

A REGULAR MEETING
OF THE
CHEROKEE COUNTY
BOARD OF COMMISSIONERS
March 17, 2014

Preamble to Minutes read by Chairman Wood: "Members of the County Board of Commissioners are advised, hereby, of their duty under the Local Government Ethics Act to avoid conflicts of interest and the appearance of such conflict; and, further, are instructed to refrain from participating in any matter coming before this Board of County Commissioners with respect to which there is a conflict of interest or appearance of such conflict".

A Regular Meeting of the Cherokee County Board of Commissioners was held in the Commissioners Boardroom, also known as Multi-Purpose Room 342, of the Cherokee County Courthouse in Murphy, North Carolina on the 17th day of March, 2014 at 6:00 o'clock p.m.

The following Commissioners were present for the meeting: David Wood, Chairman; Lorraine M. Meltz, Vice-Chair; C.B. McKinnon, member; Cal Stiles, member; and Steve Jordan, member, arrived late. Also present were the following: Randy Wiggins, County Manager; Maria Hass, Assistant County Manager/Assistant Clerk to the Board; R. Scott Lindsay, County Attorney/Clerk to the Board; and, Candy Roberts Anderson, County Finance Director.

Present from the media was Joe Martin of the Cherokee Scout.

The invocation was given by Commissioner McKinnon.

The Pledge of Allegiance was led by all.

Modification of Agenda:

A Motion was made by Commissioner McKinnon to add two budget revisions to the agenda: 1) Cherokee County Schools request for use of sales tax, and 2) Purchase of articulating truck for the landfill. Motion seconded by Commissioner Meltz. Motion passed unanimously.

A Motion was made by Commissioner Stiles to add Dnet to the agenda to discuss broadband equipment on the county's airport tower at Sherwood. Motion failed for lack of second.

A Motion was made by Commissioner Jordan to add a request to the agenda to purchase gravel for Marble Community Center. Motion seconded by Commissioner Meltz. Motion passed unanimously.

Commissioner Jordan apologized for being late.

Adoption of Agenda:

A Motion was made by Commissioner McKinnon to add the gravel request to the end of New Business, and approve the modified agenda. Motion seconded by Commissioner Meltz. Motion passed unanimously.

Public Hearing:

A Motion was made by Commissioner Meltz to go into a public hearing to receive comments on a proposed smoking ordinance to prohibit smoking at the entrances of County-owned buildings, and designate smoking areas. Motion seconded by Commissioner Stiles. Motion passed unanimously.

Towanna Roberts, Cherokee County Health Director spoke about the health risks of secondhand smoke and tobacco-use; including, heart disease, cancer and respiratory disease. Mrs. Roberts also shared personal stories of tragedies from her nursing career; and asked the board to please

help make the community safer and healthier by eliminating smoking at the entrances of all Cherokee County buildings.

Dr. Carlton VanHorn, DVM and health board member, shared information concerning the health risks of secondhand smoking for pets and humans. Dr. VanHorn said that research has proven that the risks of diseases associated with secondhand smoke are just as dangerous as the risks to the primary smoker. He asked the board to limit the exposure of secondhand smoke to those who do not smoke, by eliminating smoking at the entrances of public facilities.

Dr. Don Ambler, DDS and health board member talked about the risks of cancer and oral cancer, related to tobacco products. He shared examples of personal tragedies affecting friends and patients. He also discussed establishing designated smoking areas away from county-owned buildings, and possibly building a gazebo. He suggested that if smokers wanted a gazebo or covered place to smoke, to have the county design the project and let the smokers fund it, so that tax dollars would not have to fund it.

A lady in the audience said that she was a smoker, but that she agreed with the recommendation to eliminate it from the entrances. She said that she thinks it is very rude to blow smoke in other people's faces.

Sara Wilson, Cherokee County Health Educator, thanked the board for banning smoking on the courthouse steps, but also asked the board to consider the health of employees who are being subjected to secondhand smoke at employee entrances. Ms. Wilson also said that she is concerned for children that also have to walk through it, and are exposed at the social services building. She said that Buncombe County has adopted an ordinance and has designated smoking areas away from their county buildings. She asked the board to do the same.

