

The Alleghany County Board of Commissioners met in regular session on Monday, September 20, 2010, at 3:30pm in the Board Meeting Room of the County Administration Building, 348 South Main Street, Sparta, North Carolina.

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

Chair Ken Richardson called the meeting to order. He talked about recognizing Eugene Pruitt at the last meeting but failed to mention that Mr. Pruitt worked for Alleghany County EMS for 32 years.

Commissioner Steve Roten led the Pledge of Allegiance and opened the meeting with a prayer.

Chair Ken Richardson stated that item #3 under County Business needs to be deleted from the agenda.

Commissioner Milly Richardson made a motion to approve the amended agenda for this September 20, 2010, meeting. Commissioner Doug Murphy seconded the motion. Vote 5:0.

AGENDA  
Monday, September 20, 2010  
3:30 PM

- 3:30 Meeting Called To Order, Pledge of Allegiance and Prayer  
Motion on Agenda for September 20, 2010, meeting  
Motion on Minutes for August 30 and September 9, 2010, meetings  
Motion on August Tax Releases and Refunds
- 3:35 A. Public Comments—30 minutes  
B. Kate Cosner  
RE: Instant Runoff Voting  
C. Lee Cornett  
RE: Domestic Violence Proclamation  
D. Mary Walker  
RE: Tax Appeals  
E. Kathy Murphy  
RE: River Country Estates Tax Appeal  
F. County Business  
1. Code of Ethics Policy  
2. Computer/TV Recycling  
3. Budget Ordinance Amendment—Scattered Site (deleted)  
4. Property Rights Protection Ordinance Amendments  
5. Fire Commission Budget Amendment  
6. Training Facility Update  
7. Other Business  
8. Adjourn

Chair Ken Richardson talked about the August 30 minutes includes the minutes for the ethics training.

Commissioner Randy Miller made a motion to approve the minutes for the August 30 and September 9, 2010, meetings. Commissioner Milly Richardson seconded the motion. Vote 5:0.

Commissioner Milly Richardson made a motion to approve the real releases and refunds for August. Commissioner Randy Miller seconded the motion. Vote 5:0.

Commissioner Randy Miller made a motion to approve the auto releases and refunds for August. Commissioner Milly Richardson seconded the motion. Vote 5:0.

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

Kate Cosner, Director of Elections, came before the Board to present information about the instant runoff voting including North Carolina will be the first state to use instant runoff voting. She presented a PowerPoint presentation regarding the instant runoff voting which will appear on the

November ballot for the Court of Appeals Judge seat. She explained that when a vacancy occurs more than 60 days before a general election, it must be done without a primary using the instant runoff voting method, Justice Jim Wynn resigned from the Court of Appeals in August and that this voting method requires for a clear majority winner or additional rounds of counting to declare a winner. She further explained how the instant runoff voting works. She demonstrated a sample ballot.

Commissioner Doug Murphy asked if this is a way to save money.

Kate Cosner explained that only two counties have tried this in their municipalities, and the State law mandates that there is no choice on this matter. She further explained that they are currently waiting on the coding.

Chair Ken Richardson and Kate Cosner talked about this ballot will be on the voting machines rather than paper ballots. She explained that originally it was going to be a paper ballot but that has been changed by the State. She further explained that the general election expenses will go over budget, and there is no way around it because of the State law.

Commissioner Steve Roten and Kate Cosner talked about how the votes are tabulated and if there is no clear winner, then the top two candidates move forward, voters' second choice of those candidates are added to the original votes to see if there is a clear winner at that time and if not then it goes to adding the voters' third choice of those candidates.

Lee Cornett with DANA came before the Board to ask for October to be proclaimed as domestic violence awareness month. She talked about they are the only group that assists domestic violence clients. She further talked about the services provided, amount of crisis calls, number of victims served, and they have been working to increase community prevention education/awareness. She explained that the problem is rising. She asked for the Board's support. She talked about they are holding a candlelight vigil on the courthouse lawn on October 19 and invites everyone to attend.

