive agreement policy that the board had previously approved for the EDC. County Attorney Killian has reviewed the document and had two things that need to be added to the document: the contact address for Sonoco, and the two exhibits that are referenced in the document – the legal description and the schedule that shows how the incentives were calculated.

Vice-Chairman Kirkpatrick noted that this incentive is applicable to Sonoco as they are adding jobs. Mr. Clasby explained the incentive schedule, and noted there is a claw back that nullifies the agreement if the stipulations are not met.

Commissioner Sorrells added that Sonoco has to show equipment purchases and verify employment listings through the Employment Security Commission. Mr. Clasby confirmed.

Vice-Chairman Kirkpatrick reiterated that this is available for businesses currently operating in Haywood County and is a policy that could be beneficial.

Commissioner Upton motioned to approve the incentive agreement with Sonoco Plastics, subject to the minor technical changes noted by the County Attorney, as presented. Vice-Chairman Kirkpatrick seconded, the motion carried unanimously.

NORTH CAROLINA

HAYWOOD COUNTY

**INCENTIVE AGREEMENT**

**THIS INCENTIVE AGREEMENT**, dated March 13, 2012 (the "Agreement"), and between SONOCO PLASTICS INC., formerly known as Associated Packing, a subsidiary of Sonoco Products Company (the "Company"), and HAYWOOD COUNTY, NORTH CAROLINA, a public body politic and a political subdivision of the State of North Carolina (the "County"). The Company and the County are sometimes collectively referred to herein as the "Parties."

**WITNESSETH:**

WHEREAS, the purpose of this Agreement is to describe certain incentives to be provided by the County to the Company in connection with the Company's expansion of its consumer and industrial packaging manufacturing and service facility in the County, known as Project Staples; and

WHEREAS, the County is proceeding under the provisions of N.C. Gen. Stat. § 158-7.1(a) and § 158-7.1(d2), as well as other local actions applicable to Haywood County.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, the Parties hereby agree as follows:

**ARTICLE I**

**DEFINITIONS & RULES OF CONSTRUCTION**

1.1. Definitions. For all purposes of this Agreement, unless the context requires otherwise, the following terms shall have the following meanings:

"Beneficial Occupancy" means the date on which (a) substantial completion of the expansion of the Facility is accomplished on the Site; (b) at least thirty five (35) persons are employed for at least one week in the Facility; and (c) the Site has been leased from the Owner to the Company.

"Business Day" means any day that is not a Saturday or a Sunday, or a day on which banks in the State are required by law to be closed.

"Cancellation Date" means the date of Beneficial Occupancy at which time the County surrenders its reversion rights, as referred to in Article I.

"Closing Date" means the date on which this Agreement is first executed and delivered by the parties.

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“Direct Investment” means the original tax value of all land, buildings and equipment placed by the Company on the ad valorem tax rolls of the County, regardless of the funding sources for said property, after January 1, 2012.

“Facility” means the expanded consumer and industrial manufacturing and service facility located at 288 Howell Mill Road, Waynesville, North Carolina which expansion and renovation work is under construction by the Company on the Site.

“Incentive” means the various incentive payments from the County to the Company, as referred to in this Agreement.

“Occupancy Date” means the date on which the Company assumes Beneficial Occupancy of the Facility.

"Owner" means the fee simple owner of the Facility which is being leased by the Company.

“Site” means the real property of the Owner upon which the Facility is to be constructed, as more specifically described in Exhibit A.

“State” means the State of North Carolina.

1.2. Rules of Construction. Unless the context otherwise indicates:

(a) words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and neuter genders as well;

(b) all references to Articles, Sections or Exhibits are references to Articles, Sections and Exhibits of this Agreement;

(c) the headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meanings, construction or effect.

## ARTICLE II

### OWNERSHIP OF SITE AND EQUIPMENT

2.1. Site Description. DC Plus LLC is the Owner of the Site, which is the real property upon which the Facility is to be constructed. The Site is described in Exhibit A.

