

**TENTATIVE AGENDA & MEETING NOTICE
BOARD OF COUNTY COMMISSIONERS**

**TUESDAY, AUGUST 1, 2017
8:30 A.M.**

**WATAUGA COUNTY ADMINISTRATION BUILDING
COMMISSIONERS' BOARD ROOM**

TIME	#	TOPIC	PRESENTER	PAGE
8:30	1	CALL REGULAR MEETING TO ORDER		
	2	APPROVAL OF MINUTES: July 18, 2017, Regular Meeting July 18, 2017, Closed Session		1
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8:35	4	TOURISM DEVELOPMENT AUTHORITY REPORT	MR. WRIGHT TILLEY	13
8:40	5	BOARD OF ELECTIONS PROPOSED CONTRACT	MR. MATT SNYDER	15
8:45	6	PROPOSED RESOLUTION SCHEDULING THE OCTENNIAL REAPPRAISAL	MR. LARRY WARREN	27
8:50	7	BUDGET AMENDMENTS	MS. MARGARET PIERCE	29
8:55	8	MISCELLANEOUS ADMINISTRATIVE MATTERS	MR. DERON GEOUQUE	
		A. Watauga Humane Society Paving Request		31
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10:05	11	CLOSED SESSION Attorney/Client Matters – G. S. 143-318.11(a)(3)		50
10:30	12	ADJOURN		

AGENDA ITEM 2:

APPROVAL OF MINUTES:

July 18, 2017, Regular Meeting

July 18, 2017, Closed Session

DRAFT**MINUTES****WATAUGA COUNTY BOARD OF COMMISSIONERS
TUESDAY, JULY 18, 2017**

The Watauga County Board of Commissioners held a regular meeting, as scheduled, on Tuesday, July 18, 2017, at 5:30 P.M. in the Commissioners' Board Room of the Watauga County Administration Building, Boone, North Carolina.

PRESENT: John Welch, Chairman
 Billy Kennedy, Vice-Chairman
 Jimmy Hodges, Commissioner
 Larry Turnbow, Commissioner
 Perry Yates, Commissioner
 Anthony di Santi, County Attorney
 Deron Geouque, County Manager
 Anita J. Fogle, Clerk to the Board

Chairman Welch called the meeting to order at 5:40 P.M.

Commissioner Yates opened with a prayer and Vice-Chairman Kennedy led the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Welch called for additions and/or corrections to the June 20, 2017, regular meeting and closed session minutes.

Commissioner Kennedy, seconded by Commissioner Hodges, moved to approve the June 20, 2017, regular meeting minutes as presented.

VOTE: Aye-5
 Nay-0

Commissioner Kennedy, seconded by Commissioner Hodges, moved to approve the June 20, 2017, closed session minutes as presented.

VOTE: Aye-5
 Nay-0

APPROVAL OF AGENDA

Chairman Welch called for additions and/or corrections to the July 18, 2017, agenda.

County Manager Geouque requested to add the following: Possible Action After Closed Session and under Miscellaneous Administrative Matters, a proposed lease of County property to Skyline Telephone Membership Corporation and a paving request from the Watauga Humane Society.

Vice-Chairman Kennedy, seconded by Commissioner Turnbow, moved to approve the July 18, 2017, agenda as amended.

VOTE: Aye-5
Nay-0

W.A.M.Y. COMMUNITY ACTION HOUSING PRESERVATION GRANT SUPPORT REQUEST

Ms. Melissa Soto, Executive Director of W.A.M.Y. Community Action, stated that W.A.M.Y. applied for a Housing Preservation grant to allow repairs and rehabilitation on very low-income family homes. Those repairs allow the homes to then be weatherized through W.A.M.Y. as well. As part of the grant application, support of County officials must be demonstrated for this type of work and it must be shown that programs operated by the County are not duplicated. As the application was due July 17, 2017, a letter of support was signed with the understanding that Board approval would be sought at the July 18, 2017, meeting and in the event the Board did not wish to support the request, the letter of support would be withdrawn.

Commissioner Yates, seconded by Vice-Chairman Kennedy, moved to authorize the submittal of support of W.A.M.Y. Community Action's grant application.

VOTE: Aye-5
Nay-0

BOARD OF ELECTIONS PROPOSED CONTRACT

County Manager Geouque requested, on behalf of the Board of Elections, approval of a five (5) year contract with Election Systems & Software, LLC ("ES&S")/Printelect for voting machines and software contingent upon 1) County Attorney review; 2) the contract would still be valid if new equipment was purchased from ES&S/Printelect; and 3) if new equipment was purchased from a different vendor that the contract would end with no penalty or obligation. The local Board of Elections voted unanimously to approve the contract with ES&S/Printelect in the total amount of \$28,114.76 annually.

Consideration was tabled to the August 1, 2017, Board meeting to allow for the Board of Elections Director to be present for questions.

TAX MATTERS

A. Monthly Collections Report

Tax Administrator, Mr. Larry Warren, presented the Tax Collections Report for the month of June 2017. This report was presented for information only and, therefore, no action was required.

B. Refunds and Releases

Mr. Warren presented the Refunds and Releases Report for June 2017 for Board approval:

TO BE TYPED IN MINUTE BOOK

Commissioner Hodges, seconded by Vice-Chairman Kennedy, moved to approve the Refunds and Releases Report for June 2017, as presented.

VOTE: Aye-5
Nay-0

C. Annual Settlement of Tax Collector

Tax Administrator Warren presented the following Annual Settlement Statements for Fiscal Year 2017 for Board approval:

TO BE TYPED IN MINUTE BOOK

Vice-Chairman Kennedy, seconded by Commissioner Yates, moved to approve the Annual Settlement Statements for Fiscal Year 2017, and to accept the Tax Administrator's "Oath as to Diligent Effort to Collect Taxes," as presented.

VOTE: Aye-5
Nay-0

D. Oath to Collect Taxes

Mr. Warren presented a proposed order granting authorization to collect taxes for Fiscal Year 2018. Once approved, a sworn oath would be administered to Tax Administrator Warren.

Vice-Chairman Kennedy, seconded by Commissioner Turnbow, moved to grant authorization for Tax Administrator Warren to collect taxes for Fiscal Year 2018.

VOTE: Aye-5
Nay-0

E. Proposed Purchase of Vehicle

Mr. Warren stated that County staff solicited the following vehicle bids for three (3) new 2018 Subaru Foresters; one each for the Tax Office, Department of Social Services, and Planning and Inspections.

Bidder	Amount Per Vehicle
Modern Subaru of Boone	\$23,959.00
Jim Armstrong Subaru Hickory	\$23,317.00
Tindol Subaru in Gastonia	\$22,650.00

Of the above three (3) bids received, Tindol Subaru in Gastonia was the lowest responsible bidder in the amount of \$22,650 per vehicle.

Vice-Chairman Kennedy, seconded by Commissioner Turnbow, moved to award the bid to Tindol Subaru of Gastonia for three (3) new 2018 Subaru Foresters in the total amount of \$70,006.50 including taxes and tags.

VOTE: Aye-5
Nay-0

PROPOSED CAPITAL PROJECT ORDINANCE – COMMUNITY/RECREATION CENTER

County Manager Geouque presented a proposed capital project ordinance for the Community/Recreation Center. Adoption of the ordinance is required by North Carolina General Statutes. The initial amount of the ordinance recognizes the \$10,000,000 currently on hand, however, the ordinance will be amended in the future to recognize the full funding of the project.

Vice-Chairman Kennedy, seconded by Commissioner Turnbow, moved to adopt the capital project ordinance in the amount of \$10,000,000 for the proposed Community/Recreation Center.

