

The Alleghany County Board of Commissioners met in regular session on Monday, April 18, 2005, at 10:00am in the Conference Room of the County Office Building, 90 South Main Street, Sparta, North Carolina.

Present: Chair Eldon Edwards, Vice-Chair Warren Taylor, Commissioner Sandy Carter Herndon, Commissioner Ken Richardson, County Attorney Donna Shumate, County Manager Don Adams and Clerk to the Board Karen Evans. Commissioner Graylen Blevins was absent.

Chair Eldon Edwards called the meeting to order.

Commissioner Ken Richardson opened the meeting with a prayer.

Commissioner Warren Taylor made a motion to approve the agenda for this April 18, 2005, meeting. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

AGENDA  
Monday, April 18, 2005  
10:00 AM

- 10:00 Meeting Called To Order  
Motion on Agenda for April 18, 2005 meeting  
Motion on Minutes for April 4, 2005 meeting
- 10:05 Mary Walker  
RE: Tax Releases & Refunds
- 10:10 April Caudill  
RE: Transportation Budget Amendment
- 10:20 Ronnie Woodie  
RE: Mountain View Area/Racetrack
- 10:35 Bill Maxwell  
RE: Noise
- County Business
1. Mt. View Area Race Track—Options to Regulate
  2. Budget Amendments—Board of Education
  3. School Property Acquisition
  4. Long Term Care Advisory Committee Board Appointment
  5. TIP Meeting
  6. FY 05/06 Budget Requests Summary
  7. Interdepartmental Budget Transfer
  8. Other Business
  9. Public Comments—30 minutes
  10. Closed Session—NCGS 143-318.11 (a) (4)—economic development
  11. Adjourn

Commissioner Sandy Carter Herndon made a motion to approve the minutes for the April 4, 2005, meeting. Commissioner Warren Taylor seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented the March 2005 real property requests in the amount of \$2,234.18 for refunds and \$1,744.22 for releases.

Commissioner Warren Taylor made a motion to approve the March 2005 real property requests in the amount of \$2,234.18 for refunds and \$1,744.22 for releases. Commissioner Sandy

Carter Herndon seconded the motion. Vote 4:0.

Mary Walker presented the March 2005 automobile requests in the amount of \$1,347.80 for refunds and \$594.93 for releases.

Commissioner Sandy Carter Herndon made a motion to approve the March 2005 automobile requests in the amount of \$1,347.80 for refunds and \$594.93 for releases. Commissioner Warren Taylor seconded the motion. Vote 4:0.

April Caudill, Transportation Director, came before the Board to discuss Transportation Fund budget amendment #2 in the amount of \$21,900. She explained the additional amount of funding.

Commissioner Warren Taylor made a motion to approve Transportation Fund budget amendment #2 in the amount of \$21,900. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Michael Ray spoke on behalf of Ronnie Woodie. He addressed several issues regarding the racetrack including the needs in the community, splitting money with Glade Creek Elementary School and Glade Creek Volunteer Fire Department, support of the sport and having something to do on Saturday nights. He talked about the track has two ways to access it. He mentioned property values in the area and the growth in the sport. He stated that if a noise ordinance is adopted then problems would be created for activities like fireworks, target practice and family picnics. He stated that practices have been held at the track for the last two years and there haven't been any problems until now. He further stated that this is an activity for the whole family. He said that a solution needs to be found for both sides.

Chair Eldon Edwards explained the agenda process including the public comments section.

Chair Eldon Edwards and Ronnie Woodie talked about holding five races this season and so far holding practices during the day because the track didn't have lights until now. Chair Eldon Edwards and Michael Ray talked about a non-profit group making donations. Michael Ray stated that the racing group couldn't be a non-profit group due to legal issues. Ronnie Woodie talked about additional requirements including improvements to the track such as covered seating.

Commissioner Sandy Carter Herndon and Ronnie Woodie talked about money going to the school and fire department after all expenses are paid. Ronnie Woodie stated that the amount of the money will depend upon gate attendance. He further stated that one practice on Friday night before the Saturday night race with no other paid practices. Michael Ray talked about the fee to use the fairgrounds and the usage of the fairgrounds

County Manager Don Adams explained the fairgrounds fee schedule including the portion of 20% of net profit for non-profits.

Michael Ray stated that he is a neighbor in the community relatively close to the racetrack and doesn't own anything in the business.

