

Macon County



MACON COUNTY BOARD OF COMMISSIONERS JANUARY 9, 2018 AGENDA

1. Call to order and welcome by Chairman Tate
2. Announcements
 - A. Presentation of the North Carolina Division of Aging and Adult Services (DAAS) "Ewald B. Busse Award" to Macon County Emergency Services for its Community Paramedicine Program by DAAS Assistant Director Hank Bowers.

3. Moment of Silence

4. Pledge of Allegiance

5. Public Hearing(s) – **6:00 p.m.** Proposed amendments to the Macon County Soil Erosion and Sedimentation Control Ordinance

NOTE: Immediately following the public hearing, the board may consider acting upon the proposed amendments.

6. Public Comment Period

7. Additions to agenda

8. Adjustments to and approval of the agenda

9. Reports/Presentations

A. Audit presentation for Fiscal Year 2017 – Matt Braswell with Martin Starnes & Associates, CPAs

B. Cowee School Arts and Heritage Center progress report and mid-year review

10. Old Business

A. Discussion regarding amended tire recycling contract with US Tire – Solid Waste Director Chris Stahl and the County Attorney

B. Consideration of Memorandum of Understanding with Macon County Board of Education regarding South Macon Elementary School expansion – County Attorney

11. New Business

- A. Distribution of proposed amendments to the Animal Control Ordinance – Public Health Director Jim Bruckner
- B. Satisfaction of Security Instrument – County Attorney
- C. Schedule date for mid-year review and budget kickoff work session – County Manager

12. Consent Agenda – Attachment #12

All items below are considered routine and will be enacted by one motion. No separate discussion will be held except on request of a member of the Board of Commissioners.

- A. Minutes of the November 28, 2017 continued session and the December 12, 2017 regular meeting
- B. Budget Amendments #98-99
- C. Tax Releases for December 2017 in the amount of \$54.92
- D. Monthly ad valorem tax report (no action necessary)

13. Appointments

- A. ETJ representative on the Town of Franklin Planning Board (one seat)

14. Closed session (if necessary)

15. Adjourn/Recess

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: NC Division of Aging and Adult Services

SUBJECT MATTER: Presentation of award

COMMENTS/RECOMMENDATION:

Hank Bowers, the Assistant Director for the North Carolina Division of Aging and Adult Services (DAAS), will be at the meeting to make an award presentation to the commissioners. Some background: prior to her retirement, Sheila Jenkins had submitted Macon County's Community Paramedicine Program to the Southwestern Commission's Area Agency on Aging for consideration for DAAS's Ewald B. Busse Award, in order to recognize the Community Paramedicine Program's impact on safeguarding the health of the county's seniors through direct related services. In November of 2017, Sarajane Melton with the Southwestern Commission learned that the county program had been selected to receive this award, and Ms. Melton will join Mr. Bowers at the meeting, along with Emergency Services Director Warren Cabe.

Attachments _____ Yes No

Agenda Item 2

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Governing Board

SUBJECT MATTER: Public Hearing

COMMENTS/RECOMMENDATION:

A public hearing has been scheduled for 6 p.m. to accept public comment on the proposed amendments to the Macon County Soil Erosion and Sedimentation Control Ordinance, including but not limited to changes to requiring a license to perform grading or land disturbing activities in the county.

A copy of the Notice of Public Hearing is attached for your information. Also attached is a copy of the proposed amended and restated ordinance as prepared by the County Attorney.

The board may consider discussing and taking action on the revised ordinance following the close of the public hearing.

Attachments 2 Yes No

Agenda Item 5

Notice of Public Hearing

Please take notice that the Macon County Board of County Commissioners will conduct a public hearing on Tuesday, January 9, 2018, at 6:00 o'clock, p.m., in the Commissioner's Board Room in the Macon County Courthouse located at 5 West Main Street, Franklin, NC 28734, on proposed amendments to the Macon County Soil Erosion and Sedimentation Control Ordinance in order to make changes to the same, including but not limited to changes to require a license to perform grading or land disturbing activities in Macon County, North Carolina, and to afford public comment regarding the same. The public is invited to attend and make comments.

This the 19th day of December, 2017.

Derek Roland, County Manager and
Clerk to the Macon County Board
of County Commissioners

**AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS
MAKING AMENDMENTS TO CHAPTER 153: SOIL EROSION AND
SEDIMENTATION CONTROL, OF THE CODE OF ORDINANCES OF THE COUNTY
OF MACON, NORTH CAROLINA**

WHEREAS, the Macon County Board of Commissioners adopted a revised *Macon County Soil Erosion and Sedimentation Control Ordinance* on November 10, 2008; and

WHEREAS, the Board of Commissioners did amend the same on April 12, 2011; and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance as recommended by the *Macon County Planning Board*; and

WHEREAS, the Board of Commissioners wishes to amend the Macon County Soil Erosion and Sedimentation Control Ordinance so as to add “**§153.23 License Requirements**” as set forth below; and

WHEREAS, the Board of Commissioners finds the same to be in the public interest and to promote the public health, safety and welfare pursuant to authority vested in it by North Carolina General Statutes Sections 153A-121 and that the control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Macon County Board of Commissioners that:

Chapter 153: Soil Erosion and Sedimentation Control, of the Code of Ordinances of the County of Macon, North Carolina, as heretofore amended, is hereby amended and restated as follows:

“CHAPTER 153: SOIL EROSION AND SEDIMENTATION CONTROL

§153.01 Title.

This chapter may be cited as the *Macon County Soil Erosion and Sedimentation Control Ordinance*.

§153.02 Purposes.

This chapter is adopted for the purposes of:

(A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses and other public and private property by sedimentation; and

(B) Establishing procedures through which these purposes can be fulfilled.

§153.03 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973, as amended (G.S. §§113A-50 *et seq.*), and all rules and orders adopted pursuant to it.

Adequate erosion control measure, structure or device means one which controls the soil material within the land area under responsible control of the person conducting the land disturbing activity.

Affiliate means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Administration means the person appointed by the Macon County Board of Commissioners to assure compliance with the provisions of this Chapter and associated administration processes.

Applicant means any person, whether the person is financially responsible for the land-disturbing activity or his/her dually appointed agent, who submits a formal application to the administrator, or his designee, for a permit to conduct land-disturbing activities controlled by this chapter.

Approved Erosion and Sediment Control Plan means written course of action including maps, construction schedules, drawings, calculation or assumptions, found by the Administrator or other duly appointed agent to satisfy all requirements of this chapter which details the timing and proper installation of erosion control measures or devices which have a reasonable probability, if implemented, of restraining accelerated erosion and off site sediment damage associated with a land-disturbing activity.

Being conducted means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Borrow means fill material which is required for on-site construction and is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or natural watercourse.

Coastal counties means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

Commission means the state sedimentation control commission.

Completion of construction or development means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Department means the state department of environment and natural resources.

Director means the director of the division of land resources of the state department of environment and natural resources.

Discharge point means that point at which runoff leaves a tract of land.

District means the Macon Soil and Water Conservation District created pursuant to G.S. ch. 139, and as amended.

Energy dissipator means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surface by the action of wind, water, gravity or any combination thereof.

Final Objective means the type of structure or use resulting from the land disturbing activity.

Ground cover means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Hazardous Materials. Those chemicals or substances which are physical hazards or health hazards, whether the materials are in usable or waste conditions.

High quality water (HQW) zones means areas in the coastal counties that are within 575 feet of high quality waters and, for the remainder of the state, areas that are within one mile and drain to HQWs.

High quality waters means those classified as such in 15A NCAC 2B.0101(e)(5) General Procedures, which is incorporated herein by reference to include further amendments pursuant to N.C.G.S. § 150B-18, *et seq.*

Lake or natural watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-disturbing activity means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act. The Administrator is the action agent for purposes of taking action under this chapter. Wherein this chapter specifies action will be taken by the local government, the Administrator is the intended office, except where the context clearly indicates otherwise.

Natural erosion means the wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by man.

Off Site Sediment Damage means the transport of sediment across boundaries of a land disturbing activity, resulting in deposition of such materials in any lake or natural watercourse or on any land, public or private, not owned by the person responsible for the land-disturbing activity.

Parent means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Permit means a land-disturbing authorization issued by the Administrator in accordance with this chapter.

Person means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land-disturbing activity means any person who may be held responsible for a violation of the Act or this chapter unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

Person responsible for the violation, as used in this chapter and G.S. § 113A-64, means:

- (1) The developer or other person who has, or holds himself or herself out as having, financial or operational control over the land-disturbing activity; or
- (2) The landowner or person in possession or control of the land when he or she has directly or indirectly allowed the land-disturbing activity or has benefitted from it or he or she

has failed to comply with any provision of this chapter, the Act, or any order adopted pursuant to this chapter or the Act which imposes a duty upon him or her.

Phase of grading means one of two types of grading, rough or fine.

Plan means an erosion and sedimentation control plan.

Protective cover. See "ground cover."

Receiving watercourse means a lake, natural watercourse or other natural or manmade area into which stormwater runoff flows from a land-disturbing activity.

Road means all roads, either permanent or those to be obliterated after completion of land-disturbing activities, used for private travel, construction vehicles, earth-moving or heavy equipment or other machinery and constructed and used in conjunction with land-disturbing activities under this chapter.

Sediment means solid particulate matter, both mineral and organic, that has been, or is being, transported by water, air, gravity or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Slope means the description of the angle of the land being disturbed with respect to horizontal. For example, a 2-1 slope would have a vertical rise or fall of 1-foot for each 2-feet of horizontal distance.

Stabilize means to establish groundcover sufficient and adequate to prevent erosion. Temporary stabilization measures are those that are sufficient to prevent erosion until the appropriate time for establishing permanent control measures.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff means the direct runoff of water resulting from precipitation in any form.

Subsidiary means an affiliate that is directly or indirectly through one or more intermediaries, controlled by another person.

Ten-year storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest, under average antecedent wetness conditions.

Tract or site means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five year storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Uncovered means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of any activity, or phase of activity, which results, or will result, in a change in the ground cover or topography of a tract of land.

Velocity means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste means surplus materials resulting from on-site construction and disposed of at other locations.

Working days means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken, as determined by the Administrator, or their designee, except where the context clearly indicates otherwise.

§153.04 Scope and exclusions.

This chapter shall apply to all land-disturbing activities undertaken by any person within the jurisdiction of the County of Macon, with the following exclusions:

- (A) Those undertaken on agricultural land for the production of plants and animals useful to man, as set forth in G.S. § 113A-52.01, including but not limited to:
 - (1) Forage and sod crops, grain and feed crops, tobacco, cotton and peanuts;
 - (2) Dairy animals and dairy products;

- (3) Poultry and poultry products;
- (4) Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals;
- (5) Bees and apiary products;
- (6) Fur producing animals;
- (7) Ornamental horticulture, including the raising of shrubs, Christmas trees, and other nursery operations;
- (8) Trout production and other aquaculture activities;
- (9) Fruit and vegetable crops;

(B) Those undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this chapter shall apply to such activity and any related land-disturbing activity on the tract;

(C) Activity undertaken by persons as defined in G.S. § 113A-52(8) who are otherwise regulated by the provisions of the Mining Act of 1971, G.S. §§ 74-46--74-68;

(D) Land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. § 113A-56(a); and

(E) For the duration of an emergency, activities essential to protect human life.

§153.05. General requirements.

(A) *Plan required.* No person shall initiate any land-disturbing activity which uncovers more than one-half acre without having an erosion control plan approved by the Administrator, except those land-disturbing activities specifically excluded by this chapter. It is the responsibility of the person conducting such activities to submit to the Administrator any plan of form required and/or to apply to the Administrator for any permit required.

(B) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity. In addition, they will be held responsible for knowing and following the requirements of this chapter.

(C) Neither the approval of an erosion control plan, nor the absence of a requirement to submit a plan shall relieve the property owner or the operator of the requirement stated in subsection (B) of §153.05.

(D) *More restrictive rules shall apply.* Whenever conflicts exist between federal, state or local laws, ordinances or rules, the more restrictive provision shall apply.

§153.06. Basic control objectives.

An erosion and sedimentation control plan may be disapproved pursuant to §153-17 if the plan fails to address the following control objectives:

(A) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

(B) *Limit time of exposure.* All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.

(C) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

(D) *Control surface water.* Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

(E) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

(F) *Manage stormwater runoff.* When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

§153.07 Mandatory standards for land-disturbing activity.

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following mandatory standards:

(A) *Buffer zone.* Except where more stringent buffer requirements are specified in the Macon County Code of Ordinances, the following requirements shall apply:

(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the environmental management commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25 percent of

the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Administrator may approve plans which include land disturbing activity along trout waters when the duration of such disturbance would be temporary and the extent of such disturbance would be minimal. This subsection shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over or under a lake or natural watercourse.

(2) Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(3) The 25 foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.

(4) Where a temporary and minimal disturbance is permitted as an exception by subsection (A)(1) of this section, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent of the total length of the buffer zone within the tract to be distributed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Administrator.

(5) No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211, "Fresh Surface Water Classification and Standards," in these waters.

(B) *Graded slopes and fills; roads.*

(1) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 30 working days or 45 calendar days, whichever period is shorter, of completion of any phase of grading, be planted or otherwise provided with ground cover, devices or structures sufficient to restrain erosion.

(2) Generally, unless the following conditions can be met, an approved plan for erosion control and stabilization of the soil is required.

(a) All cut slopes will have a minimum finished grade of 1.5:1.

(b) All fill slopes will have a minimum finished grade of 2:1.

