

Surry County Board of Commissioners
Meeting of April 1, 2019

The Surry County Board of Commissioners met at 6:00 p.m. on April 1, 2019. The meeting was held in the Elkin High School Media Center, 334 Elk Spur Street, Elkin, NC.

Board members present for the meeting were Chairman Van Tucker, Vice-Chairman Larry Johnson, Commissioner Bill Goins, Commissioner Eddie Harris, and Commissioner Mark Marion.

Others present for the meeting, at various times, were:

Chris Knopf, County Manager
Sandy Snow, Assistant County Manager
Sarah Bowen, Finance Officer
Don Mitchell, Facilities Management Director
Stephanie Conner, Communications Director
Ed Woltz, County Attorney
Tammy Johnson, Assistant to the County Manager
News Media

Chairman Tucker called the meeting to order, welcomed everyone and thanked them for their attendance. Commissioner Marion delivered the invocation and led the Pledge of Allegiance.

Chairman Tucker requested the Board review and approve the agenda. Upon motion of Commissioner Goins, seconded by Commissioner Johnson, the Board unanimously voted to approve the April 1, 2019 agenda.

Chairman Tucker requested the Board consider the minutes of the March 18, 2019 and March 20, 2019 meeting as presented. Upon motion of Commissioner Harris, seconded by Commissioner Marion, the Board unanimously voted to approve the minutes as written.

Chairman Tucker requested the Board consider the consent agenda. Upon motion of Commissioner Johnson, seconded by Commissioner Goins, the Board unanimously voted to approve the consent agenda.

Requests from the County Manager:

- Approve for the Emergency Services Department to purchase replacement rescue extrication equipment in an amount not to exceed \$28,199, with funds coming from the Emergency Services budget.

The Board stated that the existing equipment be used for training purposes.

Requests from the Assistant County Manager:

- Approve for Parks and Recreation to tar and gravel selected areas at Fisher River Park, utilizing funding in the current budget.
- Approve a resolution reflecting the Board's continued commitment to the County Safety Program.
- Approve for Health and Nutrition to purchase a 2019 Nissan Frontier 4WD truck using available funding.

Requests from the Finance Officer:

- Approve the write-off of Emergency Services BLS supplies in the amount of \$60.00 for ticket #18-847238.
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Chairman Tucker recognized the following in attendance: Elkin School Board Members Dr. Richard Brinegar, Dr. Will Ballard, Ralph Beshears, and Frank Beals; Surry County Schools Assistant Superintendent Dr. Terri Moseley; Mayor of Elkin Sam Bishop; Surry County Clerk of Superior Court Neil Brendle.

Chairman Tucker declared the meeting to be an open forum and invited members of the audience to address the Board on any matters of civic concern.

Chuck Koubenec spoke on behalf of the Surry County Republican Party Executive Committee expressing concerns of the lack of transparency with the current non-partisan school board election format. Mr. Koubenec, along with several other citizens present, urged the Board to consider passing a resolution to declare and establish partisan school board elections and submit it to State legislators for the next election.

Keith Senter, Kevin Shinault, and Walter Harris, spoke in support of Mr. Koubenec's request to the Board.

Mary Keller, John Wiles, James Freeman, Ron Ashman, and West Caudle spoke in opposition of partisan school board elections.

West Caudle spoke about how federal law will supersede what the County puts in place in regard to the gun ordinance and the County should not proceed with any action.

Mark Jones, Surry County Republican Party Chairman, distributed a draft resolution and asked the Board to consider declaring the County as a gun sanctuary. Mr. Jones also asked the Board to consider not authorizing or appropriating government funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing or assisting in the enforcement of any element of such acts, laws, orders, mandates, rules or regulations, that infringe on the right of the people to keep and bear arms as described in the Second Amendment to the United States Constitution.

The Board will take his request into consideration.

There being no further public comments, Chairman Tucker closed the public forum.

Mark Jones, Surry County Republican Party Chairman, asked the Board to consider passing a resolution establishing partisan elections for the three boards of education. Mr. Jones expressed concerns with a non-partisan board of education election format, and that it lacks transparency and does not provide voters access to important information. Adoption of a partisan election format would require candidates to choose either to affiliate with a political party or to not affiliate with a political party.

Mr. Jones advised that surrounding counties are currently working with legislators to establish partisan school board elections and reminded the Board that time is of the essence for the state legislature to consider this resolution during the current legislative cycle.

