

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

**TUESDAY, OCTOBER 2, 2012  
8:00 A.M.**

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

<b>TIME</b>	<b>#</b>	<b>TOPIC</b>	<b>PRESENTER</b>	<b>PAGE</b>
8:00	1	CALL REGULAR MEETING TO ORDER		
	2	APPROVAL OF MINUTES: September 18, 2012, Regular Meeting September 18, 2012, Closed Session		1
	3	APPROVAL OF THE OCTOBER 2, 2012 AGENDA		13
8:05	4	PROPOSED PURCHASE AND SALE AGREEMENT FOR THE OLD WATAUGA HIGH SCHOOL PROPERTY	CHAIRMAN MILLER	15
8:10	5	TAX MATTERS A. Monthly Collections Report B. Refunds and Releases	MR. LARRY WARREN	37 38
8:15	6	BUDGET AMENDMENTS	MS. MARGARET PIERCE	39
8:20	7	MISCELLANEOUS ADMINISTRATIVE MATTERS A. Proposed Resolution for Blue Star Memorial Highway Designation B. Boards & Commissions C. Announcements	MR. DERON GEOUQUE	43 45 51
8:25	8	PUBLIC COMMENT		67
9:25	9	BREAK		67
9:30	10	CLOSED SESSION Attorney/Client Matters – G. S. 143-318.11(a)(3)		67
9:45	11	ADJOURN		

**AGENDA ITEM 2:**

**APPROVAL OF MINUTES:**

September 18, 2012, Regular Meeting  
September 18, 2012, Closed Session

**DRAFT****MINUTES****WATAUGA COUNTY BOARD OF COMMISSIONERS  
TUESDAY, SEPTEMBER 18, 2012**

The Watauga County Board of Commissioners held a regular meeting on Tuesday, September 18, 2012, at 5:30 P.M. in the Commissioners' Board Room of the Watauga County Administration Building, Boone, North Carolina.

**PRESENT:** Nathan A. Miller, Chairman  
Vince Gable, Vice-Chairman  
David Blust, Commissioner  
Jim Deal, Commissioner  
Tim Futrelle, Commissioner  
Stacy C. Eggers, IV, County Attorney  
Deron Geouque, County Manager  
Anita J. Fogle, Clerk to the Board

Chairman Miller called the meeting to order at 5:31 P.M.

Commissioner Deal opened the meeting with a prayer and Vice-Chairman Gable led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Chairman Miller called for additions and/or corrections to the August 21, 2012, regular meeting and closed session minutes.

Commissioner Futrelle, seconded by Vice-Chairman Gable, moved to approve the August 21, 2012, regular meeting minutes as presented.

VOTE: Aye-5  
Nay-0

Commissioner Futrelle, seconded by Vice-Chairman Gable, moved to approve the August 21, 2012, closed session minutes as presented.

VOTE: Aye-5  
Nay-0

**APPROVAL OF AGENDA**

Chairman Miller called for additions and/or corrections to the September 18, 2012, agenda.

County Manager Geouque requested to add a proposed proclamation honoring Ms. Donna Lyons as she plans to retire as the Veteran's Service Officer effective October 1, 2012. The County

Manager also requested to remove Personnel Matters from the closed session as discussion under that topic was no longer needed.

Commissioner Blust, seconded by Commissioner Deal, moved to approve the September 18, 2012, agenda as amended.

VOTE: Aye-5  
Nay-0

**PROPOSED PROCLAMATION HONORING WATAUGA COUNTY VETERAN'S SERVICE OFFICER DONNA LYONS**

Chairman Miller read a proposed proclamation honoring Watauga County Veteran's Service Officer, Donna Lyons, upon her upcoming retirement, effective October 1, 2012.

Vice-Chairman Gable, seconded by Commissioner Deal, moved to adopt the proclamation honoring Donna Lyons as presented.

VOTE: Aye-5  
Nay-0

Chairman Miller formally presented Ms. Lyons with the proclamation.

**PROPOSED RESOLUTION REQUESTING THE NAMING OF NC 194 SCENIC BYWAY FROM VALLE CRUCIS TO THE AVERY COUNTY LINE IN HONOR OF ED YATES**

Mr. Ralph Yates requested the Board's consideration in supporting a request to the North Carolina Department of Transportation to rename NC 194 Scenic Byway from Valle Crucis to the Avery County line in honor of Ed Yates, who assisted in the construction of many area roads by operating a steam shovel.

As the Department of Transportation requests proof of public support when making such a request, Chairman Miller tabled further discussion until the Tuesday, October 16, 2012, Board meeting at which time will be provided on the agenda to allow for public comment regarding the request.

