

POLK COUNTY  
Monday, October 18, 2010, 7:00 PM  
BOARD OF COMMISSIONERS' REGULAR MEETING  
R. Jay Foster Hall of Justice, Womack Building  
Columbus, N.C.

PRESENT: Chairperson Walker, Vice-Chairperson Gasperson, Commissioners McDermott, Melton and Watson. The others in attendance were County Manager Whitson, Interim County Attorney Egan and Clerk to the Board Britton, staff, media and citizens.

1. Call to Order/Welcome – Chairperson Walker called the meeting to order.
2. Invocation – Chairperson Walker delivered the invocation.
3. Pledge of Allegiance – Commissioner Watson led the Pledge.
4. Approval of Minutes – Approval of October 4, 2010, Regular Board of Commissioners' meeting minutes. Commissioner Melton made a motion to approve the minutes, seconded by Commissioner McDermott and the motion carried unanimously.
5. Approval of Agenda – County Manager Whitson asked that Agenda Item #9 be moved to Agenda Item #8, and Agenda Item #8 be moved to Agenda Item #9. Commissioner Melton made the motion to approve the agenda as amended, seconded by Commissioner Watson and the motion carried unanimously.
6. Tax Refund Request – Melissa Bowlin, Tax Collector, made the September refund request for an \$878.13 overpayment on Parcel PT11-B3. Commissioner Melton made a motion to approve the refund request, seconded by Commissioner Watson and the motion carried unanimously.
7. Tax Assessor – John Bridgers, Tax Assessor, requested that penalties and interest be waived for a clerical error regarding a property the revaluation team was unable to access due to a locked gate. The house, which had been taxed up until 2008, was inadvertently dropped from the tax rolls. Ms. Juenger, the property owner, requested that the penalties and interest in the amount of \$177.24 be waived. Commissioner Watson said he was glad this was a case of clerical error so the Commissioners could demonstrate there are times when the BOC can approve a refund. Commissioner Melton made a motion to approve the waiver of penalties and interest, seconded by Vice-Chairperson Gasperson and the motion carried unanimously.
8. DSS Cost Analysis – County Manager Whitson gave an update on the cost analysis. A PowerPoint presentation was given and a copy of the presentation is on file in the County Manager's Office. Commissioner Watson questioned

whether the building could be furnished for \$85,947.90, and County Manager Whitson said it depends on whether or not he is able to find a used file storage system. Commissioner Melton asked if the anticipated future reimbursements for the building and furniture are taxpayer monies coming back to the County. County Manager Whitson said it is Federal and State money - mainly Federal – and is the same money the County receives every year for the services provided for the Department of Social Services. Commissioner Melton said it is still taxpayer money, and County Manager Whitson concurred. Commissioner McDermott said it is not solely local taxpayer money; people from the entire United States of America and the entire State of North Carolina pay their portion of it. She said that, as State and Federal taxpayers, each of us individually has been helping other people build these sorts of buildings and this will be our turn to have the other citizens of the United States of America and North Carolina help us with our building.

Citizen Comments: Ernie Smith asked how much the building will cost Polk County taxpayers today, not what the County will be reimbursed in the future. He also asked if the building would last 45 years without any additions and County Manager Whitson responded that it should last 45 years and not be outgrown. Mr. Smith had several further questions and County Manager Whitson told him he would cover more specifics under Agenda Item #9.

Vice-Chairperson Gasperson said the County will be reimbursed 61% on the interest payments. County Manager Whitson said the payments for the building will be included in the DSS budget. Commissioner Watson said it is important to understand that the total cost is still what the County is paying for this building.

9. Award of Bid For Human Services Facility –Mike Esposito of ADW Architects gave a summary of the bid process and recommended the County award the construction contract in the amount of \$1,590,755.00 to Able Constructors, Inc. of Greenville, South Carolina. Vice-Chairperson Gasperson made a motion to award the contract to Able Constructors, Inc., and the motion was seconded by Commissioner McDermott. County Manager Whitson said Mike Egan, Interim County Attorney, would be late for the meeting. County Manager Whitson read a memorandum from Mr. Egan regarding the inclusion in the construction contract of arbitration as a method of dispute resolution, a copy of which is on file in the County Manager's Office. It is Mr. Egan's recommendation that the contract include a supplemental condition removing the arbitration requirement so that any dispute between the parties would be resolved in Superior Court.