Commissioner Marion made a motion to notify the North Carolina General Assembly: (1) that the Surry County Board of Commissioners supports a partisan election format for the election of all members of The Elkin City Board of Education, The Mount Airy City Board of Education, and The Surry County Board of Education; and (2) petition the North Carolina General Assembly to establish a county-wide partisan election format through passage of local legislation. The motion was seconded by Chairman Tucker.

Commissioner Goins requested that he be recused from voting due to his employment with The Surry County Board of Education. Upon motion of Chairman Tucker, seconded by Commissioner Johnson, the Board voted to approve Commissioner Goins' request to recuse himself from voting or participating in any further discussion about this matter.

The recusal motion passed as follows:

Ayes: Chairman Tucker, Commissioner Harris, Commissioner Johnson,
Commissioner Marion

Recused: Commissioner Goins

The original motion passed as follows:

Ayes: Chairman Tucker, Commissioner Harris, Commissioner Marion

Nays: Commissioner Johnson

Recused: Commissioner Goins

Mark Jones, Surry County Republican Party Chairman, urged the Board to consider passing a resolution rescinding Chapter 133, of the Surry County Code of Ordinances. He stated it is in direct conflict with applicable State law as well as the U.S. Constitution and restricts the right of individuals to exercise their constitutional right to conceal carry firearms in certain County buildings and parks. Mr. Jones added that the ordinance not only violates applicable State law and the United States Constitution, but it also puts Surry County at risk of being named a defendant in a lawsuit and in turn being responsible for the award of substantial legal fees incurred by a plaintiff in bringing the action.

Attorney Woltz provided that Surry County has no existing regulation against display of a firearm on public property. The County does currently regulate only concealed carry firearms by way of Chapter 133 (Weapons) of Surry County, NC Code of Ordinances and none of the existing regulations are compliant with statute. Mr. Woltz advised that it would be appropriate for the Board to consider repealing Chapter 133 (Weapons) from the Surry County Code of Ordinances.

Upon motion of Commissioner Marion, seconded by Commissioner Goins, the Board voted unanimously to repeal Chapter 133 (Weapons) of the Surry County, NC Code of Ordinances.

Sarah Bowen, Finance Officer, presented a resolution for final approval of the financing, not to exceed \$25,000,000 par amount of bonds, for school improvements at Dobson Elementary, Franklin Elementary, Mountain Park Elementary, and Mount Airy Middle. Ms.

Bowen asked the Board to consider approval following a public hearing.

Chairman Tucker declared a public hearing and requested comments from the public.

There being no public comments, Chairman Tucker closed the public hearing.

RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL TRUST AGREEMENT, LEASE AGREEMENTS, CONSTRUCTION AND ACQUISITION AGREEMENTS AND OTHER RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF VARIOUS PUBLIC SCHOOL IMPROVEMENTS IN THE COUNTY

WHEREAS, the County of Surry, North Carolina (the "County") held a public hearing on January 16, 2018, regarding the issuance of one or more series of limited obligation bonds in an aggregate principal amount not to exceed \$40,000,000 for the purpose of providing funds, together with any other available funds, to pay or reimburse the costs of (a) acquiring, constructing, renovating, improving and equipping various public school facilities, (b) renovating and improving an existing County building to be used as a central administrative office for the Mount Airy City Schools Administrative Unit, (c) acquiring, renovating and improving buildings located at Dobson Plaza to be used to house various County departments, and (d) renovating and improving the Historic County Courthouse (collectively, the "Project");

WHEREAS, on March 15, 2018, the County issued \$7,630,000 Limited Obligation Bonds, Series 2018 (the "Series 2018 Bonds") for the purpose of providing funds, together with any other available funds, to pay the costs of a portion of the Project consisting of (a) the design of various public school facilities improvements, (b) the renovation and improvement of an existing County building to be used as a central administrative office for the Mount Airy City Schools Administrative Unit, (c) the acquisition, renovation and improvement of buildings located at Dobson Plaza to be used to house various County departments, and (d) the renovation and improvement of the Historic County Courthouse in the County (hereinafter referred to as the "2018 Project"); and

WHEREAS, the Series 2018 Bonds were issued pursuant to a Master Trust Agreement, dated as of March 1, 2018 (the "Master Trust Agreement"), and a First Supplemental Trust Agreement, dated as of March 1, 2018, each between the County and Branch Banking and Trust Company, as trustee (the "Trustee"). In order to secure its obligations under the Master Trust Agreement, the County executed and delivered the Deed of Trust, dated as of March 1, 2018 (the "Deed of Trust"), granting to the Trustee a lien on certain sites of the 2018 Project, together with all improvements and fixtures located or to be located thereon;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County as follows:

Section 1. The Board does hereby find and determine as follows:

(a) There exists a need in the County to finance the 2019 Project through the sale and issuance of the Series 2019 Bonds.