**ACCEPTANCE OF ADULT DRUG COURT DISCRETIONARY GRANT PROGRAM FUNDS – MEDIATION AND RESTORATIVE JUSTICE CENTER**

Ms. Melissa Johnson, Executive Director of the Mediation and Restorative Justice Center, requests the Board accept a grant award from the Office of Justice Programs in the amount of \$91,629 from the Adult Drug Court Discretionary Grant Program. The grant requires a match of approximately \$30,543 over a two year period with funding provided by the ABC Bottle Tax monies. The grant, in a total amount of \$122,172, will be used to fund the Watauga County Drug Treatment Court Program. Ms. Johnson also presented a contract between the County and

Mediation and Restorative Justice Center as the County will serve as the fiscal agent for the grant.

Commissioner Deal, seconded by Commissioner Blust, moved to accept the grant from the Office of Justice Programs in the amount of \$91,629 and approve the \$30,543 County match, to be provided by the ABC Bottle Tax revenues.

VOTE: Aye-5  
Nay-0

Commissioner Deal, seconded by Commissioner Blust, moved to approve the agreement between the County and the Mediation and Restorative Justice Center as presented.

VOTE: Aye-5  
Nay-0

### **PROPOSED RESOLUTION ENDORSING THE DESIGNATION OF US 421 AS A STRATEGIC HIGHWAY CORRIDOR AND INTRASTATE TRUST FUND PROJECT**

Mr. Craig Hughes, Planner, with High Country Council of Governments presented a resolution requesting the change of designation of a Strategic Highway Corridor and Intrastate Highway Trust Fund Project from US 321, from Vilas to Tennessee, to US 421, from Vilas to Tennessee. US 321 was originally chosen because the State of Tennessee had indicated that they planned to widen US 321 to the state line at an earlier time than they planned to widen US 421 to the state line.

This recommendation was endorsed by the Watauga County Comprehensive Transportation Plan Steering Committee with the determination that US 421 from Vilas to Tennessee was better suited as a Strategic Highway Corridor and Intrastate Highway Trust Fund project than US 321 from Vilas to Tennessee. The cost of the US 421 project, projected at \$67,900,000 is much less than the cost of the US 321 project which was projected at \$132,900,000.

Commissioner Deal, seconded by Vice-Chairman Gable, moved to adopt the Resolution Endorsing the Designation of US 421 as a Strategic Highway Corridor and Intrastate Trust Fund Project as presented.

VOTE: Aye-5  
Nay-0

### **BOARD OF EDUCATION REQUEST FOR LOTTERY FUNDS**

Ms. Ly Marze, Watauga County Schools Finance Officer, presented a request for approval of four Education Lottery Fund applications in which a total amount of \$79,400 was sought for various elementary school Capital Improvement Projects as listed below:

- Replace carpet and floor tiles in classrooms at Green Valley, Hardin Park, Mabel, and Parkway Schools in the amount of \$38,400 with the project estimated to begin in November 2012 and end in January 2013.
- Restroom renovations at Green Valley School in the amount of \$10,000 with the project to begin in November 2012 and end in January 2013.
- Installation of a drop ceiling at Blowing Rock School in the amount of \$10,000 with the project to begin in November 2012 and end in January 2013.
- Cafeteria updates at Cove Creek and Bethel Schools in the amount of \$21,000 with the project to begin in September 2012 and end in May 2013.

Dr. David Kafitz, Watauga County Schools Superintendent, gave a brief update on the Valle Crucis School ceiling repair project.

Commissioner Deal, seconded by Commissioner Futrelle, moved to approve the Education Lottery Fund applications for the Capital Improvement Projects as presented by Ms. Ly Marze.

VOTE: Aye-5  
Nay-0

## **SANITATION MATTERS**

### ***A. Bid Award Request for Landfill Forklift***

Mr. J. V. Potter, Operations Services Director, stated that the County recently received a grant for \$14,200 from the North Carolina Department of Environment and Natural Resources to assist in the replacement of a forklift used in the recycling center. The following bids were received:

Vendor	Amount
Vesco Toyotalift	\$31,631.55
Liftone	\$33,956.36
Dougherty Equipment	\$45,245.40

Mr. Potter stated that staff recommended the Board approve the lowest bid submitted by Vesco Toyotalift in the amount of \$31,631.55. Funds for the remaining \$17,431.55 needed in addition to the \$14,200 grant are available in the Sanitation Department budget.

Commissioner Deal, seconded by Commissioner Blust, moved to award the bid for the purchase of a new forklift to Vesco Toyotalift in the amount of \$31,631.55 with funds to be allocated as presented.

