

## MINUTES

### LENOIR COUNTY BOARD OF COMMISSIONERS

February 3, 2014

The Lenoir County Board of Commissioners met in open session at 9 a.m. on Monday, February 3, 2014, in the Board of Commissioners Main Meeting Room in the Lenoir County Courthouse at 130 S. Queen St., Kinston, NC.

Members present: Chairman Craig Hill, Vice-Chairman Jackie Brown and Commissioners, Roland Best, Mac Daughety, Reuben Davis, Eric Rouse and Linda Rouse-Sutton.

Also present were: Michael W. Jarman, County Manager, Thomas L. Hollowell, Assistant County Manager, Martha Martin, Finance Officer, Robert Griffin, County Attorney, members of the general public and news media.

Chairman Davis called the meeting to order at approximately 9:00 a.m. Ms. Brown offered the Invocation and Mr. Daughety led the audience in the Pledge of Allegiance.

#### **PUBLIC INFORMATION:**

Mr. Victor Kosinski with AMVETS Post 1111 addressed the group and announced the upcoming annual Chilifest to be held at the Vernon Park Mall on Saturday, March 1, 2014. Mr. Kosinski said this event was being hosted by the American Veterans (AMVETS) and SALUTE of Lenoir County. He also said this was open to anyone who wanted to participate at a cost of \$20.00 per competition entry. Mr. Kosinski said the first ten student entries would be able to participate at a cost of only \$10.00 per entry. He went on to say there would be four categories of entries, Business, Restaurant, Community Member and Student, with three places awarded in each of these categories. Mr. Kosinski said there would be a "People's Choice" award as well. He encouraged everyone to come out and participate either by entry or by eating.

#### **ITEMS FROM CHAIRMAN/COMMISSIONERS:**

Mr. Rouse asked if there had been any information gathered regarding the concealed carry of guns on Solid Waste drop off/recycling sites. Sheriff Hill addressed the group and stated there are two General Statutes which address this and they are GS#14-409-40 and GS#14-415-23. He said both of these have to be used in conjunction with an ordinance or a resolution. Sheriff Hill further stated he had been in contact with an expert who had previously worked in the Attorney General's Office, who does a lot of writing on this very issue. He also said Robeson County is dealing with this same issue at this time. Sheriff Hill said a lot of the determination is based on whether or not a building is classified as a "Government" building. He said it would be pushing things to classify one of the buildings at the drop off sites as a government building.

Mr. Jarman said he and staff had been researching the electronic files to see if an ordinance had been adopted in the past concerning the concealed carry issue, but had not located anything thus far. He said he and staff would now concentrate on looking through hard copy documents to see if an ordinance or resolution had been adopted.

Chairman Hill asked Mr. Rouse what specifically was he asking for? Mr. Rouse replied he was asking for the signs at the drop off/recycling sites, that prohibited carrying concealed weapons, be taken down. Mr. Jarman asked the Sheriff if he could address state law which is specific. Sheriff Hill stated there is both the Open Carrier and then the Concealed Weapon Carrier law. He went on to say a local government could adopt a policy that specifies other properties not classified as "Government" properties be included.

Mr. Daughety said it looked to him as if the County has signs up prohibiting something that it doesn't have an ordinance to back. Mr. Jarman said the County did have the option to designate other properties, if the commissioners so desired.

Mr. Rouse made a motion to take down the "No Concealed Weapons" signs at the transfer stations. The motion was seconded by Mr. Daughety.

Chairman Hill said he has concerns over placing employees in the position of determining if a weapon is legal or not. He said this could also open the door to taking signs down in other areas. Chairman Hill said he feels the commissioners have a responsibility to make employees feel comfortable and safe in their work environment. He said this was not about limiting gun rights, it was about protecting employees. Ms. Sutton said she agreed the employees at these sights should have the same comfort level concerning safety as the other employees.

Mr. Daughety said he would like to amend the resolution to change the location from transfer station to drop off/recycling centers.

