

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
BOARD OF COMMISSIONERS
REGULAR SESSION – AUGUST 11, 2008**

ASSEMBLY

The McDowell County Board of Commissioners met in regular session at 5:00 P.M. on Monday, August 11, 2008, in the Commissioners' Board Room, the usual place of meeting.

MEMBERS PRESENT

Andrew K. Webb, Chairman; David N. Walker, Vice-Chairman; Dean Buff; Michael Lavender; and Barry E. McPeters

OTHERS PRESENT

Charles R. Abernathy, County Manager; Carrie Padgett, Clerk to the Board; Ashley Wooten, Assistant to the County Manager (Video); and Mike Conley, Reporter for THE McDOWELL NEWS

CALL TO ORDER

Chairman Andrew Webb called the meeting to order. The invocation was given by Clerk to the Board Carrie Padgett, followed by the pledge of allegiance, led by Commissioner Dean Buff.

APPROVAL OF MINUTES

Minutes of the June 9, 2008 regular session were presented for approval with a correction showing that Commissioner Lavender was present.

Upon motion by Commissioner McPeters and a second by Commissioner Walker, the minutes of June 9, 2008 were unanimously approved as recorded.

RECOGNITION OF CHRISTINE LEDBETTER

The Board recognized a Public Library employee at this time for her many years of service. The Chairman called on Jean Krause to introduce Christine Ledbetter, bookkeeper and worker over the genealogy section of the Library.

In her introduction, Mrs. Krause stated it would be hard to find someone to replace Mrs. Ledbetter due to her vast knowledge and experience at the Library. She

advised they would have a special honor for her on August 27, 2008 at the Library for those who wish to stop by to see her.

Commissioner Buff made a motion to make August 27th “Christine B. Ledbetter” day in McDowell County. Commissioner Lavender seconded the motion and the vote was unanimous.

On behalf of the Board, Chairman Webb then presented Mrs. Ledbetter with a plaque which read:

Presented to

CHRISTINE B. LEDBETTER

For forty-six and one-half years of dedicated service
As an employee of the
McDowell County Public Library

February, 1962 – August, 2008

RECOGNITION OF LEONA F. DUNCAN

The Board recognized Mrs. Leona F. Duncan, resident of McDowell County who would celebrate her 100th birthday on August 24, 2008. Commissioner McPeters gave a general background of Mrs. Duncan and a brief introduction of this award. He recognized two of Mrs. Duncan’s grandchildren who were present, John Bruner and Rebecca Harris, noting that family and friends would join Mrs. Duncan in celebration of her birthday on Saturday, August 23, 2008, at Cross Memorial Baptist Church.

On behalf of the Board, Commissioner McPeters presented to Mrs. Duncan’s grandchildren a framed RESOLUTION HONORING LEONA F. DUNCAN in recognition of her upcoming birthday.

Commissioner McPeters made a motion to approve the resolution as presented. Commissioner Lavender seconded the motion and by a unanimous vote, the resolution was adopted as follows:

RESOLUTION HONORING LEONA F. DUNCAN

WHEREAS, Mrs. Leona F. Duncan was born in Alexander County on August 24, 1908 and relocated to McDowell County in 1910; and

WHEREAS, Mrs. Duncan married Mr. Elmer Duncan on April 13, 1926 and started a family that has resulted in five children, eleven grandchildren, eighteen great-

grandchildren, sixteen great-great grandchildren, and one great-great-great-grandchild;
and

WHEREAS, Mrs. Duncan distinguished herself as a model employee at Cross Cotton Mill, where she worked a total of 53 years; and

WHEREAS, Mrs. Duncan has been a faithful member of Cross Memorial Baptist Church since its inception;

NOW, THEREFORE, BE IT RESOLVED that the McDowell County Board of Commissioners do hereby recognize Mrs. Leona F. Duncan for here service to the community over the last several decades and furthermore, congratulate her on her upcoming 100th birthday and wish her continued happiness and good health.

ADOPTED this day, the 11th of August, 2008.