Commissioner Ken Richardson said this might be the right idea but in the wrong location. He stated that he can't find fault with what is trying to be gone but it is in the wrong location. He explained that if the noise ordinance and land-use had passed, then this discussion wouldn't be happening. He talked about not having a contract and having nothing other than what is said today. He further talked about the Board might could help find a location. He reiterated that this is

the right idea but wrong location.

Michael Ray and Commissioner Ken Richardson discussed land values at other race tracks.

Bill Maxwell came before the Board to discuss issues concerning the Sparta Lions Club usage of the fairgrounds. He stated that he would like to compliment the Board of Commissioners, County Manager Don Adams and Amy Pardue on the improvements at the fairgrounds. He continued about the Lions Club and their rude behavior. He stated that all of the other events were good, but the Lions Club activities started two days before the scheduled horse show. He asked if the County rules of conduct apply to the Lions Club and if so, what will the County do if the rules aren't followed.

Chair Eldon Edwards stated that this issue will be researched. He further stated that he wasn't aware of this issue.

Bill Maxwell stated that if a noise ordinance is passed then the same rules apply to the County as it does to everyone else.

County Manager Don Adams reviewed his research concerning three options the Board has in regards to the Mountain View area racetrack. He explained each of the three options; land-use, noise ordinance and mass gathering ordinance. He further explained that the land-use control method would not apply in this situation because of Mr. Woodie's vested rights. He stated that the noise-ordinance option would regulate the noise at the event but not stop the event. He further stated that the mass gathering ordinance only regulates mass gatherings where 300 or more people are paying admission for an event lasting six hours or more. He explained that the mass gathering ordinance can regulate things such as parking, restrooms, vending and noise. He reiterated that a noise ordinance and mass gathering ordinance are to regulate an activity instead of prohibiting an activity.

County Attorney Donna Shumate stated that she found a nuisance law case involving an apartment complex and a race track. She explained the process where the citizens asked for an injunction through the court system. She stated that there is nothing the Board can do to stop the race activity. She further stated that citizens can seek an injunction, and they would have to prove this is a nuisance. She said that citizens can pursue this option without the County taking any action.

Commissioner Warren Taylor and County Attorney Donna Shumate discussed how the citizens would prove the nuisance issue before a race has occurred. County Attorney Donna Shumate stated that a judge would have to look at this situation. She reminded everyone that the County doesn't have the authority to do this action.

Commissioner Sandy Carter Herndon asked about researching racetracks in general and whether it applies to automobile racing or all racing. County Attorney Donna Shumate talked about the building codes and health codes applying to this racetrack.

County Manager Don Adams talked about Randy Blankenship issuing a building permit for the power. He stated that the important issue concerning the building and health codes is regarding the seating at the track; bleachers or grandstands. He further stated that Randy Blankenship looked at the seating at the track and said that the seating is not permanent. He explained why it makes a difference in regards to the codes. He stated that the work completed at the track as of now has been done according to the building permit. He further stated that he has

been in contact with Danny Staley and Barry Irwin at the Health Department to let them know of these activities. He said that the codes have been satisfied at this point.

Commissioner Sandy Carter Herndon and County Manager Don Adams discussed the difference in the seating terminology and the definition of temporary. He explained that moveable seating is considered temporary regardless of how long it isn't moved.

Commissioner Warren Taylor said that he doesn't think a noise ordinance is an option. He stated that he recommends looking at the land-use document again, and it might not stop present building, but needs to be looked at so if there was something like this in the future.

Commissioner Ken Richardson talked about the purpose is to raise money for the school and fire department and to make it more advantageous by being at the Fairgrounds instead of in a community.

Commissioner Sandy Carter Herndon talked about any of the schools or fire departments could use the fairgrounds. She stated that she agrees with Commissioner Richardson about at time and place for everything and the comments about land values. She gave an example of property that is for sale on Cliffside Drive. She talked about having events at a place that was designed for that purpose. She stated that one property owner's rights don't outweigh another property owner's rights. She stated her appreciate for Ronnie Woodie, but thinks he didn't think this through all of the way.

Chair Eldon Edwards asked for legal counsel opinion.

County Attorney Donna Shumate talked about the property owners' pursuing an injunction. She explained the nuisance law and temporary injunction. She further explained that it would be up to the judge to decide whether this is a nuisance or not, neighbors agree on solution concerning the nuisance and, if not then the judge would decide.

