



**Rutherford County Office Building
289 N. Main Street
Rutherfordton, NC 28139**

**Rutherford County
Board of Commissioners
Minutes of July 1, 2019**

**Monday, July 1, 2019
6:00 PM**

I. Call to Order

Chairman King called the July 1, 2019 meeting of the Rutherford County Board of Commissioners to order.

Present: Chairman Bryan King, Vice Chairman Alan Toney, Commissioner Michael Benfield, and Commissioner Eddie Holland.

Absent: Commissioner Greg Lovelace

A. Pledge of Allegiance

Mr. Jim Bishop led in the Pledge of Allegiance.

B. Agenda Approval

Commissioner Benfield moved to add the property purchase of the E-911 Operations Center to the agenda under Old Business. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

Commissioner Benfield moved to approve the agenda as amended. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

II. Public Comments

Mr. Thomas Phelps spoke in opposition to making Rutherford County a gun sanctuary county. According to Mr. Phelps, this resolution is based on fear that the government will pass laws that the author of the resolution believes will inhibit his or her right to bear arms appropriate for protection or for the possible purpose of rising up against the government that the author feels has overstepped its bounds. He asked if current laws regarding the possession of fire arms and the restrictions that prohibit guns in certain buildings would be null and void.

Mr. Dale Ramsey spoke in favor of the passage of the resolution stating history shows when guns have been taken away, millions of persons have died. He has been in locations where great numbers of guns are present, and no shots have been fired. Mr. Ramsey said it is wrong to take away the rights of citizens.

III. Consent Agenda

Commissioner Benfield moved to approve the Consent Agenda. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

Consent Agenda items approved were:

- A. ID 19-2090 Minutes of June 3, 2019**
- B. ID 19-2105 Minutes of Special Meeting of June 6, 2019**
- C. ID 18- Tax Refunds and Releases**
 - Refund amount totaling \$7,388.58
 - Releases greater than \$100 totaling \$10,241.43
 - Releases less than \$100 totaling \$2,365.61
 - (A copy of these tax refunds and releases is typed in the Minute Book.)

IV. Commissioners/Appointments

A. ID 19-2104 Appointment to the Transit Advisory Board

Ms. Diane Dickerson applied to serve on the Transit Advisory Board. The vacancies on this Board were advertised and applications were accepted.

Commissioner Benfield moved to approve the appointment of Ms. Diane Dickerson to the Transit Advisory Board. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

B. ID 19-2108 Voting Delegate to NCACC Annual Conference

The North Carolina Association of County Commissioners' (NCACC) 112th Annual Conference will be held in Guilford County August 22-24, 2019. During the business session, each county will be entitled to one vote on items that come before the membership, including election of the NCACC Second Vice President. To facilitate this process, the NCACC asks that each county designate one voting delegate prior to the Annual Conference.

Commissioner Benfield moved to appoint Vice Chairman Toney as the Voting Delegate to the NCACC Annual Conference. Commissioner Holland seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

V. Old Business

A. ID 19-2112 Community Development Block Grant Neighborhood Revitalization Grant

Finance Director Paula Roach told the Board that Rutherford County had received a Community Development Block Grant (CDBG) Neighborhood Revitalization Grant. The grant agreement, a Project Ordinance, and an agreement with Isothermal Planning and Development Commission to administer the grant had been approved by the Board. Additional documents were presented for the Board's consideration which included:

1. Equal Employment and Procurement Plan
2. Section 3 Plan
3. Language Access Plan
4. Fair Housing Plan
5. Self-Evaluation Survey

Vice Chairman Toney made a motion to approve the documents needed for the Community Development Block Grant Neighborhood Revitalization Grant which included Equal Employment and Procurement Plan, Section 3 Plan, Language Access Plan, Fair Housing Plan, and Self-Evaluation Survey. Commissioner Holland seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

B. Property Purchase for E911 Operations Center

County Attorney Richard Williams said in February the Board approved the receipt of a grant that would be used for the purchase of a new E911 Operations Center at 153 Sparks Drive in Forest City from WFMJR Investments, LLC. He asked that the Board confirm the purchase and settlement of this purchase.

County Manager Steve Garrison pointed out that the total amount of the grant was approximately \$1,116,000. Additional funds for renovations that were not covered by the E911 Board were budgeted in May.

Commissioner Benfield moved to accept and confirm the purchase and settlement of 153 Sparks Drive, Forest City, NC 28043, from WFMJR Investments, LLC, for \$495,000.00, pursuant to the Agreement for Purchase and Sale of Real Property and with the grant from the North Carolina 911 Board approved February 4, 2019. He further moved to direct the Chairman or the County Manager, working with the County Attorney, to execute such documentation as necessary to complete the settlement of the purchase. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

VII. New Business

A. ID 19- Budget Amendments

Finance Director Paula Roach presented budget amendments for the Board's consideration.