TAX MATTERS

Tax Collector Pam Sain came before the Board to present her tax settlement and the order of collection. She advised delinquent (prior years) tax collections for the 2007-2008 fiscal year totaled \$590,460.38 including interest, a large part of which (\$104,000.00) was collected in the foreclosure program begun in May, 2007. Mrs. Sain stated the 2007-2008 showed an increase of \$162,315.97 from the \$428,144.41 collected during the 2006-2007 fiscal year. The overall collection rate for 2007 county ad valorem taxes for the 2007-2008 fiscal year was 96.50%, an increase of .15% over last fiscal year. She asked that the Insolvents List (a report of delinquent taxes on personal property or taxes that are not a lien on real property) be approved.

Commissioner McPeters made a motion to approve the tax settlement, including the Insolvents List, as presented. Commissioner Walker seconded the motion and the vote was unanimous.

Concerning the Order of Collections, a motion was made by Commissioner Walker to approve. Commissioner Buff seconded the motion and, in discussion, noted that he felt ample time (2-3 letters as reminders) was given before taking any action. When put to a vote, the motion carried unanimously.

Mrs. Sain spoke to the fact that several properties have been sold as a result of the foreclosure program.

With the expiration of a four-year term as McDowell County Tax Collector this month, Mrs. Sain was also up for reappointment as Tax Collector for McDowell County, having served in this position for 12 years.

Commissioner Lavender made a motion to reappoint Mrs. Sain as McDowell County Tax Collector for another four-year term. Commissioner Buff seconded the motion and the vote was unanimous.

Commissioner Buff then administered the oath of office to Mrs. Sain as Tax Collector.

The usual listing of tax releases and refunds were presented for approval. In summary, they were:

Releases/Under \$100.00	\$2,739.95
Releases/Over \$100.00	\$34,454.68
Release Refunds	\$1,801.71
Motor Vehicle Releases/Under \$100.00	\$385.75
Motor Vehicle Releases/Over \$100.00	\$648.23

Commissioner Walker made a motion to approve tax releases and refunds as presented. Commissioner McPeters seconded the motion and the vote was unanimous.

FLOOD ORDINANCE AND MAPS

In summary, the County Manager advised this process had been underway for close to two years and that the Board had held a public hearing last month on the proposed Flood Damage Prevention Ordinance and adoption of the maps. He pointed out McDowell County had probably challenged and “gone to bat” for its citizens in relationship to the maps as much as any county could, including challenging parcels and spending money with an engineer in an effort of making sure that accurate maps were available. He said if the County was not the top one in this effort, he was confident it would rank in the top 4-5.

With reference to the meeting last month which lasted approximately 2-2 ½ hours with 80-90 people present, Mr. Abernathy advised the Board had heard comments from a number of citizens and that everyone present was given opportunity to speak and to ask questions. However, the Board had deferred the decision to the Planning Board for them to review and make recommendation, which they had done. The Planning Board voted 6-3 to recommend to the Board of Commissioners the adoption of the Flood Damage Prevention Ordinance and the maps. Two recommendations accompanied that vote. First was an issue raised at the last meeting concerning the construction of geodetic markers by which elevations are determined. Mr. Abernathy stated apparently a number of those are not in place, particularly in the North Cove area, and the Planning Board agreed, recommending to the Board of Commissioners that they direct correspondence go to the appropriate state or federal agency. The second recommendation was to establish

some kind of a process to assist in some manner the people who have the most outstanding contentions with their maps in the appeals process. He advised from discussion of this over the past month, the Board felt that perhaps County staff could provide assistance to those people but not necessarily in allocating money for surveys, etc. Rather our legislative delegation would be asked to start looking into the possibility for establishment of a fund at the state level to assist people with the most outstanding situations with their maps. Mr. Abernathy noted that one of the most frustrating things for people had been that the burden is placed on them to prove that the maps being provided are incorrect.

In conclusion, Mr. Abernathy pointed out that he and Planning Administrator Ron Harmon had communicated by phone and through email with the State for a clearer understanding of the situation in relationship to the Board of Commissioners' approving or not approving the Ordinance and maps and deciding not to participate in this program. As a result, the State had produced a one-sheet outline which he and Mr. Harmon had redrafted to show in more detail what the consequences would be should the Ordinance and maps not be approved. He briefly summarized those consequences in relationship to flood insurance availability, obtaining loans and the affect on existing loans, participation in disaster assistance and other federally funded programs, liability issues, etc. As a result, Mr. Abernathy stated he and County staff could do nothing less than recommend that the Ordinance and maps be approved and then continue trying to assist the citizens as much as possible in addressing the issues they have.