- (3) (a) Maximum sustained grades for roads should not exceed:
 - (i) Six percent for natural soil and grass;
 - (ii) Ten percent for gravel or crushed stone;
 - (iii) Sixteen percent for paving (asphalt or concrete);
- (b) Notwithstanding the provisions of subsections (B)(3)(a) (ii) and (iii) above, these grades may be increased up to 15% for gravel or crushed stone and 20% for pavement for reaches of 200 feet or less where no alternative exists.
- (c) Culverts are required in natural drains on all roads. Culverts should be placed every 130 to 200 feet on all in-sloped roads.

(C) *Ground cover.* Whenever land-disturbing activity regulated by this chapter is undertaken on a tract, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of such tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in section 153.17 of this chapter, provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days following completion of construction or development, whichever is shorter.

(D) *Prior plan approval.* No person shall initiate any land-disturbing activity on a tract for which an erosion and sedimentation control plan is required by §153.17 of this chapter unless at least 30 or more calendar days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the county Administrator, and the required permit is obtained.

(E) *Fill material.* Unless a permit from the N.C. Department of Environment and Natural Resources Division of Solid Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina. Fill materials must be free of any toxic or hazardous material.

(F) *Prevention of material deposited on public roadways.* Soil material shall be prevented from being deposited on public roadways by the use of mud mats, gravel taps, washing methods, and the like.

(G) *Commencement of activity.* Prior to initiating land-disturbing activity, the person conducting such activity must notify the Administrator of the date that such activity will begin.

§153.08 Design and performance standards.

(A) Except as provided in subsection (B)(2) of this section, erosion and sedimentation control measures, structures and devices shall be so planned, designed and constructed as to provide protection from the calculated maximum peak of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other calculation procedures acceptable to the Administrator, or their designee.

(B) In high quality water (HQW) zones, the following design standards shall apply:

(1) Uncovered areas in HQW zones shall be limited at any time to a maximum total area, within the boundaries of the tract, to 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.

(2) Erosion and sedimentation control measures, structures and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(3) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40-micron (0.04mm) size soil chapter transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(4) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization, unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(5) Ground cover sufficient to restrain erosion must be provided for any portion of land-disturbing activity in a HQW zone within 15 working days or 30 calendar days following completion of construction or development, whichever period is shorter.

§153.09 Permanent downstream protection of stream banks, channels and slopes.

(A) Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- (1) The velocity established by the table in subsection 153.09(D) of this section; or
- (2) The velocity of the 10-year storm runoff in the receiving watercourse prior to development.
- (3) If subsections 153.09(A)(1) or (2) of this section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the prior to development velocity by 10%.

(B) Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Commission recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
- (2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures;
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(C) This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(D) The following is a table for maximum permissible velocity for stormwater discharges:

<i>Maximum permissible velocities</i>		
<i>Materials</i>	<i>F.P.S.</i>	<i>M.P.S.</i>
Alluvial silts (colloidal)	5.0	1.5
Alluvial silts (noncolloidal)	3.5	1.1
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Fine Gravel	5.0	1.5
Fine Sand (noncolloidal)	2.5	.8
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (Colloidal)	5.5	1.7
Ordinary firm loam	3.5	1.1
Sandy Loam (noncolloidal)	2.5	.8
Shales and hard pans	6.0	1.8
Silt loam (noncolloidal)	3.0	.9
Stiff Clay (very colloidal)	5.0	1.5
Source – Adapted from recommendations by Special Committee on Irrigation research, American Society of Civil Engineers, 1926, for channels with straight alignment. For Sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderate sinuous channels, and by 0.8 for highly sinuous channels.		

§153.10 Borrow and waste areas.

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's division of solid waste management, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

§153.11 Access and haul roads.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

§153.12 Operations in lakes or natural watercourses.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alternation to flow characteristic is provided. Persons undertaking such land-disturbing activity shall consult with the Army Corp of Engineers and the Department to determine if a permit is required before undertaking any such land-disturbing activity.

§153.13 Responsibility for maintenance.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this chapter, the Act or any order adopted pursuant to this chapter or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency, as necessary to cure the problem.

§153.14 Additional measures.

Whenever the Administrator, or their designee, determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take the additional protective action directed.

§153.15 Existing uncovered areas.

(A) *Uncovered areas.* All uncovered areas existing on the effective date of this chapter which resulted from land-disturbing activity that are subject to continued accelerated erosion and are causing off-site damage from sedimentation shall be provided with a ground cover or other protective measures, structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) *Notice.* The Administrator, or their designee, will serve upon the landowner or other person in possession or control of the land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology and quantity of work required and shall set reasonable and attainable time limits of compliance.

(C) *Required plan.* The Administrator, or their designee, reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.

(D) *Reservoirs.* This section shall not require ground cover on cleared land forming the future basin of a planned reservoir.

§153.16 Permits.

(A) No person shall undertake any land-disturbing activity subject to this chapter without first obtaining a permit therefore from the Administrator, or their designee, except that no permit shall be required for any land-disturbing activity:

(1) For the purpose of fighting fires; or

(2) For the stockpiling of raw or processed sand, stone or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage.

(B) In cases where less than one-half acre will be disturbed, applicants for building permits for any construction will be required to complete a form that explains how erosion control will be managed during construction and to obtain a land disturbing permit, except that no permit is required for any addition or alteration to a single family residence when the only land disturbance activity is for pier or foundation wall footings. The form will provide an opportunity to choose among simple approaches to keep mud and sediment from leaving the property. The information provided on the form will serve as an erosion control plan for the new construction. Applicants will need to know the downhill slope of the lot to complete the form. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. Should the applicant fail to fill out the notification form and obtain a land-disturbing permit in

advance of clearing land or fail to install the procedures as called for on the form, a penalty will be assessed as outlined in §153.20(B); Should the applicant give false information on the form, the permit may be revoked as outlined in §153.20(A).

(C) A land-disturbing permit may be obtained upon submitting the fee, statement of financial responsibility and ownership, approved sedimentation and erosion control plan, if required, security deposit, if required, certification that tree protection fencing has been installed, if required, by obtaining approval of the proposed project by the county as necessary. The applicant shall submit three copies of the plan, if required, to the Administrator, or their designee, at least 30 days prior to commencement of the proposed activity. The Administrator, or their designee, shall review permit applications for land disturbing activities of one acre or less and, within 14 calendar days of receipt thereof, shall notify the person submitting the application that it has been approved, approved with modifications, or disapproved. No permit shall be issued until such time as the local government is assured that the proposed land-disturbing activity will be carried out in accordance with this chapter and the approved sedimentation and erosion control plan, if required. A land-disturbing permit application may be disapproved for the same reasons that an erosion control plan may be disapproved, as set forth in section 153.17(J) of this chapter.

(D) The fees charged for the administration and enforcement of this chapter shall be as prescribed by the county board of commissioners.

(E) This section shall not require ground cover on cleared land forming the future basin of a planned reservoir.

(F) When deemed necessary by the Administrator, or his designee, an application conference may be required.

(G) Display of permit. A land-disturbing permit issued under this chapter shall be prominently displayed until all construction is completed and all permanent sedimentation and erosion control measures are installed and the site has been substantially stabilized, as required.

(H) Surety. The Administrator, or their designee, shall require security to assure performance of the conditions of the permit whenever a land-disturbing activity is in excess of five acres or whenever the Administrator determines the activity may result in significant off-site damage. The applicant shall be required to file with the local government an improvement security in the form of a performance bond in an amount not less than \$500 nor more than \$5,000 per acre of disturbed area as set forth in the approved erosion and sedimentation control plan. The amount shall be deemed sufficient by the Administrator, or their designee, to cover all costs of protection or other improvements required for conformity with standards specified in this chapter. The security shall be released when the Administrator, or their designee, has certified that all of the requirements of this chapter have been met. Forfeiture of the improvement security

shall not release the person conducting the land disturbing activity of their obligation to install and maintain necessary erosion control measures, to stabilize the site, or any other obligation of this chapter, the Act, or any rule or order promulgated in furtherance thereof.

(I) Conveyance of the property subject to the permit, in whole or in part, shall not terminate the permit holder's obligations under this chapter until such time as a substitute, or succeeding, permit is approved by the Administrator, or their designee.

(J) A land-disturbing permit shall lapse at the end of:

(1) One year from the date of issuance if no land-disturbing activity has been undertaken in that period. No land-disturbing activity may take place until the person responsible has applied for, and received, a new land-disturbing permit. The fee for the new permit shall be 100 percent of the current applicable fee.

(2) A two-year period, unless it is extended by the Administrator upon written request of the permit holder. The request for extension shall include reasons for incompleteness of the work. After review of the original plan and an on-site inspection of the completed work, the permit may be extended effective for a period not to exceed six months from the date of expiration of the original permit. The fee for the extended permit shall be 25 percent of the current applicable fee. If work cannot be completed and the site permanently stabilized prior to expiration of the permit or permit extension, then a new land-disturbing permit must be applied for and obtained as described in this section.

§153.17 Erosion and sedimentation control plans.

(A) An erosion control plan shall be prepared for all land-disturbing activities subject to this chapter whenever the proposed activity uncovers more than one-half acre. Provided, however, for those cases where a land disturbance permit is required and where the area has a slope of greater than 1 to 1, a plan shall be required for land disturbance associated with any project, regardless of the size of the project or the area being disturbed.

(B) Three copies of the plan shall be filed at least 30 days prior to the commencement of the proposed activity with the Administrator, and a copy will be simultaneously submitted by the applicant to the Macon Soil and Water Conservation District office. A copy of the erosion control plan for any land-disturbing activity that involves the utilization of ditches for the purpose of dewatering or lowering the water table must be forwarded to the director of the state division of water quality. One copy of the approved plan shall be kept on file at the job site. After approving the plan, if the Administrator, or their designee, upon inspection of the job site, determines that a significant risk of off-site sedimentation exists, the Administrator, or their designee, will require a revised plan.

Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the Administrator, or their designee.

The approval of an erosion control plan is conditioned on the applicant's compliance with federal, state and local water quality laws, regulations, and rules.

(C) Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principle place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of this state, a state agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the plan, the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter.

(D) The Macon Soil and Water Conservation District shall review the plan and submit any comments and recommendations to the Administrator within 20 calendar days after the soil and water conservation district received the erosion control plan, or within any shorter period of time as may be agreed upon by the soil and water conservation district and the Administrator. Failure of the soil and water conservation district to submit its comments and recommendations within 20 calendar days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(E) The Administrator will review each complete plan submitted to it and within 30 calendar days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations or disapproved. The 30 day review period will not begin until all required items are submitted. The Administrator shall have five (5) business days to check the plan for completeness. Incomplete plans will be returned for completion. Failure to approve or disapprove a complete erosion and sedimentation control plan within 30 calendar days of receipt shall be deemed approval. Disapproval of a plan must specifically state in writing the reasons for disapproval. The Administrator, or their designee, must approve, approve with modifications, or disapprove a revised plan within 15 calendar days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Administrator, or their designee, determines that the plan is inadequate to meet the requirements of this chapter, the Administrator or their designee, may require such revisions as are necessary to comply with this chapter. Failure to approve, approve with modifications, or disapprove a revised erosion control plan within 15 calendar days of receipt shall be deemed approval of the plan. Plans for which no permit has been issued shall expire one year from the approval date.

(F) Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. § 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available

for review. The Administrator shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to subsection (E) of this section shall not begin until a complete environmental document is available for review.

(G) The plan required by this chapter may contain architectural and engineering drawings, maps, assumptions, calculations and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this chapter. Plan content may vary to meet the needs of specific site requirements.

Detailed guidelines for plan preparation may be obtained from the Administrator, or their designee, on request.

(H) When deemed necessary by the Administrator, or their designee, a pre-construction conference may be required.

(I) No person may initiate land disturbing activity before notifying the Administrator, or their designee, that the issued the plan approval of the date that the land-disturbing activity will begin.

(J) An erosion control plan may be disapproved upon a finding that an applicant, or a parent, subsidiary or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or

(4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.

For purposes of this subsection (J), an applicant's record may be considered for only the two years prior to the application date.

(K) Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as described in this section. Until such time as such amendment is approved by the Administrator, or their designee, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.

(L) Any person engaged in land-disturbing activity who fails to file a plan in accordance with this chapter, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan, shall be deemed in violation of this chapter.

§153.18 Appeals.

(A) Except as provided in subsection (B) of this section, the appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:

(1) The disapproval or modification of any proposed erosion control plan or the refusal to issue a land-disturbing permit by the Administrator, or their designee, shall entitle the person submitting the plan, or applying for the permit, to a hearing if such person submits written demand to the clerk to the board for a hearing within 15 days after receipt of written notice of disapproval or modifications. The written demand must specify, with particularity, the factual and/or legal basis for the appeal. No grounds, other than those so specified, may be argued.

(2) Hearings held pursuant to this section shall be conducted by the board of county commissioners within 15 days after the date of the appeal or request for a hearing, or at the next regularly scheduled meeting, whichever is later.

(3) If the board of county commissioners upholds the disapproval or modification of a proposed erosion and sedimentation control plan or refusal to issue a permit following the public hearing, the person submitting the plan or permit application shall then be entitled to appeal the board of county commissioners' decision to the state sedimentation control commission as provided in G.S. § 113A-61(c) and Title 15 NCAC 4B.0018(d).

(B) In the event that an erosion control plan is disapproved pursuant to subsection 153.17(J), the Administrator shall notify the Director of the division of land resources of such disapproval within ten days. The Administrator shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the Administrator's disapproval of the plan pursuant to subsection 153.17(J) directly to the Commission.

