

The Alleghany County Board of Commissioners met in regular session on Monday, August 6, 2007, at 6:30pm in the Commissioners Meeting Room of the County Administration Building, 348 South Main Street, Sparta, North Carolina.

Present: Chair Ken Richardson, Vice-Chair Warren Taylor, Commissioner Randy Miller, Commissioner Doug Murphy, Commissioner Milly Richardson, County Attorney Donna Shumate, County Manager Don Adams, and Clerk to the Board Karen Evans.

Chair Ken Richardson called the meeting to order, led the Pledge of Allegiance and opened the meeting with a prayer.

Chair Ken Richardson stated that the wood waste bids and phone systems quotes need to be removed from the agenda.

Commissioner Milly Richardson made a motion to approve the amended agenda for this August 6, 2007, meeting. Commissioner Randy Miller seconded the motion. Vote 5:0.

AGENDA  
Monday, August 6, 2007  
6:30 PM

- 6:30 Meeting Called To Order, Pledge of Allegiance and Prayer  
Motion on Agenda for August 6, 2007, meeting  
Motion on Minutes for July 16, 2007, meeting
- 6:35 A. Public Comments—30 minutes  
B. Public Hearing  
RE: Rural Operating Assistance Program Grant  
C. Ricky Roten  
RE: Job Link Center and Business Resource Alliance Center  
D. Soil and Water Annual Report  
E. Amy Pardue  
RE: Subdivision Plat  
F. Sheriff David Edwards  
RE: Inmate Medical Services Contract  
G. Daniel Roten  
RE: Old Quarry Scrap & Auto Salvage  
H. County Business  
1. Budget Amendment—Soil & Water  
2. Planning Director Job Description  
3. Child Protection Team Board Appointment  
4. Wood Waste Bids (deleted)  
5. Natural Dam Bridge  
6. Reschedule Labor Day Meeting  
7. Medicaid/Transfer Tax Update  
8. Phone Systems Quotes (deleted)  
9. Other Business  
10. Closed Session—NCGS 143-318.11 (a) (6)—personnel  
11. Adjourn

Commissioner Randy Miller made a motion to approve the minutes for the July 16, 2007, meeting. Commissioner Doug Murphy seconded the motion. Vote 5:0.

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

Paul Reeves asked if any consideration is being given to right-of-way issues that he discussed earlier. He used Ashe County as an example. He urged the Commissioners to decrease the ordinance to 5-acre tracts instead of 10-acre tracts. He talked about problems that this is causing.

David Isner talked about the transfer tax issue that will be discussed later during the meeting. He gave the Board a fact sheet and overview for the Board's review.

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

Chair Ken Richardson opened the public hearing regarding the Rural Operating Assistance Program (ROAP) grant at 6:33pm.

April Choate, Director of Allegheny in Motion, presented the ROAP grant funding allocations in the amount of \$37,025 in EDTAP funds, \$27,440 in RGP funds and \$2,011 in Work First funds and supplemental allocations in the amount of \$22,093 in EDTAP funds, \$18,136 in RGP funds and \$2,011 in Work First funds for 2007/08.

Chair Ken Richardson asked for public comments. None were received.

Chair Ken Richardson closed the public hearing at 6:34pm and reconvened the regular meeting.

Commissioner Milly Richardson made a motion to apply for these funds. Commissioner Doug Murphy seconded the motion. Vote 5:0.

Ricky Roten with the Allegheny County Job Link Center came before the Board to provide an annual report regarding their activities from July 2006 to July 2007. He invited the Board to attend the Business after Hours meeting on September 6. He talked about the creation of the Allegheny Business Resource Alliance Center and its purpose.

Linda Hash came before the Board to present the annual report for the Soil and Water Conservation District. She reviewed their mission statement, board members and staff. She further reviewed the district programs including educational programs, technical/financial assistance programs, farmland preservation program and the ecosystem enhancement program. She described the accomplishments for each program. She gave the Board a summary that showed the number of activities and contacts they had during the year. She presented a PowerPoint presentation showing their activities and accomplishments for last year.

Amy Pardue, Planner, presented a final subdivision plat for Misty Creek Ridge showing a 20.62-acre tract located in the Piney Creek Township with 13 lots. She explained the road in the subdivision.

Commissioner Warren Taylor made a motion to approve the subdivision as presented by the Planner. Commissioner Doug Murphy seconded the motion. Vote 5:0.

Sheriff David Edwards and Steve Cothren came before the Board to discuss inmate medical expenses.