Chairman Webb welcomed Mr. Randy Mundt from the State Office of FEMA for any comments he wanted to make. Mr. Mundt said Mr. Abernathy was right in that County staff had indeed gone beyond the call of professionalism on behalf of citizens, noting that McDowell County had submitted 58 challenges to the maps. Nash County had the previous highest number with 45. He said they had worked through that process and all appeals had been handled to the satisfaction of the federal government. He provided a brief timeline of the two-year process on the State level, and again commended Mr. Abernathy and the County staff for their professionalism during this process.

A general discussion followed during which Mr. Mundt further addressed the appeals process, noting that he was sorry he could not relieve any one of the burden of proof aspect. Mr. Mundt was commended for his participation in tonight's discussion and was asked to convey the Board's appreciation to Mr. Carpenter for his participation last month.

Chairman Webb addressed the idea of a funding source to assist citizens, again noting the Board's request that one be set up. He further questioned Mr. Mundt regarding whether there had been an independent engineering or surveying firm that had direct oversight of the North Carolina flood mapping contracted surveyors or engineers. Mr. Mundt's response was that oversight was in place, noting that the State's flood mapping program had released the maps through three separate quality assurances.

Chairman Webb addressed the need for checks and balances, noting that his desire was to have accurate maps for use.

Mr. Abernathy addressed the steps to be taken to ensure being in accordance with the County's expectations on the issue. Chairman Webb pointed out it is the County's expectation that this process be ongoing for months and years to come.

Commissioner Lavender made a motion to approve acceptance of the flood maps and to adopt the Flood Damage Prevention Ordinance along with Mr. Abernathy's recommendations as presented. Chairman Webb asked if Commissioner Lavender would include in his motion to add to the letters being directed to our congressional delegation and to the Director of FEMA the request for citizen relief. Commissioner Lavender agreed and Commissioner Buff seconded the motion. When put to a vote, the motion carried unanimously.

NEBO BASE STATION LEASE AGREEMENT

In a brief update, the County Manager advised there had been several meetings regarding the Nebo EMS Base Station project in conjunction with construction of a new fire station in the Nebo Community. While there were still some issues to be resolved, the Fire Department was finalizing its preparations for a starting date and wanted to be sure the Board of Commissioners was involved with the County's part of the project. The Fire Department anticipates beginning construction in the fall with a completion date within nine months.

Mr. Abernathy advised a lease document had been prepared for the Board's consideration. The proposed lease is for a thirty-year period with an annual payment of \$27,517.60 based on the estimated price of \$494,320 which represents both principal and interest. Mr. Abernathy stated the EMS Director was prepared to address comparative figures to show what that price means in relationship to \$167.00 per square foot. Further, he said there had been discussion of an option which the Fire Department wished to provide and, since the Fire Department is in the process of finalizing their financing, they needed confirmation from the County concerning construction of the EMS Base Station, and were kind enough to also give the County the option of a cost-plus amount which did not have to be resolved tonight. Mr. Abernathy pointed out there had been some very in-depth discussion on what the benefits were for both options and what the County might consider doing.

EMS Director William Kehler addressed the cost comparison figures of three EMS projects in North Carolina, two of which were in WNC. They were Rutherford County and Henderson County at a total cost of \$433,432 and \$196.00 per square ft. and \$500,000 and \$208.00 per square ft., respectively. The third project was Davie County at a total cost of \$370,000 and \$185.00 per square ft.

A brief discussion followed.

The County Manager then reviewed the Lease Agreement, particularly noting the square footage, term of the lease, lease payment, building maintenance amount, utilities, and lease renewal. Concerning the lease renewal, Mr. Abernathy pointed out this would be re-negotiated in 30 years, with the intent of remaining in the facility at the choice of the County and negotiations would be on a maintenance agreement.