Mr. Jarman asked if he could interject and said the attorney could address as well, whether or not it would be practical to take down the signs now, and then possibly have to put them back up in just a short period of time. Chairman Hill said he thought the citizen with the concealed carry permit could just leave their weapon in their vehicle. Mr. Rouse said by doing that, they are creating a situation where the honest citizen is being criminalized. Chairman Hill said it is about making the employees feel more comfortable. He said it would be simpler for the employees if they never see the weapon and don't have to make a decision about whether or not it is legal.

Mr. Rouse asked who was the citizen going to obey? Ms. Sutton replied it was not an issue of authority. Sheriff Hill said even if a person does have a concealed carry permit, they still have to obey the sign. Ms. Brown said in all of her years on the Board, she doesn't recall ever having an issue about a gun posing a threat.

Ms. Sutton made a motion to amend Mr. Rouse's motion to leave up the signs at the drop

off/recycling sites until staff comes back with a suggested ordinance, and if the ordinance fails, then the signs would come down, and if the ordinance passes, the signs would remain up. Ms. Brown seconded Ms. Sutton's motion.

Mr. Daughety suggested until such time as the resolution is passed, the signs are non-effective, or either remove the signs until a resolution was passed, leaving a 30 day window in which to resolve.

A vote was taken on Ms. Sutton's amendment to Mr. Rouse's resolution. The only dissenting votes were Mr. Rouse and Mr. Daughety. The amendment portion passed.

A vote was then taken on the amended resolution made by Ms. Sutton. The only dissenting votes were Mr. Rouse and Mr. Daughety. The amended resolution passed.

Mr. Griffin then stated he has researched the question from the last meeting about whether or not a commissioner could be banned from a closed session meeting, if they failed to sign a Confidentiality Agreement. He said he consulted Ms. Frayda S. Bluestein, Professor of Public Law and Government and Mr. C. Tyler Mulligan, Associate Professor of Public Law and Government, both at the Institute of Government, and both had agreed with him, a commissioner could not be excluded from closed session meetings if they had not signed the Confidentiality Agreement. Mr. Griffin went on to say Mr. Mulligan had said you could create a way around this by forming an Economic Development Committee and Board, and place on this committee only the commissioners who have signed the Confidentiality Agreement. He said although that committee would be subject to the open meetings law, the committee could go into closed session to discuss business, and then come back into open session and state no action had been taken. Mr. Mulligan questioned Attorney Griffin about using a blanket confidentiality agreement. He said he thought it would be better to draft a confidentiality agreement specific to the industry. Mr. Mulligan also said he did not know the general practice around the state, but he had received several questions regarding this same issue in recent months.

Chairman Hill thanked Mr. Griffin for reporting back to the Board and said he thought the goal of raising awareness of how crucial confidentiality was, had been accomplished. He said he did not see this Board moving toward a committee. Ms. Sutton said this would be okay for now, but if anything were to happen in the future that jeopardized an opportunity, she thought the Board should consider a committee. Mr. Jarman said he agreed, and appreciates Mr. Griffin's efforts.

#### **ITEMS FROM THE COUNTY MANAGER:**

1. Conveyance of Property to Lenoir County, North Carolina
2. Lenoir County Planning Board Minutes: May 16, 2013

Mr. Jarman told the Board he had included in their packets information concerning the conveyance of property from the Estate of Ms. Mary Elizabeth Temple Murrill to Lenoir County.

He stated the property was being donated to the County with certain stipulations that either the property be used for recreational purposes, or the property be sold and the proceeds be used for college scholarships for deserving students from Kinston High School. Mr. Jarman said he would like guidance from the Board as to what they would like to do.

Mr. Rouse said he thought this was a very noble thing, but what kind of precedence or history did the County have concerning this type issue? Chairman Hill said he supports both recreation and education, but every gift is not necessarily a great gift. He also said this land mass was not located near any of the existing schools so he thought it a better option to sell the land, and then turn the funds over to the Lenoir County Public Schools for them to administer the scholarships. Chairman Hill said he did not think the County could afford to give this property to Recreation and then cover the cost of maintaining. He asked if anyone knew of other options?

