

## **HAYWOOD COUNTY COMMISSIONERS**

### **REGULAR MEETING – July 15, 2013**

#### **CALL TO ORDER**

Chairman Mark S. Swanger convened the regular meeting of the Haywood County Board of Commissioners at 5:30 p.m. in the Historic Courtroom at the Haywood County Historic Courthouse, Waynesville, North Carolina, with Chairman Mark S. Swanger, Vice-Chairman J.W. “Kirk” Kirkpatrick III, Commissioners L. Kevin Ensley, Michael T. Sorrells, and Bill L. Upton present. Staff members present were County Manager 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 Sorrells offered the invocation.

Chairman Swanger requested a moment of silence in honor of Zeb Alley who passed away last week. Mr. Alley was a Haywood County native, former county attorney and attorney for the Town of Waynesville; he was a State Senator from the district that included Haywood County and a highly decorated veteran of the Korean War.

#### **PUBLIC HEARING**

##### **Public Hearing regarding Variance to Wireless Communications Ordinance for addition of support structure for existing tower**

Chairman Swanger called the public hearing to order and recognized Kris Boyd, Planning Director. Mr. Boyd explained that the request was for a variance to the wireless telecommunications ordinance. He noted that the existing tower was permitted in 2000, and has become structurally insecure for additional collocations and equipment. The application for the variance is for the addition of guy wires to help with stability. Mr. Boyd introduced Fred Wamble from SBA, who noted this modification was the best solution for the structure and would allow for compliance with requirements for upgraded services. Mr. Wamble explained that most of the modifications to the existing tower could be made within the current leased area; however, one support would be outside of current fenced compound. The Haywood County Planning Board has reviewed the plan and discussed modifications to ensure that auto traffic near the tower could continue safely. SBA has been amenable to making modification per the Planning Board related to placement of one individual guy wire. Mr. Wamble added that this change has been precipitated by code and service changes.

Chairman Swanger opened the floor for public comment related to this issue. No one addressed the board. There were no comments or questions from the Board.

Chairman Swanger inquired as to the recommendation from Mr. Boyd and the Planning Board. Mr. Boyd noted that the variance request was in accordance with the Telecommunications Ordinance; the issue is not a direct result of SBA. He reiterated that building code and service changes precipitated the modification. One of the guy wires will be outside of the current area and the fence will be moved. The Planning Board recommended approving the variance request with some the condition of adding some type of structural support (concrete barriers, bollard) near the road on the inside of fence to protect the guy wire. Mr. Boyd recommended approval provided SBA meets all conditions outlined by the Planning Board.

Chairman Swanger closed the Public Hearing and noted that the Board would vote on this matter at the next 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.

Jack Wadham addressed the board and expressed his concern regarding use of International Building codes and the impact on churches. He referenced the voting by the Board to approve these regulations. Chairman Swanger explained that he was not aware of any action taken by this Board related to this type of building regulation and added that the County follows and enforces State building codes. County Manager Stamey was asked to assist Mr. Wadham with his concern after research and discussion with the NC Department of Insurance and Bruce Crawford, Inspections Director.

Yvonne Mazet-Wadham also commented regarding building code regulations. Chairman Swanger noted again that research would be done to best address concerns. Mr. Stamey noted that the NC General Assembly approved the international building code and not county representatives. It was discovered that the building in question was in the Town of Waynesville and county inspections would not have been involved with any such inspection. Chairman Swanger concluded that Mr. Stamey added that he would discuss concerns with Ms. Mazet-Wadham and Mr. Wadham outside of this meeting.

### **CONSTITUENT CONCERNS**

There were no constituent concerns noted.

### **DISCUSSION / ADJUSTMENT TO 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, the motion carried unanimously.

- Approval of June 17, 2013 regular meeting minutes
- Approval of June 20, 2013 special meeting minutes
- Approval of June 2013 - Refunds, Releases, Amendments and Discoveries – David Francis, Tax Administrator
- Request approval of Home and Community Care Block Grant (HCCBG) for Older Adults Agreement for the Provision of County Based Services –Sarajane Melton, Executive Director, Region A Area Agency on Aging. Ms. Melton noted that this is an annual contract through the HCCBG.
- Request approval of DSS Contracts over \$50,000 – Ira Dove, DSS Director, provided information regarding the various contracts requiring board approval for the fiscal year 2013-14. He explained the various programs affected by these contracts. County Attorney Killian has reviewed all contracts with no concerns noted; these are annual contract renewals.