§153.19 Inspections and investigations.

(A) Agents, officials or other qualified persons authorized by the Administrator may periodically inspect land-disturbing activities to ensure compliance with the Act, this chapter or rules or orders adopted or issued pursuant to this chapter, and to determine

whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of plan approval of each erosion control plan.

(B) No person shall willfully resist, delay or obstruct an authorized representative, employee or agent of Macon County while that person is lawfully inspecting or attempting to inspect a land-disturbing activity under this section.

(C) If it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this chapter, or rules or orders adopted or issued pursuant to them, or has failed to obtain a land-disturbing permit or has failed to comply with an approved plan, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, this chapter, or rules, or orders adopted pursuant to this chapter and inform the person of the actions that need to be taken to comply with the Act, this chapter, or rules or orders adopted pursuant to this chapter. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. If the person engaged in land-disturbing activity fails to comply within the time specified, enforcement action shall be initiated.

(D) The Administrator, or their designee, shall have the power to conduct such investigations as it may reasonably deem necessary to carry out their duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

(E) The Administrator, or their designee, shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

§153.20 Penalties.

(A) *Revocation of permits.*

(1) The Administrator shall have the power to revoke land-disturbing permits issued pursuant to this chapter. When the Administrator, or their designee, proposes to revoke a land-disturbing permit, the Administrator, or their designee, shall serve the permittee or other responsible person with a notice of intent to revoke, specifying the time and date of a pre-termination hearing to be held before the Administrator. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. The notice shall be delivered at least three working days, Monday through Friday, before the date specified for the pre-termination hearing.

(2) Should the Administrator determine that the land disturbing permit should be revoked then they shall serve the permittee, or other responsible person, with a notice of revocation. Upon receipt of the notice of revocation, the responsible person shall immediately cause or order the cessation of all land-disturbing activities except those activities which are specifically directed towards bringing the site into a state of compliance.

(3) The person responsible for the land-disturbing activity may appeal the revocation of a land-disturbing permit to the board of county commissioners by submitting a written demand to the clerk to the board for a hearing within 15 days after receipt of the written notice of revocation. The written demand must specify, with particularity, the factual and/or legal basis for the appeal. No grounds, other than those so specified, may be argued.

(4) No person shall resume or continue any land-disturbing activity other than those necessary to bring the site into a state of compliance after receipt of a revocation notice and before reissuance of a land-disturbing permit or decision of the board of county commissioners reinstating a land-disturbing permit. After the Administrator, or their designee, has inspected the site and approved the remedial work, the responsible party may reapply for a land-disturbing permit. The fee for reapplication shall be 100 percent of the current application fee.

(B) *Civil penalties.*

(1) Any person who violates any of the provisions of this chapter, or rules or orders adopted or issued pursuant to this chapter or who initiates or continues a land-disturbing activity for which an erosion control plan and/or land-disturbing permit is required except in accordance with the terms, conditions and provisions of an approved plan and/or land-disturbing permit shall be subject to a civil penalty. The maximum civil penalty for a violation shall be \$5,000.00. A civil penalty may be imposed from the date the violation was detected. Each day of continuing violation shall constitute a separate violation.

(2) The Administrator shall impose the civil penalty authorized by this section. The Administrator shall notify the person upon whom the civil penalty is imposed, of the amount of the penalty and the reason for the penalty. In determining the amount of the penalty the Administrator shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this chapter, the Act, and rules promulgated in furtherance thereof. The notice of civil penalty shall be served by any means authorized under G.S. § 1A-1, Rule 4, and shall direct the violator to either pay the civil penalty or contest the civil penalty, within 30 days after receipt of the notice of civil penalty, by

filing a petition for a contested case under G.S. Ch. 150B, Art. 3. The administrative law judge hearing the matter shall make a recommended decision to the board of county commissioners. If either party wishes to challenge the recommended decision they must file with the clerk to the board, and serve on the other parties, and the office of administrative hearings, specific exceptions and objections, detailing the errors of fact or law they contend exist within the recommended decision, and other written argument they wish to submit, within 30 days after the issuance of same. Other parties shall file any response they wish to make to a submission of exceptions and objections within 30 days of service of same, but may not use this subsequent filing to submit new, or additional, exceptions and objections of their own. The recommended decision will be reviewed by the board of county commissioners within 90 days after the official record in this matter is served upon the clerk to the board by the office of administrative hearings. The board of county commissioners shall adopt or modify the recommended decision consistent with the provisions of G.S. § 150B-36. Appeal of the decision of the board of county commissioners shall be in accordance with G.S. Ch. 150B, Art. 4.

(3) If payment is not received within 30 days after demand for payment is made, the matter will be referred to the county attorney's office for initiation of a civil action to recover the amount of the civil penalty. The civil action may be brought in the superior court. A civil penalty that is not contested is due when the violator is served with a notice of civil penalty. A civil penalty that is contested is due at the conclusion of the administrative and judicial review of the civil penalty.

(4) The clear proceeds of civil penalties collected pursuant to this chapter shall be credited to the Macon Public Schools in accordance with the provisions of G.S. 115C-437.

(C) *Criminal penalties.* Any person who knowingly or willfully violates any provision of the Act, this chapter, or rule or order adopted or issued pursuant to the Act or this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan and/or land-disturbing permit is required except in accordance with the terms, conditions and provisions of an approved plan and/or land-disturbing permit, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000.00, as provided in G.S. 113A-64.

§153.21 Enforcement alternatives.

Violation of any provision of this chapter shall result in forfeiture of any applicable security or portion thereof required under subsection 153.16(H).

(A) Whenever there is reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to the

Act, this chapter, or any term, condition or provision of an approved erosion control plan, the county attorney may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action as provided in section §10.99 of the Macon County Code of Ordinances, for injunctive relief to restrain the violation or threatened violation in superior court. Upon determination by a court that an alleged violation is occurring, or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure the restoration is performed, or to prevent the threatened violation.

(B) The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this chapter, or the Act.

§153.22 Restoration of areas affected by failure to comply.

The Administrator may require a person who engaged in a land disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3) and section 153.07(C) of this chapter, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this chapter, or the Act.

§153.22 Civil Relief

Any person injured by a violation of the Act, this chapter or any rule or order duly adopted by the Department or the county, or by the institution or continuation of a land-disturbing activity for which an erosion and sedimentation control plan is required other than in accordance with the terms, conditions and provisions of an approved plan may bring a civil action for relief in accordance with the provisions of G.S. §113A-66.

§153.23 License Requirements

(A) License Required.

(1) All persons performing any grading or land disturbing activity in Macon County, except those land disturbing activities specifically excluded by this Chapter, shall possess either a valid NC State Issued License that authorizes such grading or land disturbing activities or a valid Macon County Grading and Land Disturbance License.

(2) A valid NC State License is required for all grading and land disturbance projects where the single project cost is equal to or more than \$30,000 (NCGS 87-1). A valid Macon County Grading and Land Disturbance license authorizes the licensee, within Macon County, to conduct Grading and Land disturbance

with the single project cost less than the project cost threshold requiring a NC State License.

(3) Any person licensed by Macon County under this section shall carry the Macon County issued license on their person while conducting grading and land disturbance activities within Macon County and present such license to County Officials upon request.

(B) Obtaining a Macon County Grading and Land Disturbance License.

(1) Persons desiring to obtain a Macon County Grading and Land Disturbance License must complete the following:

(a) Appear in person at the Administrator's office at 1834 Lakeside Drive, Franklin, NC;

(b) Present a valid Driver's License or a current Photo ID Issued by their State of Residence;

(c) Take and pass an open book test developed and proctored by the Administrator or other staff members. Details pertaining to taking the test can be obtained from the Administrator's office;

(d) Pay a fee of \$100 to take the test, first time license is included in this cost; and

(e) Any person in possession of a Macon County Grading License that has not been expired more than 18 months prior to the adoption of this section shall only be required to pay the \$25 renewal fee to obtain a Macon County Grading and Land Disturbance License.

(C) Maintaining a Valid Macon County Grading and Land Disturbance License.

(1) Every Macon County Grading and Land Disturbing License expires December 31 of each year regardless of the date of issue and must be renewed by completing the following:

(a) Successful Completion annually of one of the two, four hour continuing education courses offered by Macon County Department of Permitting and Development, or four or more hours of training annually given by an agency and course approved by the Administrator; and

(b) The fee for attending the continuing education course is \$25, this fee includes the annual renewal fee to renew the license. Persons using approved outside sources to fulfill the required four hour annual

continuing education will be required to pay an annual renewal license fee of \$25. A late fee of \$10 a month or portion thereof shall be added to the renewal fee if the License is not renewed before the date of expiration.

(2) Any person in possession of a Macon County Grading and Land Disturbance license that has been expired for more than one year shall follow the requirements to obtain a new license.

(D) Penalties.

(1) Any persons conducting grading or land disturbance activity that does not possess either a Macon County Grading and Land Disturbance License or a NC General Contractor License authorizing such activity shall be required to pay a \$500 fine. For each day or portion thereof any person continues such activity before complying with the applicable License requirement an additional fine of \$500 will be added to the original fine.

(2) Any person in possession of a Macon County Grading and Land Disturbance License that is performing any grading or land disturbance activity requiring a Macon County Land Disturbance permit before such permit has been issued shall be issued a Notice of Violation by the Administrator. Any such person receiving two such notices of violation shall have their Macon County Grading and Land Disturbing License revoked for a period of one year. If any person has their Macon County Grading and Land Disturbance licensed revoked for this reason must complete the requirements for obtaining a new license.

(E) Exception.

(1) This section shall not apply to anyone who is actually performing the grading or land disturbing activity on property they personally own and do not sell or offer to sell or transfer to another party for a period of one year after completion of any activity regulated by this ordinance. A signed affidavit shall be required stating the property owner does not own the property and will not sell or transfer or offer to sell or transfer this property for the one year period previously stated. In order to qualify for this exception, the owner must pass a grading contractor and land disturbance license test but will not be required to pay the \$100 fee nor will they be issued a licensed.”

Upon motion made by Commissioner _____, seconded by Commissioner _____, this Ordinance was passed, adopted and ordained by the majority vote of the Macon County Board of County Commissioners on this the 13th day of February, 2018, at the Regular Meeting of the Macon County Board of County Commissioners.

James Tate, Chairman

Attest:

Clerk to the Board of Macon County Commissioners
(County Seal)

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Finance

SUBJECT MATTER: Audit presentation

COMMENTS/RECOMMENDATION:

Matt Braswell with Martin Starnes & Associates, CPAs, will be here to make the presentation on the Fiscal Year 2017 audit. Copies of the audit documents will be available at the meeting.

Attachments _____ Yes X No

Agenda Item 9A

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Cowee School Arts and Heritage Center

SUBJECT MATTER: Progress report/mid-year review

COMMENTS/RECOMMENDATION:

A representative of the Cowee School Arts and Heritage Center will be at the meeting to deliver a progress report and a mid-year review of the center's activities.

Attachments _____ Yes X No

Agenda Item 9B

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Solid Waste

SUBJECT MATTER: Amended tire recycling contract

COMMENTS/RECOMMENDATION:

Solid Waste Director Chris Stahl and the County Attorney will update the board regarding the amended tire recycling contract with US Tire.

Attachments _____ Yes No

Agenda Item 10A

RECYCLING & DISPOSAL CONTRACT

This Scrap Tire Recycling and Disposal Contract (“Contract”) made and entered on this ____ day of _____ (“Anniversary Date”), by and between the County of Macon, a political subdivision of the State of North Carolina, hereafter referred to as “County” and U.S. Tire Recycling at 6322 Poplar Tent Road Concord, North Carolina 28027, herein after referred to as the “Contractor” .

WITNESSETH

WHEREAS, the County chooses to recycle its scrap tires when possible and has determined that this service can best be provided through a service contract with a qualified firm: and,

WHEREAS, the Contractor is qualified to provide collection, transportation recycling and disposal of tires and other scrap rubber and has the necessary equipment, personnel, facilities, expertise, financial resources and management skills to provide a high level of service.

1) Scrap Tire Volume Generated

It is unknown how many scrap tires that the County receives at its landfill annually. However, the Contractor understands that the County does not control the scrap tire waste stream and that there is no guaranteed volume that will be received during the term of this Contract.

2) Recycling and Disposal Services

a) Contractor Responsibilities

The Contractor agrees to stage a van trailer at the County’s designated sites and to transport, process, recycle or dispose of all scrap tires loaded in said trailer. Furthermore, the Contractor shall be responsible for hauling, processing, recycling and/or disposing of all scrap tires in accordance with all applicable state, federal, and local environmental and safety laws, regulations, permits, ordinances, and standards.

b) County Responsibilities

The County shall made available ample space in a manner acceptable to Contractor to provide for efficient handling of containers and materials contained therein.

3) Term

This Contract shall be in full force and effect for a period of five (5) years from the date of execution, unless terminated earlier per Section 8 (b) with two (2) automatically extended annual renewal terms at the end of each successive term unless either party notifies the other party in writing 30 days prior to the expiration of the term

of his desire to terminate this contract, in which case the term shall end as scheduled.

4) Time of Performance

Contractor shall remove each loaded trailer in a timely manner. Non-working days shall include Saturday, Sunday, New Year’s Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, and the day after Christmas.

5) Invoices

The Contractor shall invoice the County for scrap tires collected and transported since the previous invoice. Each invoice shall be according to the fees per Section 6. Each invoice shall include a dated listing of the loads collected and transported.