Commissioner Stiles spoke on behalf of the deputy that has to work the front door of the courthouse, and who is exposed to the secondhand smoke each day.

Commissioner Meltz said that when she and Commissioner Jordan were leaving the courthouse after the last meeting, that they told a couple of folks who were smoking that they could not smoke on the steps. She said that they apologized and moved down to the street. She also said that there has not been a problem with trash or cigarette butts since the board banned smoking from the front steps.

Delenna Stiles, county employee, said that she is a smoker, but she also agrees with moving it away from entrances. She suggested designating an area behind the courthouse, at the old employee entrance, since it not used by employees or members of the public.

Mike Stevenson, CEO of Murphy Medical Center, submitted a letter in support of adopting the proposed ordinance.

No one spoke in opposition of the proposed ordinance.

A Motion was made by Commissioner McKinnon to close the public hearing. Motion seconded by Commissioner Meltz. Motion passed unanimously.

Approval of Minutes:

A Motion was made by Commissioner Meltz to approve the minutes of March 3, 2014. Motion seconded by Commissioner McKinnon. Motion passed unanimously.

Public Forum:

Tom Bennett questioned the 2011 FEMA Flood Maps, as they relate to the railroad. The county manager referred Mr. Bennett to the NCDOT. Mr. Bennett then asked if the railroad was re-activated, would the county and state have to condemn property around the crossings. The county attorney said that the county does not have the authority to condemn property. Mr. Bennett then asked how many train stations should there be, one or two; and should there be one in area of the casino and one at L&N Depot. Commissioner Stiles said that StanTec is a consulting firm that is doing a railroad study, and is looking at both the Andrews station and the

Murphy station. He said StanTec is doing an economic impact study to determine if the economic impact would justify expenditures to upgrade the railroad. He said that the plan at this time is to bring it from Andrews to Murphy. Commissioner Stiles said that he thinks the study should be completed around the first of November, and at that time Mr. Bennett should have answers to his questions.

Judy Chapman, representing Dnet Internet Services of Franklin, informed the board that Dnet had just acquired Andrews Broadband. Ms. Chapman asked the board for permission to remain on the Sherwood tower, until they could apply and obtain FAA approval. She requested a 90 day extension through the end of June, or until an FAA review could be completed. The assistant county manager shared with the board that she was informed two weeks ago by Dnet that the Andrews Broadband equipment was still on the tower, although it was to be removed at the end of December 2013. Mrs. Hass shared concerns of jeopardizing the county's perpetual easement, and also shared that FAA had previously made a final determination of hazard for the Andrews Broadband equipment. Commissioner McKinnon added that those were the reasons that the board denied the request by Andrews Broadband. No action was taken.

Budget Revisions/Finance Items:

- After discussion, a Motion was made by Commissioner Meltz to approve a budget revision for use of restricted 911 funds to purchase four wireless headset bases for the 911 dispatch center. The county manager said that this will replace some failing equipment. Motion seconded by Commissioner McKinnon. Motion passed unanimously.
- After discussion, a Motion was made by Commissioner Meltz to approve FY 2014-15 funding for the Juvenile Crime Prevention Council. Motion seconded by Commissioner Stiles. Motion passed unanimously.
- After discussion, a Motion was made by Commissioner Stiles to approve a budget revision for use of restricted sales tax funds by Cherokee County Schools for HVAC repairs, soil testing, activity bus radios, tags and titles, and unfunded mandates by NCDENR. Motion seconded by Commissioner Meltz. Motion passed unanimously.
- After discussion, a Motion was made by Commissioner Jordan to approve a budget revision for the purchase of an articulating truck for the landfill. Motion seconded by Commissioner Meltz. Commissioner Stiles said that he opposed buying a piece of equipment at auction, and is leery of spending tax dollars at auction. He said that he would rather pay a few more dollars at a dealer and know that it would last, than to buy at an auction and hope that it would. Commissioner Jordan said that he had gotten permission from some of the other board members, and had purchased the truck at an auction over the weekend. He said that he thought it would be a good truck and a good investment for the county. He also talked about the county getting a fine in the past for not keeping garbage covered up. Commissioner McKinnon said that the current truck has broken down a couple of times, and that the board has discussed this item several times over the last year. He said that the county has looked numerous times at dealers, and that the lowest price through a dealer was in excess of \$100,000. Commissioner McKinnon said that the budget just kept going up, so it was obvious that the county could not buy a truck from a dealer, and stay within the budget. Voting in favor of the Motion was Commissioners Jordan, Meltz, Wood and McKinnon. Voting against the Motion was Commissioner Stiles.