2.2. Representations and Warranties of the Company. The Company hereby represents and warrants that it has a -10 year leasehold interest in the Site and is the owner of the Equipment being used for manufacturing on the Site.

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2.3. Intent. The intent of this Agreement is that the Owner will continue to lease the Site to the Company which shall construct the Facility on the Site, and then the Company will continue to occupy and operate the constructed Facility.

### ARTICLE III

#### SITE PREPARATION

*[Intentionally Deleted]*

### ARTICLE IV

#### COUNTY INCENTIVE AND REIMBURSEMENT REQUIREMENTS

4.1. Fair Market Value. Sonoco Plastics, Inc. has committed to investing \$3,484,285 in improvements to the building/facility, \$3,500,000 in new production equipment, and transferring in existing equipment from outside of North Carolina with a net book value of approximately \$4,000,000.

4.2. Company Investment. The Company's total investment, as derived from the Fair Market Value of assets agreed to under Section 4.1, is \$10,984,285.

4.3. Industrial Development Incentive Grant Guideline Program. The Haywood County Incentive for Business and Industry effective May 3, 2004, as revised.

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4.4. Incentive Grant Qualification. The Company qualifies for an annual incentive grant of \$96,166, as follows: \$37,362 in the first year, \$31,999 in the second year and \$26,805 in the third year.

4.5. Consideration. The County has concluded that consideration for the Incentive Grant of \$96,166 shall be based in part on the prospective tax revenues from the Fair Market Value of the aforesaid Facility, as expanded, the relocated equipment and the new equipment. Applying a tax rate of 0.5413 per \$100 valuation, and a Tax Grant of 90% in Year One, 80% in Year Two and 70% in Year Three, and applying certain depreciation factors, all as set forth on Exhibit B, the total Incentive Grant is computed to be \$96,166.

4.6. Reimbursement Requirements. In the event that the Company does not expend the minimum amount stated above to accomplish the full Company Investment on the improvements and personal property, the County's obligation to provide the Grant to Facility shall be void. County acknowledges and agrees that in the event that the Company does not so expend the minimum amount stated above regarding the Facility, County shall have no cause of action against the Company under this Agreement other than to withhold payment of the Grant related to the Facility.

The Company shall be solely responsible for providing certifications of expenditures to the appropriate County officer at the time of filing the request for the annual Grant.

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Performance Targets set forth in Article I, Section 1.1, represents the levels of Full Time Equivalent (FTE's) Employees and Direct Investment Article IV, Section 4.2, which must be achieved by the Company in order to qualify for a complete level of Future Incentive Grants.

Should the Company fail to achieve or maintain the committed levels of Performance Targets, Future Incentive Grants shall be reduced accordingly.

In the event of the Abandonment of manufacturing operations in the facility, no Future Incentive Grants will be required to be paid to the Company from the year in which the Abandonment of manufacturing forward. Also in this event, the Company shall be required to make reimbursements of the initial Incentive Grants.

The level of Full Time Equivalent Employees will be confirmed at the end of each calendar year based upon the Annual Company Report conducted by the Haywood County Economic Development Commission. Whether or not the Company has maintained equipment and other improvements in the Facility which was a part of this Incentive Agreement for which incentives are being provided shall be determined each year based on the Business Real and Personal Property Listing Form filed by the Company with the County each year.

## **ARTICLE V**

### **CONSTRUCTION OF FACILITY**

5.1 **Construction of the Facility.** The parties agree that construction of the Facility is solely the Company's responsibility. The Facility is under construction, and beneficial occupancy will occur on or before January 1, 2013. The Company will cause the construction to be carried out in accordance with all applicable State and local laws and regulations. The Facility will be constructed on the Site. The Facility will not encroach upon nor overhang any easement or right-of-way. The Facility will be located wholly within any applicable building restriction lines, however established, and will not violate applicable use of other restrictions contained in prior conveyances or applicable protective covenants or restrictions.