The contracts and amounts are listed below:

- Champion Cab – Medicaid Transportation - \$95,000
  - Mountain Projects - Medicaid Transportation - \$150,000
  - Carolina Transport & Shuttle, Inc – Medicaid Transportation - \$60,000
  - Haywood Vocational Opportunities – Work First Employment - \$104,000
  - Southwestern Child Development – Daycare services - \$82,677
- Request approval of two Health Department Contracts – Carmine Rocco, Health Director. Mr. Rocco noted that the first contract was with NC Alliance of Public Health Agencies for professional medical, dental and other health-related services; specifically a WIC Nutritionist. The next was the annual contract between the Health Department and Haywood County Schools for school nursing services for fiscal year 2013-14. Mr. Killian has reviewed these contracts with no concerns noted. The contract amounts are as follows:
    - NC Alliance of Public Health Agencies - \$141,000
    - School Nursing Services - \$100,575
  - Request approval of State of North Carolina Forest Services Agreement for 2013-2014 per approved budget – Julie Davis, Finance Director. Ms. Davis explained that this is an annual contract for fire control services. The county shares 40% of the cost; the total is \$95,959.
  - Request approval of application renewal for Tyler Technologies, Inc. Financial Software – three-year renewal per approved budget. Ms. Davis noted that this was an amendment to the agreement from 2010 and added that the county has been using this software since 1996. She explained that the contract is for software and hosting services as well as offsite server maintenance. Annual contract rate is approximately \$70,000; unnecessary service modules were dropped from the contract.

- Request approval of Governmental Authorization Resolution for TD Bank as an official depository for the County. Ms. Davis noted that the board must approve any banking institution used by the County. TD Bank is assisting with refunding and will hold an escrow and another account for the County. Chairman Swanger confirmed that the agreement related to refunding was closed last week. Chairman Swanger inquired as to the final rate for this refunding; Ms. Davis answered 1.38%.
- Budget Amendment – Julie Davis, Finance Director
  - Special Revenue Fund – Solid Waste Management - \$23,649 – to appropriate fund balance in the special revenue fund to cover the balance of engineering services not completed in fiscal year 2013. Work will be paid for in fiscal year 2014.

HAYWOOD COUNTY  
BUDGET ORDINANCE AMENDMENT  
FISCAL YEAR 2014

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, 2014.

Section 1. To amend Special Revenue Fund 24, the expenditures are to be charged as follows:

Department	Account Number	Current Budget	Increase	Amended Budget
Solid Waste Management				
Professional Services-Eng	244710-519900-47106	29,650	19,564	49,214
Capital outlay - equipment	244710-555000-47106	4,085	4,085	8,170

which will result in a net increase of \$ 23,649 in the expenditures of the Special Revenue Fund 24.

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
Appropriation of fund balance	240110-499991	430,000	23,649	453,649

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

Adopted this the 15<sup>th</sup> day of July, 2013.

  
Chairman  
Haywood County Board of Commissioners

ATTEST:   
Clerk to the Board

Explanation:
To cover the balance of the engineering contract for work not completed by June 30.

## **NEW BUSINESS**

### **Request use of project contingency funds for additional designer fees**

Chairman Swanger recognized Richard Lanning, Vice Chairman, Haywood Community College (HCC) Board of Trustees (BOT). Mr. Lanning explained that the subcommittee of the Building and Grounds Committee of the BOT was given authority to negotiate with the designer related to change orders that were viewed as errors and omissions by the designer on the project. A meeting was held on June 4, 2013 with the goal of settling the project for all parties involved. The subcommittee members, HCC administrative representatives, designers and a representative from the State Construction Office were in

attendance. The Subcommittee negotiated a settlement. A Special called meeting of the HCC BOT was held on June 19 where the negotiated settlement was unanimously approved.