This item moved from New Business, due to evening travel back to Raleigh:

- Basil Yap, of the N.C. Department of Transportation Division of Aviation, came before the board to introduce himself, and talk about expiring funds; as well as, grant assurances and the counties responsibilities to adhere to the grant assurances when money is given to an airport. He said these assurances are put in place to make sure that monies are used appropriately and the invested dollars are protected. He talked specifically about Grant Assurance #20 Hazard Removal and Mitigation, and Grant Assurance #21 Compatible Land Use. He said these items are mandatory to protect the runway and approach zones. He gave examples of obstructions, and also explained the need for a Height Zoning Ordinance (HZO). He said that a HZO is a mandatory item to protect the approach to the runway, and to protect the State and federal investment. He said that there are some identified hazards and that DOA has been working closely with Mrs. Hass and the consultants to mitigate the hazards. He said that the FAA and State of N.C. has invested

about 12.6 million dollars in Western Carolina Regional Airport, since 2002, and stressed the importance of protecting those investment dollars. He said that there is 1.1 million dollars that has been set aside for Western Carolina Regional Airport and that those funds will be expiring this year. He said that there are some projects in the works, and hopefully some of the expiring funds can be used to complete those projects. Commissioner McKinnon asked if Mr. Yap had a list of the identified hazards. Mr. Yap said that he does have a copy that he can send, or that the consultants that are in attendance can provide that to him. The consultants said that they could provide that. Commissioner Jordan inquired about cutting the trees, and asked if we couldn't just take a power saw and cut them down. Mrs. Hass explained that some of the obstructions were on adjacent property, but that the property owners had all previously agreed to allow the county to remove them. Commissioner McKinnon also commented about the HZO, and said it perpetuates way over private property. Mr. Yap said that the immediate issue is that the FAA has identified obstructions into the approach zone and those need to be taken care of to protect the safety areas. Mr. Yap said that it is a two part approach: Removing trees or putting lights on obstructions that can't be removed; and, also putting into place a HZO. He said that there are also grant funds to assist with land acquisition to secure the safety areas. Mr. Yap said that one of the things that the DOA looks at when giving money to airports, is if the safety needs of the airport have been met. He said if the safety needs have not been met, that they certainly do not want to keep giving state and federal funding to an airport that is not protecting the flying public. There were no other questions for Mr. Yap.

- Jim Farthing, State Aviation Principal and Jason Elliott, Project Manager of Michael Baker Engineering, Inc. came before the board to introduce themselves and talk about the importance of the obstruction removal; as well as, to discuss the expiring funds, which were set aside for fencing the airport property. Mr. Farthing told the board that he had some information for the board if they were interested, and that he could also show and demonstrate to them, the obstruction objects that Mr. Yap had talked about. He said that he also has a 3D model that shows the horizontal surfaces of the safety areas and what that means to the airport, if the board is interested in seeing it. Mr. Elliott also talked about the importance of the obstruction removal project to clear the approach zones, and said that the FAA can take away the night approach procedures for the airport, if the airport does not clear the approach zones. He said that the safety concerns will have to be taken care of before the county can get any additional funding from the State or FAA. He also talked about the federal discretionary funding for the fencing project that will be expiring June 30th, and said that they are hoping to accelerate the fencing project to utilize those funds before they expire. Mr. Farthing showed the board a large map of the obstructions. Commissioner McKinnon and Commissioner Wood asked Mr. Farthing if he could leave the drawings. The county manager told the board that his office had electronic copies and could provide those. Commissioner Jordan asked if the consultants had met with Ed Wood at the airport to discuss his fencing concerns. They said that they had a long meeting with Mr. Wood.
- Commissioner Stiles asked Mr. Yap if there was any liability in allowing Dnet to remain on the county's airport tower. Mr. Yap said that he could not answer that question, but that he could contact someone at FAA and ask that question. The county attorney said that the issue has nothing to do with FAA, and that the issue in allowing Dnet to stay on the tower is how their use of the tower would affect the county's perpetual easement. Commissioner Wood suggested any other questions concerning Dnet, should be directed to the county attorney at a later time.
- Commissioner Wood thanked Mr. Yap, Mr. Farthing and Mr. Elliott for coming. There were no other questions, and there was no action taken on the projects discussed.