Vice Chairman Toney moved to approve the budget amendments. Commissioner Benfield seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

Budget Amendments		
July 1, 2019		
GENERAL FUND		
College - Capital Outlay	\$ 50,000	
Contribution from College Capital Fund		\$ 50,000
*mowers/equipment needed to maintain additional acreage and implements to assist with snow clearing		
COLLEGE CAPITAL FUNDS		
Transfer to General Fund	\$ 50,000	
Reserve for future projects	\$ (50,000)	
*mowers/equipment needed to maintain additional acreage and implements to assist with snow clearing		

B. ID 19-2110 R/S Middle School Project Update and Reimbursement Resolution

Director Roach presented a project calendar for construction of the R/S Middle School, a reimbursement resolution that will formalize the County's intent to reimburse the costs associated with construction of the new R/S Middle School, and an agreement with the financial advisor for the project for the Board's consideration. She stated that the ultimate goal is to complete the financing and have it on the Local Government Commission agenda in December. The public bonds would be sold, and the loan could close the last week of December. The reimbursement resolution lists a project not to exceed \$35,000,000 which would be affordable under the present scenario. Other possible funds such as the lottery grant could be utilized for the project which could reduce the \$35,000,000 amount. The agreement with the financial advisory would allow the County to use his services for assistance through the project.

Commissioner Benfield moved to approve the project calendar for the construction of the R/S Middle School. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

Commissioner Benfield introduced the resolution entitled "*RESOLUTION OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A NEW RS MIDDLE SCHOOL FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN CALENDAR YEAR 2019.*" A summary had been provided to each Commissioner and a copy was available with the Clerk to the Board.

WHEREAS, the Board of Commissioners of the County of Rutherford, North Carolina ("County") has determined that it is in the best interests of County to finance the acquisition, construction and equipping of a new RS Middle School (the "Project");

WHEREAS, the County presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with proceeds of tax-exempt obligations and reasonably expects to execute and deliver its tax-exempt obligations (the "Obligations") to finance, or to reimburse itself for, all or a portion of the costs of the Project; and

WHEREAS, the County desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of execution and delivery of the Obligations (the "Original Expenditures"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Obligations, and the County intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Obligations to be executed and delivered at a date occurring after the dates of such Original Expenditures;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Rutherford, North Carolina as follows:

Section 1. **Official Declaration of Intent.** The County presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the County on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Obligations. The County reasonably expects to execute and deliver the Obligations to finance all or a portion of the costs of the Project, and the principal amount of Obligations currently expected to be executed and delivered by the County to pay for the costs of the Project is not to exceed \$35,000,000, less any other sources of Project funds identified by the County..

Section 2. **Compliance with Regulations.** The County adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County's intent to reimburse itself for the Original Expenditures from proceeds of the Obligations.

Section 3. **Itemization of Capital Expenditures.** The Finance Officer of the County, with advice from bond counsel, is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the Original Expenditures incurred and paid by the County in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Obligations.

Section 4. **Effective Date.** This Resolution is effective immediately on the date of its adoption.

On motion of Commissioner Benfield, seconded by Vice Chairman Toney, the foregoing resolution entitled "RESOLUTION OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A NEW RS MIDDLE SCHOOL FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN CALENDAR YEAR 2019" was duly adopted by the following vote:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

Vice Chairman Toney moved to approve the agreement with the financial advisor. Commissioner Holland seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

C. ID 19-2107 Reimbursement Resolution for Vehicles and Equipment

Based on the Board's decision as part of the FY 2019-2020 Budget to move forward with the purchase of certain equipment and vehicles, Finance Director Roach presented a resolution, *Declaration of Official Intent to Reimburse*, for the Board's consideration. The FY 2019-2020 Vehicle and Equipment Plan Summary was also presented.

Vice Chairman Toney moved to approve the resolution. Commissioner Holland seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

RESOLUTION

RUTHERFORD COUNTY, NORTH CAROLINA

DECLARATION OF OFFICIAL INTENT TO REIMBURSE

This declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of Rutherford County, North Carolina (the "Issuer") with respect to the matters contained herein.

1. **Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the "Expenditures") for the purchase of vehicles and equipment (the "Project").

2. **Plan of Finance.** The Issuer intends to finance the costs of the Project with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

3. **Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$1,313,500.

4. **Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted this 1st day of July, 2019.

D. ID 19-2109 Transit Department's Title VI Plan

Transportation Director Kerry Giles presented the Transit Department's Title VI Plan which the North Carolina Department of Transportation requires the County's Governing Body to approve every 3 years. She stated that there had been very minor changes to the plan approved in 2016.

Commissioner Benfield moved to approve the Title VI Plan. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

E. ID 19-2106 Charge to Collect and Annual Tax Collections' Settlement Report

The Annual Tax Collections' Settlement Report for FY 2018-2019 was presented by Revenue Director Sherry Lavender. The report showed total tax collections for fiscal year 2018-2019 in the amount of \$38,364,140.33 with a final collection rate of 97.89% which is a 5-year high.

The Charge to Collect was presented for the Board's consideration.