## **ARTICLE VI**

### **INDEMNIFICATION**

6.1. **Indemnification.** The Company hereby agrees to indemnify and hold harmless the County and its officers, directors and employees from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including reasonable attorneys' fees, arising out of, connected with, or resulting directly or indirectly from the Site or the transactions contemplated by or relating to this Agreement, including without limitation, the possession, condition, construction or use thereof, in so far as such matters relate to events subject to the control of the Company and not the County. The indemnification arising under this Article shall survive the termination of this Agreement.

## **ARTICLE VII**

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### LIMITED OBLIGATION OF COUNTY

7.1. No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the county within the meaning of any constitutional debt limitation. No provision of this Agreement shall be construed or interpreted as delegating governmental powers nor as a donation or a lending of the credit of the County within the meaning of the State Constitution. This Agreement shall not directly or indirectly or contingently obligate the County to make any payments beyond those appropriated in the County's sole discretion for any fiscal year in which this agreement shall be in effect. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the County's moneys, nor shall any provision of this Agreement restrict to an extent prohibited by law, any action or right of action on the part of any future County governing body. To the extent of any conflict between this article and any other provision of this Agreement, this Article shall take priority.

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### ARTICLE VIII

#### MISCELLANEOUS

8.1. Governing Law. The parties intend that this Agreement shall be governed by the law of the State of North Carolina.

8.2. Notices. Any communication required or permitted by this Agreement must be in writing except as expressly provided otherwise in this Agreement. Any communication shall be sufficiently given and deemed given when delivered by hand or five days after being mailed by first-class mail, postage prepaid, and addressed as follows:

- (1) If to the Company, to: Roger Buckley, Soroco Products Company  
1 N. Second Street, MS B04 Hartsville, SC 29550
- (2) If to the County, to: Mark B. Clasby, Haywood County Economic Development Commission, 144 Industrial Park Dr., Waynesville, NC 28786.

Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

8.3. Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

8.4. Severability. If any provision of this Agreement shall be determined to be unenforceable, that shall not affect any other provision of this Agreement.

8.5. Entire Agreement: Amendments. This Agreement, including Exhibits A through D Attached, which are incorporated herein and made a part hereof, constitutes the entire contract between the parties, and this Agreement shall not be changed except in writing signed by all the parties.

8.6. Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

8.7. Time. Time is of the essence in this Agreement and each and all of its provisions.

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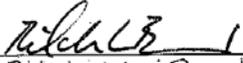
8.8. Liability of Officers and Agents. No officer, agent or employee of the County or the Company shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

8.9 Counterparts. This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

SO AGREED:

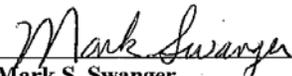
**SONOCO PLASTICS,**  
f/k/a Associated Packing, a subsidiary of  
Sonoco Products Company

By:   
Name: Ritchie L. Bond  
Title: Treasurer

ATTEST:

  
**Marty Stamey**  
County Manager/Clerk to Board

**HAYWOOD COUNTY**

By:   
**Mark S. Swanger**  
Haywood County Board of Commissioners

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Mr. Killian explained that this competitive confidentiality provision was approved by statute. The document has been signed by HRMC.

Vice-Chairman Kirkpatrick motioned to approve the Memorandum of Understanding between Haywood County and Haywood Regional Medical Center as described by County Attorney Killian. Commissioner Ensley seconded, the motion carried unanimously.



## Haywood Regional Medical Center

### MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made as of the 4<sup>th</sup> day of April, 2012, by and between Haywood County, North Carolina, a body politic and corporate (the “County”) and Haywood Regional Medical Center, a North Carolina hospital authority (the “Medical Center”).