VOTE: Aye-5
Nay-0

MISCELLANEOUS ADMINISTRATIVE MATTERS

A. Proposed Lease of County Property to Skyline Telephone Membership Corporation

County Manager Geouque presented a lease with Skyline/Skybest for a .057 acre parcel of land located at the entrance of Watauga High School. The School Board has expressed approval for the lease. However, due to the property serving as collateral for the loan on the high school the County is the owner of record. The proposed lease would need modifications to conform to North Carolina General Statutes and any changes as recommended by the County Attorney. Property owned by the County may be leased or rented for such terms and upon such conditions as the Board may determine, for up to ten (10) years. Property may be rented or leased only pursuant to a resolution of the Board authorizing the execution of the lease or rental agreement adopted at a regular Board meeting upon a 30 day public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at a future meeting. The County Manager presented a proposed resolution which would authorize the sale with formal approval to take place after the thirty day notification period has been met.

Commissioner Yates, seconded by Commissioner Turnbow, moved to adopt the resolution as presented by the County Manager.

VOTE: Aye-5
Nay-0

B. Watauga Humane Society Paving Request

County Manager Geouque stated that Watauga Humane Society has requested assistance in paying for the paving of their driveway and parking lot. The following four bids were received for a four inch paved surface:

Bidder	Amount
Boone Paving & Asphalt, Inc.	\$72,480
Shatley Construction/Paving Co., Inc.	\$67,572
Tri-County Paving, Inc.	\$66,901
Moretz Paving, Inc.	\$63,068

Moretz Paving is the lowest responsible bidder. The request is for the County to pay for the paving with the understanding that the Humane Society will pay the amount back over several years via a reduction from their annual County allocation.

County Attorney di Santi stated that the County currently holds a second lien on the Humane Society property due to an agreement made when the facility was built. The County Attorney recommended the amount of the second lien be modified to include the amount for the paving and that an additional agreement be drawn for the repayment of paving funds.

Ms. Alice Roess with the Humane Society stated that they were agreeable to paying back the loan over fifteen years and preferred the paving to be done before winter. County Manager Geouque stated that Moretz Paving would guarantee the bid amount but had a busy schedule and could not promise the paving would be completed before next spring.

Consideration of the request was tabled until the August 1, 2017, Board meeting to allow the County Attorney time to draw the appropriate documents.

C. Community/Recreation Center Update

County Manager Geouque stated that staff continues to work with ASU to finish the closing process for the old high school and Lowes properties. On June 30, 2017, the RFQ for the Construction Manager at Risk (CMAR) was published. The mandatory pre-proposal conference for the CMAR was held on July 11, 2017. July 14, 2017, is the deadline for RFQ questions with July 24, 2017, as the due date for the RFQ proposals. On July 24, 2017, the architect will meet with the County to review current programming and future planning and scheduling. In addition, staff will be reviewing RFQ's during July 25 through 28, 2017, with a recommendation to the Board at the August 15, 2017, meeting.

By consensus, the Board appointed the following to a committee which will assist staff with review of the RFQ's as well as future programming and planning of the new Community/Recreation Center:

- Mr. Denny Norris, Recreation Commission
- Mr. John Welch, Board of Commissioners Chairman
- Mr. Billy Kennedy, Board of Commissioners Vice-Chairman
- Mr. Deron Geouque, County Manager
- Mr. Robert Marsh, County Maintenance Director

Mr. Stephen Poulos, Parks and Recreation Director
 Dr. Scott St. Clair or designee, Pediatrician and Recreation Advocate
 Dr. Stephanie West, ASU Recreation Management and Physical Education Professor

D. Proposed Renewals of Maintenance Agreements

1. VESTA
2. Console Infrastructure
3. Fixed Equipment
4. Subscribers
5. Centerline Maintenance

County Manager Geouque presented four maintenance contracts with Wireless Communications Inc. and one contract with High Country Council of Governments for the County's E911 and Emergency Management Radio systems. The VESTA (Patriot System) Maintenance, \$56,842.80, the Console Infrastructure Maintenance, \$12,900, the Fixed Equipment Maintenance, \$13,164, and the Subscribers Maintenance, \$7,896; and Centerline Maintenance contract with High Country Council of Governments for an hourly rate of \$50.00 not to exceed \$6,000 are all included in the current budget.

Vice-Chairman Kennedy, seconded by Commissioner Hodges, moved to approve the VESTA Maintenance, Console Infrastructure Maintenance, the Fixed Equipment Maintenance, and the Subscribers Maintenance contracts with Wireless Communications Inc. in the amounts of \$56,842.80, \$12,900, \$13,164, and \$7,896, respectively and High Country Council of Governments for Centerline Maintenance at an hourly rate of \$50.00 not to exceed \$6,000.

VOTE: Aye-5
 Nay-0

E. Appointment of the North Carolina Association of County Commissioners' (NCACC) Annual Conference Voting Delegate

County Manager Geouque stated that the North Carolina Association of County Commissioners' (NCACC) Annual Conference is scheduled for August 10-13, 2017, in Forsyth County. Each county in attendance is required to select a voting member for representation at the annual business meeting which is conducted as a part of the conference. Submission of the voting delegate is due August 4, 2017.

By consensus, the Board agreed to appoint Vice-Chairman Kennedy as the Watauga County Voting Delegate at the NCACC Annual Conference.

F. Boards and Commissions

Nursing Home Community Advisory Committee

County Manager Geouque stated that Ms. Stevie John, Regional Ombudsman with the High Country Council of Governments, had requested that Mr. Herbert Hash be considered for reappointment to the Watauga County Nursing Home Advisory Committee for a three-year term.

Vice-Chairman Kennedy, seconded by Commissioner Yates, moved to waive the second reading and reappoint Mr. Herbert Hash to a three-year term on the Watauga County Nursing Home Advisory Committee.

VOTE: Aye-5
Nay-0

Economic Development Commission

County Manager Geouque stated that the terms of four members of the Economic Development Commission expire in June. Mr. Ed Evans and Mr. Tommy Sofield have served two consecutive terms and are, therefore, not eligible for reappointment. Mr. Robert Hoffman was recently appointed to fill an unfinished term which expires in June. Therefore, he is up for reappointment. The first term of the current chair, Mr. Walter Kaudelka is expiring. Mr. Kaudelka is eligible to be reappointed to another term, and is willing to continue to serve. Each term is for three years.

Commissioner Turnbow, seconded by Commissioner Yates, moved to waive the second reading and reappoint Mr. Robert Hoffman and Mr. Walter Kaudelka to three-year terms on the Economic Development Commission.

VOTE: Aye-5
Nay-0

G. Announcements

There were no announcements.

PUBLIC COMMENT

Mr. Mike Butka thanked the Board for working with Mountain View Speedway and shared concerns that the Sheriff's Office will not send off-duty officers (at the expense of Mountain View) to work races.

CLOSED SESSION

At 6:31 P.M., Commissioner Turnbow, seconded by Vice-Chairman Kennedy, moved to enter Closed Session to discuss Attorney/Client Matters, per G. S. 143-318.11(a)(3).

VOTE: Aye-5
Nay-0

Commissioner Yates, seconded by Commissioner Turnbow, moved to resume the open meeting at 7:02 P.M.

VOTE: Aye-5
Nay-0

POSSIBLE ACTION AFTER CLOSED SESSION

Commissioner Yates, seconded by Vice-Chairman Kennedy, moved to recuse Chairman Welch from the consideration of a proposed “First Amendment to Agreement for Purchase and Sale of Real and Personal Property” as he works for Appalachian State University.