Old Business:

- Donna Tipton-Rogers and Bill Vespasian of Tri-County Community College came back before the board to request the \$163,000 that they had previously requested. Commissioner Meltz said that the college needed the money and that the board needed to make a decision to give it to them, or to not give it to them. Commissioner Wood said that he had been sent a chart on FTE's for the early college and since its inception that it has brought in about 2.1 million dollars to the college. He also said that the earned scholarships for the early college are about 1.1 million dollars. He said that he could not understand why the early college is falling apart, but there is other construction going on

around the college. Mrs. Tipton-Rogers said that the FTE's are State dollars, not local dollars; and that the college can only use State dollars to hire instructors. She said they cannot use those dollars for facilities or construction. Mr. Vespasian also said that the State dollars could not be used for any type of facility improvements, additions, remodeling, or construction. Mrs. Tipton-Rogers said local funds only support facilities. Mr. Vespasian talked about the construction at the Crisp building addition that Commissioner Wood had made reference to. Mr. Vespasian said because the college has limited capital improvement funds, and because the college had a onetime dispensation from the State to use non-county dollars to fund a project, that they chose a central location. He said that it was in the best interest of the general public who attend the college, as well as the early college students, to provide a central location on campus that both groups could utilize. Commissioner McKinnon asked Mrs. Tipton-Rogers and Commissioner Meltz, who sits on the Board of Trustees, if the Board of Trustees was aware of the budget shortage, and if they had had conversations about the shortfall; and if so, what was the content of those meetings. Commissioner Meltz said that she would have to go back and look at her minutes. Mrs. Tipton-Rogers said that the Board of Trustees was aware of the shortfall, and that they leave it up to the administration to come to the board of commissioners and work out the situation. Commissioner Wood asked Commissioner Meltz if the Board of Trustees was aware of the detailed budget. Commissioner Meltz said that the Board of Trustees was aware, but the college still needed the money and the only way they can get it, is from the county. Commissioner McKinnon said that when the board originally received the budget for Tri-County Community College, that this money was in the operational budget. He said due to the Cherokee County School shortfall that the board had to make up, that the board made it known at that time that they had done all they could do this budget year. Commissioner McKinnon said that there was apparently some miscommunication, and that the board only officially heard about this need three weeks ago. He said that it would have been good to have had these discussions before getting so close to the deadline and that it is really unfortunate. Commissioner Meltz said that the funding for the school shortfall had nothing to do with the funding for the college. Commissioner McKinnon said that it has everything to do with how much money the county has. Mr. Vespasian said that he understood that the school board had a need for that money, but that the college wants to be on equal grounds when it comes to the need and resources available to serve both groups of their clientele. Commissioner McKinnon said that as far as he is concerned, that they are on equal grounds. He said that hopefully the shortfall in the schools was a onetime deal, and that it fell in this fiscal year. He said next fiscal year there will be that money to work with, for other projects and needs in the county. He said that there are a lot of needs in the county. Commissioner McKinnon said that he was under the impression that the college was able to make it on the funds that the county had budgeted, because the board had not heard anything different; and adding, that he was under the impression that the college was going to make it on the same amount of funding as they had the last three budget years. He also talked about the recent Pool and Wellness Center payoff, saying that there were some comments made that the money used to pay off the pool and wellness center debt, could have been used for the college shortage. He said that yes, had the board known sooner about this need that it could have, but unfortunately the board did not have that information at the time. He said that the board made the best decision they could with the information that they had to work with at that time.

Commissioner Wood called a one minute recess to allow the media time to change the video tape.