(b) After a public hearing and due consideration, the Board has determined that the most efficient manner of financing the 2019

Project will be through the execution and delivery of a Second Supplemental Trust Agreement, to be dated as of May 1, 2019 (the "Second Supplemental Trust Agreement," and, together with the Master Trust Agreement, the "Trust Agreement"), between the County and the Trustee, pursuant to which the County will issue limited obligation bonds thereunder in an aggregate principal amount not to exceed \$25,000,000 to provide funds, together with any other available funds, to pay (i) the costs of the 2019 Project and (ii) the fees and expenses incurred in connection with the sale and issuance of the Series 2019 Bonds.

(c) During the construction of the 2019 Project, (i) the site of Mount Airy Middle School will be conveyed to the County by The Mount Airy City Board of Education and will leased back to The Mount Airy City Board of Education pursuant to a Lease Agreement, to be dated as of the date of delivery thereof (the "Mount Airy Lease Agreement"), between the County and The Mount Airy City Board of Education; and (ii) the sites of Dobson Elementary School, Franklin Elementary School and Mountain Park Elementary School will be conveyed to the County by The Surry County Board of Education and will leased back to The Surry County Board of Education pursuant to three separate Lease Agreements, to be dated as of the date of delivery thereof (the "Surry County Lease Agreements" and, together with the Mount Airy Lease Agreement, the "Lease Agreements"), each between the County and The Surry County Board of Education. Upon completion of the 2019 Project, the County intends to convey ownership to the respective school sites back to The Mount Airy City Board of Education or The Surry County Board of Education, as applicable.

(d) In order to assure that the 2019 Project is constructed in the manner required by law and the Trust Agreement, the County will enter into (i) a Construction and Acquisition Agreement, to be dated as of the date of delivery thereof (the "Mount Airy Construction Agreement"), with The Mount Airy City Board of Education, whereby The Mount Airy City Board of Education agrees to acquire, construct, renovate, improve and equip Mount Airy Middle School in accordance with the Mount Airy Construction Agreement for and on behalf of the County and (ii) a Construction and Acquisition Agreement, to be dated as of the date of delivery thereof (the "Surry County Construction Agreement" and, together with the Mount Airy Construction Agreement, the "Construction Agreements"), with The Surry County Board of Education, whereby The Surry County Board of Education agrees to acquire, construct, renovate, improve and equip Dobson Elementary School, Franklin Elementary School and Mountain Park Elementary School in accordance with the Surry County Construction Agreement for and on behalf of the County.

(e) The Series 2019 Bonds will initially be sold to PNC Capital Markets LLC (the "Underwriter") pursuant to the terms of a Bond Purchase Agreement, to be dated the date of delivery thereof (the "Bond Purchase Agreement"), between the County and the Underwriter.

(g) In connection with the offering and sale of the Series 2019 Bonds by the Underwriter, there will be prepared and distributed to potential purchasers a Preliminary Official Statement, to be dated as of the date of delivery thereof (the "Preliminary Official Statement"), and the Official Statement (hereinafter defined), relating to the offering and sale of the Series 2019 Bonds.

(h) There have been presented to the Board drafts of the following documents relating to the transaction hereinabove described:

- (1) the Second Supplemental Trust Agreement, together with the form of the Series 2019 Bonds attached as Exhibit A thereto;
- (2) the Lease Agreements;
- (3) the Construction Agreements;
- (4) the Bond Purchase Agreement; and
- (5) the Preliminary Official Statement.