County Manager Don Adams talked about the County's ability to regulate events but not stop events.

Chair Eldon Edwards stated that he doesn't see where the County has any steps that we have that will prohibit the race at Mountain View. He talked about land-use being previously discussed, and it's a good time to bring it back up. He further talked about the track is already there, and on his land he can do whatever he desires. He stated that the citizens want something done by May 14, and the Board can't. He further stated that they can proceed with the action that the County Attorney mentioned. He said that he understands everyone's concerns, but legally there is nothing the Board can do. He stated the County can look at other things to stop it from reoccurring in the future.

Commissioner Sandy Carter Herndon stated that she doesn't see anything to stop it, but the County should look at the mass gathering ordinance. She gave examples on chose and cut day activities and traffic problems.

Commissioner Ken Richardson asked if an injunction was done by the 14<sup>th</sup>, could the fairgrounds be made available for Mr. Woodie.

Gary Sparks talked about the lack of a racetrack at the fairgrounds.

April Caudill stated that the track will be there and ready because they are having a lawnmower race the weekend before.

County Manager Don Adams presented General Fund budget amendment #33 in the amount of \$3,250 for the option on the Blevins property and General Fund budget amendment #34 in the amount of \$13,032 for the school architectural fees.

Commissioner Warren Taylor made a motion to approve General Fund budget amendments #33 for \$3,250 and #34 for \$13,032 for the architect fees. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

County Manager Don Adams presented a letter from Duane Davis regarding the proposed purchase of the Blevins property. He reviewed the Board's previous action on voting to proceed to purchase the land if environmental issues and other requirements were met. He talked about the property being used as a household. He further talked about the Board of Education meeting the requirements that the Commissioners had asked them to do before purchasing the property.

Commissioner Sandy Carter Herndon made a motion that we accept the items from the Board of Education concerning the property purchase; requirements are met and approve the purchase of the property. Commissioner Warren Taylor seconded the motion. Vote 4:0.

County Manager Don Adams presented a nomination form for Inez Worrell to serve on the Long Term Care Advisory Committee.

Commissioner Ken Richardson made a motion to approve the appointment of Inez Worrell to serve on the Long Term Care Advisory Committee. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

County Manager Don Adams presented the draft version of the 2006-2012 Transportation Improvement Plan (TIP). He talked about a meeting that will be held on May 17 in Wilkesboro to hear public comments on the draft. He talked about the delay with the County and the Town's first priorities. He further talked about a meeting he attended where he learned that the entire Division 11 has several projects that have been moved back.

Chair Eldon Edwards talked about the process of putting projects on the TIP, the lack of standard highways in the County and small mountain county gets left behind.

Commissioner Sandy Carter Herndon talked about our small population and small voting percentage.

County Manager Don Adams stated that he will work on the TIP comments assuming the County's priorities remain the same and will then bring back to the next meeting.

Commissioner Ken Richardson summarized the Board's priorities.

Commissioner Warren Taylor talked about the need for a standard highway through Alleghany County.

Commissioner Ken Richardson talked about meeting with the Secretary and our legislators concerning the TIP when he goes to Raleigh.

County Manager Don Adams talked about including the Alleghany portion of Roaring Gap Mountain on our TIP comments.

Commissioner Warren Taylor stated the need to get the Rural Planning Organization (RPO) support on the mountain project, mention it in our presentation and the need to complete a standard highway through the County.

County Manager Don Adams talked about the mountain project must be a request from both counties (Wilkes and Alleghany). He stated he has called the County Manager and sent him letters in regards to this topic.

Chair Eldon Edwards talked about sending a letter from the Board. He asked the County Manager to see what can be worked out with Wilkes County and to include it in the TIP meeting presentation.

County Manager Don Adams explained to the Board the ranking system of the Rural Planning Organization and where Alleghany County's projects ranked in the region.

County Manager Don Adams presented the FY 2005-2006 budget requests to Board in the amount of \$11,542,415 for the General Fund. He explained the requested capital and additional personnel. He explained that the Finance Office is putting the budget books together if the Board wants more information before the budget is officially presented to the Board in June.

County Manager Don Adams presented an approved line item interdepartmental transfer. He explained the transfer is moving debt from the Finance Office to the debt service budget. He stated that he has the authority to do this as long as it is presented at the next Commissioners meeting. He talked about this was requested by the auditor.