Commissioner Melton said that several months ago, when the Board voted for the project budget ordinance, he wanted to leave the number at 1.5 because he felt the building was too large. He said he wanted to keep the building at 10,000 ft<sup>2</sup> or less and did not want to have any empty offices. He said it appears the cost will be way above 1.5 and the building will contain 7-9 vacant offices once the

building is completed. Commissioner Melton said he will not be able to vote to award the construction contract.

Commissioner Watson asked to poll the board regarding the arbitration clause in the construction contract. He said in his experience arbitration is the standard typically used in construction and he finds it preferable to going to court. The Board agreed that the arbitration clause should stay in the construction contract.

Commissioner McDermott said she disagreed with Commissioner Melton regarding the DSS building. She said the Womack Building was not adequate for the needs of the County on the very day it opened, and the County ended up having to buy three more buildings because of insufficient advanced planning to take care of the very foreseeable needs of the County. She said the Board should not make that mistake again; it is so much better to plan ahead than to look back and see that a huge mistake has been made.

Vice-Chairperson Gasperson added to his motion that the Board authorize Chairperson Walker to sign the construction contract, seconded by Commissioner McDermott.

Vice-Chairperson Gasperson dedicated his vote to the infants and children who need the services of Polk County Social Services; to the elderly and disabled who have no one else to turn to for help; to all those, especially during these difficult economic times, who have no one else to turn to for assistance; to Sue Rhodes and Lou Parton, who have waited patiently for over twenty years to see this day arrive; to all the many talented and hard working staff of the Polk County Department of Social Services who shoulder the burdens of the many difficult situations that they encounter daily; to County Manager Ryan Whitson and County Architect Cecil Cannon; to his fellow Commissioners who have stayed the course with him; to all the other professionals and County staff who have diligently worked to keep this building project moving forward, and, to a better, more compassionate Polk County.

With a motion and a second on the floor, the motion carried 4-1 (Melton opposed).

10. Resolution Authorizing The Filing Of An Application For Approval Of A Financing Agreement Authorized By North Carolina General Statutes 160A-20 – County Manager Whitson explained that passage of this resolution is the next step in securing financing for the DSS building, and a public hearing for financing needs to be scheduled for November 1, 2010, at 7:00pm. County Manager Whitson said he does not foresee any problem with the LGC approving the County for a loan, and RFPs will be sent to seven banking institutions. The County will seek a fixed interest rate loan. Vice-Chairperson Gasperson made a motion to pass the resolution, seconded by Commissioner McDermott and the motion carried 4-1 (Melton opposed).

11. Alternatives to Paying for Human Services Facility – County Manager Whitson gave a PowerPoint presentation and the presentation is on file in the County Manager's office. He stated that it would be best for the County to borrow the money for the DSS building because of the aforementioned State and Federal reimbursements. He recommended the Board consider paying off the \$4M BB&T loan which has a current balance of \$2,133,333.00 and a payoff amount of \$2,136,207.00. The County would save \$362,512.56 in interest by paying this loan off. The County will pay approximately \$303,400.00 in interest on the fifteen year DSS building loan, and will be reimbursed a total of \$185,074.00. The resulting net interest cost to the County will be \$118,326.00. By borrowing money for the DSS building and paying off the BB&T loan the County will save a total of \$244,187.00. County Manager Whitson said he is presenting these figures for consideration only and is not requesting any action at this time because he would not recommend paying the loan off until the County has finalized on a loan for the DSS building.