VOTE: Aye-5
Nay-0

A proposed “First Amendment to Agreement for Purchase and Sale of Real and Personal Property” in regards to Appalachian State University’s purchase of the old high school property adding the wording “mutual agreement” to ASU’s option for an extended lease of the old Lowe’s property was considered.

Vice-Chairman Kennedy, seconded by Commissioner Turnbow, moved to approve the “First Amendment to Agreement for Purchase and Sale of Real and Personal Property” as presented in regards to Appalachian State University’s purchase of the old high school property.

VOTE: Aye-4(Kennedy, Hodges, Turnbow, Yates)
Nay-0
Recused-1(Welch)

ADJOURN

Vice-Chairman Kennedy, seconded by Commissioner Yates, moved to adjourn the meeting at 7:03 P.M.

VOTE: Aye-5
Nay-0

John Welch, Chairman

ATTEST:
Anita J. Fogle, Clerk to the Board

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AGENDA ITEM 3:

APPROVAL OF THE AUGUST 1, 2017, AGENDA

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AGENDA ITEM 4:

TOURISM DEVELOPMENT AUTHORITY REPORT

MANAGER'S COMMENTS:

Mr. Wright Tilley, Watauga County TDA Director, will update the Board on TDA matters and discuss future tourism infrastructure considerations.

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AGENDA ITEM 5:**BOARD OF ELECTIONS PROPOSED CONTRACT****MANAGER'S COMMENTS:**

Matt Snyder, Board of Elections Director, will request the Board approve a five (5) year contract with Election Systems & Software, LLC ("ES&S")/Prinelect for voting machines and software contingent upon 1) County Attorney review, 2) The contract would still be valid if new equipment was purchased from ES&S/Prinelect and 3) if new equipment was purchased from a different vendor that the contract would end with no penalty or obligation. The local Board of Elections voted unanimously to approve the contract with ES&S/Prinelect in the amount of \$28,114.76 annually. This item was tabled at the last Board meeting in order for Mr. Snyder to respond to questions from the Board. Adequate funds have been budgeted to cover this expense.

Board action is required to approve the five (5) year contract with Election Systems & Software, LLC ("ES&S")/Prinelect with the stated contingents in the amount of \$28,114.76 annually.

Election Systems & Software, LLC ("ES&S") Purchase Order
 Term as selected below and beginning on July 1, 2017

080117 BCC Meeting

Please select Term of Agreement:

- 1 Year Term 3 Year Term 5 Year Term
 7/1/2017 - 6/30/2018 7/1/2017 - 6/30/2020 7/1/2017 - 6/30/2022

ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES

Watauga

Qty	Description	Annual Maintenance Fee Per Unit: 1-Year Term	Annual Maintenance Fee In Total: 1-Year Term
0	iVotronic ADA		\$0.00
0	iVotronic Supervisor		\$0.00
0	iVotronic Voter		\$0.00
1	Model 650	\$2,986.50	\$2,986.50
31	Model 100	\$220.94	\$6,849.14
0	Model DS850		\$0.00
0	Model DS200		\$0.00
28	AutoMARK	\$318.42	\$8,915.76
Total Annual Hardware Maintenance Fees: 1-Year Term			\$18,751.40

Qty	Description	Annual Maintenance Fee Per Unit: 3-Year Term	Annual Maintenance Fee In Total: 3-Year Term
0	iVotronic ADA		\$0.00
0	iVotronic Supervisor		\$0.00
0	iVotronic Voter		\$0.00
1	Model 650	\$2,986.50	\$2,986.50
31	Model 100	\$220.94	\$6,849.14
0	Model DS850		\$0.00
0	Model DS200		\$0.00
28	AutoMARK	\$318.42	\$8,915.76
Total Annual Hardware Maintenance Fees: 3-Year Term			\$18,751.40

Qty	Description	Annual Maintenance Fee Per Unit: 5-Year Term	Annual Maintenance Fee In Total: 5-Year Term
0	iVotronic ADA		\$0.00
0	iVotronic Supervisor		\$0.00
0	iVotronic Voter		\$0.00
1	Model 650	\$2,986.50	\$2,986.50
31	Model 100	\$220.94	\$6,849.14
0	Model DS850		\$0.00
0	Model DS200		\$0.00
28	AutoMARK	\$318.42	\$8,915.76
Total Annual Hardware Maintenance Fees: 5-Year Term			\$18,751.40

Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period shall be 55% of the then current maintenance fee per unit.

Note 2: Surcharge for Emergency Repair Services shall be 150% of the then current maintenance fee per unit.

Note 3: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.

Note 4: Upon expiration of the Initial Term, this Agreement shall automatically renew for an unlimited number of successive one-year periods (each a "Renewal Period") until this Agreement is terminated according to Article I, Section 1.

Note 5: Should Customer elect a 3-year or 5-year term, ES&S will provide Customer with a 10% discount off the then current coding fees for the term of the Agreement.

ES&S SOFTWARE MAINTENANCE AND SUPPORT DESCRIPTION AND FEES

Listed below are the Unity Software Modules for which Software License, Maintenance and Support will be provided:

Description	Support Provided and Number of Licenses
Software - BIM	
Software - BOD	
Software - DAM	1
Software - EDM	
Software - ERM	1
Software - HPM	1
Software - IVIM	

ES&S Annual Software Maintenance and Support Fees for the Initial Term shall be as follows:

Annual Firmware Maintenance and Support Fees 1-Year Term	Annual Firmware Maintenance and Support Fees 3-Year Term	Annual Firmware Maintenance and Support Fees 5-Year Term
\$2,356.56	\$2,356.56	\$2,356.56

Annual Software Maintenance and Support Fees 1-Year Term	Annual Software Maintenance and Support Fees 3-Year Term	Annual Software Maintenance and Support Fees 5-Year Term
\$7,006.80	\$7,006.80	\$7,006.80

Payment Terms: Hardware, Firmware, and Software Maintenance and Support Fees are due and payable no later than thirty (30) days prior to the beginning of each maintenance and support period. Customer understands, acknowledges and agrees that ES&S' fees for the services as set forth on the accompanying exhibits are based upon a contractual commitment by Customer to subscribe for and purchase such services for the entire Term of the Agreement. In the event that Customer changes its commitment to a period of less than the Term of the Agreement for any reason other than the purchase of a new ES&S tabulation system, Customer hereby agrees to promptly pay a balance due charge of the difference between the 1-Year Term fees and the fees applied to the Hardware, Firmware, and Software Maintenance and Support Fees invoiced to the Customer up through the date of such early termination.

The parties hereby agree that this Purchase Order and the Hardware Maintenance and Software Maintenance and Support Services General Terms, attached hereto and fully incorporated herein by this reference, (collectively, the "Agreement") represents a binding agreement between ES&S and Customer for the purchase of Hardware Maintenance and Software Maintenance and Support Services. Further, the undersigned Customer hereby agrees to purchase such Hardware Maintenance and Software Maintenance and Support Services from ES&S as set forth herein. The undersigned Customer hereby agrees to the Hardware Maintenance and Software Maintenance and Support Services General Terms and acknowledges that he or she has read the entire Agreement, understands it and fully intends to be bound by it. The undersigned Customer hereby certifies that: 1) sufficient funds are available for any of this purchase that exceeds my allocation of state and/or federal funding; and 2) any amount not funded by state and/or federal funds has been authorized and appropriated for this purchase. As of the date of the signature below, the undersigned Customer has full power and authority to enter into and perform this Agreement, and has been properly authorized to execute and deliver this Agreement on behalf of the County/State as set forth above.