Commissioner Randy Miller made a motion to approve the proclamation. Commissioner Milly Richardson seconded the motion. Vote 5:0.

Commissioner Doug Murphy talked about their services offered in the high school. Lee Cornett explained that they have started talking to the preschoolers. She further explained that people can call 372-DANA for assistance/donations, and their address is Post Office Box 1643 in Sparta for people wanting to send donations.

Chair Ken Richardson asked if the Board had questions regarding the tax refunds.

Commissioner Steve Roten asked if we have to send refund checks. Mary Walker stated yes. He asked can the County give them credit on their next tax bill. She stated that there is no way to keep up with the credits. She explained that in August there are a lot of overpayments because of the 2% discount, attorney/client overpayment, escrow account and taxpayers pay the same bill. She further explained that an ordinance must be passed by May 1 where the County can decide on a minimum amount before they are issued refund checks and some counties have minimum amounts to be billed. They talked about the Board will have to decide the amount of minimum refunds, and the additional money will remain with the County. She said that the Board will have to address the issue between January and May for it to apply. She talked about the Board can also pass an ordinance to establish a minimum billed amount.

Mary Walker, Tax Administrator, presented a solid waste appeal for Ms. Busic, where her mother's house is vacant and has been since her mother died in 2004. She explained that there is no power, and it is not going to be rented.

Commissioner Milly Richardson made a motion to approve the appeal. Commissioner Doug Murphy seconded the motion.

Commissioner Steve Roten asked when this is effective. Mary Walker stated that it would be this year because she did ask for a refund.

The Board voted on motion on floor. Vote 5:0.

Mary Walker explained that she and the County Attorney did more research on the next matter of deeded acreage versus calculated acreage. She further explained that they called the

Department of Revenue and talked to Michael Brown who said that the County must be consistent using either deeded or calculated acreage, and calculated acreage is what the County has used since 1993-94.

Commissioner Steve Roten asked about the number of acreage.

County Attorney Donna Shumate relayed her conversation with Mr. Brown regarding using calculated acreage for tax purposes and cannot use deeded acreage for present-use values.

Commissioner Steve Roten and County Attorney Donna Shumate talked about the road and right of way.

Commissioner Milly Richardson and County Attorney Donna Shumate talked about it is what is in actual production. Commissioner Milly Richardson talked about being consistent. The County Attorney stated that it is what is in actual production is what the State law says. Commissioner Milly Richardson gave an example about roads on their property.

Commissioner Doug Murphy and Mary Walker talked about this road is fenced off from the field.

Commissioner Milly Richardson talked about Mr. Brown's opinion, and it is really whatever the State law says. She further talked about what Mr. Brown thinks about this will keep putting the tax office in this place. She explained that Mary Walker and the County Attorney did what they were supposed to do.

Commissioner Doug Murphy talked about there has to be a decision made. He further talked about using dots on the computer map and a deed description. He asked are they the same.

County Attorney Donna Shumate stated that is comparing two different things.

Commissioner Doug Murphy talked about when 1 acre is deducted that leaves 10.18 acres, then take out the driveway, what does that leave. Mary Walker answered 9.51 acres when taking out the driveway. He asked has the tax office consistently taken the driveway out. She asked if the Board remembers Mr. McGrady where they had taken out the deeded right of way. He talked about if the map is not to be construed as a legal description as noted on the map and a deed description; which one is legal.

County Attorney Donna Shumate said she would tell a client that they needed to get a survey done of the acreage in actual production to determine this.

Commissioner Doug Murphy agreed about this law is very vague, the State needs to be clear about what is legal and what is not. He talked about this is nothing that the tax office has done.

Commissioner Steve Roten talked about no matter who the property owner is take an acre off for the house and use the rest of the land, as far as he is concerned, they have the property, and he is satisfied that they have the property.

Commissioner Milly Richardson talked about this driveway is not a deeded right of way, and she agrees with Commissioner Roten.