A general discussion followed on the 10-year financing period and the cost-plus proposal, whether to approve the lease and have 30 days for further consideration, etc. Concerning the apparent uneasiness, the Fire Department Chief said they would have no problem with the Board approving the Lease and taking an additional 30 days for further consideration.

Commissioner Walker commended Fire Department officials and others for their work and efforts regarding this project.

Commissioner Lavender made a motion to approve the Lease Agreement at a 30-year term with a lease payment as indicated, but with the adjustment not to exceed the stated rate. Discussion followed on the fact that the rate in 10 years is unknown; however, Fire Department officials assured the Board they would get the best rate for their benefit as well as the County's, and would refinance to get the best rate if necessary.

At this point, Commissioner Lavender withdrew his motion and made another motion to simply approve the Lease Agreement. Commissioner Buff seconded the motion.

Further discussion followed with Commissioner McPeters voicing some of his concerns but said overall he was satisfied because he did not want to hold up the project.

In clarification, Chairman Webb said the motion was to approve the Lease Agreement, using the cost-plus formula.

When put to a vote, the motion carried unanimously.

In conclusion, Chairman Webb stated the Nebo Fire Department could now go to work, knowing they have the Board's full support. Their response was that they hoped to start within 30-60 days.

WELLNESS POLICY AND UPDATE

The County Manager stated the County had put real emphasis on a wellness program and held its first Health Fair which had resulted in our self-insurance costs going down, perhaps partly because of this emphasis. He advised in addition to wellness but directed linked to it is a worker's compensation issue in relationship to EMS employees who are prone to large worker's compensation outlays. Mr. Abernathy stated he and the EMS Director had drafted a recommendation which Mr. Kehler would overview.

Mr. Kehler advised the policy would allow employees while on duty to participate in a forty-five minute program of activities. Suggested hours for employee participation in approved fitness activities are from 14:00 to 21:00 hours. He provided a suggested list of back injury prevention activities 2-3 days per week. He pointed out that several issues were addressed to ensure that no calls are delayed due to employees participating and that temporary reassignments of personnel may be conducted to match interests of the crews in relation to fitness activities.

Discussion followed on the idea of implementing this program as mandatory for new hires. Mr. Kehler stated this was still being evaluated but he felt he would have an answer within 30 days. A question was raised as to whether this would apply to part-time employees. Mr. Kehler said it would.

A motion was made by Commissioner Lavender to approve the Wellness Policy for EMS and to explore the idea of making it mandatory. Commissioner Buff seconded the motion and the vote was unanimous.

CITIZEN COMMENT

With one person signed up to speak, by consensus the Board agreed to suspend the rules and have the Citizen Comment period at this time. The speaker was Ron Johnson of Mountain Stream RV Park.

Mr. Johnson spoke on the issue of flood maps and the Flood Damage Prevention Ordinance. He advised he and his wife had quit their jobs and started the park, noting their bookings were up 50% over past year, etc. However, he pointed out that in reference to the maps, the property value has gone down and they would have a hard time getting any one to finance, etc. He requested help in financing a protest in the appeals process. He said he felt the County would need at some point in the future to revisit the property values.

The Board and County Manager agreed to submit Mr. Johnson's example as an appeal to the State in 30-45 days. Mr. Abernathy also agreed to go along with the Planning Administrator to visit Mr. Johnson's property and to assist him in drafting his appeal.

McDOWELL HOUSE INTERLOCAL AGREEMENT

The County Manager introduced the *Interlocal Agreement Between the County of McDowell, City of Marion, and the McDowell Tourism Development Authority Regarding Certain Matters Related to the Purchase of the McDowell County* for the Board's approval. He pointed out the City of Marion had reviewed the Agreement and had communicated they were in agreement with it. With reference to disposition of the House in the event it is not used for a historic purpose, Mr. Abernathy advised the TDA Board wanted a unanimous agreement of all three boards. However, he had inserted language stating the County would strive to reach a consensus.

In discussion, a suggestion was made to insert a sentence stating “*A significant effort would be made to reach a consensus of all three boards*”.

Commissioner Lavender made a motion to approve the *Interlocal Agreement Between the County of McDowell, City of Marion, and the McDowell Tourism Development Authority Regarding Certain Matters Related to the Purchase of the McDowell House* as amended. Commissioner McPeters seconded the motion and the vote was unanimous.