ES&S Signature Date

Customer Signature Date

Print Name

Print Name

Title

Title

Customer	Watauga County
Contact Person	Matthew Snyder
Address	PO Box 528
City	Boone
State/Province	North Carolina
Zip	28607-0528
Phone number	828-265-8061

**ELECTION SYSTEMS & SOFTWARE, LLC
HARDWARE MAINTENANCE AND SOFTWARE MAINTENANCE AND SUPPORT SERVICES
GENERAL TERMS**

**ARTICLE I
GENERAL**

1. **Term; Termination.** This Agreement for Hardware Maintenance and Software Maintenance and Support Services shall be in effect for the coverage period as described on the attached Hardware Maintenance and Software maintenance and Support Services Purchase Order ("Purchase Order"), attached hereto and fully incorporated herein by this reference (the "Initial Term"). Upon expiration of the Initial Term, this Agreement shall automatically renew for an unlimited number of successive one-year periods (each a "Renewal Period") until this Agreement is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Agreement, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the Hardware Maintenance Services contemplated hereunder, (d) the date on which the Equipment or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Agreement. Upon the termination of the license, Customer shall immediately return the Software and Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy the Software and Documentation and certify in writing to ES&S that such destruction has occurred. The termination of this Agreement shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Agreement is terminated pursuant to subsection 1(c) or 1(d) below.

2. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance and Software Maintenance and Support Services under this Agreement, Customer shall pay to ES&S the Hardware Maintenance and Software Maintenance and Support Fees set forth on the Purchase Order for the Initial Term. The Hardware Maintenance and Software Maintenance and Support Fees for any Renewal Period shall be as agreed to by the parties and such fees will not exceed ES&S' list prices which are in effect at the time of commencement of such Renewal Period. The Renewal Period fees are due and payable no later than thirty (30) days prior to the beginning of such renewal period. The Software Maintenance and Support Fees shall be comprised of (i) a fee for the Software Maintenance and Support of the ES&S Firmware, and (ii) a fee for the Software Maintenance and Support for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Agreement. If Customer elects to receive Hardware Maintenance or Software Maintenance and Support for an Add-On License or New Product during the Initial Term or any renewal thereof, ES&S will charge an incremental fee for such services. In the event Customer terminates this Agreement through no fault of ES&S and later desires to subscribe to a Hardware Maintenance or Software Maintenance and Support Plan, or otherwise changes its Hardware Maintenance or Software Maintenance and Support Plan with ES&S during the Initial Term or any renewal thereof, ES&S will charge the Customer its then current contract administration fee in order to process such new subscription for, or change in, Hardware Maintenance or Software Maintenance and Support Coverage.

**ARTICLE II
HARDWARE**

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S equipment listed on the Purchase Order is set forth on the Purchase Order (the "Products") and shall be subject to the following terms and conditions and those set forth on Attachment 1:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products in Normal Working Condition ("Routine Maintenance Services") once each **Twelve Months** during the Initial Term or any renewal thereof. Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the Equipment, including, but not limited to, paper rolls, batteries, removable media storage devices, PCMCIA cards, ink pads, ink cartridges or marking devices. Customer may request that Routine Maintenance Services be performed more than once during the Initial Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Purchase Order and shall be due within thirty (30) days after invoice date. At the request of Customer, ES&S shall provide a reasonably detailed record of all Routine Maintenance Services performed with respect to the Products. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services. Customer acknowledges and agrees that the performance of Routine Maintenance Services for Product(s) identified on the Purchase Order as "depot repair only" shall only be provided pursuant to Section 1(b) below.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a preventative maintenance event as follows: Repair Services for Products covered under this Agreement will be performed at Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, flooding, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations, and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 24 hours after it knows of the defect or malfunction or is otherwise not in compliance with its obligations hereunder, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided within 48 hours after Customer notifies ES&S of the need therefor), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on the Purchase Order.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed pursuant to Subsection 1(c)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, paper rolls, batteries, removable media storage devices, PCMCIA cards, ink pads, ink cartridges or marking devices, or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days in the respective period within the Initial Term or Renewal Period for which such fee was paid and the denominator of which is the total number of days in the respective period within such Initial Term or Renewal Period.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Storage.** When not in use, Products should be stored in a clean, secure environment. During operation of the Products, the facility temperature range should be 50° to 104° and the moisture range should be 10% to 50% relative humidity.

f. **Reinstatement of Hardware Maintenance Services; Inspection.** If the Initial Term or any renewal thereof expires without being renewed, Customer may thereafter resume receiving Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are fit for the ordinary purpose for which they are to be used, normal wear and tear excepted ("Normal Working Condition"). The cost of such inspection will be at the current published ES&S Technician labor rate and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at the current published ES&S Technician labor rate) and parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s).

ARTICLE III SOFTWARE MAINTENANCE AND SUPPORT SERVICES

1. **Services Provided.** ES&S shall provide maintenance and support services ("Software Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Attachment 1.

2. **Updates.** During the Initial Term and any Renewal Period thereof, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, along with appropriate documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining and

installing any upgrades or purchases of third party hardware or software required to operate the Updates. All Updates shall be deemed to be "Software", and shall be subject to all the terms and conditions of ES&S' license of the Software, upon delivery. Customer shall install Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. In the event Customer requests ES&S to install an ES&S Firmware Update, ES&S shall install such Update only in connection with the Routine Maintenance Services provided herein. ES&S may charge Customer at its then-current rates to (a) ship the Updates, (b) install the Updates (c) provide maintenance and support on the Software which is required as a result of Customer's failure to timely install an Update or (d) train the Customer on the Updates. Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of Software in accordance with applicable law. Customer shall pay ES&S for any Update which is required due to a change in federal or state law.

3. **Conditions.** ES&S shall not provide Software Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, (e) Customer's failure to notify ES&S within 24 hours after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Agreement. Any such Software Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software Maintenance and Support arises. Replacement versions of Software requested by Customer as a result of items set forth in this Section 4 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Agreement, including all proprietary rights therein or based thereon. Subject to the payment of all Software Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Agreement. All licensed items shall be deemed to be ES&S Software for purposes of this Agreement. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Agreement.

5. **Reinstatement of Software Maintenance and Support.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, including a reinstatement charge, which would have been due to ES&S had the Initial Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software Maintenance and Support.

ARTICLE IV **MISCELLANEOUS**

1. **Taxes; Interest.** Customer will provide ES&S with proof of its tax-exempt status. If Customer does not provide such proof, it shall pay, or shall reimburse ES&S for, all sales and use, excise or other similar taxes imposed on the transactions contemplated by this Agreement, but shall in no event be

liable for taxes imposed on or measured by ES&S' income. If Customer disputes the applicability of any tax to be paid pursuant to this Section 1, it shall pay the tax and may thereafter seek a refund. Any disputed or undisputed payment which is past due to ES&S will bear interest at the rate of one and one-half percent per month (or such lesser amount as may be permitted by applicable law) for each month or portion thereof during which it remains unpaid.

2. **Limitation of Liability.** Neither party will be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. Any action by Customer against ES&S shall be commenced within one (1) year after the cause of action has accrued. ES&S will not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's election not to receive, or to terminate, the Hardware Maintenance and Software Maintenance and Support Services.