Commissioner Benfield moved to approve the Charge to Collect. Vice Chairman Toney seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, Commissioner Holland and Commissioner Lovelace.

Noes: None

State of North Carolina
Rutherford County

ORDER OF THE BOARD OF COUNTY COMMISSIONERS
IN ACCORDANCE WITH G.S. 105-373, G.S. 105-321 AND 105-330.3

TO: SHERRY LAVENDER, REVENUE DIRECTOR

You are hereby authorized, empowered, and commanded to collect the taxes remaining unpaid as set forth in the 2009 through 2019 tax records filed in the office of the Tax Collector, and in the tax receipts herewith delivered to you in the amounts and from the taxpayers likewise therein set forth. You are further authorized, empowered, and commanded to collect the 2009 through 2019 taxes charged and assessed as provided by law for adjustments, changes, and additions to the tax records and tax receipts delivered to you which are made in accordance with law. Such taxes are

hereby declared to be a first lien on all real property of the respective taxpayers in Rutherford County. This order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell, any real or personal property, and attach wages and/or other funds, of such taxpayers, for and on account thereof, in accordance with law.

You are further authorized to call upon the Sheriff to levy upon and sell personal property under execution for the payment of taxes.

Within available funds in the budget ordinance and personnel positions established, the Tax Collector may appoint employees and they have authority to perform those functions authorized by the Machinery Act of Chapter 105 of North Carolina General Statutes and other applicable laws for current and previous years' taxes.

Taxes on classified Motor Vehicles for 2013 and prior years are deemed uncollectible; therefore, the County Commissioners, pursuant to G.S. 105-373 (h) do hereby relieve the tax collector of the charge of collecting taxes on classified motor vehicles listed pursuant to G.S. 105-330.3 (a) (1) for 2013 and prior years.

F. ID 19-2102 Resolution Declaring Rutherford County a Second Amendment Sanctuary

Vice Chairman Toney read a resolution entitled, "*Resolution Declaring Rutherford County a Second Amendment Sanctuary*" and moved passage of it. Commissioner Benfield seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

RESOLUTION DECLARING RUTHERFORD COUNTY
A SECOND AMENDMENT SANCTUARY

WHEREAS, the Constitution of the United States is the Supreme Law of our nation; and

WHEREAS, the Second Amendment to the Constitution of the United States of America states: "A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed"; and

WHEREAS, the North Carolina Constitution, Article I, Section 30, states: "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice; and

WHEREAS, the Rutherford County Board of Commissioners is concerned about the passage of any bill or legislation which could be interpreted as infringing the rights of the citizens of Rutherford County to keep and bear arms or which may unduly restrict their right to the same; and

WHEREAS, the criminal misuse of firearms is not a reason to infringe the rights of law abiding citizens of Rutherford County; and

WHEREAS, the Rutherford County Board of Commissioners wishes to express its deep commitment to the rights of all citizens of Rutherford County to keep and bear arms; and

WHEREAS, the Rutherford County Board of Commissioners wishes to express opposition to any law that would unconstitutionally restrict the rights under the Second Amendment of the U.S. Constitution and under the North Carolina constitution of the citizens of Rutherford County to keep and bear arms; and

WHEREAS, the Rutherford County Board of Commissioners wishes to express its intent to stand as a Sanctuary County for Second Amendment rights and to oppose, within the limits of the Constitutions of the United States and the State of North Carolina, any efforts to unconstitutionally restrict such rights, and to use such legal means at its disposal to protect the rights of the citizens to keep and bear arms.

NOW, THEREFORE, be it resolved by the Board of Commissioners of Rutherford County:

That the Rutherford County Board of Commissioners hereby expresses its intent to uphold the Second Amendment rights of the citizens of Rutherford County and that public funds, resources, employees, buildings or offices not be used to restrict Second Amendment rights or to aid or assist in the enforcement of the unnecessary and unconstitutional restriction of the rights under the Second Amendment of the citizens of Rutherford County to keep and bear arms; and

That the Board of Commissioners hereby declares Rutherford County, North Carolina, as a 'Second Amendment Sanctuary.'

Adopted this the 1st day of July, 2019.

VIII. Closed Session

A. ID 19-2102 Closed Session – ATTORNEY CLIENT NCGS 143-318.11(a)(3)

Vice Chairman Toney moved to go into Closed Session for discussion with the County Attorney. Commissioner Holland seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.

Noes: None

Absent: Commissioner Lovelace

6:38 P.M. - The Board went into Closed Session.

7:06 P.M. - The Board returned to regular session.

VIII. Adjournment

At 7:06 P.M. Vice Chairman Toney made a motion to adjourn. Commissioner Benfield seconded the motion. The vote on the motion was:

Ayes: Commissioner King, Commissioner Toney, Commissioner Benfield, and Commissioner Holland.
Noes: None
Absent: Commissioner Lovelace

Chairman, Board of Commissioners

Vice Chairman, Board of Commissioners

ATTEST:

Clerk, Board of Commissioners