Commissioner Doug Murphy talked about the dilemma is that the tax office has been subtracting out deeded right of ways. He asked if this driveway is a deeded right of way, and if not is it fenced in, then they have the property. He and Mary Walker talked about she doesn't remember seeing a gate at the end of the driveway.

Commissioner Doug Murphy asked can he legally go look at the property. Mary Walker stated that is fine, and she is just trying to do what the law says.

Commissioner Doug Murphy and Mary Walker talked about if the driveway is put back in, there are 10.18 acres.

Chair Ken Richardson stated that there has been a lot of discussion about this issue. He further stated that he cannot go against the Tax Administrator's and County Attorney's advice.

Commissioner Doug Murphy talked about the reason for deducting the driveway and being consistent.

Mary Walker talked about something like this hasn't come before the Board, and she has been told that you cannot grow trees in the roads but guess that cows can go in the road.

Commissioner Milly Richardson made a motion to approve the appeal. Commissioner Steve Roten seconded the motion. Vote 3:2 (Ken Richardson, Randy Miller).

Commissioner Doug Murphy talked about on a previous right-of-way issue there was a deeded right of way for the property, which is subtracted out. Mary Walker agreed and said that she can't say whether the cows cross the road or they don't.

Commissioner Steve Roten and Mary Walker talked about his property where his neighbor has a deeded right of way with a cattle guard at each end, and the tax office has to look at each case.

Commissioner Doug Murphy talked about there is a lot of opinions and gray areas in the law regarding this situation.

Mary Walker presented another tabled appeal where the property has 10 deeded acres and only farms half of it. She showed the Board a map of the property and explained that they don't farm across the creek.

Commissioner Doug Murphy and Mary Walker talked about they farm 8.23 acres.

Mary Walker explained that this is a result of an audit. She further explained that she talked to Everett Elliott, who farms the property, about how much he farms on this property.

Commissioner Steve Roten said that he has sympathy about the high interest rates.

Commissioner Milly Richardson asked that the County is doing audits because of the State law requirements; she thought she qualified and she doesn't, and can the County legally charge her those interest rates.

Mary Walker and County Attorney Donna Shumate answered yes because these are set by the State.

Commissioner Steve Roten made a motion to deny her request. Commissioner Doug Murphy seconded the motion. Vote 5:0.

Mary Walker talked about Mrs. Greene's appeal and what happened last time when this was added on was when they changed software in 2007-2008 and it got put back on in the software change over. She further talked about this is an immaterial irregularity.

County Attorney Donna Shumate agreed.

Mary Walker talked about the burden of proof is on the taxpayer.

Commissioner Steve Roten and Mary Walker talked about Mrs. Greene didn't know what her husband had done regarding taxes. He said that he cannot see charging her for the County's error.

County Attorney Donna Shumate talked about if the Board forgives the taxes improperly then the Board can be personally held liable.

Commissioner Steve Roten stated that he can see her paying the taxes but not the interest.

Mary Walker explained how the amount went from \$1,008 to \$456 because her husband died in January 2006 so she was eligible to receive the exemption in 2006.

Commissioner Steve Roten reiterated that he can't see making her pay the late-listing penalty because it was the County's fault.

Commissioner Doug Murphy and Mary Walker talked about the County has been consistent in charging late-listing penalties.

Commissioner Steve Roten made a motion for her to pay the tax but not the other. Commissioner Milly Richardson seconded the motion. Vote 2:3 (Ken Richardson, Randy Miller, and Doug Murphy).

Commissioner Doug Murphy made a motion to move forward with her paying the entire bill. Commissioner Milly Richardson seconded the motion. Vote 3:2 (Milly Richardson, Steve Roten).

Kathy Murphy came before the Board as a follow-up from the last meeting regarding the HOA appeal. She explained that she went back to her board for a reasonable solution that would not overburden any one and there are 220 PIN numbers which comes out to \$3.91 per lot. She said she went back to her board to explain this is a late application, and they are proposing that the tax office prints the bills and give them to her to send out to their property owners.