3. **Excusable Nonperformance.** If ES&S is delayed or prevented from performing its obligations under this Agreement due to any cause beyond its reasonable control, including, but not limited to, natural disaster, fire, flood, unusually severe weather, terrorism, insurrection, war, communications or transportation disruptions, Acts of God, labor disputes and governmental regulations, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

4. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when delivered personally, sent by confirmed facsimile transmission, sent by commercial overnight courier (with written verification of receipt) or sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses or facsimile numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

5. **Entire Agreement.** This Agreement, including the Purchase Order and Attachment 1 (which are specifically incorporated herein by this reference), contains the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, USA, without regard to its conflicts of laws principles. Except in the case of a sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed. ES&S may engage duly qualified subcontractors to perform certain of the Hardware Maintenance Services, but shall remain fully responsible for such performance.

6. **Counterparts; Execution By Facsimile.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. The parties may execute this Agreement and exchange counterparts of the signature pages by means of facsimile transmission, and the receipt of such executed counterparts by facsimile transmission shall be binding on the parties. Following such exchange, the parties shall promptly exchange original versions of such signature pages.

Attachment 1

Hardware Maintenance Services Provided by ES&S Under the Agreement

1. Telephone support.
 - ES&S will provide Hardware support on procedural questions of a specific nature not covered in ES&S' Hardware User Manuals;
 - ES&S will verify the appropriate steps to take to resolve issues identified by the Customer.
2. Issue Resolution. (to be provided on a limited basis)
 - ES&S will provide Hardware issue resolution on a limited basis once the Customer has followed all issue resolution procedures as set forth in the Equipment User Manuals and as directed in the required training course. If it becomes apparent that the Customer has not followed the appropriate Equipment User Manual and/or training directives, Customer will be advised to begin the issue resolution process over by following the procedures identified in the Equipment User Manuals or by utilizing ES&S Election Services. The Customer may also be advised that additional training may be necessary to ensure the Customer has the appropriate level of issue resolution training.
3. ES&S posts Technical Bulletins available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
 - Onsite scheduled maintenance inspection per Article 2, Section 1a. The inspection includes:
 - Service performed by an ES&S trained and certified technician.
 - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
 - Replacement of worn or defective with new or remanufactured federally and state certified parts.
 - Conducting a final test to verify that the unit is working according to manufacturer's specifications.
 - Use of a checklist tailored for each piece of equipment.
 - Update of maintenance records which are kept by serial number and available to you through your ES&S Web-based portal.
5. Repair Services.
 - Customer receives coverage for interim repair calls.
 - Interim calls may be scheduled during the regular Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity of Customer's location if they are not election critical.
 - A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

6. Priority Services.
 - Customer has access to the ES&S Help Desk for assistance.
 - The customer receives priority on service calls.
 - The customer receives priority on response time.
 - The customer receives priority on certified ES&S parts inventory.

Note: Except for those Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

Software Maintenance and Support Services Provided by ES&S Under the Agreement

1. Telephone support.
 - ES&S will provide Software support on procedural questions of a specific nature not covered in ES&S' Software User Manuals;
 - ES&S will verify the appropriate steps to take to resolve issues identified by the Customer.
2. Issue Resolution. (to be provided on a limited basis)
 - ES&S will provide Software issue resolution on a limited basis once the Customer has followed all issue resolution procedures as set forth in the Software User Manuals and as directed in the required training course. If it becomes apparent that the Customer has not followed the appropriate Software User Manual and/or training directives, Customer will be advised to begin the issue resolution process over by following the procedures identified in the Software User Manuals or by utilizing ES&S Election Services. The Customer may also be advised that additional training may be necessary to ensure the Customer has the appropriate level of issue resolution training.
3. ES&S will provide Technical Bulletins available on the ES&S Customer Portal on a schedule to be determined by ES&S regarding specific issues the Customer may be experiencing.

Note: Except for those Software Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software Maintenance and Support services to the Customer unless previously agreed upon by the parties.

Software Maintenance and Support and Hardware Maintenance and Support Services – Customer Responsibilities

1. Customer's current software and hardware operator shall have completed a full software training session for each product selected.
 - Customer shall have completed training at a proficiency level to successfully use hardware (firmware) and software products for General and Primary elections.
 - Customer shall have the ability to install firmware and application software and make changes to date and time settings.

- Customer shall have the ability to change the stick batteries on the iVotronic system and the pick belts on the Model 650. Any other changes made by the customer must be pre-approved in writing by ES&S.
 - Customer shall have the ability to store equipment in accordance with ES&S requirements.
2. Customer shall have reviewed a complete set of User Manuals.
 3. Customer shall have reviewed Training Checklists.
 4. Customer shall be responsible for integration of any third party hardware or software application or system purchased by the customer, unless otherwise agreed upon, in writing, by the parties.
 5. Customer shall be responsible for data extraction from Customer VR system.
 6. Customer shall be responsible for implementation of any security protocols physical, network or otherwise.
 7. Customer shall be responsible for Customer Acceptance of the hardware, unless otherwise agreed upon, in writing, by the parties.
 8. Customer shall be responsible for any error or exception handling not identified in the User Guides as part of ES&S software or hardware.
 9. Customer shall be responsible for customer network design, layout, set up, administration, maintenance or connectivity.
 10. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.

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AGENDA ITEM 6:

PROPOSED RESOLUTION SCHEDULING THE OCTENNIAL REAPPRAISAL

MANAGER'S COMMENTS:

Tax Administrator Larry Warren will present a resolution establishing the reappraisal schedule to be effective January 1, 2022. Board approval is requested to establish the revaluation schedule.

STATE OF NORTH CAROLINA

DRAFT

COUNTY OF WATAUGA

RESOLUTION FOR THE 2018 OCTENNIAL REAPPRAISAL

WHEREAS, G.S. 105-286(a)(2) provides that any county so desiring may conduct a reappraisal of real property earlier than required by the octennial plan outlined by G.S. 105-286(a)(1), and;

WHEREAS, Watauga County desires to implement the scheduled octennial reappraisal plan in accordance with G.S. 105-286(a)(1) on January 1, 2022.

THEREFORE, BE IT RESOLVED that Watauga County's next reappraisal of real property shall be effective on January 1, 2022, and that future scheduled reappraisals shall occur every four years thereafter; and

BE IT FURTHER RESOLVED that this resolution shall hereby abolish and supersede any previous resolutions adopted by the Board of Commissioners regarding the County's reappraisal schedule.

ADOPTED this the 1st day of August, 2017

John Welch, Chairman
Watauga County Board of Commissioners

ATTEST:

Anita J. Fogle
Clerk to the Board

AGENDA ITEM 7:

BUDGET AMENDMENTS

MANAGER'S COMMENTS:

Ms. Margaret Pierce, Finance Director, will review budget amendments as included in your packet.

Board approval is requested.



WATAUGA COUNTY FINANCE OFFICE

814 West King St., Suite 216, Boone, NC 28607 Phone (828) 265-8007

MEMORANDUM

TO: Deron T. Geouque, County Manager
FROM: Margaret Pierce, Finance Director
SUBJECT: Budget Amendments - FY 2017/18
DATE: July 25, 2017

The following budget amendment requires the approval of the Watauga County Board of Commissioners. Board approval is requested.

<u>Account #</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
103991 399100	Fund Balance		214,205
109800 498021	Transfer to Capital Projects Fund	214,205	
213980 398100	Transfer from General Fund		214,205
219930 459122	WCS CIP-Projectors	75,060	
219930 459122	WCS CIP-Computers	30,850	
219930 459122	WCS CIP-Vehicles	2,911	
219930 459122	WCS CIP-Batting Facility	1,869	
219930 459122	WCS CIP-Mabel Fuel Tank Removal	103,514	

To return unused CIP funds from the completed projects listed above to set aside capital project funds for the schools.