Section 2. In order to provide for the financing of the Project and relating financing costs, the County is hereby authorized to enter into the Second Supplemental Trust Agreement and issue the Series 2019 Bonds thereunder in an aggregate principal amount not to exceed \$25,000,000. The actual principal amount of the Series 2019 Bonds shall be determined by the County at the time of execution of the Bond Purchase Agreement, such execution and delivery of the Bond Purchase Agreement to constitute approval by the Board of the principal amount of the Series 2019 Bonds as set forth in the Bond Purchase Agreement. The principal amount of the Series 2019 Bonds shall be the amount that, in the best judgment of the person executing the Bond Purchase Agreement, shall be the amount necessary to provide sufficient funds, together with any other available funds, to pay (a) the costs of the 2019 Project and (b) the fees and expenses incurred in connection with the sale and issuance of the Series 2019 Bonds. The interest rates on the Series 2019 Bonds shall be determined by the County at the time of the execution by the County of the Bond Purchase Agreement; provided, however, that such interest rates shall not result in a true interest cost in excess of 4.00% per annum, such execution and delivery of the Bond Purchase Agreement to constitute approval by the Board of the interest rates on the Series 2019 Bonds.

Section 3. The Series 2019 Bonds shall be sold to the Underwriter pursuant to the Bond Purchase Agreement. The Series 2019 Bonds may be sold to the Underwriter at a discount below the amount of the principal amount of the Series 2019 Bonds, such discount not to exceed 98% of the principal amount of the Series 2019 Bonds; provided, however, that if all or any of the Series 2019 Bonds are to be sold to the public by the Underwriter at original issue discount (resulting in lower interest costs of the interest on the Series 2019 Bonds), then the Series 2019 Bonds may be sold at a further discount in the amount necessary to cover such original issue discount. The final maturity of the Series 2019 Bonds shall not be later than June 1, 2039.

Section 4. The Board hereby approves the forms of the Second Supplemental Trust Agreement, the Construction Agreements, the Lease Agreements and the Bond Purchase Agreement in substantially the forms presented at this meeting. The Chairman of the Board, the County Manager and the Finance Officer are each hereby authorized to execute and deliver on behalf of the County the Second Supplemental Trust Agreement, the Construction Agreements, the Lease Agreements and the Bond Purchase Agreement in substantially the forms presented at this meeting, containing such modifications as the person executing such documents shall approve, such execution to be conclusive evidence of approval by the Board of any such changes. The Clerk to the Board or any assistant or deputy Clerk to the Board is hereby authorized to affix the official seal of the County to each of said documents and to attest the same to the extent so required.

Section 5. The Board hereby approves the Preliminary Official Statement in substantially the form presented at this meeting and hereby approves the distribution thereof by the Underwriter in connection with the offering and sale of the Series 2019 Bonds. Upon

the sale of the Series 2019 Bonds to the Underwriter, a final Official Statement, to be dated as of the date of the Bond Purchase Agreement (the "Official Statement"), will be prepared substantially in the form of the Preliminary Official Statement and will contain such information relating to the pricing terms of the Series 2019 Bonds and such additional information as may be necessary. The Board hereby approves the delivery of the Official Statement on behalf of the County by the Chairman of the Board, the County Manager or the Finance Officer and the distribution thereof by the Underwriter in connection with the offering and sale of the Series 2019 Bonds.

Section 6. No deficiency judgment may be rendered against the County in any action for breach of any contractual obligation under the Trust Agreement, and the taxing power of the County is not and may not be pledged directly or indirectly to secure any moneys due under the Bonds or the Trust Agreement.

Section 7. The Chairman of the Board, the County Manager, the Finance Officer and the County Attorney are hereby authorized to cooperate with the Underwriter in preparing and filing such filings under state securities or "blue sky" laws as the Underwriter may request; provided, however, that the County shall not be required to consent to the jurisdiction of any state in which it is not now subject unless the County Attorney shall determine that such consent is in the best interest of the County.

Section 8. The Chairman of the Board, the County Manager, the Finance Officer, the County Attorney and the Clerk to the Board, and any other officers, agents and employees of the County, are hereby authorized and directed to take such actions and to deliver such certificates, opinions and other items of evidence as shall be deemed necessary to consummate the transactions described in this resolution.

Section 9. This resolution shall take effect immediately upon its adoption.

Upon motion of Commissioner Harris, seconded by Commissioner Marion, the foregoing resolution entitled "RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL TRUST AGREEMENT, LEASE AGREEMENTS, CONSTRUCTION AND ACQUISITION AGREEMENTS AND OTHER RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF VARIOUS PUBLIC SCHOOL IMPROVEMENTS IN THE COUNTY" was adopted by the following vote:

Ayes: unanimous
Nays: none

The Board recognized the following from Elkin City Schools: Cameron Garris, Jana Swaim, Misty Ball, Tonya Smith, and Paul Brinegar.

The Board took a ten-minute break.