Mary Walker stated her only concern is what happens if someone doesn't get their bill. She explained that when they talked she told Kathy Murphy that sounded ok but she has concern about what happens if someone claims they didn't get their bill. She further explained that they just received the PIN numbers today and hasn't had an opportunity to look at whether they qualify or not.

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

Chair Ken Richardson asked does the tax office need more time to see if they qualify.

Mary Walker and Kathy Murphy agreed.

Commissioner Milly Richardson stated that she thinks that Kathy Murphy and her board should be congratulated for trying to save the County money.

Kathy Murphy explained that her board was getting ready to go to their attorney but she convinced them to wait.

County Manager Don Adams talked about ways to proceed to create a code of ethics policy.

Commissioner Milly Richardson said it would be good to have a sample policy.

Chair Ken Richardson talked about getting input from this Board and place it on the mid-month December agenda to get input from that Board then move forward. He said that Commissioner Murphy has agreed to serve on a subcommittee with him. He talked about using a guide from the School of Government, creating a sample and coming back before the Board with the sample.

County Manager Don Adams explained that on July 1 computers/televisions will be illegal to dispose of in landfills. He talked about he attended a workshop with DENR and had conversations with them about this new law. He explained that he has talked to a company that can offer these recycling services for free; eCycleSecure. He further explained the location at the Transfer Facility and described how this would work plus how they can offer these services for free since this is a federal/state mandate and electronic companies have to prove that they are recycling. He said that this is one of three companies that can provide this type of recycling services. He explained that they offer other services also that he is looking into. He further explained that if the Board wants to proceed then the County will have to update the solid waste management plan by December 31, which will allow us to receive some money from the State for this program, and he will bring the contracts back before the Board. He said he is looking for direction from the Board.

Commissioner Steve Roten stated that the County has to do something or else they will end up on the roadside.

Chair Ken Richardson asked is the Board satisfied with what the County Manager is talking about.

The Board agreed.

County Attorney Donna Shumate explained that version 3 of the Property Rights Protection Ordinance amendment is what the Commissioners had asked for by inserting the grandfathering

language. She explained that version 2 is what the Planning Board asked for after she told them what the Commissioners had discussed. She read the proposed changes in version 2 where the amendment will apply to any new sign.

Commissioner Doug Murphy talked about the differences between versions 2 and 3 is that version 2 includes the grandfathering portion and all new signs must meet these guidelines.

County Manager Don Adams explained that all new business must go before the Planning Board, and they can vary each time on their decisions. He clarified that they are talking about any new sign or new lighting for existing business must follow this amendment.

Commissioner Doug Murphy talked about when a change occurs it doesn't take away the grandfathering aspect.

Commissioner Steve Roten asked about when the owners change. The County Attorney answered no because it doesn't take a conditional-use permit.

County Manager Don Adams asked was there any discussions about enforcement.

County Attorney Donna Shumate said there was a little but this version would require Travis to go take pictures of all existing signs and lighting in the county.

County Manager Don Adams stated that if the Commissioners wish to look at the Planning Board's version that all new lights and signs fall under this amendment then there will need to be more discussions about enforcement. He used an example of someone putting up a new sign then an individual complains then the owner of the sign says it has been there for 20 years with the County having no way to prove either way. He stated that he doesn't know how to distinguish between the two. He reviewed how the off-site signage works with stickers being issued for them. He talked about the need for more conversations about the enforcement in version 2.

County Attorney Donna Shumate stated that they talked about the possibility of tying it to the conditional-use permit.

County Manager Don Adams talked about if it is a conditional-use permit then the enforcement is in place through the building inspections department. He reiterated that he thinks there is the need for more conversations about how this is enforced. He said that he would like to see where the Board is leaning because if we're leaning towards the conditional-use permit then the enforcement is in place but the other way will need more conversations and research.

Chair Ken Richardson asked if there is a motion to adopt version 3.

County Manager Don Adams talked about this would apply only to businesses that get a conditional-use permit.