6) Collection Disposal Fees

The County shall pay Contractor, for the work described in Section 2, including processing and transportation of all passenger and truck tires, the sum of \$91.00 per ton, ten (10) ton minimum per van trailer. A Consumer Price Index adjustment will be calculated in March of each year and Contractor will notify the county of any increase at that time. Consumer Price Index adjustments will be applied to the contract price each year on the July 1. Off road tires are charged at the same rate of \$91.00 per ton plus an additional \$0.16 per pound with no minimum tonnage. U. S. Tire Recycling reserves the right to reject or apply a special handling sur-charge fee for any and all tires that appear to have been burned, buried or shredded prior to transfer to their facility. Fuel Sur-charge with formula shown in next paragraph will apply.

Fuel Sur-charge is calculated on a base price of fuel being in the range of \$1.00 to \$1.25 per gallon. Total round trip 390 miles for this transaction are multiplied times the incremental adjustment shown with that average price per gallon. Average price increments with corresponding Sur-charge are listed below. The price of diesel fuel for the purposes of this agreement shall be the diesel price for the East Coast, as obtained from the Diesel Fuel Hotline (202) 586-6966.

Price per Gallon	Price Adjustment per mile
\$2.50 - \$2.74	+0.30
\$2.75 - \$2.99	+0.35
\$3.00 - \$3.24	+0.40
\$3.25 - \$3.49	+0.45
\$3.50 - \$3.74	+0.50
\$3.75 - \$3.99	+0.55
\$4.00 - \$4.24	+0.60
\$4.25 - \$4.49	+0.65
\$4.50 - \$4.74	+0.70
\$4.75 - \$4.99	+0.75
\$5.00 - \$5.24	+0.80

Formula follows with the price of fuel

In the event of a discrepancy between Contractor and County records, such invoice shall be paid less the amount of the discrepancy. A notice of discrepancy with supporting documentation, shall be promptly sent to Contractor and the two parties shall

reconcile records and invoices at the earliest possible date. Such reconciliation shall be reflected on the next invoice from Contractor.

7) Taxes, etc. clause

Should the local, state, or federal government impose a franchise fee or tax, Contractor will pass this fee on to the county, or Contractor and County will agree to cancel the contract. Should such termination or recession occur before performance of the activity herein provided is begun, all parties hereto shall be released from the provisions hereof without liability or obligation. Should such termination or recession occur after such performance is begun, the liability and obligations of the parties shall be limited to settlement of all proper claims based upon performance prior to termination or recession of this contract. In no case shall the Company be liable or responsible for any other cost of obtaining, preparing, maintaining, or operating the facilities for deposit of said tires nor shall Company be liable or responsible for any of the cost of obtaining, preparing, maintaining or operating the location for assembly, collection, and removal of said tires.

8) Termination

This Contract may be terminated according to either of the following provisions:

a) Default: If either party hereto deems the other party hereto to be in default of any provision hereof, the claiming party shall provide notice in writing to the defaulting party of said default. If said defaulting party fails to correct the default within twenty (20) working days from the date of notice, the other party may terminate this Contract immediately. In case of such termination the party terminating this contract shall forthwith give the other party written notice of such termination.

b) Mutual Agreement: This Contract may be terminated by mutual agreement of the parties hereto, at any time.

9) Force Majeure

a) Suspension of Performance: The performance of its duties and obligations hereunder by either party shall be suspended to the extent that such performance, in whole or in part, shall be rendered impracticable by Force Majeure.

b) Definition: Force Majeure - For purposes herein, Force Majeure shall be termed as any event or occurrence of any nature or kind in respect to the duties herein that is beyond the control of and occurs without the negligence of the party invoking the same, including without limitation: acts of God or of a public enemy, acts of government or governmental authority in either its sovereign or contractual capacity, wars, riots, fires, floods, explosions, epidemics, boycotts, excessive fuel prices, blackouts, strikes, labor disputes, equipment breakdowns, and any transportation problem directly affecting or inhibiting pickups.

c) Notice: In the event that either party hereto determines that a Force majeure has occurred, or its is likely to occur, said party shall promptly furnish to the other party notice in writing of such Force Majeure, setting forth the nature of such problem, the

anticipated effect thereof on said party's performance hereunder and when normal performance may be expected. In the event of excessive fuel prices of over the road diesel. Contractor and County will negotiate satisfactory terms for both parties involved.

d) No Unreasonable Delay: Any party hereto whose performance hereunder is delayed or prevented by a factor of Force Majeure, and said party subsequently invokes Force Majeure, shall take all reasonable steps to resume, with the least possible delay, compliance with its obligations hereunder, provided that said party shall not be required to settle any strike or labor dispute on terms not acceptable to it.

10) Representations

10.1) The Contractor represents, warrants and covenants to County that:

a) It is an entity duly organized, validly existing and in good standing under the laws of the State of North Carolina, and is duly and validly qualified to conduct business and is in good standing in all jurisdictions in which such qualification is necessary.

b) The execution, delivery and performance of this Contract have been duly and validly authorized by all corporate action required to be taken and will not result in a breach of, constitute a Default under, or violate the terms of Contractor's organizational agreement, or any rule, regulation, judgment, decree, order, or agreement to which Contractor is a party or by which it may be bound.

c) Contractor shall comply with all environmental and other applicable governmental permits, guidelines and actions during the term hereof, and has paid and will pay all valid charges and assessments in connection therewith. Contractor hereby indemnifies County against any punitive or other action resulting from or associated with Contractor's failure to do so.

10.2) County represents, warrants and covenants to Contractor that:

a) The execution, delivery and performance of this Contract by County have been duly and validly authorized by all corporate action required to be taken and will not result in a breach of, constitute a Default under, or violate the terms of decree, order, contract or agreement to which County is a party or by which it may be bound. Concurrently herewith, County tenders unto Contractor a certified copy of the resolution of its Board of Commissioners authorizing execution and delivery of this Contract.

11) Insurance

Contractor does hereby attest that it has general liability insurance coverage (which covers all its operations including but not limited to motor vehicle transportation) in the minimum amount of one million (\$1,000,000.00) dollars. A "Certificate of Insurance" affirming said coverage is attached hereto as an integral part of this Contract. County shall be listed as an additional insured under said Certificate of Insurance and a copy of said endorsement shall be provided to County within ten (10) days signing of

Contract. Contractor shall at all times during the existence of this contract maintain liability insurance coverage in the amount not less than one million (\$1,000,000.00) dollars.

12) Hold Harmless

The Contractor does hereby indemnify and hold the County free and harmless from liability on account of injury or damage to persons or property which may result from the negligent conduct or operations arising out of the business of collection, removal and transportation of tires in accordance with the terms of this contract; and, in the event that any suit or proceeding is brought against the County at law or in equity, either independently or jointly with the Contractor, or either of them, on account of such negligent acts, the Contractor will defend the County in any such suit or proceeding at the cost of the Contractor, and in the event of a final judgment of decree being brought against either of them, the Contractor will pay such judgment or comply with such decree with all costs and expenses of whatsoever nature and hold the County harmless therefrom.

13) Disputes

Any matter that arises hereunder that cannot be settled in negotiations between the parties hereto shall be handled according to the laws, legal processes and courts of the State of North Carolina. Any final decision therefrom shall be valid and binding upon the parties hereto and enforceable at law. Venue for any action arising out of this contract shall be the general court of justice, **County of Macon**, N.C.

14) Miscellaneous

14.1) Contractor agrees to be an equal opportunity employer and not discriminate based on race, religion, or sex.

14.2) This Contract may be changed only by agreement in writing and signed by both parties hereto.

14.3) This Contract embodies the entire contract between the parties and supersedes any prior agreements and understanding, oral and/or written.

14.4) This Contract may be executed simultaneously in two or more counterparts, each of which shall be deemed an original.

14.5) This Contract shall be governed by the laws of the State of North Carolina.

14.6) The sections and heading in the Contract are for reference purposes only and shall not affect in any way the meaning of this Contract or any part herein.

14.7) In the event that any provision of this Contract shall be determined to be invalid, this Contract thereupon shall be deemed to have been amended to eliminate such provisions so the remaining provisions of this Contract shall be valid and binding.

14.8) All notices and other formal communications hereunder shall be made in writing and given or delivered by certified United States mail to the principal and at the address designated below. Acceptance thereof shall be deemed to constitute receipt.

Contractor

U.S. Tire Recycling
6322 Poplar Tent Road
Concord, North Carolina 28027

County

Macon County
109 Sierra Drive
Franklin, NC 28734

14.9) Any waiver made hereto shall be deemed to be limited in application to the matters explicitly referred to therein and shall neither be construed as, nor entitle the other party to a waiver by said party of any similar matter.

14.10) This Contract shall be binding upon and insure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Contract nor any of the rights, interests, or obligations hereunder shall be assigned by either party hereto without the prior written consent of the other party hereto, which consent shall not be unreasonable withheld or delayed.

“14.11) E-Verify. Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor utilizes a subcontractor, such party shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

14.12) That Notwithstanding anything to the contrary contained herein, the requirements, terms and conditions of the Macon county Request for Proposal #03-4712p for Scrap Tire Recycling and Disposal for the Macon County Solid Waste Department issued May 17, 2017, are incorporated herein by reference and the same become a part hereof and shall control, EXCEPT THAT THE FOLLOWING SHALL CONTROL:

- A. Contractor may make a Consumer Price Index Adjustment as allowed in Paragraph 6 hereinabove; and
- B. Contractor may make fuel surcharges all allowed in Paragraph 6 hereinabove.”

IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals as of the date first above written.

MACON COUNTY

BY: _____
Macon County Manager

ATTEST

U.S. TIRE RECYCLING

BY _____

ATTEST

PRE-AUDIT CERTIFICATE

This instrument has been pre-audited in the manner required by the local Government Budget and Fiscal Control Act.

This _____ day of _____.

Macon County Finance Officer

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Board of Education

SUBJECT MATTER: Memorandum of Understanding regarding South Macon Elementary School expansion

COMMENTS/RECOMMENDATION:

The County Attorney is reviewing a proposed Memorandum of Understanding (MOU) between the county and the Macon County Board of Education in regard to the selection of architectural services involved in the proposed expansion of South Macon Elementary School. He is planning to present the document for the board's consideration at the meeting.

Attachments _____ Yes X No

Agenda Item 10B

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
MACON COUNTY BOARD OF COMMISSIONERS AND THE
MACON COUNTY BOARD OF EDUCATION
RE: SOUTH MACON ELEMENTARY SCHOOL PROJECT**

1. The Macon County, North Carolina, Board of Commissioners and the Macon County, North Carolina, Board of Education agree to engage in an appropriate capital outlay plan (hereinafter "Financing Plan") to construct and equip facilities for the expansion and enhancement of South Macon Elementary School (the "Project").
2. The parties have cooperated in requesting the qualifications of architectural design services for the Project, RFQ#02-8000q, by virtue of which request the Board of Education voted at its regular meeting of December 11, 2017 to recommend the selection of Novus Architects, Inc., as the best qualified respondent to the request. The Board of Commissioners, at its regular meeting of December 12, 2017, reviewed responses to the request for qualifications and also found Novus to be the best qualified respondent. The Board of Commissioners will engage in negotiations with Novus Architects, Inc. to design the Project, utilizing sources of funds in the discretion of the County.
3. Pursuant to N.C.G.S. § 153A-158.1, the Board of Commissioners has heretofore acquired fee simple title to all of the Project by that deed dated December 30, 1999 from Nelson W. Bates and wife, Maxine Bates to Macon County, recorded in Deed Book S-23, pages 1909-1910 in the Office of the Register of Deeds for Macon County. The Board of Commissioners hold fee simple title to all improvements currently existing and to be constructed on the property, subject 1) to such encumbrances as have been necessary in order to construct the said improvements, and 2) to the lease entered into by the parties recorded in Deed Book Z-27, pages 1344-1360 in the Office of the Register of Deeds for Macon County (the "Lease"). The County shall utilize all or a portion of the property as it deems necessary in order to provide collateral for the Financing Plan, and for such purposes the Board of Education agrees to subordinate its leasehold interest upon request. The parties agree to extend the terms of the current Lease between the Board of Commissioners for the Project to the Board of Education for the nominal amount of One Dollar (\$1.00) per year for the same period of time as the amortization period for the Financing Plan, as necessary (the "Lease"). The Board of Education will be responsible for all insurance, maintenance and operation costs for the Project. Upon satisfaction of the construction financing and pursuant to the Lease, the Board of Commissioners will convey the Project to the Board of Education for the sum of \$1.00.
4. The parties will enter into an interlocal agency agreement specifying that the Board of Commissioners shall carry out duties in the construction of the Project as outlined in the North Carolina General Statutes pertaining to public school construction, public works and public building contracts, subject to the design input and approval of the Board of Education, as required by applicable law.

Approved in open session by the Board of County Commissioners this the 9th day of January, 2018.

MACON COUNTY

BY: _____
County Manager

Approved in open session by the Board of Education this the 22nd day of January, 2018.