Mr. Lanning reported the total amount of designer responsibility resulting from the 13 change orders concluded by the subcommittee and BOT was \$80,665. The designers rebutted noting \$66,087 in services provided.

The negotiation resulted in the elimination of the contested \$80,665 and an additional \$27,000 to be paid to the designer for their additional construction and administrative services. Mr. Lanning added that the appearance was the state construction monitor was sympathetic toward designer. The subcommittee weighed all options and determined that moving forward with settlement was best in an effort to avoid the legal ramifications of binding arbitration.

Mr. Lanning concluded by noting that the \$52,000 from Progress Energy Grant would be considered savings.

Commissioner Sorrells asked if this would finish the project. Mr. Lanning confirmed that it would complete this project.

Commissioner Ensley inquired regarding the apparent lack of negotiation of the original \$80,665 and whether the Progress Energy Grant was something that would be awarded without architect assistance. He added that it was disappointing for an architect to have to be paid for grant submission. Mr. Lanning responded that he felt the negotiation was a good faith effort, even though they had hoped for better.

Vice Chairman Kirkpatrick asked if the architect was refusing to help with the grant if he was not paid. Mr. Lanning answered that he was willing to do it even if he was not paid. Vice Chairman Kirkpatrick noted that, while the approach that was taken by HCC may have been different from that of another group, he asked if there was an issue with attempting to obtain the additional \$80,665. Mr. Lanning explained that those present for the negotiation felt that with binding arbitration HCC would not have done this well, and reminded members that the HCC BOT had approved unanimously.

Commissioner Upton asked when the architect came up with his counter of \$66,087, before or after the total dollars in question were submitted by HCC. Mr. Lanning stated after he saw the numbers that were reported to him.

Commissioner Sorrells inquired as to why the State Construction Office appeared to change their view. Mr. Lanning did not speculate but noted that this was a long and difficult project and the board agreed that settlement would allow completion of the building project and for HCC to move on to other issues.

Commissioner Upton motioned to approve the use of Contingency funds from the HCC Creative Arts Building to pay the designer \$27,000 in additional fees. Commissioner Ensley seconded; the motion carried unanimously.

**Request approval of two (2) NCCCS 3-1 forms for Capital Improvement Projects**

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Mr. Lanning presented two NCCCS 3-1 forms for capital improvement projects and explained that the first was for a Timbersports Facility to be built on the existing sawmill site. This project would utilize only insurance proceeds and private donations for completion per Karen Denney, HCC VP of Business Operations. No additional funding is required.

Mr. Lanning noted that the second was for a new Public Services Training Facility with an estimated project cost of \$2.14 million and would include a burn building, training tower and multi-use structure. Chairman Swanger commented that the public and commissioners were appreciative of the movement on this project.

Commissioner Sorrells inquired if the funds were already available for this project as well. Ms. Davis answered that there was \$600,000 available from flood settlement and the remainder would come from the ¼ -cent sales tax.

Chairman Swanger noted that these documents were required as proof that the County and Commissioners were aware of these plans and would be approval to move forward with these projects.

Vice Chairman Kirkpatrick motioned to approve the two documents as presented. Commissioner Ensley seconded; the motion carried unanimously.

Mr. Lanning took the opportunity to introduce Dr. Barbara Parker, the new President of HCC. Dr. Parker thanked the commissioners for their support and noted that she looked forward to working together. Chairman Swanger echoed that he looked forward to a positive working relationship.

#### **Request approval of Change Order #2 for Haywood County Auxiliary Services Facility**

Chairman Swanger recognized Dale Burris, Facilities and Maintenance Director. Mr. Burris requested approval of an owner requested Change Order #2. He noted that John Burgin Construction was willing to hold the original project bid even though seven months had elapsed since the bid. Mr. Burris added that the project bid cost was \$675,750 with additional funds required to support the extension of water, firewater, and electrical lines. The funds for extension of lines would be added to the project total and an additional number of days added to the project. This project is funded from the sale of properties and from the approved refinancing.