VOTE: Aye-5  
Nay-0

***B. Bid Award Request for Paving Repairs at the Hannah Building***

County Manager Geouque stated that at the August 21, 2012 Board meeting, staff was given direction to assist the Hunger and Health Coalition in securing pricing for driveway repairs and the potential to utilize County staff to reduce the cost. The County solicited four (4) paving contractors for the repairs with bids received as listed below:

Vendor	Option #1	Option # 2	Option #3
Moretz Paving	\$6,700.00	\$9,976.00	\$12,500.00
Tri-County	\$11,619.92	\$	\$15,497.18
Champion Paving Co.	\$6,708.00,	\$10,393.00	\$17,856.00
Carl Rose & Son	No Bid	No Bid	No Bid

Contractors were requested to provide the following three (3) options: Option 1 was to dig out and patch the five (5) pothole areas; Option 2 was to dig out and patch the five (5) pothole areas and tar and gravel the driveway; Option 3 was to dig out the entire driveway and replace with two (2) inch pavement. In addition to these options, County staff recommended that the portion of the driveway that was being utilized as a log lot, firewood drop-off, not be repaved but rather graveled to accommodate the weight loads of the wood. If approved, graveling the log lot would add an additional \$1,200 to each of the options. If County equipment and staff were utilized for the project, there would be cost reductions in the amount of \$600 for Option 1 and 2 and \$1,050 for Option 3.

County Manager Geouque stated that staff agreed with the Board's previous concern that patching only the pothole areas is not the ideal fix and, therefore, recommended Option 2 or 3, if the Board chose to proceed with the project. The County Manager further recommended not utilizing County staff nor equipment as it could compromise the liability of the contracted work should problems arise.

Commissioner Deal, seconded by Commissioner Futrelle, moved to award Moretz Paving's Option #3 bid in the amount of \$12,500, and to authorize \$1,200 to gravel the log lot with all funds to be allocated from the Administration Contingency budget line for driveway repairs at the County-owned Hannah Building.

VOTE: Aye-5  
Nay-0

**PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT**

***A. Community Development Block Grant (CDBG) Applications for Housing Rehabilitation***

- 1. Scattered Site Housing Program**
- 2. NC Catalyst Program**

Commissioner Deal, seconded by Commissioner Blust, moved to declare the public hearing open at 6:13 P.M. to allow citizen comment on Community Development Block Grant (CDBG) applications for both the Scattered Site Housing Program and the NC Catalyst Program.

VOTE: Aye-5  
Nay-0

The public hearing in regards to the NC Catalyst Program will be the first of the two required hearings. Upon completion of the second public hearing scheduled for October 16, 2012 the Board will be requested to submit an application for funding.

Ms. Michelle Ball with High Country Council of Governments requested authorization for the County to apply for the 2012 Community Development Block Grant funds in the Scattered Site Housing category in the amount of \$225,000, which were non-competitive funds, and in the NC Catalyst category in the amount of \$175,000, which were competitive funds and may or may not be awarded. The CDBG funds would be used to rehabilitate houses occupied by very low-income households in Watauga County.

Ms. Ball stated that this was the second of two required public hearings for the Scattered Site Housing category and, therefore, requested authorization to submit the application. The second required public hearing for the NC Catalyst Program category was scheduled for Tuesday, October 16, 2012, at 6:00 P.M.

There being no public comment, Chairman Miller declared the public hearing closed at 6:17 P.M.

Commissioner Blust, seconded by Vice-Chairman Gable, moved to authorize the submission of the Scattered Site Housing grant application in the amount of \$225,000 as presented by Ms. Ball.

VOTE: Aye-5  
Nay-0

***B. Proposed Amendments to the Watauga County Ordinance to Regulate Installation and Maintenance of Electronic Access Gates for Gated Communities***

Vice-Chairman Gable, seconded by Commissioner Blust, declared the public hearing open at 6:18 P.M. to allow citizen comment on the proposed amendments to the Watauga County Ordinance to Regulate Installation and Maintenance of Electric Access Gates for Gated Communities.

VOTE: Aye-5  
Nay-0

Mr. Joe Furman, Planning and Inspections Director, reviewed the changes as proposed by himself and the County Attorney. Mr. Furman stated that the amendments included two technical changes and the addition of Section 100.04 which allowed for an appeals process.

There being no public comment, Chairman Miller closed the public hearing at 6:20 P.M.

Vice-Chairman Gable, seconded by Commissioner Blust, moved to adopt the amended ordinance as presented.

VOTE: Aye-5  
Nay-0

***C. Proposed Amendments to the Ordinance to Regulate Wireless Communication Towers in Watauga County***

Vice-Chairman Gable, seconded by Commissioner Blust, declared the public hearing open at 6:20 P.M. to allow citizen comment on a proposed amendment to the Watauga County Ordinance to Regulate Installation and Maintenance of Electric Access Gates for Gated Communities.

VOTE: Aye-5  
Nay-0

Mr. Joe Furman, Planning and Inspections Director, reviewed the amendment to Article 4 Section A. 10. of the ordinance which was needed to incorporate recent and future changes to applicable federal and state standards. Mr. Furman stated that the amendments included two technical changes and the addition of Section 100.04 which would allow for an appeal process.