MACON COUNTY BOARD OF
EDUCATION

BY: _____
Superintendent

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Public Health/Animal Control

SUBJECT MATTER: Proposed amendments to Animal Control Ordinance

COMMENTS/RECOMMENDATION:

Macon County Public Health Director Jim Bruckner will distribute proposed amendments to the county's Animal Control ordinance

Attachments _____ Yes X No

Agenda Item 11A

AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS MAKING REVISIONS TO CHAPTER 90. ANIMALS, OF THE CODE OF ORDINANCES OF THE COUNTY OF MACON. NORTH CAROLINA

WHEREAS, the Macon County Board of Commissioners adopted a revised *Macon County Ordinance for the Regulation of Certain Animals* on October 13, 2008; and

WHEREAS, the Board of Commissioners did amend the same on January 10, 2010; and

WHEREAS, the Board of Commissioners did again amend the same on June 8, 2010; and

WHEREAS, the Board of Commissioners did again amend the same on October 15, 2015; and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance as recommended by the ~~Macon County Manager and~~ Director of the Macon County Health Department; and

WHEREAS, the Board of Commissioners wishes to revise the *Macon County Ordinance for the Regulation of Certain Animals* as set forth below; and

WHEREAS, the Macon County Board of Health have indicated that they approve of the revised Ordinance contained hereinafter and would recommend unto the Macon County Board of Commissioners the adoption and passage of this Ordinance; and

WHEREAS, the Board of Commissioners finds the same to be in the public interest and to promote the public health, safety and welfare pursuant to authority vested in it by North Carolina General Statutes Sections 153A-121, 153A-127, 153A-153, and 153A-442 and Chapter 67 of the General Statutes;

NOW, THEREFORE, BE IT ORDAINED by the Macon County Board of Commissioners that:

Section 1. Chapter 90, Animals, of the Code of Ordinances of the County of Macon, North Carolina, as heretofore amended, is hereby repealed in its entirety, and the following substituted in lieu thereof:

CHAPTER 90

ANIMAL CONTROL

Sec. 90-1. TITLE, PURPOSE AND AUTHORITY.

This Ordinance shall be known and may be cited as the *Macon County Animal Control Ordinance*. The purpose of this Ordinance is to promote the health, safety and welfare of the citizens of Macon County and to abate conditions detrimental to the peace and dignity of the County. This Ordinance is adopted pursuant to the authority contained in Sections 153A-121, 153A-123, 153A-127, 153A-131, 19A-45, 153A-153, and 153A-442 of the North Carolina General Statutes, Articles 1-5 of Chapter 67 of the North Carolina General Statutes; and Article 6 of Chapter 130A of the North Carolina General Statutes, as applicable.

Sec. 90-2. APPLICABILITY TO VETERINARIANS.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Chapter except for the provisions relating to cruelty to animals and rabies control.

Sec. 90-3. DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to intentionally, knowingly, recklessly or negligently leave an animal at a location without providing for the animal's care.

Adequate food means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

Adequate shelter means that shelter which will keep a nonaquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moisture proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. For all animals, the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris, and a suitable method of draining shall be provided to rapidly eliminate excess water or moisture.

Adequate water means a constant access to a supply of clean, fresh water provided in a sanitary manner.

Animal means any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish and reptiles.

Animal control officer means an individual designated to perform animal control duties described by this Ordinance. Animal Control Officers shall be certified rabies vaccinators and certified euthanasia technicians. Animal Control Officers shall not have the power to arrest.

~~Animal cruelty investigator means an individual appointed by the board of commissioners to assist the county in responding to cruelty and conducting investigations pursuant to NCGS 19A-45 through 49.~~

Animal shelter means a place provided and operated by the county directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption and disposition of animals in accordance with this chapter.

Attack means to set upon in a forceful, violent, hostile, or aggressive way, with or without provocation. Attacks can involve animal to human or animal to animal interaction.

a. Provoked Attack: Are considered normal behavior and occur when a animal responds in an aggressive, violent, terrorizing, or unreasonably threatening manner to a perceived threat to its body (fear-induced), food, (possessive), territory, or offspring (protective).

b. Non-provoked Attack occur when an animal crosses neutral space and attacks for no reason (without being teased, molested, provoked, beaten, tortured or otherwise harmed).

At large means any animal off the property of its owner and not under the restraint of a competent person.

Bite means the act of an animal seizing the flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

Board of commissioners means the Macon County Board of Commissioners.

Cats means any and all domesticated felines.

Citation means a written notice served by an animal control officer siting a person for a violation of this ordinance

Civil penalty means a financial penalty imposed by an animal control officer for a violation of this ordinance

Competent person means a person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal and to persons, other animals, including but not limited to domesticated livestock, or property.

County means Macon County, North Carolina.

Cruelty, cruel treatment, and abuse as used in this chapter mean every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully. Such acts or omissions shall include but not be limited to beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the wildlife resources commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport, or other lawful activities under state law.

~~**Dangerous dog** means any dog that without provocation has killed or inflicted severe injury on a person or another domestic animal, any dog that is owned or harbored primarily or in part for the purpose of dog fighting any dog that is trained for dog fighting, or any dog that has been determined to be potentially dangerous pursuant to NCGS §67-4.1.~~

~~This definition shall not include dogs when exempted pursuant to N.C.G.S. §67-4.1(b)(1)–(b)(4).~~

Direct control means an animal is under restraint (excludes control by voice commands) and in the custody of its owner, or other competent person having possession thereof.

Dogs means any and all domestic canines.

Domesticated animal (non-livestock) means any such animal that is accustomed to live in or about the habitation of humans, including but not limited to cats, dogs, cows, fowl, horses or swine, but not to include any Wild Animal or Farm Animal or feral animals a defined herein.

Domesticated livestock means livestock raised for the production of meat, milk, eggs or fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits and poultry.

Exotic animal means an animal that would ordinarily be confined to a zoo, or is a species of animal not indigenous to this State. The term specifically does not include animals of a species customarily held in this State as ordinary household pets, animals of species used in the State as a domestic farm animal, fish, birds, non-venomous reptiles and species that are deemed inherently dangerous under this Chapter or regulated by the North Carolina Wildlife Resource Commission.

~~**Exposed to rabies** means an animal that has been bitten by or has otherwise come into contact with any animal known or suspected to have been infected with rabies.~~

Feral animal means a wild animal – non-domesticated or one, such as a dog or cat that has escaped and returned to live in the wild, but has some contact and experience with humans and/or for which no one claims ownership.

Harbor means to feed or shelter an animal by the same person or household for 72 consecutive hours or more.

Health director means the director of the county health department.

Identified animal means an animal with an identification tag, tattoo, microchip, or other marking on which is described the animal owner's name, address and contact information.

Impoundment means the placement of an animal in the custody of a person or animal shelter duly authorized by an animal control officer and/or the health director.

Lead Animal Control Officer means that person designated to perform animal control duties described by this Ordinance. And the Lead Animal Control Offices shall ~~be an animal control officer also be the individual who is appointed by the appropriate authority in the County as the County's Animal Cruelty Investigator and shall~~ and be a certified rabies vaccinator and certified euthanasia technician.

Microchip refers to a tiny permanent identification system, implanted under the animal's skin and read by a chip scanner which identifies the owners name and address and which is available on regional or national databases. Implantation is done with an injector that places the chip under the loose skin over the animal's shoulder.

Neutered male means any male which has been operated upon to prevent reproduction.

Owner means any competent person or group of persons owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The owner of an animal is responsible for the care, actions and behavior of his or her animal(s). This definition shall also apply to the term "ownership" as used in this chapter.

Owner's property means that area described in a deed of conveyance or the area described in a lease. In a situation involving townhomes or condominiums, animal control will treat the common areas as being owned by the homeowners' association. In a situation involving leased apartments, animal control will treat the common areas as being owned by the lessor. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on the common areas of townhomes, condominiums or leased apartments, or other public areas shall be treated as being off of the owner's property.

Person means any individual, family, group of individuals, corporation, partnership, organization, trade or professional association, firm limited liability company, joint venture, association, trust, estate, non-profit corporation or any other legal entity or institution recognized by law as a person.

Public nuisance means any animal off the owner's property which without provocation habitually or repeatedly chases, snaps at, attacks or otherwise behaves in an aggressive manner to pedestrians, bicyclists or vehicles or turns over garbage cans, damages gardens (vegetable or flower), damages plant beds, damages public or private property or damages livestock.

Scratch means the act of an animal with its claws which results in and/or causes a narrow or superficial wound, scrap or other type of break in the skin of a human or animal.

Section Administrator Animal Services means that person responsible for the planning, organizing, coordinating, and directing of all county animal services activities (including animal control, animal shelter, and rabies control). The section administrator is responsible for the: Enforcement of state laws and this ordinances relating to animal services functions; the development of policies and procedures; impounding, care/treatment, and disposition of animals in the county shelter; development and implementation of programs and coordination with rescue groups and interested individuals to maximize the placement of abandoned and surrendered animals; and, minimize euthanasia of adoptable animals.

Security dog means any dog used, kept or maintained on the premises of its owner for the purpose of protecting any person or property. Any such dog shall be further classified as follows:

(1) **Patrol dog** means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

(2) **Sentry dog** means a dog that is trained or conditioned to attack or otherwise respond aggressively without command.

(3) **Watchdog** means a dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.

Secure enclosure means a place in which an animal is securely confined in order to provide for a safe, healthy, and humane environment for the animal; prevent escape by the animal; and protect and enhances the public's health and safety. A secure enclosure consists of a locked pen or structure suitable to prevent unauthorized entry and designed to prevent the animal from escaping. Such enclosure shall be: Constructed on a concrete pad; have an entry which protects the person entering and prevents the animal from escaping; have secure sides including the top; provide protection for the animal from the elements; and be of suitable size for the type of animal.

Spayed female means any female which has been operated upon to prevent conception.

Stray means any domestic animal that is wandering at large or is lost and (1) is not an identified animal, (2) the animal control officer does not otherwise know who the owner is, or (3) does not have an owner.

~~**Suspected of having rabies** means an animal that has bitten a person or another animal.~~

Under restraint means that an animal is under sufficient physical restraint such as (1) a leash, cage, bridle, or similar effective and humane device that restrains and controls the animal; (2) sufficiently near the owner to be under his or her direct control ~~and is obedient to that person's commands~~; (3) on or within a vehicle being driven or parked and secured in such a manner as to prevent the animal from escaping or causing injury to persons approaching or passing by the vehicle; (4) adequately contained by a fence or other secure enclosure; or (5) within the property limits of its owner. If any unattended animal is restrained by a chain, leash or similar restraint, it shall be designed and placed to prevent choking or strangulation.

Veterinary clinic and/or hospital means any place or establishment maintained and operated under the supervision of a licensed veterinarian as a clinic and/or hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

~~**Vicious animal** means any animal as defined in N.C.G.S. 130A-200. animal on or off the premises of its owner, security dogs excluded, which animal is three months of age or older and without provocation has bitten, killed, or caused physical harm through bites to a person who is not trespassing (as determined by the county health director pursuant to N.C.G.S. 130A-200) or has bitten or killed an animal that is not where its owner has been told such animal cannot be.~~

Sec. 90-4. JURISDICTION.

This chapter shall be effective in all areas of the County outside the corporate limits and extra-territorial jurisdiction of any municipality and upon all lands owned or controlled by the County used for recreational purposes whether or not such lands are located within the jurisdictional limits of any municipality in the County.

Sec. 90-5. ANIMAL SHELTER.

The county shall operate and maintain a county animal shelter for the purpose of impounding or caring for animals held under authority of state law, this chapter, or any other county ordinance. The county may contract for the operation of the animal shelter as it deems appropriate.

Sec. 90-6 CREATION OF AN ANIMAL SERVICES SECTION OF THE MACON COUNTY HEALTH DEPARTMENT.

There is created an animal services section of the Macon County Health Department which shall be responsible for the Animal Shelter Macon County and Animal Control Program hereinafter specified.

Sec. 90-7. ANIMAL CONTROL OFFICERS.

The Macon County Health Director may appoint one or more animal control officers. Any such officers shall be Macon County Health Department employees in the Animal Services Section of the Macon County Health Department. The Animal Services Section of the Macon County Health Department shall be supervised by the Section Administrator Animal Services, who shall also be an employee of the Macon County Health Department, who shall be the supervisor of that Section of the Macon County Health Department. The Section Administrator Animal Services shall report to and be under the authority of the Macon County Health Director. County animal control officers and lead animal control officer shall not have the power to arrest.

Sec. 90-8. ANIMAL CONTROL PROGRAM.

The county animal control program, as described in this chapter and as otherwise described in other county ordinances related to animals and as otherwise described in state laws, shall be administered by the Section Administrator Animal Services. Specifically:

(1) The Macon County Health Director shall designate employees or agents enforcing this Chapter as animal control officers and rabies control officers. Animal cruelty investigators may be appointed by the ~~C~~Board of ~~C~~ounty ~~C~~ommissioners as provided by law. In the performance of their duties, officers ~~and investigators~~ shall have all the power, authority and immunity granted under this chapter and by the general laws of this state to enforce the provisions of this chapter, and the laws of this state as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the ~~joint~~ responsibility of ~~and shall be jointly carried out by animal cruelty investigators and~~ the animal control officers of the county.

(2) Except as may be otherwise provided by law, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duty unless he or she acts with actual malice.

(3) It shall be unlawful for any person to interfere with, hinder or molest any animal control officer, lead animal control officer, Section Administrator Animal Services, Health Director, Animal Cruelty Investigator, or law enforcement officer while in the performance of any duty authorized by this chapter or the animal control program, or the laws of the state of North Carolina, or to seek to release any animal in the custody of any of those agents, except in the manner as provided in this section.

(4) Animal control officers, ~~and animal cruelty investigators~~ are not authorized to carry on their person firearms of any kind except as provided in this section. The animal control program may store at the animal services section of the Macon County Health Department and use firearms (as allowed by state law) when necessary to enforce sections of this chapter or under applicable law for the control of wild, vicious or diseased animals.