DOT MAINTENANCE AGREEMENT AND TRAILS UPDATE

The County Manager pointed out there was good news in that the Maintenance Agreement with DOT for Point Lookout had been signed and sent back to DOT, and they have the funds and will have the area back in operation by fall.

Concerning the YMCA Trail Master Plan, Mr. Abernathy advised the public input session was helpful with quite a bit of input. From the map, he explained the route the trail would take. He addressed the maintenance plan and related costs. Concerning grants, he pointed out that cycle begins again in January.

A brief discussion followed.

NEBO WATER SYSTEM UPDATE

The County Manager stated staff would be going to bid on the Sherwood Forest and Watson Road water lines and those bids would be submitted for the September meeting. He briefly reviewed the two Project Budget Ordinances (NC Rural Center and Appalachian Regional Commission Grants for Sherwood Forest and CDBG and NC Rural Center for Watson Road) for these projects, presenting them for the Board’s approval.

A motion was made by Commissioner Walker for approval of both Project Budget Ordinances as presented. The motion was seconded by Commissioner Buff and the motion carried unanimously.

Mr. Abernathy then reviewed the Project Budget Ordinance (NC Rural Center Grant) for the PRC Industries Renovation Project at the former Old Fort Finishing building, presenting it for the Board’s approval.

Commissioner Lavender made a motion to approve the Project Budget Ordinance for the PRC Industries Renovation Project as presented. Commissioner Buff seconded the motion and the vote was unanimous.

Mr. Abernathy also mentioned the Operations and Maintenance Plan and the Emergency Management Plan for the McDowell County public water system, received from McGill Associates.

FIRING RANGE AGREEMENT/UPDATE

The County Manager noted there is activity with grading by the Public Works crew, and stated the College is involved with activities that will shift work in order to continue operation. Mr. Abernathy stated he had spoken with Sid Harkleroad, Administrator of the Correctional Facility, about insurance issues in relationship to the Firing Range Agreement. Mr. Harkleroad had expressed a problem with the sentence where McDowell County must be named as an additional insured. Mr. Harkleroad had informed him that the requirement would not really change the coverage the State would have for their activities. Mr. Abernathy asked, if he would agree, that this sentence be removed from the Agreement.

Commissioner Walker made a motion to approve the Firing Range Agreement with the one amendment removed. Commissioner McPeters seconded the motion and the vote was unanimous.

BOARD APPOINTMENT

Chairman Webb noted the Jury Commission vacancy as a result of the sudden death of Mrs. Nora Arrowood. The vacancy was accepted on first reading, to be acted on next month.

CHARTER LETTER

The County Manager addressed the letter received from Charter Communications dated June 16th regarding the implementation of HDTV, merging the two government channels and interconnecting the Mediacom System with the Charter System. The City of Marion had expressed significant concern about the proposal and appeared not to want to accept the suggestion.

Mr. Abernathy pointed out that while the County was not in a position to make a decision, there was still a need to talk about it. He addressed the need for additional band width, the aspect to the connection, the City's skepticism, etc., noting the fact that he had agreed to invite them in for the next meeting.

A brief discussion followed.

REPORTS AND COMMUNICATIONS

Chairman Webb briefly reviewed upcoming events including Christine Ledbetter Day on August 27th, the 50th Anniversary and dedication of the new facility for the McDowell County Rescue Squad on September. 14th at 2 p.m., the Tenth Anniversary of

the Old Fort Branch Library on August 28th from 2-4 p.m., and the 100th birthday celebration for Mrs. Leona Duncan at Cross Memorial Baptist Church on August 23rd.

Commissioners Webb and Buff asked Commissioner McPeters to express their regrets to Mrs. Duncan for their absence due to their attendance at the Annual NCACC Conference.

ADJOURNMENT

There being no further business to transact at this time, upon motion by Commissioner Walker and a second by Commissioner McPeters, the meeting was adjourned at approximately 8:30 p.m.

ANDREW K. WEBB, CHAIRMAN

CARRIE PADGETT
CLERK TO THE BOARD