There being no public comment, Chairman Miller closed the public hearing at 6:21 P.M.

Commissioner Blust, seconded by Vice-Chairman Gable, moved to adopt the amended ordinance as presented.

VOTE: Aye-5  
Nay-0

**PUBLIC HEARING REQUEST TO ALLOW CITIZEN COMMENT ON PROPOSED AMENDMENTS TO THE VALLE CRUCIS HISTORIC DISTRICT ORDINANCE**

Mr. Furman requested the Board schedule a public hearing for the October 16, 2012, meeting to consider proposed amendments to the Valle Crucis Historic District Ordinance as recommended by the Valle Crucis Historic Preservation Commission. A public hearing is required to be called by the Board of Commissioners to amend the ordinance and a recommendation is needed from the Planning Board before any formal action could be taken. Mr. Furman stated that the Planning Board would meet on October 15, 2012, to consider the amendments and would have a recommendation to present at the public hearing on October 16, 2012.

Commissioner Deal, seconded by Commissioner Blust, moved to schedule a public hearing at 6:00 P.M. on Tuesday, October 16, 2012, to allow citizen comment on the proposed ordinance amendments.

VOTE: Aye-5  
Nay-0

**ACCEPTANCE OF ADDITIONAL APPROPRIATION OF STATE FUNDS FOR SENIOR CENTERS**

Ms. Angie Boitnotte announced that the Project on Aging's two Senior Centers were eligible to receive an additional \$15,670, in Senior Center funding from the North Carolina General Assembly and the North Carolina Division of Aging. With the designation of a Center of

Excellence, the L.E. Harrill Senior Center is eligible for \$11,753 and the Western Watauga Community Center for \$3,917. The allocation requires a 25% local match, in the amount of \$5,224, which is currently available in the Agency's budget.

Ms. Boitnotte commended Ms. Tabitha Thomas, Senior Center Director, for maintaining the Center of Excellence status which allowed the County to receive the additional funding allocation.

Commissioner Deal, seconded by Commissioner Futrelle, moved to accept the additional Senior Center funding and approve the local match as presented by Ms. Boitnotte.

VOTE: Aye-5  
Nay-0

## **TAX MATTERS**

### ***A. Monthly Collections Report***

Interim Tax Administrator Larry Warren presented the Tax Collections Report for the month of August 2012. This report was presented for information only and, therefore, no action was required.

### ***B. Refunds and Releases***

Mr. Warren presented the following Refunds and Releases for August 2012 for Board approval:

TO BE TYPED IN MINUTE BOOK

Commissioner Futrelle, seconded by Vice-Chairman Gable, moved to approve the Refunds and Releases Report for August 2012, as presented.

VOTE: Aye-3(Gable, Blust, Futrelle)  
Nay-0  
Abstain-2(Miller, Deal)

*[Clerk's Note: Both Chairman Miller and Commissioner Deal abstained from action as each of their businesses was listed in the Refunds and Releases Report for August 2012.]*

## **MISCELLANEOUS ADMINISTRATIVE MATTERS**

### ***A. Discussion to Schedule Joint Meeting with the Economic Development Commission (EDC)***

County Manager Geouque requested potential dates available for a joint meeting with the Economic Development Commission to discuss potential uses of the old Watauga High School property.

After discussion, and by consensus, the Board offered the dates of either October 8 or 22, 2012, with the work session to be held from 4:30 to 6:00 P.M.

***B. Proposed Renewal of Landfill Lease with Appalachian State University***

Appalachian State University proposed a renewal of their current lease at the Watauga County Landfill for biofuel and methane research. The current lease expires May 12, 2013; however, ASU has requested a three (3) year renewal to become effective September 1, 2012. The County Attorney had reviewed the lease.

Commissioner Deal, seconded by Commissioner Blust, moved to approve the lease renewal as presented by the County Manager.

VOTE: Aye-5  
Nay-0

***C. Proposed Paving Agreement with the NC Department of Transportation for the Meat Camp Volunteer Fire Department***

County Manager Geouque stated that the Meat Camp Volunteer Fire Department was in the process of building a new fire station for which the NC Department of Transportation (DOT) has discretionary funds to assist in providing driveway connections. In order to be eligible for the DOT funds, the County and Fire Department must approve NC DOT's Reimbursable Agreement. The maximum amount eligible for reimbursement is \$25,000 with any additional amount over that to be covered by the Meat Camp Volunteer Fire Department.

Vice-Chairman Gable, seconded by Commissioner Deal, moved to approve the North Carolina Department of Transportation Reimbursable Agreement allowing \$25,000 of DOT discretionary funds be used to assist in providing driveway connections at the new Meat Camp Volunteer Fire Department with the Fire Department to be responsible for any costs in addition to the \$25,000.