AGENDA ITEM 8:**MISCELLANEOUS ADMINISTRATIVE MATTERS*****A. Watauga Humane Society Paving Request*****MANAGER'S COMMENTS:**

At the previous Board meeting, the Watauga Humane Society requested assistance in paying for the paving of their driveway and parking lot. The following four bids were received for a four inch paved surface:

Bidder	Amount
Boone Paving & Asphalt, Inc.	\$72,480
Shatley Construction/Paving Co., Inc.	\$67,572
Tri-County Paving, Inc.	\$66,901
Moretz Paving, Inc.	\$63,068

Moretz Paving is the lowest responsible bidder. The request is for the County to pay for the paving with the understanding that the Humane Society will pay the amount back over several years via a reduction from their annual County allocation.

County Attorney di Santi stated that the County currently holds a second lien on the Humane Society property due to an agreement made when the facility was built. The County Attorney recommended the amount of the second lien be modified to include the amount for the paving and that an additional agreement be drawn for the repayment of paving funds.

Ms. Alice Roess with the Humane Society stated that they were agreeable to paying back the loan over fifteen years and preferred the paving to be done before winter. County Manager Geouque stated that Moretz Paving would guarantee the bid amount but had a busy schedule and could not promise the paving would be completed before next spring.

Consideration of the request was tabled until the August 1, 2017, Board meeting to allow the County Attorney time to draw the appropriate documents.

The County Attorney has provided the necessary documents regarding the repayment of funds for the paving. The Humane Society will make fifteen (15) annual payments in the amount of \$4,204.54 to repay the County the \$63,068 for paving the road and parking lot at the facility.

Board approval is required to award the bid to Moretz Paving, Inc. in the amount of \$63,068; accept the amendments to the modification agreement and promissory note; and for the fifteen (15) annual payments in the amount of \$4,204.54 to be deducted from the annual allocation provided by the County.

**(CROSS REFERENCE WITH BOOK OF RECORDS
1589 AT PAGE 384, WATAUGA COUNTY)**

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT, made and entered this 1st day of August, 2017 by and between **Watauga Human Society, a North Carolina non-profit corporation, a/k/a Watauga County Humane Society, Inc.**, 312 Paws Way, Boone, NC 28607, herein referred to as “Humane Society” and **Watauga County, a North Carolina corporate body politic**, 814 West King Street, Boone, NC 28607, herein referred to as “County.”.

BACKGROUND STATEMENT

WHEREAS, on August 16, 2011, Humane Society executed a Promissory Note and Deed of Trust to County in the amount of Four Hundred Thousand Dollars (\$400,000.00) which Deed of Trust was recorded at Book of Records 1589 at Page 384 of the Watauga County Public Registry; and

WHEREAS, Humane Society and County wish to modify the terms of the Deed of Trust to increase the amount of security secured by the Deed of Trust from Four Hundred Thousand Dollars (\$400,000.00) to Four Hundred Sixty-Three Thousand Sixty-Eight Dollars (\$463,068.00) to secure a second Promissory Note dated July 18, 2017 executed by the Humane Society to County for monies loan by County to Humane Society.

Prepared by and return to:
di Santi Watson Capua Wilson & Garrett, PLLC
PO Box 193, Boone, NC 28607

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the execution of this Modification Agreement, the additional loan of Sixty-Three Thousand Sixty-Eight Dollars (\$63,068.00) and other valuable considerations, the parties hereto agree as follows:

1. The security provided by the Deed of Trust recorded at Book of Records 1589 at Page 384 of the Watauga County Public Registry is increased from Four Hundred Thousand Dollars (\$400,000.00) to Four Hundred Sixty-Three Thousand Sixty-Eight Dollars (\$463,068.00) to secure a second Promissory Note dated July 18, 2017 executed by the Humane Society to County for monies loan by County to Humane Society.

2. It is expressly understood and agreed that except for this modification, the original Promissory Note and Deed of Trust now held by County as recorded at Book of Records 1589 at Page 384 of the Watauga County Public Registry, and all terms and conditions therein, shall be and remain in full force and effect.

IN WITNESS WHEREOF, the parties set their hands and seals by their duly authorized representatives the day and year stated herein.

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Prepared by and return to:
di Santi Watson Capua Wilson & Garrett, PLLC
PO Box 193, Boone, NC 28607

**Watauga Humane Society,
a North Carolina non-profit corporation
a/k/a Watauga County Humane Society, Inc.**

**By: _____
Charles R. Duke, President**

State of North Carolina, County of Watauga

I certify that the following person, Charles R. Duke, President of Watauga Humane Society, a North Carolina non-profit corporation, a/k/a Watauga County Humane Society, Inc., personally appeared before me this day, each acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Date: _____
(Official Seal)

Print Name: _____
My Commission expires: _____

Prepared by and return to:
di Santi Watson Capua Wilson & Garrett, PLLC
PO Box 193, Boone, NC 28607

**Watauga County,
a North Carolina corporate body politic**

**By: _____
John Welch, Chair of the Board of County
Commissioners**

Attest:

**Anita Fogle, Clerk to the
Board of County Commissioners**

(CORPORATE SEAL)

STATE OF NORTH CAROLINA, COUNTY OF WATAUGA

I, _____, a Notary Public, do hereby certify that Anita Fogle, personally appeared before me this day and acknowledged that she is the Clerk to the Board of County Commissioners for Watauga County, a North Carolina body politic, and that by authority duly given, and as an act of said body politic, the foregoing instrument was signed in its name by its Chair of the Board of County Commissioners, sealed with its corporate seal, and attested by herself as its Clerk.

This the _____ day of August, 2017.

_____(SEAL)
Notary Public

My commission expires:

W:\ASD\Clients\Watauga County\Humane Society\Modification Of Deed Of Trust.Doc/hmw 2160351.22

Prepared by and return to:
di Santi Watson Capua Wilson & Garrett, PLLC
PO Box 193, Boone, NC 28607

Boone, North Carolina

PROMISORY NOTE

August 1, 2017

\$63,068.00

FOR VALUE RECEIVED the undersigned maker promises to pay to **Watauga County, a North Carolina corporate body politic**, or order (the payee or holder), the principal sum of **Sixty-Three Thousand Sixty-Eight Dollars (\$63,068.00)** and interest at the rate of **zero percent (0.00%)** per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of holder at **814 W. King Street, Boone, NC 28607** or at such place as the legal holder hereof may designate in writing. The principal shall be due and payable as follows:

Fifteen annual payments of Four Thousand Two Hundred and Four Dollars and Fifty-Four Cents (\$4,204.54) commencing September 1, 2018, and continuing each year thereafter on September 1 of each year until paid in full. The annual payment of Four Thousand Two Hundred and Four Dollars and Fifty-Four Cents (\$4,204.54) shall be deducted by Watauga County from the allocation made to the Watauga Humane Society each year.

This Promissory Note is subject to the agreement between Watauga Humane Society a/k/a Watauga County Humane Society, Inc. and Watauga County dated May 3, 2010, the terms and conditions of which are incorporated herein by reference.

If not sooner paid, the entire remaining indebtedness shall be due and payable on **September 1, 2033.**

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

This Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

Prepared by: di Santi Watson Capua Wilson & Wilson, PLLC
 PO Box 193, 642 W. King Street
 Boone, NC 28607

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may, without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. **Upon default, the unpaid principal balance shall accrue interest at the rate of four and 25/100 percent (4.25%).**

All parties to this Note, including the maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default, the holder of this Note may employ an attorney to enforce the holder's rights and remedies; and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

Prepared by: di Santi Watson Capua Wilson & Garrett, PLLC
PO Box 193, 642 W. King Street
Boone, NC 28607

This Note is secured by a Deed of Trust which is recorded at Book of Records 1589 at Page 384 of the Watauga County Register of Deeds Office, which is a second lien upon the property therein described.