(5) The animal control program shall:

- a. Have the authority, along with the county health director and law enforcement agencies to enforce all state and local laws, including ordinances, regulations and proclamations of the county pertaining to the ownership and control of dogs, cats, and other animals, and cooperate with the county health director and all law enforcement officers in fulfilling this duty.
- b. Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control in cooperation with the county health director and local law enforcement officers.
- c. Be responsible, in consultation with the county health director or the health directors' designee, for the investigation of all reported animal bites.
- d. Be responsible, in consultation with the county health director or the health directors' designee, to issue a quarantine/confinement order to the animal owner that would require the owner to confine a biting animal for ten days pursuant to N.C.G.S. §130A-200, and for reporting to the county health director as soon as practicable the issuance of said order.
- e. Be responsible, in consultation with the health director or the health directors' designee, for the quarantine/confinement of any dog, or other domestic animal exposed to or suspected of having been exposed to another rabid animal and for reporting to the county health director as soon as practicable the occurrence of any such exposure and the condition of any confined animal pursuant to N.C.G.S. §130A-200.
- f. Be responsible for the investigation of reports or observations of incidents of harassment or injuries to domesticated livestock caused by dogs or other animals.
- g. Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in the county involved in a violation of this chapter or any other county ordinance or state law.
- h. Investigate reported or observed animal cruelty or abuse independently or with a duly appointed animal cruelty investigator.
- i. Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this chapter or applicable state statute.
- j. Keep, or cause to be kept, accurate and detailed records of:
 1. Seizure, impoundment and disposition of all animals coming into and/or leaving the custody of the animal control program.
 2. Any animal complaints made to animal services, and their investigation ~~Bite cases, violations and complaints, and their investigation, including names and addresses of persons bitten, date, circumstances and breed.~~
 3. Any animal bite cases, violations and complaints, and their investigation.
 4. Any animal cruelty cases, violations and complaints, and their investigation.
 5. Any violations of county ordinance and any investigation(s) there of conducted.
 6. Any other matters deemed necessary by the Health Director or Section Administrator Animal Services or that may be required by county policy or state law.

k. Be empowered to issue notices of violation, assess civil penalties for violations of this chapter, and issue citations when authorized by law.

l. Have employees who are trained to standards to be established by the Section Administrator Animal Services, which training shall include but not be limited to training as a Certified Rabies Vaccinator, Certified Euthanasia Technician, and in animal first aid taught by a licensed veterinarian.

m. Be responsible for monitoring the county animal shelter to ensure compliance with all Health Department policies and procedures, state laws, rules/regulations, and any and all contracts entered into by the county health department for the operation of the animal shelter.

n. Administer in consultation with the Section Administrator Animal Services, rabies vaccines to impounded, non-vaccinated animals pursuant to N.C.G.S. §130A-186, and assist the Section Administrator Animal Services in all scheduled rabies control clinics as required by state law.

o. Give every person a proof of rabies vaccination card at the time of adoption of a dog or cat if it is four (4) months of age or older. The card will be completed by a licensed veterinarian or certified rabies vaccinator as provided in this chapter.

p. Give owners of impounded animals an opportunity to provide proof of rabies vaccination prior to redemption or receive a vaccination by a certified rabies vaccinator prior to the animal being released from the shelter. under this section.

(6) The premises for all animal shelters operated by or for the county shall meet the standards prescribed by N.C.G.S. §153A-442, as amended by S.L. 2004-199, Section 39 (a), and as may be amended from time to time.

Sec. 90-9. RELATION TO HUNTING LAWS.

Nothing in this chapter is intended to be in conflict with the laws of the state regulating, restricting, authorizing or otherwise affecting dogs while used in hunting; but this exception applies only while the dogs are under the control of the owner or competent person and are actually lawfully being used for hunting or training for hunting in compliance with applicable statutes, regulations or ordinances. This chapter should be read and enforced consistent with any such law.

Sec. 90-10. NOTICE IN CASE OF INJURY.

It shall be unlawful for any person who causes injury to an animal, including but not limited to running over or hitting the animal with any vehicle, to fail to notify immediately at least one of the following:

- (1) The owner of the animal (if known or ascertainable with reasonable efforts made to locate the owner);
- (2) An animal control officer;
- (3) The sheriff's department; or
- (4) The animal shelter.

Sec. 90-11. MISTREATMENT OF ANIMALS UNLAWFUL.

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this chapter:

(1) It shall be unlawful for any person to subject or cause to be subjected any animal to cruel or abusive treatment or to deprive or cause to be deprived any animal of adequate food and water. With respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.

(2) It shall be unlawful to restrain any animal except in a humane fashion.

(3) It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner, or to seize, molest or tease any animal while the animal is held or controlled by its owner or while the animal is on or off the property of its owner.

(4) It shall be unlawful for any person to abandon or forsake any animal within the county.

(5) It shall be unlawful for any person to leave an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer or animal cruelty investigator deems harmful or potentially harmful to the animal.

Sec. 90-12. CONTROL OF VICIOUS ANIMALS.

A. The purpose of this Section is to supplement the state laws governing vicious animals, and more specifically, N.C.G.S. §130A-200.

B. It shall be unlawful for any person to keep any vicious animal within the county, unless under restraint and on the premises of the owner.

C. Upon an animal control officer's observation of a vicious animal at large or off the premises of its owner and not restrained by a competent person, such officer shall immediately impound the animal and inform the county health director or the health directors' designee.

D. Upon an animal control officer's receipt of a complaint that an animal is behaving or has behaved viciously and is at large or off the premises of its owner and not restrained by a competent person, the animal control officer, in cooperation with the county health director or the health directors designee, shall investigate the complaint and, upon a finding that there is probable cause to believe a violation of this chapter or other applicable law or regulation has occurred, shall take any action allowed by this chapter or state law as the circumstances may require.

E. If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when the county health director, in consultation with the Section Administrator Animal Services, is reasonably assured that the animal is not vicious or that the vicious animal will be properly restrained on the premises of its owner.

Sec. 90-13. SECURITY DOGS.

A. All persons owning security dogs shall register such animals with the Section Administrator Animal Services; the owner of any dog that is classed as a patrol dog or sentry dog under this chapter shall place prominently a sign or placard on his premises noting "Beware of Dog" or other information noting the presence of security dogs.

B. It shall be unlawful for any person to keep any security dog within the county, unless under restraint and in the control of a competent person or under restraint and on the premises of the owner.

C. Security dogs are subject to all other provisions of this chapter while off the premises of their owner.

Sec. 90-14. IMPOUNDMENT OF ANIMALS.

A. An animal control officer, in consultation with the health director or the health directors' designee, is authorized to issue a confinement order to the animal owner that would require the owner to confine a dog or other animal pursuant to N.C.G.S. §130A-198 or 130A-200. Failure to thus confine the animal would constitute a further violation subjecting the owner to appropriate criminal or civil penalties pursuant to N.C.G.S 67-4.2 and 130A-196.

~~AB.~~ A domesticated animal impounded under this chapter may be reclaimed by its owner according to the procedures of the animal shelter. The owner of an impounded domesticated animal shall be responsible for and shall pay all vaccination expenses, boarding costs, redemption or adoption fee(s) and costs associated with such impoundment prior to reclaiming the animal. If an impounded domesticated animal is not reclaimed Unless reclaimed, the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to N.C.G.S 19A-32.1 state law and animal shelter procedures; provided, however, that domesticated animals impounded pursuant to this Section shall be held by the animal shelter for a period of Ten (10) days prior to adoption or euthanasia, as applicable. Exception to the ten day holding period: If a domesticated animal impounded under this chapter has been found by the Section Administrator of Animal Services or a veterinarian to be unadoptable due to injury or defects of health or temperament may be humanely euthanized in accordance with N.C.G.S 19A-32.1 (b) (1) and animal shelter procedures. The owner of an impounded domesticated animal shall also comply with any vaccination and identification directives and be responsible for the payment to the county of all civil penalties and costs imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the Section Administrator Animal Services or their designee. animal control director. Bite quarantined animals not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the county animal shelter and disposed of according to standard animal shelter procedures.

C. A feral animal impounded under this chapter that has been found by the Section Administrator of Animal Services or a veterinarian to be unadoptable due to injury or defects of health or temperament may be humanely euthanized in accordance with N.C.G.S 19A-32.1 (b) (1) and animal shelter procedures.

Sec. 90-15. HANDLING OF STRAY ANIMALS.

A. It shall be unlawful for any person, without the consent of the owner, knowingly and intentionally to harbor, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified an animal control officer or the animal shelter.

B. Any animal at large may in a humane manner be seized, impounded and confined in the animal shelter and thereafter adopted out or disposed of pursuant to procedures of the animal shelter and applicable state law.

C. An owner may lawfully permit an animal which is not dangerous to be at large in the course of a show, obedience school, tracking tests, field training, or other events sanctioned or supervised by a recognized organization. Dogs may be at large in the course of hunting if under the control of the owner as otherwise provided in this chapter. However, this provision does not exempt an owner from otherwise complying with the provisions of this chapter, including identification of animals.

D. Upon impounding an animal, the animal control ~~department section~~ shall make reasonable effort to identify the animal, notify the owner, and inform such owner of the conditions whereby the identified animal may be redeemed.

E. Impoundment of such an animal shall not relieve its owner from any penalty that may be imposed for violation of this chapter.

F. Any animal seized and impounded that is badly wounded or diseased and has no identification may be euthanized pursuant to procedures of the animal shelter and applicable state law. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, the animal shelter shall attempt expeditiously to notify the owner before euthanizing such animal; in any event, and except as may be otherwise provided by law, the animal shelter, animal control program, county health director and county law enforcement officers shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.

Sec. 90-16. PUBLIC NUISANCE.

It shall be unlawful for an owner to permit an animal to create or maintain a public nuisance as defined in this chapter; ~~or to maintain a public nuisance created~~ by an animal. Compliance shall be required as follows:

(1) When an animal control officer, lead animal control officer, Section Administrator Animal Services, or law enforcement officer observes a violation, the owner will be provided written notification of such violation and be given 24 hours or less to abate the nuisance.

(2) Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance, the Section Administrator Animal Services shall cause the owner of the animal in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report to be prepared.

(3) If the written findings indicate that the complaint is justified, the Section Administrator Animal Services shall cause the owner of the animal in question to be notified in writing, and shall order abatement of such nuisance within 24 hours or such lesser amount of time, which shall be designated on the abatement order.

(4) If, after 24 hours or such lesser time as is designated in the abatement order, the nuisance is not abated, the animal creating the nuisance may be impounded and/or a civil penalty may be issued and/or a criminal summons may be issued.

Sec. 90-17. RABIES CONTROL.

It shall be unlawful and a violation of this chapter for any animal owner or other person to fail to comply with the requirements of N.C.G.S. §130A-184 *et seq.* and other laws of the state relating to the control of rabies.

Any animal reasonably suspected to have been exposed to a proven rabid animal, or animal suspected of having rabies that is not available for laboratory diagnosis shall be immediately reported to the animal control ~~department~~section and the county health director.

Sec. 90-18. BITES.

A. Every owner of a dog or cat that has bitten a human being, or any person bitten by a dog or cat, shall comply with the reporting requirements of N.C.G.S. §130A-196 or N.C.G.S. §130A-198 and other applicable laws concerning animal bites by notifying the county health director.

B. Animal control officers and lead animal control officer shall notify the county health director or the health directors' designee as soon as practicable or within 24 hours of animal bites reported. ~~to the animal shelter.~~

C. An animal that is confined to the animal shelter pursuant to the provisions of N.C.G.S. §130A-196, §130A-197 or §130A-198 shall become the property of the county if the owner does not redeem the animal within 24-72 hours following the last day of the ~~ten-day imposed~~ confinement period required by statute.

D. Animal control shall leave with the owner or affix to the owner's residence a notice or order from the county health director, as applicable, containing the beginning and ending dates of confinement and stating that the owner must redeem the animal within 24 hours of the ending date of confinement stated in the notice.

E. The owner of an animal confined at the animal shelter pursuant to this section shall be responsible for the costs of caring for the animal while at the shelter and all fees shall be paid at the time of redemption.

F. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding medical costs, penalties, and fees that have accrued as a result of the animal being confined at the animal shelter.

Sec. 90-19. RABIES TAG; IDENTIFICATION REQUIRED.

A. It is the purpose of this section to supplement the state law by providing a procedure for the enforcement of state laws relating to rabies control. All dogs shall wear a valid rabies tag except when the dog is confined in an enclosure on the owner's property. It shall be unlawful for any person to use a vaccination tag issued for a dog other than the one using the tag. In addition to all other penalties prescribed by law, a dog is subject to impoundment in accordance with the provisions of this chapter and state law if the dog is found not to be wearing a currently valid rabies tag. Pursuant to N.C.G.S. §130A-190, domesticated cats are exempted from wearing rabies tags. Owners of cats and dogs without tags shall produce proof of rabies vaccination upon request of an animal control officer, a law enforcement officer or the county health director.

B. All cats and dogs shall have an identification tag, tattoo, microchip, or other marking from which the animal owner's name, address and contact information may be ascertained.

Sec. 90-20. PENALTIES.

The following penalties shall pertain to violations of this chapter:

(1) The violation of any provision of this chapter shall be a misdemeanor, and any person convicted of such violation shall be punishable as provided in N.C.G.S. §14-4, by a fine not to exceed \$50.00 or imprisonment not to exceed 30 days, or other applicable law. Each day's continuing violation of this chapter is a separate and distinct offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his or her liability for fees or civil penalties imposed under this chapter.

(2) Enforcement of this chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to N.C.G.S. 153A-123(d), (e).