VOTE: Aye-5  
Nay-0

***D. Boards and Commissions***

County Manager Geouque stated that AppalCART had submitted the following nominations for appointment to their Board of Directors: Mr. John Dinkins as a user representative and Ms. Elaine Norris as the Human Service Agency Representative.

County Manager Geouque stated that Mr. Allen Culler's term on the Valle Crucis Historic Preservation Commission (VCHPC) expires this month and he was willing to be reappointed for the 3 year term. The VCHPC is involved in the issuance of "Certificates of Appropriateness" pursuant to the Valle Crucis Historic District Ordinance. The Commission's membership includes 3 residents of the historic district and 2 residents of the Valle Crucis community who are also members of the elected Valle Crucis Community Council. Mr. Culler's seat is one of the 2 Community Council member seats. The VCHPC historically meets infrequently.

County Manager Geouque stated that Ms. Janet Miller's term on the Watauga County Board of Adjustment expires in November and she is willing to be reappointed for the 3 year term. Ms. Miller is an at-large member and at-large members fill 2 of the 6 seats on the Board. The other 4

seats are filled by representatives of the zoned and watershed areas in the county. The Board of Adjustment historically meets infrequently.

All the above were first readings; therefore, action was not required at this time.

### ***E. Announcements***

County Manager Geouque made the following announcements:

- Caldwell Community College & Technical Institute's Board of Trustees invites the Board of Commissioners to their Wednesday, September 19, 2012, Board meeting at 6:00 P.M. at the White Oak Road Campus.
- High Country Recreation will host a presentation on Tuesday, October 2, 2012, from 5:30 P.M. to 7:00 P.M., in the Hospital Theater area, conducted by Mr. Bob Conklin, CEO/President for the YMCA of Catawba Valley. The presentation will focus on how a YMCA provides year-round recreational opportunities and additional child care options for working parents.
- An Interlocal Governmental Retreat is scheduled for Thursday October 11, 2012, from 5:00 P.M. to 7:00 P.M. at the ASU Athletics Center. Craig Hughes with High Country Council of Governments and NCDOT planning staff will make presentations.

### **PUBLIC COMMENT**

There was no public comment.

### **CLOSED SESSION**

At 6:39 P.M., Commissioner Blust, seconded by Vice-Chairman Gable, moved to enter Closed Session to discuss Attorney/Client Matters, per G. S. 143-318.11(a)(3).

VOTE: Aye-5  
Nay-0

Commissioner Deal, seconded by Chairman Miller, moved to resume the open meeting at 6:56 P.M.

VOTE: Aye-5  
Nay-0

### **ACTION AFTER CLOSED SESSION**

Commissioner Deal, seconded by Commissioner Futrelle, moved to approve two change orders, one in the amount of \$12,500 for caulking the roof relief angles and one in the amount of \$22,500 to fix issues with the tennis court area, for the new high school project.

VOTE: Aye-5  
Nay-0

Commissioner Deal, seconded by Commissioner Futrelle, moved to approve the release of a portion of retained funds regarding the construction of the new high school to Vannoy Construction in the amount of \$78,031.75.

VOTE: Aye-5  
Nay-0

**ADJOURN**

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

\_\_\_\_\_  
Nathan A. Miller, Chairman

**ATTEST:**

\_\_\_\_\_  
Anita J. Fogle, Clerk to the Board

**AGENDA ITEM 3:**

**APPROVAL OF THE OCTOBER 2, 2012, AGENDA**

Blank Page

**AGENDA ITEM 4:****PROPOSED PURCHASE AND SALE AGREEMENT FOR THE OLD WATAUGA HIGH SCHOOL PROPERTY****MANAGER'S COMMENTS:**

Campus Crest Development, LLC has submitted an offer to purchase the old Watauga High School property for \$15,000,000. Mr. Rick Miller is the buyer's agent and is requesting a 10% commission. Campus Crest Development, LLC has requested a one hundred eighty (180) day inspection period of the property.

The Board may accept the offer, counter the offer, or reject the offer. Should the Board wish to accept the offer, Campus Crest Development, LLC would be required to deposit 5% (\$750,000) of the purchase amount with the County. The County would be required to publish a notice of the offer, in which the notice would state that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. The process would continue until there are no longer any upset bids. Throughout the process, the County may reject any and all bids.

Staff seeks direction from the Board.



DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE

REALTOR® North Carolina Association

of REALTORS® Watauga County, a North Carolina corporate body politic chartered by the state of

This Agreement is entered into by and between: North Carolina ("Seller").

and Miller Properties, Inc. ("Firm"). (Name of Firm)

RECITALS:

A. Seller is the owner of the property commonly known as:

400 High School Dr., Boone NC 28607,

Also see Exhibit A attached hereto ("Property").