Commissioner McDermott agreed with County Manager Whitson's recommendations. She said she favors paying off debt and prefers to pay as you go to the extent that it is feasible. Having recently attended the NCACC's board meeting, she said she learned that the State of North Carolina is again going to be in very dire straits this coming year; the State may seek monies from Counties' fund balances to help with its budget. She said it makes more sense to pay off the BB&T loan out of the County's fund balance if the occasion arises than to allow the State to appropriate local taxpayers' money for the State budget.

County Manager Whitson said the County's estimated fund balance is 33.3%. He said it is his understanding that if a County has a fund balance of over 15% the State can help themselves to it. He said he does not think the State will just take the money, but they can withhold money historically allocated to the County. County Manager Whitson said the fund balance is a little higher than what is safe. If the County is able to secure a loan for the DSS building and decides to pay off the BB&T loan, the fund balance would drop down to 20-21%.

County Manager Whitson said the BB&T loan is a consolidation of three loans related to the recreational facility, the middle school and the transfer station projects. If the County finances the DSS building and pays off the BB&T loan, its remaining debt would be approximately \$14,200,000. Polk County's bond rating has improved and is currently an A2 with Moody's and an A+ with Standard & Poors.

*A brief ten minute recess was taken at this time.*

12. Main Trunk Waterline Extension – Further discussion and cost analyses ensued on taking waterlines to the restaurant and up Peniel Road as a result of the agenda item added by Vice-Chairperson Gasperson at the October 4, 2010, Board meeting. County Manager Whitson said he had met with Isothermal

Planning & Development Corporation to sign the grant request for the waterline to the restaurant. The decision on the grant should be made in late December. County Engineer Dave Odom said it would cost \$60,000.00 to run a 12" waterline to the restaurant and cost an additional \$120,000.00 to run the waterline to Peniel Rd. It would cost a total of \$663,000.00 to complete the entire project previously set forth in the stimulus package request, which includes going north on Hwy. 9 to the first creek, going west on Peniel Rd. 1.3 miles, and the Poor's Ford Loop. All permits are still valid for the entire stimulus package.

Commissioner Watson said money would have to be appropriated from the fund balance to cover the cost to run the waterline to the restaurant because the grant is a 50/50 match, and the County only has \$21,000.00 remaining in the Waterline Extension Fund. Vice-Chairperson Gasperson asked if Inman-Campobello Water District could give the County a better price on the waterline extensions and Mr. Odom said they would have to bid on the project through Tugaloo Pipeline. Commissioner McDermott questioned whether the developer could contribute financially to the waterline extension.

Citizen Comments: Jason Schlabach, restaurant manager, said he has an October 27<sup>th</sup> meeting with the State on the septic system. Once they have the septic system approved and the waterline in place, then they will be at a point to begin building the restaurant. The developer has not committed to a financial contribution to the waterline extension and is hoping the County will run the line without his help.

County Manager Whitson said the Polk County Economic Development Commission moved \$1,000.00 out of its budget for the waterline extension. Commissioner Watson asked if this waterline extension is consistent with the County's Waterline Extension Policy and County Manager Whitson said economic development is decided on a case by case basis. Commissioner Watson said his concern is that the County encourages developers to run waterlines themselves. Vice-Chairperson Gasperson said if major subdivisions wish to get water they have to pay for it. He said this situation is unique in that the restaurant is on a main trunk line and a new business will increase the County's tax base. The County will recoup its money through taxes.

Commissioner Watson said he would like to extend the waterline approximately 7/10 of a mile past the restaurant to Peniel Rd. in order to grow the trunk line. Chairperson Walker said the County needs to grow water customers, embrace economic development opportunities, and ultimately extend waterlines to Lake Adger. She said she would like to see the waterline go all the way to Polk Central, but taking it to Peniel Rd. would be satisfactory at this time.

Commissioner Melton made a motion for the County to go out for bids on extending the waterline to the intersection of Hwy. 9 and Peniel Rd., seconded by Commissioner Watson. Vice-Chairperson Gasperson said he would like to

eventually see the waterline go to Polk Central and the middle school. Commissioner Watson said by running the waterline up to the intersection of Peniel Rd. it does not give the appearance that the County is just running one waterline to a business and possibly set a precedent that could be used against the County later. With a motion and a second on the floor, the motion carried unanimously.

