

The Alleghany County Board of Commissioners met in regular session on Monday, January 3, 2011, at 6:30pm in the Board Meeting Room of the County Administration Building, 348 South Main Street, Sparta, North Carolina.

Present: Chair Ken Richardson, Vice-Chair Tom Smith, Commissioner Larry Cox, Commissioner John Goudreau, Commissioner Steve Roten, County Attorney Donna Shumate, County Manager Don Adams, and Clerk to the Board Karen Evans.

Chair Richardson called the meeting to order, welcomed everyone, led the Pledge of Allegiance and asked for a silent prayer.

Chair Richardson stated that Item H on the agenda needs to be deleted.

Chair Smith made a motion to approve the amended agenda for this January 3, 2011, meeting. Commissioner Goudreau seconded the motion. Vote 5:0.

AGENDA  
Monday, January 3, 2011  
6:30 PM

- 6:30 Meeting Called To Order, Pledge of Allegiance and Moment of Silence  
Motion on Agenda for January 3, 2011, meeting  
Motion on Minutes for December 14 and 20, 2010, meetings
- 6:35 A. Public Comments—30 minutes  
B. Public Hearing  
RE: Cleary Road and Ward Road  
C. Bob Bamberg  
RE: Occupancy Tax Requests  
D. Milly Richardson  
RE: Prayer at Meetings  
E. Dennis Smith  
RE: Prayer at Meetings  
F. County Manager's Business  
1. Community Advisory Committee for Long Term Care  
2. Meeting on Martin Luther King, Jr. Holiday  
3. General Fund Budget Amendment for JCPC  
4. General Fund Budget Amendment for Prior Year Interns  
5. School Capital Reserve Fund Budget Amendment  
6. Soil and Water Fund Budget Amendment  
7. Library Fund Budget Amendment  
8. Fairgrounds Fund Budget Amendment  
9. Social Services Budget Amendment  
10. Holiday Budget Amendments  
11. QSCB Project Fund Amendment  
G. County Commissioners' Business  
1. Prayer at Meetings—Commissioner Roten & Commissioner Goudreau  
Revisit Prayer at Meetings  
H. Closed Session—NCGS 143-318.11 (a) (6)—personnel (deleted)  
I. Adjourn

Commissioner Cox made a motion to approve the minutes for the December 14 and 20, 2010, meetings. Commissioner Roten seconded the motion. Vote 5:0.

Chair Richardson opened the public comments' portion of the meeting and asked for public comments.

Chris Huysman shared with the Board comments from the Supreme Court regarding prayer at meetings doesn't violate the 1<sup>st</sup> or 14<sup>th</sup> amendments. He quoted a court case where prayer wasn't viewed as a violation. He talked about prayer at meetings from the 1982 US Supreme Court and cited court cases. He read a quote by John F. Kennedy on January 20, 1960.

Gary Carlson stated that the people in the back of the room cannot hear anything. He asked the Board to talk louder so everyone can hear.

Kathy Murphy stated that all of the people don't read the Alleghany News or get Channel 50. She explained that she wrote a letter to the editor and talked about the numerous comments

that she has received regarding that letter. She read her letter to the Board that was published in the Alleghany News.

Jerry Brooks came before the Board about having prayer at meetings. He talked about the language of the pledge of allegiance, and his daily devotions. He read one of his daily devotions and explained the devotion. He said that he prays that the Board will continue to serve the people in Alleghany County.

Reverend Brad Wooten stated that he is a member of Alleghany Men's Christians Association and has been praying for the Commissioners among other things. He said that he will volunteer his services for the opening prayer if the Board wants. He said that we are one nation under God. He reiterated that people pray for the Commissioners daily and respects the Commissioners greatly.

Chair Richardson asked for additional public comments. None were received. He closed the public comments' portion of the meeting.

Chair Richardson opened the public hearing regarding Cleary Road and Ward Road at 6:41pm. He asked for the public to identify themselves and which road they are discussing.