Don Mitchell, Facilities Management Director, asked the Board to consider awarding bids received for two parcels as follows:

Parcel ID # 5020-18-41-9340 - 1.5 vacant lot on Factory Street in Mount Airy with a tax value of \$12,000.
One bid received in the amount of \$2,500.

Parcel ID #5021-18-22-9154 - 4 vacant lots on Carroll Street in Mount Airy with a tax value of \$12,000.
One bid received in the amount of \$2,000.

Mr. Mitchell advised that upon approval, the offers will be advertised in the local paper for 10 days for the public to upset the offer.

The Board discussed another option to post the parcels for-sale with the bids being much lower than the tax value.

Upon motion of Chairman Tucker, seconded by Commissioner Goins, the Board unanimously voted not to accept the bids provided for parcel ID # 5020-18-41-9340 and parcel ID #5021-18-22-9154 and to post both parcels with a for-sale sign.

Joan Sherif, Director, Northwestern Regional Library (NWRL) System, discussed that they are comprised of 13 libraries that serve Alleghany, Stokes, Surry and Yadkin Counties. Ms. Sherif discussed ongoing staff and salary concerns that are important to maintain a wide range of services such as access to reliable information and summer reading programs, among many other activities. Ms. Sherif thanked the Board for their support and introduced Pat Gwynn, Hattie Brintle, and Becky Keesler, Mount Airy Public Library; Martha Smith, Elkin Public Library; Dan Whelan, NWRL Board; and Anna Nichols, Charles H. Stone Memorial Library in Pilot Mountain.

Ms. Gwynn, Mr. Whelan, and Ms. Nichols thanked the Board for their support, discussed the value of having access to libraries for people of all ages, and asked the Board to consider their need for increased salary funding.

Chris Knopf, County Manager, introduced Denise Watson, Executive Director, Hospice of Surry County, Inc., d.b.a. Mountain Valley Hospice and Palliative Care. The Board conducted a hearing for an Ambulance Service Franchise application, as described in Chapter 133 of the Surry County Code of Ordinances. Ms. Watson asked the Board to consider approving their application. Ms. Watson advised that she has been working with the Emergency Services Director and will be following the process to meet requirements for certification for a vehicle that will be used for stretcher transports.

Upon motion of Commissioner Marion, seconded by Commissioner Goins, the Board unanimously voted to approve an Ambulance Service Franchise per Chapter 133 of the Surry County Code of Ordinances for Hospice of Surry County, Inc., d.b.a. Mountain Valley Hospice and Palliative Care.

Stephanie Conner, Communications Director, asked for the Board's permission to apply for a grant to the NC 911 Board to fund the replacement of their end-of-life radio system. Ms. Conner advised that the cost is estimated at \$500,000 and she would update the Board with a confirmed amount. Ms. Conner also advised that there should be no conflicts with the new system and the volunteers fire departments' system.

Upon motion of Commissioner Goins, seconded by Commissioner Harris, the Board unanimously voted to approve the Communications

Director to apply for grant funds to the NC 911 Board for a new 911 radio system.

Chris Knopf, County Manager, asked for the Board's consideration to approve a request from Don Mitchell, in his role as Interim Public Works Director, to use available funds in the amount of \$120,000, in the Recycling Budget. The funds will be utilized to rebuild a sediment basin at the Landfill that has washed away. Mr. Mitchell provided from Jimmy R. Lynch & Sons, Change Order #01 quoting the project for \$42,924.73.

Upon motion of Commissioner Johnson, seconded by Commissioner Marion, the Board unanimously voted to accept Change Order #01 to rebuild a sediment basin at the Landfill using funds in the Recycling Budget.

Upon motion of Commissioner Goins, seconded by Commissioner Johnson, the Board unanimously voted to reappoint Greg Casstevens to serve on the Surry County Planning Board.

Upon motion of Commissioner Harris, seconded by Commissioner Marion, the Board unanimously voted to go into closed session to discuss personnel and legal matters.

The Board came out of closed session and resumed regular business.

Upon motion of Commissioner Harris, seconded by Commissioner Goins, the Board unanimously voted to approve but not release the closed session minutes from March 18, 2019.

Upon motion of Commissioner Marion, seconded by Commissioner Johnson, the Board unanimously voted to adjourn. The meeting ended at 9:15 p.m.

Tammy Johnson
Clerk to the Board

Sandy Snow
Deputy Clerk to the Board