Chair Eldon Edwards mentioned the Board of E&R meeting tomorrow at 6:30pm at the Courthouse. Also, he mentioned the budget planning session on April 25 at 8:30am.

Chair Eldon Edwards talked about a letter from NCACC and local options are being considered. He talked about some of the local options may be beneficial to the County by receiving additional income rather than raising property taxes. He further talked about Medicaid. The Board of Commissioners discussed property taxes across the State.

Chair Eldon Edwards asked for public comments.

Carol Lundquist stated that she lives in the Mountain View area. She asked about the mass gathering ordinance clause that a petition must be signed by the property owners. She stated that they haven't been given any help on the racetrack issue.

County Manager Don Adams explained two areas on the current ordinance where half of the ordinance refers to a state law that doesn't exist anymore and the ordinance won't stop Ronnie Woodie from getting 200 people together and holding the event. He reiterated his earlier point of mass gathering ordinance will regulate the event but doesn't stop it. He talked about the ordinance was passed in the 1970's before zoning regulations. He further talked about since the ordinance was passed before zoning and grandfathering clauses, the County Attorney would have to research how to handle this case in regards to those areas. He stated that this ordinance does not apply to what is out there.

Chair Eldon Edwards asked the County Attorney to look at it.

Gordon Frampton talked about previously mentioned concerns including noise and dust but an important concern that hasn't been mentioned is forest fires hazards. He gave examples of the fire hazards. He talked about if property values keep going up, more money would be collected by the values than races can collect. He stated another concern is what could happen next, and the Mountain View area becoming a dumping area. He informed the Board of his experience yesterday with the noise from the track. He stated the more lawnmowers running the more noise there will be.

Joe Browning stated he resides just above the track, bought property in 1993 and lived there since then. He stated that he is disappointed is an understatement. He reminded everyone that Ronnie Woodie stated that track would be for personal use. He stated that he talked to Ronnie Woodie and learned that four races were scheduled so far and maybe more. He further talked about practice times, individual rights are important and needs to be protected, noise pollution, traffic and property values. He talked about trespassing is illegal and environmental trespassing should be as illegal.

John Tracy talked about purchasing property on speculation in the area of the racetrack. He stated that he would sell his property and move but has the speculation property. He further stated that at tax time, they would have to talk about the property values.

Joe Browning talked about the financial side of selling his property.

Sonya Frampton said that all of the people in the Mountain View area not wealthy. She talked about being permanent residents. She further talked about being informed that the track was constructed for occasional, private use. She asked about having a combination of a noise ordinance and mass gathering ordinance. She further asked about fees for the track.

Rob Magnum urges the Board of Commissioners to take the forefront. He stated that he supports Ronnie Woodie's right to do what he wants on his land. He talked about having a lot of empathy for the people in the area. He stated that he is pleading for everyone to be good neighbors, work together, be supportive and move forward.

Chair Eldon Edwards reviewed the process that the previous land-use plan went through. He talked about if the plan had been adopted, this would be a different situation today. He suggested that the plan be reviewed again.

Velma Hopkins asked the Board to please look at the land management plan one more time to see what the Board can do to get it in place.

Commissioner Ken Richardson talked about the amount of taxes and money going to the school and fire department. He further talked about the fairgrounds facility and working out the problems. He talked about working to make this county better.

Commissioner Sandy Carter Herndon requested that the County investigate the mass gathering ordinance and look at the land-use plan again. She talked about there comes a time to take action even if it isn't a popular decision. She further talked about taking the steps that needs to be taken in order to not have this situation again.

Commissioner Ken Richardson asked that the letters received be part of the today's record.

Commissioner Sandy Carter Herndon made a motion to enter into closed session at 11:55am under NCGS 143-318.11 (a) (4)—economic development. Commissioner Warren Taylor seconded the motion. Vote 4:0.

The Board of Commissioners took a brief recess at 11:55am.

Rocky Profit joined the Board during closed session.

Chair Eldon Edwards made a motion to adjourn closed session and reconvene the regular meeting at 12:49pm. Commissioner Warren Taylor seconded the motion. Vote 4:0.

Chair Eldon Edwards stated that no action was taken during closed session.

Being no further business, Commissioner Warren Taylor made a motion to adjourn the meeting at 12:50pm. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Respectfully Submitted,

Karen Evans  
Clerk to the Board

Attest:

Eldon Edwards  
Chairman