After returning, Commissioner Wood asked if the county funds any salaries for the college, other than the just maintenance. Mr. Vespasian said that the county funds the maintenance supervisor/facilities director, and security personnel. He said that he had sent that information earlier in the day, as requested. Commissioner Stiles said that he knows that time is of the essence, but that he had some questions, and that due to the fact that the county manager had e-mailed Mrs. Tipton-Rogers some questions that some of the board members had as to the "what-if's", that he would like to table the discussion until the next meeting on April 7th. He also said that he has an issue with the fact, that if the college knew that the budget was going to be short, that they shouldn't have put the \$100,000 into the hybrid program, and instead put that in the operational budget.

Mr. Vespasian said that when the college presented their \$900,000 request at their first budget meeting that they made it clear that that was the amount they needed. He said that when they were told that there would be no additional current funds available, that all

they could do at that point was try to get through the year the best they could. Commissioner Stiles questioned the colleges spending of \$78,500 for a paving project, purchase of blinds, and adding a new employee, when they knew that they were going to be short. Mr. Vespasian said that due to previous terroristic threats and insurance risks that the college had to hire an additional security officer. A Motion was made by Commissioner Stiles to table the matter until April 7th. Motion seconded by Commissioner McKinnon. Commissioner Meltz asked Mrs. Tipton-Rogers what would happen at the college, if the county did not provide the additional funding. Mrs. Tipton-Rogers said that she would rather not say. She then answered “programs, students” and then added, “People will be affected”. Voting in favor of the Motion to table was Commissioners Stiles, McKinnon, Wood, and Jordan. Voting against the Motion was Commissioner Meltz.

- After discussion, and following the March 13th worksession discussion, a Motion was made by Commissioner McKinnon to release tax interest and penalties for Lisa Grant. During discussion, Will Roberts, tax administrator, asked the board not to release the interest and penalties, due to the fact that it is the property owner’s responsibility to list their property and to make sure it is listed correctly. Commissioner McKinnon said that although the responsibility ultimately falls on the property owner, that there was a failure on the counties part to discover the error, He said that Ms. Grant is not disputing her tax, just the penalties and interest. Commissioner Meltz opposed. She said that Ms. Grant should have known her bill wasn’t correct when her taxes went down, instead of up, due to the change from a singlewide mobile home to a doublewide. Motion seconded by Commissioner Jordan. Voting in favor of the Motion was Commissioners McKinnon, Jordan and Stiles. Voting against the Motion was Commissioners Meltz and Wood.
- Ed Wood, chairman of the Cherokee County Voluntary Agricultural District board, presented the revised Voluntary Agricultural District Ordinance. The purpose of the revision is to comply with new state laws. A Motion was made by Commissioner Wood to set a public hearing at the April 7th meeting. Motion seconded by Commissioner Meltz. Commissioner McKinnon said that he still did not like the language, but was in agreement to move forward with the public hearing. Motion passed unanimously.
- Commissioner Wood asked Mr. Wood to share his concerns with the proposed airport perimeter fencing. Mr. Wood said that his problem and concern is that it will be very inconvenient to his family to have a perimeter fence all the way around the airport, especially where they farm on the south and north side of the runway. Mr. Wood said that he presented an alternative plan to run the fencing along airport road up to the gate at his property. He said that he made an offer to pay for the fence to run along his property out to the creek, to form a physical barrier for his property. He said that since federal and state dollars cannot be spent for projects on private property that he would deed a portion of the access drive to the county, because he does not want to pay for an electric gate on his property. Commissioner Wood said he supported Mr. Wood’s alternative solution, and that maybe the board could put it on an agenda to be discussed some other time.

New Business:

- After discussion, a Motion was made by Commissioner McKinnon to approve the certification of the Juvenile Crime Prevention Council membership. Motion seconded by Commissioner Stiles. Motion passed unanimously.
- After discussion, a motion was made by Commissioner Meltz to approve the tax releases and refunds, as presented by Delenna Stiles. Motion seconded by Commissioner Stiles. Motion passed unanimously.
- After discussion and presentation from the tax administrator, a Motion was made by Commissioner Wood to repeal the current tax revaluation resolution, which calls for a revaluation of property every four years, and adopt a new resolution delaying the county’s revaluation until 2020. The county manager said that the county is currently on a four-year revaluation cycle. The new resolution would allow the county to do a revaluation at a time that the market and sales ratio dictate the need for a revaluation; but also within the eight-year cycle required by §105-286. Motion seconded by Commissioner McKinnon. Motion passed unanimously.
- The board heard from the following applicants who are interested in serving on the

Cherokee County Tourism Development Authority: Kathy Vetten, Lawrence McNabb, Curtis Siter, Joan Posey, Phylis Blackmon, Bertha Guffey, and Commissioner Cal Stiles. Anthony El-Khoury and Aurelia Stone also applied for the board, but both were out of town and unable to make it to the meeting. The board will make their recommendations and appointments at their April 7th meeting.