B. Firm has advised Seller of Firm's general company policy regarding agency. Seller has received and read the North Carolina Real Estate Commission's "Working with Real Estate Agents" publication (NCAR Standard Form 520) and understands that Firm will be acting as:

- a Seller's Agent
a Buyer's Agent

with respect to: Campus Crest Development, LLC and or any other party the principals of which are affiliated with Campus Crest Group, LLC. ("Buyer") who would like to see the Property.

any prospect Firm registers with Selier as evidenced by a registration document (either a CONFIRMATION OF AGENCY RELATIONSHIP AND REGISTRATION STATEMENT - NCAR Form 510 or substantially similar registration document) provided by Firm to Seller prior to showing the Property. For the purposes of this Agreement, any such registered prospect is referred to as "Buyer".

Accordingly, the parties agree as follows:

1. FEE. When Seller accepts an unconditional offer from Buyer or when all conditions have been met following the Seller's acceptance of a conditional offer from Buyer, then Seller shall pay Firm a fee equal to Ten Point Zero percent ( 10.000 %) of the gross sales price of the Property, or the sum of (\$ ), whichever is greater.

Seller shall pay the fee to Firm in cash or by bank check. Gross sales price includes any and all consideration received or receivable, in whatever form, by Seller including, but not limited to, the assumption or release of existing liabilities. Seller shall pay the fee upon delivery of the deed or other evidence of transfer of title or interest; provided, however, if the transaction involves an installment contract, then Seller shall pay the fee upon the signing of such installment contract. In the event of any breach by Seller, Seller's successors or assigns, of any contract of purchase and sale, it is understood and agreed that the fee remains earned and payable upon notice given by Seller to Buyer of Seller's intent not to proceed with such sale, notwithstanding the basis of such intent not to proceed. In the event Seller contributes or conveys the Property or any interest therein to a joint venture, partnership or other business entity or executes an exchange, the fee shall be calculated on the fair market value of the Property or interest therein contributed, conveyed, transferred or exchanged and is payable at the time of the contribution, conveyance, transfer or exchange. If Seller is a partnership, corporation or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a fee or commission in connection with such sale or transfer, the fee shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid by Seller at the time of the transfer.



North Carolina Association of REALTORS®, Inc.

Seller Initials

Firm Rep. Initials



STANDARD FORM 573 Revised 7/2011 © 7/2012

2. **TERM:** This Agreement shall be effective for a period extending until midnight on September 17, 2013. If, within 365 days after the expiration of this agreement, Seller directly or indirectly sells or agrees to sell the Property to Buyer, then Seller shall pay Firm the same commission to which it would have been entitled had the sale been made during the term of this agreement.

3. **LEASE PROTECTION PROVISION.** In the event that the Property is leased to Buyer during the term hereof, it is acknowledged that a commission shall be nonetheless earned by Firm upon execution of such lease agreement. The parties agree to act in good faith in determining that the commission is an amount reasonable in this area for the type of Property.

4. **PARTIES AND BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives. Seller agrees that at any time during the term of this Agreement, Firm may either assign Firm's rights and responsibilities hereunder to another real estate agency, or transfer to another person or entity all or part of the ownership of Firm's real estate agency, and that in the event of any such assignment or transfer, this Agreement shall continue in full force and effect; provided, that any assignee or transferee must be licensed to engage in the business of real estate brokerage in the State of North Carolina. In the event of any such assignment or transfer, Seller may terminate this Agreement without cause on thirty (30) days' prior written notice to the assignee or transferee of Seller's intent to terminate this Agreement.

**THE AGENT SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY TO THE AGREEMENT. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OF ANY PARTY OR PROSPECTIVE PARTY TO THIS AGREEMENT.**

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

**SELLER:**

**Individual:**

\_\_\_\_\_  
(SEAL)

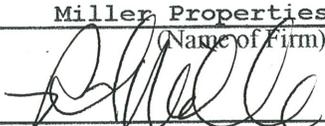
Date: \_\_\_\_\_

\_\_\_\_\_  
(SEAL)

Date: \_\_\_\_\_

**FIRM:**

Miller Properties, Inc.  
(Name of Firm)

By:  (SEAL)

Name: Rick Miller

Individual license #: 112051

Date: September 21, 2012

**Watauga County, a North Carolina Business Entity corporate body politic chartered by the state of North Carolina**

\_\_\_\_\_  
(Name of Entity)

By: \_\_\_\_\_ (SEAL)

Name: Nathan A. Miller

Title: Chairman of the Watauga County Board of county Commissioners

Date: \_\_\_\_\_

Address: 814 West King Street Suite 205

Boone, NC 28607

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

Address: P.O. Box 3018

Boone, NC 28607

Phone: (828) 262-3830

Facsimile: (828) 262-1832

E-mail: mpi@bellsouth.net

EXHIBIT A  
DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE  
BY AND BETWEEN  
MILLER PROPERTIES, INC., BUYER'S AGENT AND  
WATAUGA COUNTY, A NORTH CAROLINA BODY POLITIC CHARTERED BY  
THE STATE OF NORTH CAROLINA AS SELLER

Parcel ID numbers: 2910-02-7724-000, 2910-03-2114-000, 2910-13-4202-000, 2910-13-0228-000, 2910-01-5763-000, 2910-11-0378-000, 2900-92-7413-000, and Bk1353 Pg115, Bk1084 Pg728 and Bk1084 Pg732, as recorded in Watauga County. Also including all improvements and all appurtenant equipment.