County Attorney Donna Shumate stated that version 3 is the one the Commissioners asked her to do.

Commissioner Steve Roten made a motion to approve version 3 of the Property Rights Protection Ordinance amendment. Commissioner Doug Murphy seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #3 in the amount of \$2,600 for the roof at Piney Creek Volunteer Fire Department.

Commissioner Milly Richardson made a motion to approve budget amendment General Fund #3 in the amount of \$2,600. Commissioner Randy Miller seconded the motion. Vote 5:0.

County Manager Don Adams provided an update on the safety training facility. He explained that the majority of the project has been started and the majority of main parking area has failed proof-rolling. He further explained when the cut was started; it was obvious that it failed, had to cut further and build it back up for a total costs of \$85,069.81. He reminded everyone that this was bid out with several deducts with one being the main paved parking area, backside of the residence getting a smaller paved parking lot and between the two parking lots be paved. He explained that he has been forced to use deducts in the amount of \$60,809 for 3,650 square yards of heavy duty pavement and \$18,381 for 1,472 square yards of light duty pavement and with the built-in allowance for the known unsuitable soils of \$14,560. He further explained that at this point the project is still intact but doesn't include any of the paving, and it will take a minimum of \$79,190

for the paving or \$60,809 for the heavy duty paving. He reminded the Board that \$50,000 has been set aside for the house. He said that he has talked to all of the fire chiefs, and they prefer to have the paved parking because they can do fundraisers for the house. He explained that he will have to have some money to make the house operational by hooking up the water/sewer to make at least the bathrooms workable. He talked about the proposed fire hydrants, and initial plans were to have a tank to handle the pressure needed to fill the tankers. He further talked about the \$50,000 and part of the contingency will get the paving done but that does nothing for the house or tank and leaves approximately \$9,000 in contingency. He said that he is not comfort with that amount of contingency for the remainder of the project. He provided examples if no additional monies are provided, and \$20,000 additional monies will take care of the additional needs. He reiterated that long term it is crucial to have the tank.

Commissioner Doug Murphy asked does he need to have another conversation with the fire chiefs. The County Manager said that he had already explained everything.

Commissioner Milly Richardson asked can the County Manager come to fire commission meeting next week. The County Manager stated no because he doesn't have time because the asphalt needs to be done before the asphalt plants close for the fall/winter.

Commissioner Steve Roten talked about needing to make a decision today.

County Manager Don Adams explained that he called the fire chiefs twice and some of them three times to make sure they understand.

Commissioner Milly Richardson asked about not having the tanks on the hill and not having enough pressure for testing. The County Manager explained the importance of the tanks during their trainings especially the propane trainings, and they are going to want water.

Chair Ken Richardson stated that today the Board needs to decide on paving, and the Board can talk about the other issues later. He asked if that is a reasonable price for paving. The County Manager answered yes.

Commissioner Doug Murphy stated that this is with the understanding that the County Manager will be coming back for additional monies. The County Manager agreed.

Commissioner Milly Richardson stated that if this is what the fire chiefs want and don't have time to go to the fire commission then she will have to go with what they have told the County Manager. She said that she would go with the paving which will cut contingency down to \$9,000 and deal with the other issues later if needed.

Chair Ken Richardson asked does this need to be in the form of a motion.

County Manager Don Adams stated that this falls within the scope of the contract; he just wanted to let the Board know about it. He explained that they are going to be finalizing the proof-rolling soon but if he runs into something else the pavement is gone.

Commissioner Doug Murphy mentioned that on October 2 at 5:00pm at the Law Enforcement Center, there will be a memorial presentation for Joe Roberts. He stated that the date has been confirmed and invites everyone to attend.

Being no further business, Commissioner Milly Richardson made a motion to adjourn at 5:25pm. Commissioner Randy Miller seconded the motion. Vote 5:0.

Respectfully submitted,

Karen Evans  
Clerk to the Board

Attest:

Ken Richardson  
Chairman