The designation maker, trustee, payee, holder or any other such designation as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

IN WITNESS WHEREOF, the maker has caused this instrument to be signed in its corporate name by its duly authorized officer and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

**Watauga Humane Society,
a North Carolina non-profit corporation
a/k/a Watauga County Humane Society, Inc.**

**By: _____
Charles R. Duke, President**



BOONE PAVING AND ASPHALT INC.

Residential & Commercial

271 Dove Acres Vilas, NC 28692
PH/FAX: 828-963-5179
Email: p.schaller@charter.net

PROPOSAL AND ACCEPTANCE

Proposed to: Watauga County Humane Society	Date: June 30, 2017
Address: 3 Paws Way Boone, NC 28607	Phone: 828-264-7865
Email: wataugahumane.org	

DESCRIPTION OF SPECIFICATIONS AND ESTIMATES

COMMERCIAL PARKING LOT

Prepare and pave existing parking lot as follows:

1. Apply crushed stone in areas where needed to stabilize base.
2. Fine grade and compact stone to provide proper pitch.
3. Apply 1-2 fine grade asphalt (RS9.5B) or binder 4" to all areas.
4. Compact asphalt resulting in a minimum thickness of 2" on completion.

(Parking lot area = \$8,640.00)

Note: Scuffing/tire marks are not the responsibility of Boone Paving & Asphalt, Inc. and will not affect the integrity of the asphalt.

WE HEREBY PROPOSE TO FURNISH MATERIAL AND LABOR WITH THE ABOVE SPECIFICATIONS FOR THE SUM OF: DOLLARS: 4" = \$72,480.00/2" = \$36,240.00

Payment to be made as follows:

1/3 to be paid on the day job is started =	4" = \$24,000.00/2" = \$12,000.00
2/3 balance to be paid in full on day job completed =	4" = \$48,480.00/2" = \$24,240.00

Authorized Signature: Roger Schaller **Date: June 30, 2017**

Customer Signature: _____ **Date:** _____

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outline above. Note: This proposal may be withdrawn by Boone Paving & Asphalt, Inc. if not accepted within (60) days. All material is guaranteed to be as specified. All work to be completed in a workman like manner according to standard practice. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, weather or delays beyond our control. Owner to carry fire and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Shatley Construction/Paving Co. Inc.

515 Clarence Lyall Road
West Jefferson, NC 28694
336-877-8824

Fax: 336-877-8821

E-Mail: shatleypave@skybest.com

June 30, 2017
Watauga County Sanitation
Humane Society

2" I19 Binder, Tack, 2" S9.5B Surface Mix Asphalt

Setup 2074 s/y area with 2" of ABC Stone, watered and compacted (229-ton allowance). Pave 2074 s/y area with 2" of I19 Binder, tack, then pave with 2" of S9.5B Surface Mix Asphalt.

Total \$55,780.00

2" S9.5B Surface Mix Asphalt

Setup 2074 s/y area with 2" of ABC Stone, watered and compacted (229-ton allowance). Pave 2074 s/y area with 2" of S9.5B Surface Mix Asphalt.

Total \$31,180.00

Parking Lot Area

Setup 597 s/y area with 2" of ABC Stone, watered and compacted (66-ton allowance). Pave 597 s/y area with 2" of S9.5B Surface Mix Asphalt.

Total \$11,792.00

The above prices, specifications and conditions are satisfactory and are hereby accepted. Shatley Paving is authorized to do the work as specified. Payment is due and payable in full at job completion. Due to changing material costs, this proposal is valid for 30 days from the date listed above.

Signature _____ Date _____

Tri-County Paving, Inc.
P.O. Box 863
West Jefferson, NC 28694

Estimate

Date	Estimate #
7/6/2017	28266

Name / Address
Watauga County Humane Society Paws Way Boone, NC 28607

Description	Qty	Cost	Total
We appreciate the opportunity to submit this quote. We are licensed NC, VA, and TN General Contractors and Accredited Members of the N.C. Better Business Bureau. Our company has served the High Country for 40 years since 1977 and are fully licensed ,fully insured and bondable. Our asphalt company is a Pre-qualified NC DOT Contractor and 3 NC Certified Asphalt Technicians serve on our paving crew. Our grading crew also has NC DOT Certified Erosion Control Specialists. Please call if we can further serve you.			

THANK YOU FOR THE OPPORTUNITY TO SUBMIT THIS QUOTE.

Total

Phone #	Fax #	E-mail
336-246-7244	336-846-4914	www.tricopaving@skybest.com

Tri-County Paving, Inc.

P.O. Box 863
West Jefferson, NC 28694

Estimate

Date	Estimate #
7/6/2017	28266

Name / Address
Watauga County Humane Society Paws Way Boone, NC 28607

Description	Qty	Cost	Total
Estimates prepared for the Watauga County Humane Society.			
Estimate #1: Parking Area: The scope of work will consist of the following: 1. Add ABC stone to level out the low areas. 2. Condition and compact ABC stone Base. 3. Pave with 2" +/- compacted surface course asphalt.		12,917.00	12,917.00
Estimate #2: Main Road (Pave with 2" Asphalt) The scope of work will consist of the following: 1. Add ABC stone to level out low areas. 2. Condition and compact ABC stone. 3. Pave with 2" +/- compacted surface course asphalt.		32,875.00	32,875.00
Estimate #3: Main Road : Pave with 2" Binder (1-19) and 2" Surface(9.5B) The scope of work will consist of the following: 1. Add ABC stone to level out low areas. 2. Condition and compact ABC stone. 3. Pave 1st with 2" +/- compacted binder course asphalt. 4. Pave 2nd with 2" +/- compacted surface course asphalt.		53,984.00	53,984.00

THANK YOU FOR THE OPPORTUNITY TO SUBMIT THIS QUOTE.

Total

Phone #	Fax #	E-mail
336-246-7244	336-846-4914	www.tricopaving@skybest.com

Tri County Paving, Inc.

P.O. Box 863

West Jefferson, NC 28694

Email: tricopaving@skybest.com

Paving, Grading, Hauling

"We Pave The Way"