Firm Rep. Initials RM

Seller Initials \_\_\_\_\_

**PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement (this "Agreement") is made this 26 day of September, 2012, by and between **Watauga County**, a North Carolina corporate and body politic chartered by the State of North Carolina ("Seller"), and **Campus Crest Development, LLC**, a North Carolina limited liability company ("Purchaser").

Recitals

A. Seller is the owner of that certain parcel of real property consisting of approximately 74.641 acres, located at 400 High School Drive on NC Highway 105 and Wilson Drive, in Boone, Watauga County, North Carolina, which is more particularly described or depicted on Exhibit A attached hereto and made a part hereof (the "Property").

B. Purchaser desires to purchase the Property, and Seller desires to sell the Property pursuant to the terms and conditions of this Agreement.

Agreement

**NOW, THEREFORE**, in consideration of the above Recitals and other good and valuable consideration, including the mutual covenants and promises herein contained, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

**1. PROPERTY.** Seller agrees to sell and Purchaser agrees to buy the Property, together with all easements, rights of way, privileges, appurtenances and other rights pertaining thereto. The final legal description for the Property shall be as set forth on the Survey (as defined in Section 5(a)).

**2. PURCHASE PRICE.** The purchase price for the Property shall be \$15,000,000 (the "Purchase Price"), to be paid as hereinafter provided.

**3. EARNEST MONEY.**

a. Purchaser will deposit with First American Title Insurance Company or another title company acceptable to Purchaser (the "Title Company") within ten (10) business days after Purchaser's receipt of a fully executed original of this Agreement (the "Effective Date"), a check or wired funds in the amount of Three Hundred Thousand and No/100 Dollars (\$300,000). The deposit and interest thereon, if any, shall be defined as the "Earnest Money."

b. Upon collection of the funds into the general escrow account of the Title Company, such funds are to be held in an interest-bearing trust account and disbursed by the Title Company in accordance with the terms of this Agreement. Prior to opening such investment, in addition to the funds being collected, the Purchaser, as depositor, will furnish the forms required to open the investment (an executed Form W-9 and INSTRUCTION FOR INVESTMENT OF ESCROW FUNDS).

42 c. The Earnest Money shall be applied to the Purchase Price to be paid by Purchaser  
43 at Closing, as hereinafter defined, or disbursed as otherwise provided herein. In this regard the  
44 Purchaser's tax identification number is 80-0100179.

45 **4. INSPECTION PERIOD.** Purchaser, its employees, agents and designees, shall have the  
46 right to inspect the Property for one hundred eighty (180) days from the Effective Date (as such  
47 period may be extended as provided for hereunder, the "Inspection Period"). Within ten (10)  
48 days following the Effective Date (the "Seller's Documents Delivery Date"), Seller shall deliver  
49 to Purchaser those items listed on Exhibit B attached hereto and made a part hereof, which Seller  
50 has in its possession or which it may be able to reasonably obtain (the "Existing Due Diligence").  
51 Seller acknowledges that the Existing Due Diligence is critical to Purchaser's inspection of the  
52 Property, and as a result, the Inspection Period will be extended automatically one day for each  
53 day that the delivery of the Existing Due Diligence is delayed past the Seller's Documents  
54 Delivery Date. The Purchaser may elect not to buy the Property for any reason at all or for no  
55 reason during the Inspection Period by providing Seller with written notice of its intention not to  
56 purchase the Property prior to the end of the Inspection Period. If Purchaser so elects not to  
57 purchase the Property, then the Title Company shall, upon written demand by Purchaser (with a  
58 copy going to Seller), refund the Earnest Money to the Purchaser within five (5) business days of  
59 receipt by Title Company of said written demand. During the term of this Agreement:

60  
61 a. Purchaser, its employees, agents and designees, shall have the right of ingress and  
62 egress over and through the Property during normal business hours to perform any work deemed  
63 necessary by Purchaser to evaluate the Property.

64  
65 b. Purchaser shall indemnify and hold Seller harmless from any liability arising out  
66 of the entry of Purchaser and/or Purchaser's agents or technical advisors on the Property prior to  
67 Closing.