County Manager Don Adams quickly reviewed the items that are in the Commissioners' packets regarding Jail inmate expenses. He stated that the proposed costs are \$43,872.53 for the first year, \$45,188.71 for the second year and \$46,544.37 for the third year. He explained spreadsheets showing the expenses for 2004/05, 2005/06, 2006/07 and the potential additional costs for each year. He explained that it is his understanding that the Sheriff is not representing that this contract will save money but will provide the needed service that will result in reduced liability. He further explained the highlights of the services including a healthcare assessment of all new inmates at the facility, weekly visit by a physician to the jail area, a nurse on site two days a week, 24 hour 7 day a week access to Health Services Administrator, nursing response to sick calls three days a week on non-scheduled workdays and pharmacy services.

Steve Cothren explained that the Jail could not get the service that is needed from within the county, and that the service will be there with this contract.

Commissioner Warren Taylor and Steve Cothren talked about the physicians represented in this group, and the group from Myrtle Beach is working to hire local

physicians. Steve Cothren explained that they have hired a local nurse. They continued talking about the physicians do not have privileges at the hospital.

County Manager Don Adams explained that once inmates leave the jail, this group turns them over to local people.

Sheriff Edwards and Steve Cothren gave examples of prior issues.

Chair Ken Richardson clarified that this service is offered because the County is required to do so.

Sheriff Edwards and Steve Cothren agreed. Sheriff Edwards explained that if inmates are held for 14 days, then a physical is required. He further explained that this is not being done now.

Commissioner Warren Taylor asked if this has been advertised locally.

Steve Cothren stated that they asked several doctors' offices, and they weren't interested.

County Manager Don Adams reiterated that the Jail isn't getting the service that is needed.

Chair Ken Richardson asked the Sheriff and Steve Cothren if the contract is approved, do they take on the responsibility to insure that the contract is fulfilled.

Sheriff Edwards and Steve Cothren stated that yes they will.

Commissioner Warren Taylor stated that he wanted to make sure that we had given every opportunity locally.

Sheriff Edwards stated that hopefully the doctors and nurses will be local.

Commissioner Milly Richardson made a motion to approve the contract. Commissioner Doug Murphy seconded the motion. Vote 5:0.

Daniel Roten with Old Quarry Scrap & Auto Salvage came before the Board to appeal a decision by the County Planner. He explained that he has papers showing that his business was in operation at the time of the ordinance adoption. He stated that he has weight tickets showing that he hauled scrap metal to Gordon's Iron & Metal in Statesville. He listed the dates in January and February in 2006 from Gordon's Iron & Metal. He stated that the tickets show that this activity is a pretty common thing.

Commissioner Doug Murphy and Daniel Roten talked about the scrap items were stockpiled at the present location.

Daniel Roten explained that he has a statement from Terry McGrady, owner of City Body Shop, stating that he purchased junk cars from him, and Mr. McGrady hauled to them to Old Quarry Scrap & Auto, and they are still onsite. He further explained that he has information from Tommy's Garage where they sold him junk cars since March of 2006. He stated that he has a statement from the Sheriff that he purchased a Ford Explorer from him that is still on his property. He talked about a business account that he has had at Carquest of Alleghany since April 2006. He explained that his father sat on the board that created the Property Rights Protection Ordinance. He further explained that he was told to pay solid waste fees as a way to determine when businesses were started. He said he went to see Karen McGrady and signed up for business solid waste fees in May of 2006. He further said that County Attorney Donna Shumate's opinion letter stated that he didn't have vested rights based on several other pieces of documentation that he didn't have.

Commissioner Milly Richardson and Daniel Roten discussed that this is the same junk yard she visited earlier in the year to get some hay rings.

County Attorney Donna Shumate explained that Amy Pardue had contacted her

stating that someone had contacted her asking if this business was in compliance with Property Rights Protection Ordinance. She further explained that Amy Pardue supplied her some information that is outlined in her opinion letter regarding the business. She talked about how the ordinance declares a vested right. She said she has seen everything that Mr. Roten mentioned, and the weight tickets are in his name not the business.

County Attorney Donna Shumate and Daniel Roten talked about the Carquest account is in the business name.

Commissioner Warren Taylor and Daniel Roten talked about junk cars were on the property before the ordinance was adopted.

County Attorney Donna Shumate said that the letters didn't say anything about the junk cars going to his property. She reviewed the list of items that are normally considered when looking at vested rights; tax id number, assumed name certificate filed in November 2006, 2006 tax returns, utility bills. She said that these items were not available for her determination.