13. A Model Code Of Ethics For North Carolina Local Elected Officials – Discussion continued over a Polk County policy which includes pages 12 – 19. Chairperson Walker said the goal is to have the final draft ready for approval at the November 1<sup>st</sup> meeting. Commissioner McDermott said the optional additional section will be part of the code itself. Vice-Chairperson Walker said the additional comments will be included in the appendix. Commissioner Watson said comments are included in the body of building codes. Commissioner McDermott suggested adopting the first optional addition in Section 1, page 19 of the School of Government document, because it is much better to refer to the statutes themselves rather than make someone in the County keep the code books up to date as the statutes change. The Board agreed with the suggestion. Commissioner Watson said he would like to encourage all Board members to take an ethics course every year or every other year. Commissioner McDermott suggested two changes in Section 2, page 17 of the School of Government document. The first change, a grammatical one, was to move the word “only” after the word “so” in the bullet points. The second change was to add after “it,” the language “and in the manner authorized by the Board”.
14. Senate Bill 510 FDA Food Safety Modernization Act – A video promoting Polk County agricultural economic development was shown prior to discussion of the senate bill. Lynn Sprague, Agricultural Economic Development Director, discussed his concerns regarding this bill. He said food sources need to be controlled, but this bill would put an undue financial strain on small and medium sized farms. He believes inspections can be effectively carried out on a local level without getting the Federal Government involved. Macon County passed a resolution urging that Senate Bill 510 exempt small to medium sized farmers, but Mr. Sprague preferred that a letter be sent the appropriate representatives. David Weiss said Senate Bill 510 is very complicated and far reaching. He urged the Commissioners to pass the resolution he had written and endorse the letter Mr. Sprague recommended in order to protect the County’s local farmers.

Commissioner McDermott endorsed adopting Mr. Sprague’s letter and sending it to the County’s congressional delegates as well as to the Senate Agricultural Committee. She also suggested the Board send the letter immediately and conduct further research in the future as needed. Vice-Chairperson Gasperson made a motion to send Mr. Sprague’s letter immediately and keep the resolution for further review, seconded by Commissioner Watson.

Citizen Comments: 1) John Vining said he attended a meeting in March on Senate Bill 510 and some of the items in the proposal would put a high percentage of Polk County farmers out of business. He said the requirement that wells be drilled to irrigate crops would be particularly burdensome to small farmers. He said he does not think the bill is an attempt put small farmers out of business, but is a reaction to tainted food entering into the food supply. 2) Emily Clark said she supports local farmers as well as the consumers. She said when you know your local farmers you are much more likely to have safe food. 3) Lisa Krolak said she supports Mr. Sprague's and Mr. Vining's comments. She is a proponent of natural foods, organic foods, and dietary supplements and appreciates the Board being proactive on this issue. 4) Eric Gass complimented and thanked those alert to these issues.

With a motion and a second on the floor, the motion carried unanimously.

15. Western Highlands Network – County Manager Whitson gave the fiscal monitoring report for the 2010 fiscal year 4<sup>th</sup> quarter, ending June 30, 2010, per Section 3 (a) G.S. 122C-117(c). The report is on file in the County Manager's Office. County Manager Whitson said the audit has not yet been completed but according to the estimates Western Highlands has a 10% fund balance (\$10M cash on hand).
16. Budget Amendments – Sandra Hughes, Finance Director, presented two budget amendments: 1) Social Services, BA #6 \$9,978, increase in funding for Adult Day Care, and 2) Social Services, BA #7 \$32,243, increase in funding for Crisis Intervention. Commissioner Watson made a motion to approve Budget Amendment #6, seconded by Commissioner Melton and the motion carried unanimously. Commissioner Melton made a motion to approve Budget Amendment #7, seconded by Commissioner Watson and the motion carried unanimously.
17. Board Vacancies – Transportation Advisory Board - Commissioner Melton made a motion to appoint Ruth Porter to the Transportation Advisory Board, seconded by Commissioner Watson and the motion carried unanimously.