John Sherrill thanked the Board for this opportunity to speak. He talked about the Board has received a number of letters from property owners on Cleary Road that doesn't want the road paved. He further talked about the North Carolina Department of Transportation's (NCDOT) ranking of Cleary Road isn't accurate in how they calculate the points for part-time residents. He explained the process of paving gravel roads in the State per the North Carolina General Statutes. He talked about the number of letters and emails from several people that own property on Cleary Road. He further talked about how long he and his family have owned the property on Cleary Road and how long the Chanlett family has owned their property. He said that there is a YouTube video showing how beautiful Cleary Road is. He talked about NCDOT does a great job but this is a matter of the people on Cleary Road looking to the Commissioners to deviate paving Cleary Road. He reviewed the NCGS process of not having roads paved. He explained that Cleary Rd is in the view shed of the Parkway and part of the property is in a conservation easement. He reviewed a petition signed by several of the property owners on Cleary Road stating that they do not want the road paved. He further reviewed conversations that he has had with some other property owners and referred to written correspondences that the Board has from property owners. He said that there are two people that are in support of the project; where one of them said that it depends on where the right of way will be and the other one in favor owns vacant land on Cleary Road, which is not figured into the priority rankings in the paving priority. He asked the Board to use taxpayers' dollars wisely and if one/two/three people on the road want it paved, does that justify the expense. He reiterated that he is asking the Board to respond to the people who are asking for assistance.

Kathryn Crouse explained that she lives at the end of Ward Road, which is a dead-end road. She further explained that she has struggled with the road for 55 years. She said that she has been told of three roads where one property owner doesn't sign then that property could be skipped and the rest of the road get paved. She explained that she has had to cancel two appointments at the hospital in the last two weeks because of the condition of the incline that she has to travel. She said that if any part of it could be paved, it would be help.

Bobby Gambill asked Scott Gallman how much it requires maintaining Ward Road. Scott Gallman explained that it is one of the most expensive roads in the county to maintain. Bobby Gambill said that it would save taxpayers' dollars in maintenance to pave the road.

Scott Gallman explained that he is the County Maintenance Engineer for Alleghany and Yadkin counties.

Chair Richardson asked for additional public comments. None were received. He declared the public hearing closed at 7:03pm and reconvened the regular meeting.

Bob Bamberg provided information to the Board about occupancy tax. He explained that the Chamber of Commerce is requesting an increase in the occupancy tax rate of an additional 3%. He further explained the contents of the information provided to the Board; letter and survey provided to Chamber members, survey responses, current occupancy tax rates in the surrounding areas, guidelines for occupancy tax legislation, reasons an increase is being considered, what the current tax supports. He briefly mentioned that the current law requires a separate Tourism Development Authority to administer occupancy funds if the proceeds are over \$100,000.

Chair Richardson and Bob Bamberg discussed what needs to be done to accomplish this action; resolution or notify our legislators. Bob Bamberg explained that he has been in contact with Sarah Stevens and her office and explained what it would take to get this request before the General Assembly.

Commissioner Smith and Bob Bamberg talked about the requirements for the additional 3% and what it would be spent on; 2/3 on direct marketing and 1/3 on tourism-related expenses.

Commissioner Cox and Bob Bamberg talked about this is paid by the people who visit and the money is put back into promotional products. They further talked about Mr. Bamberg hasn't talked to Don East, and Mr. Bamberg talked to Sarah Stevens at one of her visits here. Bob Bamberg stated that Don East was in office when the previous change was made a few years ago.

County Manager Don Adams explained that the County ordinance is written as State law allows, 3%, and previous Boards have provided 100% of the occupancy tax to the Chamber for tourism. He reviewed the steps involved including a public hearing will be required after the General Assembly enacts the legislation prior to changing the ordinance. He further reviewed that the current next step will be to go the local legislators. He mentioned to Bob Bamberg that he talk to the Town as well.

Commissioner Richardson asked if the only action needed by the Commissioners is a motion to move forward to send it to our local legislators.

County Manager Don Adams answered yes that is the process if the Board wants to ask the General Assembly to consider this request.

Commissioner Goudreau made a motion to move forward on this request to send it to our legislators. Commissioner Cox seconded the motion. Vote 5:0.

Chair Richardson talked about the need to go back to the roads' discussions and asked what the Board's options are.

County Manager Don Adams explained that the Board can concur with NCDOT, take no action or make recommendations. He reminded everyone that if the Board is making recommendations of deviating, then this public hearing had to be held. He stated that since it has been inferred that this Board has the power to approve the expenditures he wanted to clarify that the NCDOT Board makes the decisions about what and where to spend the money. He reiterated the three options for the Board of Commissioners.

Commissioner Richardson and County Manager Don Adams talked about the three options by explaining the actions needed for taking no actions or making recommendations. The County Manager explained that NCDOT goes down the priority list, NCDOT doesn't purchase right of way and if a property owner doesn't sign the right of way then it will go on the hold list. The County Manager talked about Cleary Road's and Ward Road's situations.

Commissioner Roten talked about NCDOT's system works whether people agree or not, and he doesn't think the Board should deviate from what they are doing.