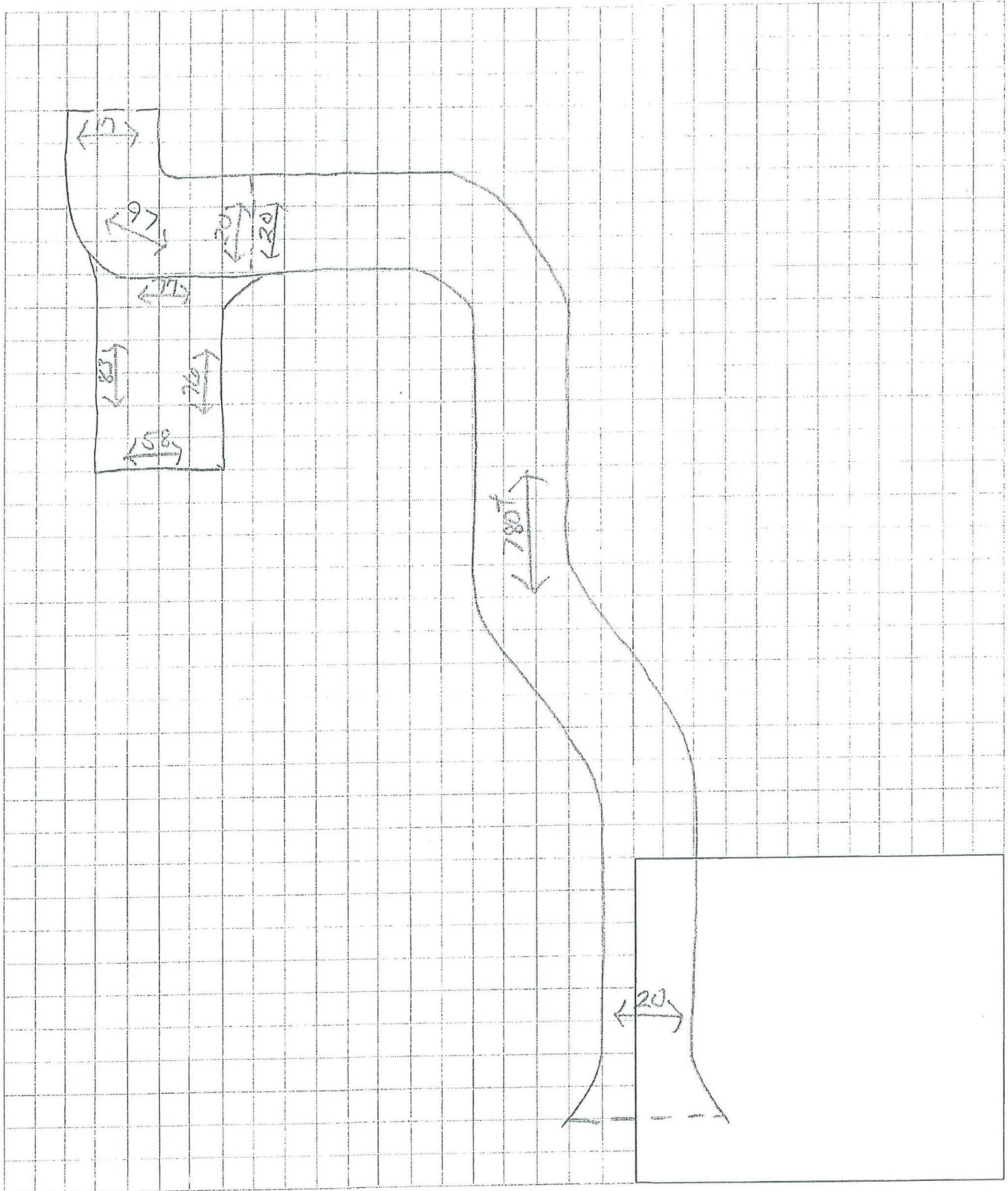
Home No.: 928-264-5305

Fax No.: _____

E-mail: _____

Address: _____

Calculated By: M. McNEIL



Customer Signature: _____ Date 6-28-17



P.O. Box 270 • Zionville, NC 28698
Phone: (828) 297-5048 • Fax: (828) 297-7703

PROPOSAL AND ACCEPTANCE

PROPOSAL SUBMITTED TO <i>Watauga County % JV Partner</i>		PHONE <i>828-964-0681</i>	DATE <i>6-27-17</i>
STREET		JOB NAME	
CITY, STATE AND ZIP CODE		JOB LOCATION <i>Humans Society</i>	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

- Road - Add 2" ABC Stone, grade & compact. Pave with 2" surface \$30,670⁰⁰*
- OR-*
- Add 2" ABC Stone, grade & compact. Pave with 2" Binder Asphalt and 2" surface Asphalt. \$54,590⁰⁰*
- Small Parking lot - Add 2" ABC stone grade & compact. Pave with 2" surface \$8478⁰⁰*

ROCK CLAUSE

NOTE: NOT RESPONSIBLE FOR UNDERGROUND UTILITIES

NOTE: NOT RESPONSIBLE FOR SCUFFING

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

dollars (\$ *1,526,200*)

Payment to be made as follows:

Upon Completion in Full

All material is guaranteed to be as specified. All work to be completed in a workman-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature

Note: This proposal may be withdrawn by us if not accepted within *30* days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

AGENDA ITEM 8:

MISCELLANEOUS ADMINISTRATIVE MATTERS

B. Boards and Commissions

MANAGER'S COMMENTS:

Economic Development Commission

The terms of two members of the Economic Development Commission expired in June. Mr. Ed Evans and Mr. Tommy Sofield have served two consecutive terms and are, therefore, not eligible for reappointment. Each term is for three years.

Appalachian Regional Library Board

The Watauga County Library Board recommends that Ms. Kathy Idol be appointed to the Appalachian Regional Library Board to begin a new term replacing Audrey Hartley, whose regional and local term expires in August.

Watauga County Library Board

The Watauga County Library Board recommends that Ms. Ala Sue Moretz be reappointed to the Watauga County Library Board to begin a second term that would end August 2021.



July 22, 2017

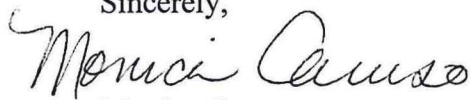
Mr. John Welch, Chair
Watauga County Board of Commissioners
Administrative Building, Suite 205
814 West King Street
Boone, NC 28607

Dear Mr. Welch:

At the regular meeting of the Watauga County Library Board on July 13, 2017, board members voted unanimously to recommend to Watauga County Commissioners that Kathy Idol be appointed to the Appalachian Regional Library Board to begin a new term to replace Audrey Hartley, whose regional and local term will expire in August. Please approve the recommendation of the library board, and notify Ms. Idol and me of her appointment. Thanks to you and all of the commissioners for your continued support of our library.

Kathy Idol resides at 8821 US Highway 421 S., Deep Gap, NC 28618.

Sincerely,


Monica Caruso
Watauga County Librarian

Cc: Susan Poorman
Watauga County Library Board Chair

Cc: Jane Blackburn
Director of Appalachian Regional Libraries



July 21, 2017

Mr. John Welch, Chair
Watauga County Board of Commissioners
Administrative Building, Suite 205
814 West King Street
Boone, NC 28607

Dear Mr. Welch:

At the regular meeting of the Watauga County Library Board on July 13th, 2017, board members voted unanimously to recommend to Watauga County Commissioners that Ala Sue Moretz be appointed to the Watauga County Library Board to begin a second term that would end August 2021.

Ala Sue Moretz was a dedicated librarian who worked at Green Valley Elementary before retiring. We are very happy that she is willing to continue to serve on the library board.

Please approve the recommendation of the library board, and notify Ms. Moretz and me of this appointment. Thanks to you and all of the commissioners for your continued support of our library. Ms Moretz resides at 2371 Big Hill Road, Boone.

Sincerely,

A handwritten signature in black ink that reads "Susan Poorman". The signature is written in a cursive style with a long horizontal stroke at the end.

Susan Poorman
Watauga County Library Board Chair

cc: Monica Caruso
Watauga County Librarian

Jane Blackburn
Director of Appalachian Regional Libraries

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AGENDA ITEM 8:

MISCELLANEOUS ADMINISTRATIVE MATTERS

C. Announcements

MANAGER'S COMMENTS:

The North Carolina Association of County Commissioners' (NCACC) Annual Conference is scheduled for August 10-13, 2017, in Forsyth County. For more information on the Conference, please go to: <http://www.ncacc.org/630/2017-Annual-Conference>

AGENDA ITEM 9:

PUBLIC COMMENT

AGENDA ITEM 10:

BREAK

AGENDA ITEM 11:

CLOSED SESSION

Attorney/Client Matters – G. S. 143-318.11(a)(3)