Economic Development Commission - Commissioner Melton made a motion to appoint John Hill as an alternate to the Economic Development Commission, seconded by Commissioner McDermott and the motion carried unanimously.

Planning Board – Since there were eight applicants and four vacancies, three rounds of nominations were required to break resulting ties. The Board was polled and it was determined by vote that Emily Clark, Wayne Horne, David Smith and Susan Welsh be elected to the Planning Board.

18. Citizen Comments on Non-Agenda Items – Ernie Smith said that at the last BOC meeting Ricky McFalls' tax valuation was discussed, and several Commissioners

said the previous Board had voted for the tax revaluation. He said the previous Board only did what the State mandated. As a result of the tax revaluation the County saw an increase of \$338,807.00, bringing the 2009 income to \$13,687,830.00, which is the highest it has ever been. Since this brought the County's fund balance to 33.3%, Mr. Smith wondered why this Board did not give some of this money back to the taxpayers through a drop in the tax rate. Regarding Commissioner McDermott's reference to insufficient planning on the part of the County, he said citizens were led to believe the \$2m budget for the DSS building entailed moving everyone out of the Jervey Palmer Building, including Family Preservation, but it does not. He went on to say he does not understand why the County has started work at the site when they do not know if they can get a loan, and are not in agreement on how to pay for the building. Mr. Smith urged the Board to support Mr. Schlabach's project because it will create jobs for the County. He said he is not sure how many jobs the DSS building will create for local citizens.

19. Commissioner Comments – Vice-Chairperson Gasperson said the Board is required by State statute to award County contracts to the lowest responsible bidder, and he will encourage the use of local contractors. He said he supports Mr. Schlabach's project and is pleased with the vote on the DSS building. Commissioner Watson agreed with Mr. Smith that the County still has to find a place for Family Preservation. He said the County cannot require the DSS building contractor to use local labor, but it will be encouraged. He would like to adopt a policy to that effect similar to that of Henderson County. Commissioner McDermott said she has been to all of the current Board's meetings and never was it said that mental health services were going to be put in the Wolverine Trail DSS building. She said that was not part of that plan. She said it is possible that the County will acquire a building for that agency, but it is not mandated under law and it remains to be seen what will be done. She said there was small amount of money brought in from tax revenue and that was good forward planning, but at budget time the State had not yet approved its budget and so the County had no assurance of what monies were going to be coming from the State, what the State was going to be withholding, or what the State was going to take from the County. Commissioner McDermott said to give a further tax cut than the tax cut the Board gave two years ago would have been absolutely imprudent and fiscally irresponsible. Commissioner Melton thanked the previous Board and the current Board for buying the Classical School property. He said he had reservations about the purchase price unless the entire twenty-six acres were utilized. He said this past Sunday the Adult Day Health Care Center was dedicated thanks to the current Commissioners having the foresight to move forward. He said an effort is underway by citizens to raise \$100,000.00 to financially assist those who cannot afford the Adult Day Health Care Center's services. He said many people will benefit from the center, and there are still twenty-three acres for the County to work with. Commissioner Melton thanked Mr. Sprague and Mr. Vining for the wonderful job he did for the Columbus festival. Chairperson Walker thanked the *Tryon Daily Bulletin* for running numerous articles on the pre-bid conference for



the benefit of local subcontractors. She said many local subcontractors have already been working on the DSS site, as well as contractors from Rutherford County. She thanked the Board for the vote and said she hoped the Department of Social Services building needs have been taken care of the for next forty-five years.

20. Adjourn – Commissioner Melton made a motion to adjourn the meeting, seconded by Commissioner McDermott and the motion carried unanimously.

ATTEST:

POLK COUNTY BOARD OF COMMISSIONERS

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Anne Britton  
Clerk to the Board

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Cindy Walker  
Chairperson

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Beth Fehrmann  
Administrative Assistant