(3) In addition to and independent of any criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to civil penalties, costs and fees as follows:

a. Unless otherwise provided for in a particular section, Animal control is authorized to assess civil penalties in the following manner:

1. A civil penalty of \$25.00 shall be assessed for the first violation of any provision of this chapter.

2. A civil penalty of \$50.00 shall be assessed for the second or subsequent violation of this chapter.

b. Civil penalties may be assessed for each violation of this chapter. The Section Administrator Animal Services or their designee shall issue to the known owner of any animal, or to any other violator of the provisions of this chapter, a ticket or citation giving notice of the ~~alleged~~ violation and of the civil penalty imposed. ~~Tickets or~~ Citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. This civil penalty shall be paid to the Section Administrator Animal Services or their ~~his~~ designee within 14 days of receipt of the ~~ticket or~~ citation. This civil penalty is in addition to any other fees, costs or fines imposed that are authorized by this chapter.

c. Failure on the part of the owner of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of this chapter. If an assessed civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty.

Sec. 90-21. REGULATION OF DOMESTIC ANIMALS ON COUNTY RECREATIONAL PROPERTY.

Running at large forbidden. It shall be unlawful for any person to allow a domestic animal, including a dog or cat, within his or her possession, ownership, or direct control, to run at large within or upon any lands owned by or under the control of Macon County used for recreational purposes with the exception of dogs running within the designated, fenced dog park(s). Any domestic animal brought to or allowed to enter upon any county property used for recreational purposes shall, at all times, be kept within the direct control and/or under restraint by the owner or other competent person having the possession thereof.

Sec. 90-22. FOX HUNTING.

A. The fox is hereby classified as a game animal in Macon County and may be taken only with dogs at any time during the day or night throughout the county.

B. Foxes, or parts thereof, shall not be bought or sold, except live foxes may be bought or sold for the purpose of restocking.

C. Notwithstanding the prior provisions hereof, it shall be lawful for any person to take foxes committing or about to commit depredations to person or property.

D. This section shall be applicable and in force in all areas of Macon County outside the corporate limits and extraterritorial jurisdiction of any municipality.

Sec. 90-23. ANIMAL CONTROL ADVISORY COMMITTEE.

The board of commissioners shall have authority to create and appoint an Advisory Committee of such number and composition as they shall determine. The members shall serve terms as established by the board of commissioners.

Sec. 90-24. FALSE REPORTS OR FRIVOLOUS COMPLAINTS.

A. It shall be unlawful for any person to file a false report with the animal control ~~department~~section or to knowingly provide false information to an animal control officer involving investigation of any reported violation of this Chapter.

B. It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with the animal control ~~department~~section in order to intimidate or harass any member of the animal control ~~department~~section or any animal owner, or to otherwise hinder or interfere with the animal control program.

Sec 90-25. EFFECTIVE DATE OF THIS ORDINANCE

The Ordinance shall become effective on ~~November 1, 2015~~ February 1, 2018.

Upon motion made by Commissioner _____, seconded by Commissioner _____, this Ordinance was passed, adopted and ordained by the unanimous vote of the Macon County Board of Commissioners on this the ____ day ~~of~~ of _____, ~~2016~~ 2018, at the regular meeting of the Macon County Board of Commissioners.

~~Kevin Corbin~~ James P. Tate, Chairman

Attest:

Clerk of the Board of Macon County Commissioners

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: County Attorney/Housing

SUBJECT MATTER: Satisfaction of Security Instrument

COMMENTS/RECOMMENDATION:

The County Attorney has prepared a "Satisfaction of Security Instrument" for Mary Estalee Bradley, a copy of which is attached. Housing Director John Fay has indicated that is appropriate for the Deed of Trust to be cancelled at this time.

Attachments 1 Yes No

Agenda Item 11B

STATE OF NORTH CAROLINA
COUNTY OF MACON

SATISFACTION OF SECURITY INSTRUMENT
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: Deed of Trust;

Original Grantor(s): Mary Estalee Bradley;

Original Secured Party(ies): Macon County

Recording Data: The security instrument is recorded in Book P-30 at Pages 75-80 in the Office of the Register of Deeds for Macon County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument.

Date: January 9, 2018

Macon County

By: _____
James Tate, Chairman, Macon
County Board of Commissioners

ATTEST: _____
Derek Roland, Clerk to
the Macon County Board of
Commissioners

(Official County Seal)

**STATE OF NORTH CAROLINA
COUNTY OF MACON**

I, _____, a Notary Public, for _____, County, North Carolina, certify that James Tate and Derek Roland, personally appeared before me this day and acknowledged that they are the Chairman of the Macon County Board of Commissioners and the Clerk to the Macon County Board of Commissioners for Macon County, North Carolina, and that by authority duly given and as the act of Macon County, North Carolina, the foregoing instrument was signed by such Chairman of the Macon County Board of Commissioners, sealed with its corporate seal and attested by such Clerk to the Macon County Board of Commissioners.

WITNESS my hand and Official stamp or seal, this the ____th day of January, 2018.

(OFFICIAL SEAL)

Notary Public, _____
My commission expires: _____

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Governing Board

SUBJECT MATTER: Schedule date for mid-year review and budget work session

COMMENTS/RECOMMENDATION:

The County Manager will be looking to set a date and time for the board's annual mid-year review and budget kickoff work session – normally held in mid to late January each year.

Attachments _____ Yes No

Agenda Item 11C

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Governing Board

SUBJECT MATTER: Consent Agenda

DEPARTMENT HEAD COMMENTS/RECOMMENDATION:

- A. **Minutes** – Consideration of the minutes from the November 28, 2017 continued session and the December 12, 2017 regular meeting, per Attachment 12A.
- B. **Finance** – Consideration of budget amendments #98 through #99, per Attachment 12B.
- C. **Tax releases** – Consideration of tax releases for December 2017 in the amount of \$54.92, per Attachment 12C.
- D. **Ad valorem tax collection report** – No action is necessary. Attachment 12D.

COUNTY MANAGER'S COMMENTS/RECOMMENDATION:

Attachments X Yes No

Agenda Item 12 (A) (B) (C) and (D)

**MACON COUNTY BOARD OF COMMISSIONERS
CONTINUED SESSION
NOVEMBER 28, 2017
MINUTES**

Chairman Tate reconvened the meeting at 6:04 p.m. at the Robert C. Carpenter Community Building located at 1288 Georgia Road in Franklin, NC as noticed. All Board Members, the County Manager, Deputy Clerk, Finance Director and County Attorney were present. The primary purpose of the meeting was to hold a joint meeting with the Franklin Town Council and the Town of Highlands Board of Commissioners, and to conduct other business as needed. Present on behalf of the Town of Franklin were Mayor Bob Scott, Vice Mayor/Council Member Barbara McRae, Council Member Joe Collins, Council Member Elect David Culpepper, Town Manager Summer Woodard and Town Finance Officer Kyra Doster. Present on behalf of the Town of Highlands were Mayor Patrick Taylor and Commissioners Amy Patterson, Brian Stiehler, Eric Pierson, John Dotson, Donnie Calloway and Town Manager Josh Ward. Also present were members of the news media and interested citizens.

Following individual introductions by those present, the pledge of allegiance to the flag was recited and a moment of silence was observed prior to everyone sharing a meal together.

COUNTY LEADERSHIP FORUM ON OPIOID ABUSE: Following opening remarks by the County Manager, Macon County Public Health Director Jim Bruckner and Lynn Baker, the agency's Population Health Section Administrator, led a forum on opioid abuse based on the North Carolina Association of County Commissioners (NCACC) "meeting in a box" format. That format consisted of (1) the sharing of numerous statistics regarding opioid abuse, (2) the current status of education, treatment and prevention efforts, (3) "understanding what is happening," (4) a review of the "language of recovery" using a comparison of the current terminology versus alternative terminology, then wrapping up with a discussion of the next steps. Mr. Bruckner said the goal of the forum was to "elevate the awareness" of local elected officials concerning this problem. Ms. Baker then used several statistics to paint a picture of the epidemic, noting that every day, nearly four North Carolinians die from a medication or drug overdose and 705 million opioid pills were prescribed in the state in 2016. Mr. Bruckner pointed out the need for

cooperation between law enforcement, medical prescribers, the public health community and the treatment and recovery community to confront the issue, as prevention, treatment and enforcement are all critical. It was noted during this time that Naloxone, or Narcan – a drug that can reverse an opioid overdose – is now being used by local first responder agencies. Mr. Bruckner and Ms. Baker then joined together to provide an overview of efforts taking place at the state, regional and local levels to combat the problem. Ms. Baker then led an exercise that centered on how the language and terms used to discuss this crisis could be shifted. The forum wrapped up with comments on the need for collaboration and with another group exercise that allowed participants to make choices as to which ideas for action they would commit themselves to. During the forum, both Mr. Bruckner and Commissioner Beale, who has been very involved in this issue at the state level, said that Macon County is “way ahead of a lot of counties” in organizing to address this epidemic. No official action was taken.

Each governmental entity then had the opportunity to share the highlights of projects and events that had taken or were taking place in their jurisdictions, beginning with Chairman Tate for the county, then Mayor Bob Scott and Vice Mayor Barbara McRae for the Town of Franklin, and finally Mayor Patrick Taylor for the Town of Highlands.

The group agreed to leave the task of deciding the host and date for the next joint meeting to the County Manager and the two town managers.

Chairman Tate called a recess at 8:17 p.m., allowing the representatives of the towns to leave the meeting.

Chairman Tate called the meeting back to order at 8:23 p.m. in order to conduct the following items of county business.

AGREEMENT FOR MOBILITY COORDINATOR POSITION: The County Attorney distributed copies of an agreement that he had prepared regarding the shared position of a mobility manager between Macon County Transit and the State of Franklin Health Council. Following a brief explanation by the County Attorney, and upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to approve the agreement as presented, a copy of which is attached (Attachment 1) and is hereby made a part of these minutes.

CONSERVATION EASEMENTS FOR STREAMBANK RESTORATION PROJECTS: The County Attorney distributed two documents – one a Deed of Conservation Easement for Restoration Purposes for the Macon County Recreation Park Stream Restoration Project, and the other a similar document

for the Cullasaja Park Stream Restoration Project. He explained that he had reviewed both documents and that they required board approval. Following brief discussion, and upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to approve both as presented. A copy of the Deed of Conservation Easement for Restoration Purposes for the Macon County Recreation Park Stream Restoration Project is attached (Attachment 2) and is hereby made a part of these minutes. A copy of the Deed of Conservation Easement for Restoration Purposes for the Cullasaja Park Stream Restoration Project is attached (Attachment 3) and is hereby made a part of these minutes.

CLOSED SESSION: The County Attorney said there was a need for a brief closed session in order to preserve the attorney/client privilege, and at 8:26 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to go into closed session. At 8:30 p.m., upon a motion by Commissioner Higdon, seconded by Commissioner Shields, the board voted unanimously to come out of closed session and return to open session. No action was taken.

ADJOURN: At 8:30 p.m., with no other business and upon a motion by Commissioner Beale, seconded by Commissioner Higdon, the board voted unanimously to adjourn.

Derek Roland
Ex Officio Clerk to the Board

Jim Tate
Board Chairman

**MACON COUNTY BOARD OF COMMISSIONERS
DECEMBER 12, 2017
MINUTES**

The County Manager called the meeting to order at 6:00 p.m. and welcomed those in attendance. All Board Members, the Deputy Clerk, Finance Director, County Attorney, members of the news media and interested citizens were present.

ELECTION OF CHAIRMAN: Per state statute, the County Manager conducted the election for the office of chairman, and opened the floor for nominations. Commissioner Beale nominated Commissioner Tate as chairman, and the nomination was seconded by Commissioner Gillespie. There were no other nominations. With no further discussion, the County Manager closed nominations and called for a vote on the motion, which was approved unanimously. The gavel was then passed to Chairman Tate.

ELECTION OF VICE-CHAIRMAN: Chairman Tate opened the floor for nominations for the office of vice-chairman, and Commissioner Shields nominated Commissioner Beale as vice-chairman. The nomination was seconded by Chairman Tate. There were no other nominations. With no further discussion, Chairman Tate closed nominations and called for a vote on the motion, which was approved unanimously.

EXAMINATION OF OFFICIAL BOND FOR PUBLIC OFFICIALS OF MACON COUNTY: The Finance Director explained that North Carolina General Statute (NCGS) 58-72 requires that the board annually examine the bonds of the public officers listed in NCGS 58-72.12, which includes the Finance Director, Tax Administrator, Register of Deeds and Sheriff. Following examination of the bonds and other pertinent documentation related to this matter, and upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve a resolution entitled "Examination of Official Bonds for Public Officials of Macon County," a copy of which is attached (Attachment 1) and is hereby made a part of these minutes, along with the supporting documentation presented at the meeting.

ANNOUNCEMENTS: There were no announcements.

MOMENT OF SILENCE: Chairman Tate asked those in attendance to observe a moment of silence.

PLEDGE TO THE FLAG: Led by Commissioner Beale, the pledge to the flag was recited.