#### **RECITALS:**

**WHEREAS**, the real property of the Medical Center located at 262 Leroy George Drive, Clyde, North Carolina, is or will be encumbered by a deed of trust (the “Deed of Trust”) securing a line of credit extended to the Medical Center by The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System (the “Line of Credit”); and

**WHEREAS**, the County has conditionally approved the Medical Center’s grant of the Deed of Trust in accordance with a Conditional Waiver and Subordination of Reverter Agreement; and

**WHEREAS**, the County has requested that the Medical Center provide this MOU, as a framework for the Medical Center to provide periodic reporting to the County while the Line of Credit is outstanding and unpaid, and the Medical Center is willing to accommodate the County’s request under the guidelines set forth in this MOU;

**NOW, THEREFORE**, the parties set forth their reporting relationship and agree as follows:

1. **Effective Date.** The effective date of this MOU is the date that the Deed of Trust is recorded in the Office of the Register of Deeds of Haywood County (the “Effective Date”). This MOU shall automatically terminate and cease to be in effect on the date the Line of Credit is paid and satisfied in full and the Deed of Trust is cancelled of record.

2. **Reporting.** The County and HRMC have arranged to maintain the following reporting relationship during the term of this MOU:

a. On a quarterly basis (or more frequently upon sufficient advance notice if reasonably requested by the County Manager and County Finance Director), the chief executive officer of the Medical Center (or his or her designee) will provide updates with respect to status of the Line of Credit and the performance of the Medical Center's obligations thereunder to the Board of County Commissioners.

b. On a quarterly basis (or more frequently upon sufficient advance notice if reasonably requested by the County Manager and County Finance Director), the chief executive officer of the Medical Center (or his or her designee) shall provide to the County Manager and County Finance Director copies of the most recently completed unaudited, interim financial reports of HRMC.

c. On a quarterly basis (or more frequently upon sufficient advance notice if reasonably requested by the County Manager and County Finance Director), the chief executive officer of the Medical Center (or his or her designee) shall provide to the County Manager and County Finance Director a report of the days of cash on hand available to the Medical Center at the end of the most recent reporting period.

d. On an annual basis, the chief executive officer of the Medical Center (or his or her designee) shall submit to the County Manager a copy of the Medical Center's most recently completed audited financial statements.

3. **Competitive Health Care Information.** The information furnished by the Medical Center is proprietary and confidential, and its disclosure may place the Medical Center at a competitive disadvantage, impair its operations, or be detrimental to its prospects. The Medical Center shall designate in advance in writing to the County all or any portion of the information furnished pursuant to Section 2 of the MOU that constitutes "competitive health care information" under Section 131E-97.3 of the North Carolina General Statutes. Pursuant to Section 131E-97.3(c) of the North Carolina General Statutes, the County will treat such competitive health care information as confidential and not as a public record under Section 132 of the North Carolina General Statutes and will not disclose such competitive health care information without the prior written approval of the Medical Center unless it is compelled to do so by legal process from which there is no appeal. Any part of a verbal update or report pursuant to Section 2.a. that constitutes competitive health care information will only be given to the County Commissioners in closed session. The County will keep confidential and not disclose the information furnished in such verbal report or update without the prior written consent of the Medical Center unless it is compelled to do so by legal process from which there is no appeal. If the County shall fail to perform its obligations under this Section 3, the Medical Center shall be entitled to immediately terminate this MOU.

4. **Severability.** In the event any portion of this MOU shall be determined to be invalid under any applicable law, such provision shall be deemed void and the remainder of this MOU will remain in full force and effect.

5. **Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this MOU.

6. **Entire Reporting Relationship: Amendment.** This MOU constitutes the entire agreement and statement of the reporting relationship between the parties with respect to the matters contemplated herein and shall not be modified, amended, altered or changed except by a writing signed by the parties.

7. **Counterparts.** This MOU may be executed in one or more counterparts each of which shall be deemed an original and all of which together shall constitute a single agreement.

*[Signatures Begin on Succeeding Page]*

IN WITNESS WHEREOF, the parties hereto have executed this MOU, under seal, in duplicate originals as of the date first set forth above.

**HAYWOOD COUNTY:**

By: Board of County Commissioners

By: Mark Swanger  
Chairman

**HAYWOOD REGIONAL MEDICAL CENTER:**

By: [Signature]  
President

**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, and 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 7:04 p.m. The DVD is attached by reference to the minutes.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
CHAIRMAN