Commissioner Smith and Commissioner Roten talked about not deviating from NCDOT's recommendations.

Commissioner Smith and the County Manager talked about how roads get off the hold list.

Commissioner Roten talked about there may come a time where the State may not maintain gravel roads.

Commissioner Richardson and Commissioner Roten talked about last year the General Assembly discussed the counties taking over the gravel roads.

County Manager Don Adams and Scott Gallman talked about design standards and Mr. Gallman explained why 50' of right of way is needed.

Commissioner Richardson stated that the Board has been informed of the three options and NCDOT has asked the Commissioners to consider the program. He reiterated the three

options; concur, take no action or make recommendations. He asked the Board twice how they want to proceed. No one spoke either time.

The Board took action on this matter.

Commissioner Richardson asked Scott Gallman if this is sufficient for NCDOT. Scott Gallman answered yes, the General Assembly allows this.

Milly Richardson said there is a lot of the misinformation out there. She further talked about the separation of State and Church. She talked about the first amendment of the US constitution. She read portions of the first amendment. She said that simply put if the Board wants to proceed, then the Board has that right, if the Board doesn't feel comfortable praying before meetings, clergy has already volunteered. She stated that herself and former commissioner Doug Murphy support having prayer at the meeting. She asked everyone in the audience to stand if they support having the prayer reinstated. The majority of the audience stood up. She asked that the Board reinstate the prayer.

Dennis Smith came before the Board to discuss having prayer at the meetings. He said that the history of having a moment of silence would take too long to explain. He explained that there are two powers; demonic and Father/Son/Holy Spirit. He asked the Board which power is the moment of silence for. He quoted biblical scriptures about praying. He said if you believe in praying then pray and if you don't then why have a moment of silence. He quoted additional scriptures. He read a proclamation by the Allegheny County Board of Commissioners on May 3, 2004, supporting the recognition of God as the foundation of our National heritage. Jerry Brooks handed out papers for Dennis Smith of the 111<sup>th</sup> Congress, 1<sup>st</sup> Session about America's Spiritual Heritage Week. He said that he hopes the Board will read the entire packet. He asked that the Board replace the moment of silence at the beginning of the meeting with a prayer.

Commissioner Richardson declared a brief recess at 7:40pm.

County Manager Don Adams explained the Community Advisory Committee for Long Term Care. He presented letters from High Country Council of Governments asking that Jim Amburn and Sandra Goodwin be appointed to the Allegheny County Community Advisory Committee for Long Term Care for a period of one year. He explained Alex Jernigan's role with the advisory committees for the seven-county area, and the advisory committees must follow State laws.

Commissioner Richardson made a motion to appoint Jim Amburn and Sandra Goodwin to the Allegheny County Community Advisory Committee for Long Term Care. Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams talked about the Board previously discussed moving the January 17<sup>th</sup> meeting to Wednesday, the 19<sup>th</sup> but he thinks that two Commissioners will be out of town.

Commissioner Richardson asked the Board to reconsider Tuesday, the 18<sup>th</sup>, for the meeting.

The County Manager talked about the CJPP meeting at 12:30pm on Tuesday that he and Commissioner Roten needs to attend.

Commissioner Roten and Commissioner Richardson talked about starting the meeting at 10:00am. Commissioner Roten talked about making it work and if not, he and the County Manager can be excused.

The Board agreed to move the next meeting to Tuesday, January 18<sup>th</sup> at 10:00am.

County Manager Don Adams presented budget amendment General Fund #11 in the amount of (\$3,642) for a reduction in JCPC. He explained that this is to accurately reflect the amount received by the State.

Commissioner Roten made a motion to approve budget amendment General Fund #11 in the amount of (\$3,642). Commissioner Goudreau seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #12 in the amount of \$761. He explained that this is for interns in last budget year, and the County was overpaid on the reimbursement and this budget amendment is to repay the overpayment.

Commissioner Roten made a motion to approve budget amendment General Fund #12 in the amount of \$761. Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment School Capital Reserve Fund #1 in the amount of (\$44,114). He explained that this Fund is funded by the mandated sales tax amounts. He further explained that this is reducing the amount available this year because the School underestimated how much they were going to spend last budget year. He said that he was waiting until the audit was completed to have the correct figures.

Commissioner Roten made a motion to approve budget amendment School Capital Reserve Fund #1 in the amount of (\$44,114). Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment Soil & Water Fund #1 in the amount of (\$298). He explained that this is to reduce the amount available in the Fund per the audited numbers.