- The board heard from Judith Davis, who has applied and is interested in serving on the Cherokee County Area Agency on Aging Council. Commissioner Meltz made a motion to appoint Mrs. Davis to the council. The county manager said that it would be better to stay with the board's current appointment policy and wait until the next meeting. Motion failed for lack of second. The board will make their recommendation and appointment at their April 7th meeting.
- Brian King, Chief of the Cherokee County Rescue Squad, came before the board to request a worksession this fiscal year to discuss imposing a rescue service district tax, to help their department's budget. He said that their funding consists of the county's annual allotment of \$50,000, fundraisers and donations. He said that 60% of their operating budget is from fundraisers and donations. He said that due to the current economic times, donations are starting to decline. He said that to provide the best possible service to the citizens that they are going to have to have an increase in funding. The county manager suggested that instead of a special-called worksession that the board allow a time during their upcoming budget worksessions for the Cherokee County Rescue Squad. Commissioner McKinnon suggested a meeting between one or two commissioners, the county attorney and Mr. King, and also asked the county attorney to look at some other counties that have a rescue tax. The county manager will notify Mr. King of a meeting date. Commissioner Stiles said that it would be a good idea to include Andrews Rescue Squad also.
- After discussion, a Motion was made by Commissioner McKinnon to dissolve the Mountain Folk Center Committee, and send a letter of appreciation to the members. The reason for dissolving the committee is that many of the goals of the committee have been met, and all of the designated funds have been used. Motion seconded by Commissioner Meltz. Motion passed unanimously. Commissioner Wood spoke of the accomplished work at the Mountain Folk Center. He also said that there is a man that is interested in having some animal auctions at the sale barn. The county manager said that he would be sharing that information with the board at the April 7th meeting.
- The county manager shared two items concerning NCDOT use of county property at the Mountain Folk Center. 1) For the board to consider a long-term lease agreement with the DOT for a piece of property, above where they are currently located, so as not to interfere with other activities going on at the Mountain Folk Center. Mr. Wiggins said that the NCDOT may be constructing a salt storage facility, and would probably want a lease agreement of about 50 years, since their level of investment in the facility would be about \$200,000. 2) Allow NCDOT to utilize an area of the property that contains two old ponds. Mr. Wiggins said that the ponds are currently a liability issue for the county. He said that DOT is willing to utilize the ponds as a material waste site and they are willing to maintain the required sedimentation and erosion control measures. After discussion, a Motion was made by Commissioner McKinnon to allow the NCDOT to use the property as a waste site for material. Motion seconded by Commissioner Meltz. Motion passed unanimously.
- Commissioner Jordan requested the board approve purchasing two loads of gravel for Marble Community Center, and using landfill equipment to haul it. Commissioner McKinnon asked the finance officer to see who is using the building, and see if the other organizations could help cover the cost. Commissioner Jordan said that he went and looked at the property and that it needed gravel. A Motion was made by Commissioner Jordan to purchase two loads of gravel, and also see if the county can get any reimbursement from the other users of the building. Motion seconded by Commissioner McKinnon. Voting in favor of the motion was Commissioners McKinnon, Jordan, Wood and Stiles. Voting against the motion was Commissioner Meltz.
- The county manager said that it is that time of year again to schedule the annual North

Carolina Association of County Commissioners Meeting in a Box. This is a meeting with local legislators, to discuss any legislative goals that the board may have, and that they would like them to lobby for in Raleigh. The board instructed the county manager to invite Senator Davis and Representative West to the April 7th meeting.

There being no further business to come before the Board, a Motion was made by Commissioner Wood to adjourn. Motion seconded by Commissioner Jordan. Motion passed unanimously. The meeting adjourned at 8: 30 o'clock p.m.

David Wood, Chairman

R. Scott Lindsay, Clerk to the Board