County Manager Don Adams stated that the issue is vested rights. He further stated that the Board of Commissioners needs to determine whether this business was in existence at the time of the adoption of the Property Rights Protection Ordinance. He talked about the solid waste fees. He further talked about the decision is if the Commissioners believe he has presented enough evidence to declare vested rights or not.

Commissioner Warren Taylor and Planner Amy Pardue discussed steps to take if vested rights are not granted. Planner Amy Pardue stated that he would have to apply for a conditional-use permit before the Planning Board, and the property doesn't meet the requirements of Property Rights Protection Ordinance. He asked if there are any detrimental reasons if vested rights were granted. She answered no.

Chair Ken Richardson stated that the County hires an attorney to advise the Commissioners and according to her letter she is saying he doesn't have vested rights.

Commissioner Warren Taylor asked why this issue is coming to the Commissioners.

County Attorney Donna Shumate explained that this is an appeal of the County Planner's decision. She reviewed the steps that were taken.

Commissioner Milly Richardson talked about the requirements of the ordinance.

Steve Roten explained that he bought the property in 2004 and started storing stuff there at that time, mainly farm equipment. He stated that he was asked to serve on the committee that created this ordinance. He further explained that when this was starting to come about, he told Daniel to go see Amy Pardue to see what he needed to do to make sure his business was documented before the adoption of the ordinance. He asked the Commissioners how they can hold him to a different standard.

Chair Ken Richardson asked why the business can't meet the Property Rights Protection Ordinance.

Steve Roten said that it can't meet the 2,000 feet requirement. He further said that he quit going to the meetings when the 2,000 feet discussions were occurring because he didn't want it to come back later to say that Daniel's business influenced him.

Amy Pardue stated that Daniel Roten came to see her before the ordinance was adopted. She explained that the ordinance was going through changes before the adoption.

Commissioner Milly Richardson clarified that he came to see Amy Pardue to have his business properly documented before the adoption of the ordinance.

Amy Pardue stated that the ordinance wasn't adopted but he was just asking questions.

Chair Ken Richardson stated that he just came to ask questions. He further stated that just because he had vehicles sitting on his property doesn't mean he had a business. He asked Amy Pardue if he presented any documentation to her.

Amy Pardue stated that nothing was presented to her at that time. She further stated that he mainly asked business questions.

County Attorney Donna Shumate stated that it is new information that he saw Amy Pardue before the ordinance adoption.

Commissioner Doug Murphy and Amy Pardue talked about Mr. Roten came to her office before the adoption of the ordinance.

Steve Roten stated that he sent Daniel to see Amy prior to the ordinance adoption. He talked about the distance requirement.

County Manager Don Adams explained the requirements of High Impact Land Uses / Polluting Industries Ordinance and Property Rights Protection Ordinance.

Amy Pardue read part of the Property Rights Protection Ordinance regarding junk yards and the requirement of 2,000 feet.

Chair Ken Richardson asked if the Commissioners determine he has vested rights, then that would change an existing business there.

County Attorney Donna Shumate reiterated that if the Board believes he was in business prior to the Ordinance then declare vested rights, or if not declare that he doesn't have vested rights.

Commissioner Warren Taylor stated that there is evidence that he was in business. He talked about that area is not detrimental to the county.

Commissioner Doug Murphy pointed out that he came to the Planner prior to the adoption of the ordinance.

Amy Pardue stated that it was in May when he came to see her.

Commissioner Milly Richardson made a motion to grant him vested rights. Commissioner Warren Taylor seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #2 in the amount of \$1,726 for the Soil & Water program. He explained that the prior board had allowed these funds to roll-over each year.

Commissioner Warren Taylor made a motion to approve budget amendment General Fund #2 in the amount of \$1,726. Commissioner Milly Richardson seconded the motion. Vote 5:0.

County Manager Don Adams presented the job description for the Planning Director.

Commissioner Milly Richardson and County Manager Don Adams talked about the pay grade for the position being a 68.

Commissioner Doug Murphy and County Manager Don Adams talked about the job description covering the existing ordinances.

County Manager Don Adams stated that considerable knowledge of land development ordinances within Allegheny County could be added to the job description.

Commissioner Randy Miller made a motion to approve the job description with the change. Commissioner Warren Taylor seconded the motion. Vote 5:0.

County Manager Don Adams presented a letter from John Blevins requesting Lee Cornett be appointed as an at-large member on the Community Child Protection Team.