Commissioner Cox made a motion to approve budget amendment Soil & Water Fund #1 in the amount of (\$298). Commissioner Smith seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment Library Fund #1 in the amount of (\$676). He explained that this is to reduce the amount available in the Fund to spend per the audited numbers.

Commissioner Roten made a motion to approve budget amendment Library Fund #1 in the amount of (\$676). Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment Fairgrounds Fund #1 in the amount of (\$876). He explained that this is to reduce the amount available in the Fund per the audited numbers.

Commissioner Roten made a motion to approve budget amendment Fairgrounds Fund #1 in the amount of (\$876). Commissioner Goudreau seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #13 in the amount of \$2,466 for additional public assistance revenues from the State. He stated that these are 100% State funds.

Commissioner Cox made a motion to approve budget amendment General Fund #13 in the amount of \$2,466. Commissioner Goudreau seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #14 in the amount of \$53,130 for previously discussed paid holidays. He reviewed the revenues for the budget amendment is \$938 from NCDOT Administration Grant, \$7,721 from DSS revenues, \$593 for Soil & Water District monies and \$43,878 from appropriated fund balance.

Commissioner Smith made a motion to approve budget amendment General Fund #14 in the amount of \$53,130. Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment Transportation Fund #2 in the amount of \$816 to reinstate the four holidays for employees paid out of the Transportation Fund.

Commissioner Goudreau made a motion to approve budget amendment Transportation Fund #2 in the amount of \$816. Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment Transfer Facility #1 in the amount of \$2,360 to reinstate the four holidays for employees paid out of the Transfer Facility Fund.

Commissioner Goudreau made a motion to approve budget amendment Transfer Facility #1 in the amount of \$2,360. Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment E911 Fund #6 in the amount of \$520 reinstate the four holidays for employees paid out of the E911 Fund.

Commissioner Goudreau made a motion to approve budget amendment E911 Fund #6 in the amount of \$520. Commissioner Cox seconded the motion. Vote 5:0.

County Manager Don Adams explained the QSCB Fund Project Ordinance Amendment in the amount of \$418,230. He further explained that these monies are for the additional monies needed for the renovations at Glade Creek School. He reminded the Commissioners that the Board of Education has agreed to pay the payment out of mandated sales tax that must be used for capital needs.

Commissioner Roten made a motion to approve the QSCB Fund Project Ordinance Amendment in the amount of \$418,230. Commissioner Smith seconded the motion. Vote 5:0.

Commissioner Goudreau stated that when the Board went through the organizational meeting, he misunderstood that the prayer was going to be replaced by a moment of silence, that was his mistake and he apologizes for that. He said he would like to make a motion to have prayer right after the pledge of allegiance.

Commissioner Roten said that this issue was never voted on, it was proposed and basically done. He further said that he should have opposed it but he apologizes since he didn't. He talked about in the past the Commissioners have rotated saying the prayer, and it should be up to each Commissioner when it is their turn.

County Attorney Donna Shumate explained that the recent current case law where Forsyth County did the same thing similar to what this Board has done regarding prayer. She further explained that Forsyth County was sued and was ruled against in Federal court stopping them from having prayer at meetings. She said that the Federal courts relied on the constitution saying it violates the first amendment clause. She further said that if the Board elects to have prayer and are sued then the Board will lose.

Commissioner Smith said that he has thought about this and even talked to his pastor, left with the feeling that a silent prayer is as important as an out loud prayer. He further said that he believes in prayer, and he prays. He stated that he feels very strong about a silent prayer being his choice.

Commissioner Cox stated that he appreciates everyone being here along with the thoughts and prayers. He talked about the silent prayer process. He said that he ensures everyone that he prays during the silent prayer for guidance, support, wisdom. He further said that growing up in church especially Sunday school he learned life lessons to be a humble person and keep your prayers between you and your maker. He talked about the Sermon on the Mount about keeping your prayers to yourself and sited other biblical references of people praying silently. He reiterated his appreciation for everyone's support, thoughts, and prayers. He said he is comfortable with what has been occurring.

Commissioner Richardson asked if there is a second to Commissioner Goudreau's motion.

Commissioner Roten seconded the motion on the floor. Vote 2:3 (Larry Cox, Ken Richardson, and Tom Smith)

Being no further business, Commissioner Roten made a motion to adjourn at 8:15pm. Commissioner Goudreau seconded the motion. Vote 5:0.

Respectfully submitted,

Karen Evans  
Clerk to the Board

Attest:

Ken Richardson  
Chairman