PUBLIC COMMENT: **Lewis Penland** addressed the board regarding grading contractors. Noting that he was representing Penland Contracting, he said he wanted to express his thanks to the county's planning board for the "excellent job on this document," referring to the revisions to the proposed grading license segment of the county's Sedimentation and Erosion Control Ordinance. He said the existing requirements are "punishing the ones who want to do it right." He told the board that the State of Georgia has one of the best programs in the nation, adding that if contractors do not abide by the rules then state officials "come after you." He said that lack of enforcement of the current county ordinance was an issue, and told the commissioners "don't waste your time" with the revisions if they are not going to be enforced. **Howell Jacobs** told the board he had been a resident of the county for 53 years and lives in the Nantahala area. He said he had been told that if you come to Franklin to ask for anything you are wasting your time. He spoke to the condition of the community's recycling center and community building and said "all we want is to be even," but all that he hears is what can't be done. He told the board most people in the area would become Cherokee County residents if they could, and again compared the community's public facilities to those in the Franklin area. He said that Commissioner Higdon is "the only one who stands up" for the citizens of Nantahala. **Randy Shook** also addressed the grading license issue, and asked if the county does have a major erosion control problem, then why haven't citations been issued. Noting that he has a grading license, he asked how can you solve a problem if you don't have one. He stated that county residents were losing their property rights and he was against that. He placed blame on Jack Morgan, the county's Director of Planning, Permitting and Development, for adding more regulations. He asked for a show of hands from the audience of those who were against the revisions to the grading license, and several raised their hands. He concluded by telling the commissioners that he was "very disturbed by this," and that they haven't heard the last from him.

ADDITIONS, ADJUSTMENTS TO AND APPROVAL OF THE AGENDA: Upon a motion by Commissioner Beale, seconded by Commissioner Higdon, the board voted unanimously to approve the agenda as adjusted, as follows:

- To remove the update on Vaya Health under Reports/Presentations shown as Item 11(A), per the Deputy Clerk.

WORK FIRST ELECTING COUNTY PLAN: Department of Social Services (DSS) Director Patrick Betancourt asked the board to approve a revised Work First County Plan that will cover state fiscal years 2019-2022. He noted that if approved by the board, the plan would be forwarded to the state in time to meet a Friday deadline, and then after review, will be forwarded to the General Assembly for final approval. As the liaison to DSS, Commissioner Beale noted there are very few work first counties remaining in the state, and that the program has worked well here. He made a motion to adopt the plan as presented, and it was seconded by Commissioner Gillespie. With no further discussion, the board voted unanimously to approve the Macon County Department of Social Services Work First County Plan, a copy of which is attached (Attachment 2) and is hereby made a part of these minutes.

DISCUSSION OF SEDIMENTATION AND EROSION CONTROL GRADING

LICENSE REVISIONS: Mr. Morgan told the commissioners that he was here to discuss the recommendations of the county planning board as to the grading license portion of the Sedimentation and Erosion Control Ordinance. He noted that the planning board was asked to review this portion of the document after the commissioners voted earlier in the year to rescind the grading license program. He had provided the board with a two-page document entitled "License Requirements," a copy of which is attached (Attachment 3) and is hereby made a part of these minutes. He asked if the board had questions or comments, and a lengthy discussion followed, including what types of activity were exempted, the planning board's process in reviewing the standards of the program, and enforcement of the same. Commissioner Higdon expressed his displeasure of this portion of the ordinance, saying it is "just a feel-good thing" that is not recognized by the surrounding counties. He said he was opposed to it and doesn't think it is necessary. This led to further discussion, including questions about the open-book test that applicants must take in order to get the license. Commissioner Gillespie, the liaison to the planning board, said he had been involved in the process and added that the attempt was made to "strike a line somewhere in the middle that makes sense for everybody." After additional discussion, Commissioner Gillespie made a motion for the County Attorney to move forward with preparing the necessary amendment to the ordinance, and to hold a public hearing on the revisions. Commissioner Shields seconded the motion. During further discussion, Chairman Tate said that he did not see the changes as "inhibiting anyone's personal property rights." The board then voted 4-1 to approve the motion, with Commissioner Higdon opposing. The board agreed to hold the public hearing at its January 2018 regular meeting.

REQUEST FOR QUALIFICATIONS FOR ARCHITECTURAL SERVICES AT SOUTH MACON ELEMENTARY SCHOOL: The County Manager explained that three responses were received to the Request for Qualifications (RFQ) for

architectural services for the planned expansion of South Macon Elementary School. Of those three responses, the Novus firm received the highest scores from both the county's Board of Education and the county's own finance staff. He said the Board of Education voted to recommend Novus and that the county's evaluation would support that recommendation. Upon a motion by Commissioner Shields, seconded by Commissioner Beale, the board voted unanimously to find that Novus is the best qualified firm for the project, and that by statute, the county can begin contractual negotiations with the firm.

UPDATE ON EMERGENCY COMMUNICATONS PROJECT: Emergency Services Director Warren Cabe updated the board on the ongoing upgrade of the county's emergency communications project. He first explained that \$400,000 had been set aside to help fund the project, followed by another \$400,000. Plans to obtain a \$1 million grant from FEMA to purchase equipment did not materialize, he added. During last fire season, he said the county was forced to use the 800 mhz NC VIPER system, which he said worked really well. However, the county must keep the analog or legacy communications system that is still in use. However, he said plans are to add digital equipment and capabilities and to be ready when the technology changes. So for now, he told the board he plans to spend one-third of his funds on the VIPER system, one-third on the UHF system and the remaining third on the subscriber units, which will allow each volunteer fire department in the county to upgrade some equipment to digital. He also pointed out that \$55,000 will be spent to upgrade communications in the Nantahala area. He told the board he is being careful not to put all of the eggs in just one basket. With the county's topography, he said there will be "holes" but that attempts are being made to fix those. Then he switched to what he referred to as "the big money part" and requested approval of the purchase of a seven-channel Motorola radio system at a cost of \$265,203. He had explained that this is an expandable site radio subsystem and control stations allowing expansion of the NC VIPER system in the county to include channels/talkgroups for emergency service providers and allows full access to the system through the county's 911 telecommunications center. Motorola is the "sole source provider" of compatible equipment that meets the state Department of Public Safety's requirements and offers Houston-Galveston Area Council (HGACBuy) pricing, a system that the county is a member of. He told the board that in this case the county must "go with Motorola or not at all." This first-phase of the communications system upgrade has a 90-day turnaround, he noted. Chairman Tate, who is the liaison to emergency services, told the board it is "time to move forward." Upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to approve the quote from Motorola in the amount of \$265,203, a copy of which is attached (Attachment 4) and is hereby made a part of these minutes.

CHANGES TO US DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING REGULATIONS: Macon County Transit Director Kim Angel spoke to the need of revising her department's drug testing standards in order to meet new federal guidelines that take effect on January 1, 2018. The changes involve modification to the drug testing panel due to the nationwide opioid crisis. Ms. Angel said this will directly affect safety sensitive positions in Transit and at the county garage. The County Attorney pointed out that this is one of those situations that if the county takes money to operate the system from the federal government, then compliance with the new standards is the only response. Following further discussion, and upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the revised version of the "Drug and Alcohol Testing Policy" for Macon County Transit, a copy of which is attached (Attachment 5) and is hereby made a part of these minutes.

LEASE AGREEMENT WITH SOUTHWESTERN COMMUNITY COLLEGE REGARDING EXISTING BURN BUILDING PROPERTY: The County Manager pointed out that the existing lease between the county and Southwestern Community College (SCC) for the site of the existing burn building was entered into in 1998 and expires January 31, 2018. With the county and SCC now in discussions over a new site for a new burn building, he noted the county will need to consider the terms for a new lease agreement for the existing site going forward. Following discussion, it was agreed that a new proposal would be prepared for discussion at the January 2018 regular meeting, and no action was taken.

CONSENT AGENDA: Following a brief question and answer session regarding the recommended denial of a requested tax refund, upon a motion by Commissioner Shields, seconded by Chairman Tate, the board voted unanimously to approve the items on the consent agenda as follows: the minutes of the November 14, 2017 regular meeting; the following budget amendments: #92 to appropriate \$45,036 from the E911 Fund Balance to cover the cost of a server upgrade; #93 for the Sheriff's Department to appropriate \$30,330 in fund balance and donations for special fund expenses; (Copies of the amendments are attached); there were no tax releases for the month of November; denied a tax refund to Constance Green in the amount of \$1,085 as recommended by Tax Administrator Richard Lightner; monthly ad valorem tax collections report (no action necessary).

APPOINTMENTS: (1) Community Funding Pool: (A) Upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to appoint Karen Stiwinter to fill the remaining open seat on the newly reconstituted Community Funding Pool task force.

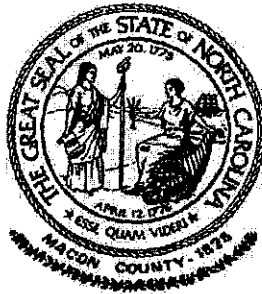
CLOSED SESSION: At 7:55 p.m., upon a motion by Commissioner Higdon, seconded by Commissioner Gillespie, the board voted unanimously to go into closed session for the purpose of preserving the attorney-client privilege. At 8:20 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to come out of closed session and return to open session. No action was taken.

ADJOURN: With no other business, and at 8:20 p.m., upon a motion by Commissioner Shields, seconded by Commissioner Higdon, the board voted unanimously to adjourn.

Derek Roland
Ex Officio Clerk to the Board

Jim Tate
Board Chairman

Macon County Tax Office
5 West Main Street
Franklin, NC 28734



Phone: (828) 349-2149
Fax: (828) 349-2564
tmdowell@maconnc.org

TO: MACON COUNTY COMMISSIONERS

FROM: Macon County Tax Office
Teresa McDowell, Tax Collections Supervisor

DATE: January 2, 2018

RE: Releases

Attached please find the report of releases for real estate that require your approval in order to continue with the process of releasing these amounts from the tax accounts. Please feel free to contact me if you should have any questions regarding these releases. The report of the releases formatted in alphabetical order is attached.

AMOUNT OF RELEASES FOR DECEMBER, 2017: \$54.92 1

Seq Nbr	Date	Account Number	Taxbill Number	Tax Code	Transaction Amount	Levy Amount	Penalty Amount	Addl Chgs	Interest Amount	Discnt Amount	Trn Cde	Check Number	Trans Rev
1	12/28/17	136485	17A6585839367	G01 F01	47.50- 7.42-	47.50- 7.42-	0.00 0.00		0.00 0.00				
***			FREEMAN, BETINA P ET AL		54.92-	54.92-	0.00	0.00	0.00	0.00	R	CLERICA	
Tax Code Totals: F01*17- FR FIRE 7.42- 0.00 0.00 0.00 0.00 G01*17- GEN TAX 47.50- 47.50 0.00 0.00 0.00 0.00													
Total for Group					54.92-	54.92-	0.00	0.00	0.00	0.00			0.00
REL*17*12													

***** Totals By Tax Cycle *****
 Cycle Current Delinquent
 A 54.92- 0.00

MACON COUNTY MONTHLY
AD VALOREM TAX COLLECTIONS REPORT

Dec-17

Month to Date	Beginning Balance	Levy Added	Less Releases	Less Write-Offs	Equals Adj Levy	Gross Payments	Less Refunds	Misc Dr/Cr	Net Payments	Outstanding Balance
General Tax	10071874.93	1414.01	-792.3	-8.63	10072488.01	-5183330.53	24513.85	3859.94	-5154956.74	4917531.27
Fire Districts	1260943.71	282.21	-144.44	-1.59	1261079.89	-636619.87	0	373.4	-636246.47	624833.42
Landfill User Fee	920128.82	95	-380	-1.24	919842.58	-456207.26	0	380	-455827.26	464015.32
Totals	12252947.46	1791.22	-1316.74	-11.46	12253410.48	-6276157.66	24513.85	4613.34	-6247030.47	6006380.01

Year to Date	Beginning Balance	Levy Added	Less Releases	Less Write-Offs	Equals Adj Levy	Gross Payments	Less Refunds	Misc Dr/Cr	Net Payments	Outstanding Balance	Collection Percentage
General Tax	0	26895716.26	-16084.33	-1250.78	26878381.15	-22046596.77	67873.45	17873.44	-21960849.88	4917531.27	81.7
Fire Districts	0	3232840.18	-1925.93	-196.49	3230717.76	-2606737	1.76	850.9	-2605884.34	624833.42	80.66
Landfill User Fee	0	2540395	-2755	-13.05	2537626.95	-2075204.63	0	1593	-2073611.63	464015.32	81.71
Totals	0	32668951.44	-20765.26	-1460.32	32646725.86	-26728538.4	67875.21	20317.34	-26640345.85	6006380.01	81.6

The collection rate is 81.7% collected on 2017 County general taxes, late listing penalties, discoveries and deferred taxes as of 12/31/2017 as compared to 80.9% on 2016 taxes as of 12/31/2016

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

MEETING DATE: January 9, 2018

DEPARTMENT/AGENCY: Governing Board

SUBJECT MATTER: Appointments

COMMENTS/RECOMMENDATION:

- (A) ETJ Representative on the Town of Franklin Planning Board:**
Please see the attached letter from Town of Franklin Planner/Land Use Administrator Justin Setser regarding the reappointment of Janet Greene as the Extraterritorial Jurisdiction (ETJ) representative on the Town of Franklin Planning Board. Please note, Mrs. Greene is requesting a one-year reappointment term.

Attachments 1 Yes No

Agenda Item 13(A)

TOWN OF FRANKLIN



Post Office Box 1479
Franklin, North Carolina 28744
(828) 524-2516

Date: January 4, 2018

To: Macon County Board of Commissioners
Derek Roland, County Manager

From: Justin Setser, Land Use Administrator

Subject: Janet Greene Reappointment to Town of Franklin Planning Board

Janet Greene's term has expired on November 17, 2017. Mrs. Greene would like to continue to serve as an ETJ representative on the Town of Franklin Planning Board and Board of Adjustment for Macon County. Mrs. Greene would only like to serve a one year term expiring on January 2, 2019. This action was approved by the Town of Franklin's Town Council at their January 2, 2018 meeting.