Commissioner Milly Richardson made a motion to appoint Lee Cornett to the Community Child Protection Team. Commissioner Warren Taylor seconded the motion. Vote 5:0.

County Manager Don Adams presented information about a natural dam bridge property. He explained that he has been approached for the County to turn this land into a park. He further explained the offer from Mr. Joines and a letter from Mr. Pettyjohn talking about the Department of Transportation's requirements regarding the abandoned road being taken over by the State. He stated that the right of way has never been closed. He further stated that it is not a deeded right of way and the right of way is the roadbed itself. He talked about this road will have to meet current criteria including right-of-way issues and users per mile. He further talked about if this is turned into a park, who will take over the right of way. He showed the Commissioners where the road is on a map. He explained that the adjoining property is owned by Mr. Joines' relatives. He further explained that the property is currently rented to hunters and has gated access. He talked about the Department of Transportation will require that the right of way be given back. He further talked about another issue is the current survey showing a piece of the dam is potentially owned by two people, which would have to be clarified. He stated that a third issue would be the need to talk about maintenance and how the land would work as a park. He said he wanted to present the offer to the Board.

Commissioner Doug Murphy thanked Mr. Joines for this offer. He talked about getting the criteria up to date to get it into the state system. He asked how the Board finds out how to get the road up to date.

County Manager Don Adams said that the first step is to get the right of way. He stated that legally counties cannot put any money into roads.

Commissioner Warren Taylor asked if it would be worth investigating whether the State Parks would be interested in the area.

County Manager Don Adams said that Mr. Joines told him that they would be interested with additional property. He stated that he asked Mr. Joines what he would like to see done with the property, and he answered that he would like to see it turned into a park and opened to the public.

Commissioner Warren Taylor stated that it sounds like the next step is to follow up on the right-of-way issue to see if it is feasible, then see if the Department of Transportation and the State Parks could work together to get the road issue resolved.

County Manager Don Adams agreed by saying that the first step would be to approach Mr. Joines to see how he wants to contact his relatives about additional right of way then approach the State to see if they will make any exceptions regarding taking the road over.

Commissioner Warren Taylor stated that he doesn't think the Board should discard this offer.

County Manager Don Adams stated that when he has more information he will come back to the Board.

County Manager Don Adams asked the Board about rescheduling the first meeting in September, which falls on Labor Day.

The Board discussed the date to hold the meeting. They decided on the Tuesday after Labor Day.

County Manager Don Adams discussed information about the new Medicaid and transfer tax laws. He quickly reviewed year-by-year components of Medicaid relief. He explained the sales tax impact in relation to this relief. He further explained what this means to Alleghany County; cutting between \$50,000-\$75,000 in Medicaid costs this year, the importance of \$500,000 guaranteed per year, financial impact for 2008/09, 2009/10, 2010/11. He said that the State Legislatures have accomplished a great thing for Alleghany County. He explained the transfer tax portion of the legislation. He stated that the legislation allows the Commissioners to put out to referendum a 0.4% land transfer tax or a ¼¢ point of delivery sales tax. He talked about the need to look at the numbers on overalls levels, not just one year's data. He mentioned the handout from the Elections Director providing the procedures to follow to have a referendum and actions needed.

Commissioner Doug Murphy stated that he is glad the State stepped up to the plate to help the counties.

Chair Ken Richardson mentioned that the Lieutenant Governor will be at the Wellness Center on Tuesday, August 7 at 10:00 am.

Commissioner Randy Miller mentioned that the air-conditioning projects at the schools aren't done even after the Commissioners were told they would be done before school started.

County Manager Don Adams stated that he is being told there is three days of duct work left, parts are back ordered, and it will take 7-10 days.

Commissioner Warren Taylor made a motion to enter into closed session under NCGS 143-318.11 (a) (6)—personnel at 8:33pm. Commissioner Doug Murphy seconded the motion. Vote 5:0.

Commissioner Milly Richardson made a motion to adjourn the closed session and reconvene the regular meeting at 8:39pm. Commissioner Warren Taylor seconded the motion. Vote 5:0.

Chair Ken Richardson stated that no decisions were made during closed session.

Being no further business, Commissioner Milly Richardson made a motion to adjourn at 8:40pm. Commissioner Warren Taylor seconded the motion. Vote 5:0.

Respectfully submitted,

Karen Evans  
Clerk to the Board

Attest:

Ken Richardson  
Chairman