Mr. Davis asked what was the current assessed value? Mr. Jarman answered, the current value is \$272,000.00 and is in the land use program, so there is not a lot of tax revenue received. Mr. Daughety asked if they could hear what Bill Ellis, Parks and Recreation Director, had to say about the property. Mr. Ellis addressed the group and said he had been in conversation with the family over the past two years about using the property for recreational purposes. He said he and the Recreation Committee had met and discussed the possibility of using the property, but he said it was not a good fit for a park, and if it had been, there was no funding available for maintaining the park in perpetuity. Mr. Ellis said he thought it would be better suited to be sold and the funds designated for scholarships.

Mr. Jarman asked Attorney Griffin if he knew of any time constraints they were under in answering the attorney who had contacted him.

Ms. Sutton made a motion to sell the property and turn the money over to the schools for them to administer the scholarships. Mr. Daughety seconded Ms. Sutton's motion.

Mr. Jarman then raised the question does the Board need an agreement with the school system for their administering the scholarships? He said he wanted to fulfill the legal obligations, and if the schools for some reason didn't want to administer, what do we then do? Mr. Jarman also asked about the other costs involved, such as surveys, closing costs, etc. – who would be responsible for those cost?

Ms. Brown then asked if the land was sold for scholarships, were they general scholarships or were they for a special curriculum? Chairman Hill answered that decision would be determined by the LCPS, who would probably set up a special committee which would be responsible for choosing the recipient.

Attorney Griffin said the language does specify the funds go to a Kinston High School student, so an agreement would have to be made with the Lenoir County Public Schools that the gift of the land is accepted under the condition the Lenoir County Public Schools administer the

scholarships. He said until you have an agreement in place, the responsibility rests solely with the County.

Ms. Sutton amended her motion to sell the property and turn the funds over to the schools to be contingent upon reaching an agreement with the Lenoir County Public Schools. Mr. Daughety seconded the amendment. The motion passed unanimously.

Mr. Jarman brought up discussion concerning the extension of Smithfield Way. He said the City of Kinston had requested the County waive the Landfill fees for the construction and demolition debris generated from tearing down the Poole building. Mr. Jarman said he did not know the costs of demolishing the building, but he did have the other costs involved in purchasing the right of way from Hill Farm Road out to Hwy. 258 North and the purchase of the Poole's property. He stated DOT had a cost of \$90,000.00 involved in reimbursing the County for the purchase of the Poole property. Mr. Jarman further stated the City of Kinston and the Committee of 100, each had invested \$22,500.00 for the purchase of the right of way. He said the City would then have the additional cost of demolishing the building on the Poole property. Mr. Jarman stated the County had the value of the land it swapped with Mr. Poole, which is a currently valued at \$113,250.00, plus various legal costs and surveying costs. He also said the County is fronting the \$90,000.00 to be received at a later date from DOT. Mr. Jarman said the request to waive landfill fees involved the Solid Waste Fund, which is an Enterprise Fund, and operates solely on the fees and funds it receives - there is no money from the General Fund involved in the Solid Waste Fund. Mr. Jarman said with this being said, he was now seeking guidance from the Board.

Bill Ellis, Parks and Recreation Director was asked if he had any idea of what it would cost to demolish the building? Mr. Ellis answered if the job was bid out for someone else to demolish, he thought it would be somewhere around \$35,000.00, but he wasn't sure. He went on to say Parks and Recreation had agreed to tear it down, but there wasn't enough money in their budget to pay for the costs. Mr. Ellis said he anticipated it taking three of his guys about 2-1/2 weeks to demolish the building. He said this would be a lot of work. Mr. Ellis also said the debris should consist mainly of concrete blocks and the block material may be able to be recycled. He said it should be close to 300 tons of material at \$38/ton, and with the expense of hauling, you were looking at close to \$30,000.00.