Chairman Swanger inquired as to the anticipated completion date. Mr. Burris explained that additional days would be added due to subcontractor bonding, but should be completed in January 2014. He noted that Phase I (Shell Package) would be completed by August 17, 2013. Chairman Swanger added that once the Board of Elections and Recreation department were moved, marketing of Annex II could begin.

Commissioner Ensley motioned to approve the change order as presented. Vice Chairman Kirkpatrick seconded; the motion carried unanimously.

#### **Request approval of 2013-2014 Capital Project Ordinance Amendment**

Ms. Davis requested approval of a fiscal year 2013-2014 Capital Project Ordinance Amendment to include the change order increase, additional utility work as noted by Mr. Burris and addition of project contingency for a total of \$780,750.

Commissioner Upton motioned to approve the Capital Project Ordinance Amendment for this project as presented. Commissioner Ensley seconded; the motion carried unanimously.

HAYWOOD COUNTY  
CAPITAL PROJECT ORDINANCE AMENDMENT  
FISCAL YEAR 2013-2014

PER: \_\_\_\_\_  
JNL: \_\_\_\_\_

BE IT ORDAINED by the Board of Commissioners of Haywood County that the following amendment be made to the capital project ordinance for the fiscal year ending June 30, 2014.

Section 1. To amend the Capital Project Fund - County building/repairs/construction projects, the expenditures are to be charge as follows:

Line Item	Account Number	Current Budget	Increase (Decrease)	Amended Budget
<b>County projects:</b>				
General Government Service:				
Building renovation	484260-558000-13ASF	423,087	875,750	1,098,837
Land impr./hite development	484260-559300-13ASF	-	55,000	55,000
Contingency	484260-599100-13ASF	-	50,000	50,000
		423,087		1,203,837

which will result in a net increase of \$ 780,750 in the expenditures of the Capital Project 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
Loan proceeds	480110-492910-13ASF	-	650,000	650,000
Transfer from General Fund	480110-498111-13ASF	423,087	36,548	459,635
Transfer from General Fund	480110-498111-13ASF	459,635	94,202	553,837
			780,750	

The effect on the General Fund is as follows:

Transfer to C/P fund - County projects	119840-598048	423,087	130,750	553,837
Appropriation of Fund Balance	110110-499991	423,087	130,750	553,837
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				-

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

Adopted this the 15<sup>th</sup> of July, 2013.

ATTEST:



Clerk to the Board



Chairman  
Haywood County Board of Commissioners

Explanation:  
To appropriate the amount to complete the Auxiliary Services Building project for county services.

**Request Approval of Library Science and Technology Act (LSTA) Grant for Radio Frequency Identification (RFID) Equipment**

Chairman Swanger recognized Sharon Woodrow, Library Director. Ms. Woodrow explained that the Library had received notification of approval for the LSTA grant for fiscal year 2013-2014 for completion of the RFID project that carried over from last year.

Commissioner Sorrells motioned to approve the LSTA Grant for Radio Frequency Identification Equipment as presented. Commissioner Ensley seconded; the motion carried unanimously.

**Request reappointment to Clyde Planning Board**

Chairman Swanger recognized Marty Stamey, County Manager. Mr. Stamey explained that a recommendation had been received from the Clyde Board of Aldermen requesting the reappointment of Mandy Williamson to the Clyde Planning Board. Ms. Williamson is eligible to serve again and the term would be through June 30, 2016.

Commissioner Upton motioned to approve the reappointment of Mandy Williamson to the Clyde Planning Board. Vice Chairman Kirkpatrick seconded; the motion carried unanimously.

**CLOSED SESSION**

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

The Board returned from closed session.

Chairman Swanger noted that a request had been received from David Francis, Tax Administrator, to authorize an appeal of the Property Tax Commission's decision for case 11PTC838.

Commissioner Upton motioned to authorize David Francis, Tax Administrator to appeal case 11PTC838. Vice Chairman Kirkpatrick seconded; the motion carried unanimously.

Commissioner Upton reminded members of the Folkmoot Celebration and the Thursday evening opening gala and Friday Parade of Nations.

**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.

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CLERK

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CHAIRMAN