Mr. Daughety said the extension of Smithfield Way had been a collaborative effort between the City, the County and DOT. He said he thought certain things had been agreed to as they moved along, and he understood the County would waive the Landfill fees – he said the appearance was that the County would waive the fees. Mr. Daughety further stated the bigger picture is Smithfield has already expanded twice and the other businesses who inhabit the Industrial Park have begged for Smithfield Way to be extended. He said the other businesses need access in and out of the park. Mr. Daughety said at this point, DOT was just sixty days from being ready to start the project and we are in the eleventh hour of planning. He said these issues should have

been ironed out ninety days ago, and since this project is so important, he recommends the Board waive the landfill fee.

Chairman Hill said it was a growing concern to him that in the projects coming up such as Transportation, River Walk and the growth in schools, the Board needs to know in advance the decisions that need to be made in order to facilitate those projects. He said sometimes from inference or open statements made, it appears the County will do anything to complete a project, but he feels the City understands this involves an enterprise fund, and that waiving the landfill fees will be detrimental to that fund.

Mr. Jarman said the decision to waive or not waive the landfill fees will not change whether or not this project moves forward. He said he has had conversations with both Mark Pope, Economic Development Director, and Tony Sears, City of Kinston Manager, about this issue. Mr. Jarman said he wants to continue working with the City and he feels if the numbers are shown to the City, they will understand the logic behind not waiving the landfill fee. Mr. Jarman said in his conversations with Mr. Sears there has been no mention of the County waiving the landfill fee. He also said before the Board does commit to anything, they need to be made aware of certain things prior to making that decision. Ms. Sutton said if the City were in the County's shoes, they would understand the enterprise fund sustains itself, and the fees can't be waived without additional income or fees from somewhere else.

Mr. Daughety said if Mr. Jarman was confident the project will not be jeopardized by not waiving the landfill fees, he will agree to the fees being charged. He said in the future, things need to be tied down in advance. Ms. Sutton asked him why he hadn't brought this before the Board in the past? Chairman Hill said everyone needs to be careful in the future of what they say or imply. Mr. Davis said no action needed to be taken if the landfill fees were not waived.

Mr. Jarman asked Ms. Susan Moore, DSS Director if she would address the Board and let them know the issues concerning food stamps. Ms. Sutton said she and Ms. Brown serve on the DSS Board and they are frustrated about the things citizens are required to do concerning the new NCFAST program. Ms. Moore said the County started using the new NCFAST program back in July of 2012, and prior to August of 2013, things seemed to be processing much faster. Then in August of 2013, the State added the Medicaid program to the NCFAST system, and things came to a halt. She said that in December, they were told by USDA they must have all of their cases ninety days or older and any emergency cases (to be processed within seven days) processed by February 10<sup>th</sup>, or all Food Stamp funds would be withheld. This applied to all counties in North Carolina. Ms. Moore said there were 200 cases in Lenoir County, and statewide this number was around 23,000. She said the State was working 24 hours a day in order to fix the items in the system that needed attention. Ms. Moore said her office began processing cases on Saturday, completing 69% of them, and then worked Sunday afternoon until they were within having all cases entered except six. She said whenever they came back to work on Monday, of the cases they thought they had completed on Sunday, sixteen of them had been rejected, and some of

these required the State's attention. Ms. Moore said some of her staff was making home visits that day, and they expected to have completed their backlog by Wednesday. She said Lenoir County was in better shape than over half of the other counties, so they will be going to assist other counties. Ms. Moore said the State would deploy staff to assist other counties as well. Mr. Best commended Ms. Moore and her staff for doing such a great job.

**CONSENT AGENDA:**

3. Approval of Minutes: Regular Board Meeting, January 23, 2013.
4. Resolution Approving the Releases and Refunds to the Individuals Listed Herein
5. Budget Ordinance Amendment: Transportation Fund: Operations: \$570.: Increase

Upon a motion by Ms. Brown and a second by Ms. Sutton, the consent agenda was unanimously approved.

**PROCLAMATION/BUDGET ORDINANCE AMENDMENTS/RESOLUTIONS :**

Item No. 6 was a Proclamation designating February 1-28, 2014 as Career and Technical Education Month by the Association for Career and Technical Education. Mr. Hill read the proclamation to the group. Upon a motion by Ms. Sutton and a second by Mr. Best, Item No. 6 was unanimously approved.

Item No. 7 was a Resolution Honoring Steve Roman. Ms. Sutton said it was her pleasure to read the Resolution Honoring Steve Roman to the Board. The Lenoir County Board of Commissioners recognized him for his efforts and the commitment he has so freely given to the citizens of Lenoir County during his thirty years of service. Upon a motion by Ms. Sutton and a second by Ms. Brown, Item No. 7 was unanimously approved. Mr. Roman then addressed the group and said it could be challenging working for the State, but he had worked with everyone on the Board and the County Attorney in some capacity over the years, and working with the County folks had been a pleasure. Ms. Brown asked Mr. Roman if he would come back, to which he answered, yes.

Item No. 8 was a Resolution Honoring Jacqueline Braxton . Ms. Brown read the Resolution Honoring Jacqueline Braxton to the Board. The Lenoir County Board of Commissioners recognized her for her efforts, commitment and compassion she has so freely given to the citizens of Lenoir County during her twenty-seven years of service. Ms. Brown further stated Ms. Braxton had made sure the elderly were taken care of whenever she served in that capacity. Upon a motion by Ms. Sutton and a second by Mr. Best, Item No. 8 was unanimously approved.

Item No. 9 was a Budget Ordinance Amendment: General Fund: Non-Departmental: \$159,820: Mr. Parrish addressed the group and stated this Budget Ordinance Amendment is to appropriate additional property tax revenue received by the County as a result of a business personal

property tax audit being conducted by County Tax Services, Inc. The County contracted with County Tax Services, Inc. in May of 2010 to conduct the audit. County Tax Services, Inc. receives a 30% commission on all business personal property discoveries found as a result of the audit. The County pays this commission only after the taxpayer pays the discovery tax bill. The Board approved the contract with County Tax Services, Inc. on May 17, 2010, Item #8. Upon a motion by Ms. Sutton and a second by Ms. Brown, Item No. 9 was unanimously approved. Ms. Brown asked Mr. Parrish if this was the largest tax payment the County had received as a result of the audits. Mr. Parrish said this had been the result of nine or ten ongoing audits. Ms. Brown then asked if the hotels had been audited? Mr. Parrish replied they had not.

Item No. 10 was a Resolution Approving a Sixty (60) Month Lease Agreement for an 826H Landfill Caterpillar Compactor DCA3: Gregory Poole (Washington, NC): \$10,601.86. Mr. Miller stated the Board is requested to approve a sixty month lease agreement for an 826H Landfill Caterpillar Compactor DCA3 with Gregory Poole of Washington, N.C. in the amount of \$10,601.86 per month and authorize the Lenoir County Landfill Director to execute the necessary paperwork on behalf of the County for the agreement. Mr. Miller said he had looked at both purchasing and leasing of a compactor, and because the only thing the County would be responsible for during the lease was wear items, he had determined leasing was the better option. Upon a motion by Ms. Sutton and a second by Ms. Brown, Item No.10 was unanimously approved.

Item No. 11 was a Resolution Order for the Tax Collector to Advertise 2013 Taxes which are a Lien on Real Property. Mr. Parrish stated the Board is requested to approve the Resolution Order for him to advertise the 2013 Taxes, which are a Lien on Real Property. Mr. Parrish said this is something that is done every year. Upon a motion by Ms. Sutton and a second by Ms. Brown, Item No. 11 was unanimously approved. Ms. Sutton asked Mr. Parrish if the threat of publishing names in the newspaper as a result of unpaid taxes makes a difference. Mr. Parrish replied, it does.

**APPOINTMENTS:**

Item No. 12 was a Resolution Approving Citizens to Boards, Commissions, Etc.

<b><u>BOARD/COMMITTEE COMMISSION</u></b>	<b><u>APPLICANT/CURRENT MEMBER</u></b>	<b><u>TERM EXPIRATION</u></b>
<b>Home and Community Block Grant Advisory Committee</b>	Audrey Tyson <b>2nd Appearance</b>	
<b>Parks and Recreation Commission</b>	Kendall Huffman <b>1<sup>st</sup> Appearance</b>	March 2017
<b>Lenoir County ABC Board</b>	Emmette Clyde Sutton Rodney Smith Yvonne Deatherage <b>1<sup>st</sup> Appearance</b>	

Ms. Brown made a motion to appoint Ms. Audrey Tyson to the Home and Community Block Grant Advisory Committee. Ms. Sutton seconded Ms. Brown’s motion. The motion passed unanimously.

Mr. Rouse asked which position was vacant on the ABC Board. Mr. Jarman answered it was the appointment from south of the Neuse River. Mr. Rouse asked if the way they appoint members to the ABC Board needs to be addressed now? Chairman Hill said there are issues that need to be addressed in making the different Board appointments. Mr. Jarman said this was discussed at another meeting – the concern over ABC Board appointments – but it was tabled until the Board of Commissioners had a chance to meet and discuss with the members of the ABC Board.

Chairman Hill then brought up the Hwy 70 Corridor Commission and the issue of its open seats. He said it was up to the Board as to how to handle, and it could be looked at from different angles.

Mr. Daughety said two of the open seats have been filled – one from the City of Kinston, and the other was the County’s appointment at the last meeting. He said he had received a phone call from John Craft, Town Manager, Town of LaGrange since the last Board meeting, and Mr. Craft had questioned whether they would have a representative, since they will be directly impacted. Chairman Hill said that was the direction he was headed when he began the dialogue – since the County does have another open citizen seat, the same courtesy should be extended to the Town of LaGrange, for them to appoint a representative.

Chairman Hill made a motion to reappoint Mac Daughety as the County’s commissioner representative and Mark Pope, as the Economic Development Director and then convert the current citizen seat formerly occupied by Ms. Leigh McNairy to a seat represented by an appointee from the Town of LaGrange. Mr. Daughety seconded Chairman Hill’s Motion. Mr. Jarman said it

would be up to the towns to make their own recommendation for their appointee. The vote passed unanimously.

Bill Ellis, Parks and Recreation Director addressed the group and said he wanted to update them on two things. He said the first thing was the boat ramp that is being built near the Nature Center is going very well. Mr. Ellis said he thought everyone would be very pleased whenever the project is complete. He said the second thing he wanted to mention was the Parks and Recreation Trust Fund Grant for the River Walk project. Mr. Ellis said the City of Kinston will front the money for the project, but the only setback was the property had to be in the City or County's name. The City owns all of the property except for one piece the County owns. Mr. Ellis said the grant requires an easement to the City across the County owned property. Upon a motion by Ms. Sutton and a second by Mr. Best, the Board unanimously approved granting an easement to the City of Kinston on the County owned property.

Chairman Hill then brought up the Human Relations Committee of which he and Ms. Sutton are members. He said the committee had asked for a liaison from each entity and Ms. Sutton had agreed to serve in that capacity. Chairman Hill appointed Ms. Sutton as the County's liaison to the Human Relations Committee.

**CLOSED SESSION:**

None

With no further discussion Mr. Hill recessed the meeting at approximately 10:30 a.m. to resume as a Budget Retreat in the conference room of the Administration Building.

Respectfully Submitted,

Reviewed By,

\_\_\_\_\_  
Martha Martin

\_\_\_\_\_  
Michael W. Jarman

Clerk to the Board

County Manager