68  
69 c. Seller shall cooperate with Purchaser by responding, to the best of Seller's  
70 knowledge, to all questions and inquiries made by Purchaser relating to the Property, by  
71 obtaining all documents that are reasonably necessary in Purchaser's opinion for Purchaser to  
72 evaluate the use of the Property for student housing apartments, and by instructing its agents and  
73 advisors to disclose any information they may have pertaining to the Property. Seller agrees to  
74 provide to Purchaser within five (5) days of a request therefor any affidavits or letters executed  
75 by Seller that may be reasonably required by the applicable governmental authorities to authorize  
76 Purchaser and its agents to sign and execute on behalf of Seller any documents necessary for the  
77 rezoning, replatting and/or development of the Property. The obligation of the Seller in the  
78 foregoing sentence shall survive Closing and the delivery of the Deed (as defined herein).

79  
80 d. Purchaser shall have the right to extend the Inspection Period for one sixty (60)-  
81 day period by giving written notice thereof to Seller prior to the end of the Inspection Period,  
82 solely to enable Purchaser to (i) obtain from the Town of Boone a site-specific development plan  
83 for the Property, as such term is defined by the North Carolina General Statutes, (ii) obtain such  
84 other approvals and permits as may be required by applicable governmental authorities as a  
85 condition to Purchaser's proceeding with the development of the Property and (iii) complete  
86 Purchaser's inspections and examinations of the Property. If Purchaser does not terminate this  
87 Agreement before the end of the Inspection Period (as the same may be extended), (i) Purchaser,

88 within five (5) business days after the end of the Inspection Period, will deliver an additional  
 89 \$450,000 deposit to the Title Company, which additional funds shall become a part of the  
 90 Earnest Money hereunder and (ii) all Earnest Money deposited by Purchaser shall be  
 91 nonrefundable except as provided in Sections 5(b), 13(a) and 14. For a period of three (3)  
 92 business days after Purchaser's delivery of the additional \$450,000 deposit required in the  
 93 immediately preceding sentence, Purchaser shall have the right to extend the Inspection Period  
 94 for one additional thirty (30)-day period by giving written notice thereof to Seller, solely to  
 95 enable Purchaser to address the matters described in subsections (i), (ii) and (iii) of this  
 96 subparagraph (d). Notwithstanding such extension of the Inspection Period, if elected by  
 97 Purchaser, the Earnest Money will continue to be nonrefundable except as provided in Sections  
 98 5(b), 13(a) and 14.

99

100 e. It is understood and agreed between the parties that Purchaser, during the  
 101 Inspection Period, may apply to the Town of Boone or other appropriate governmental  
 102 agency(ies) for a rezoning designation for the Property and any special use permits, land  
 103 disturbance and building permits, department of transportation permits and other approvals and  
 104 permits that may be required in order for Purchaser to develop the Property for Purchaser's  
 105 intended use. In connection with all applications for rezoning and such permits and approvals,  
 106 the existence of this Agreement may be disclosed as required by the governing authorities.  
 107 Purchaser shall have the sole and exclusive right to modify, amend, defer or withdraw any and  
 108 all applications as it sees fit in its sole discretion. Seller agrees to cooperate with Purchaser in  
 109 executing applications for public hearings, permits or other approvals as deemed reasonably  
 110 necessary by Purchaser or the appropriate governmental agencies in order to obtain the requisite  
 111 rezoning and other permit approvals. The parties acknowledge that all zoning applications may  
 112 be filed in the name of Seller but shall be at the expense of Purchaser.

113

#### 114 **5. TITLE AND SURVEY.**

115

116 a. Purchaser shall obtain (i) a title insurance commitment for the Property (the "Title  
 117 Commitment") issued by the Title Company in the amount of the Purchase Price, committing to  
 118 insure Purchaser against loss on account of any defect or encumbrance in the title, unless herein  
 119 excepted and (ii) an ALTA survey of the Property, certified to Purchaser, the Title Company and  
 120 Purchaser's lender (the "Lender") in accordance with the Lender's survey requirements (the  
 121 "Survey").

122

123 b. The Property is being sold and is to be conveyed subject to any specific matters  
 124 set forth in the Title Commitment unless written objections of the same (the "Title Objections")  
 125 are delivered to Seller during the Inspection Period. Seller shall have until the end of the  
 126 Inspection Period to either cure the Title Objections or notify Purchaser of which Title  
 127 Objections Seller will not cure. Any matters reflected in the Title Commitment and Survey that  
 128 are not timely objected to during the Inspection Period shall be deemed "Permitted Exceptions."  
 129 Should Seller notify Purchaser that Seller will not cure any timely made Title Objections or  
 130 should Seller fail to timely cure any timely made Title Objections, Purchaser shall have the right  
 131 to (i) accept said uncured Title Objections and close on the Property, in which case said uncured  
 132 Title Objections shall be "Permitted Exceptions" or (ii) terminate this Agreement upon written

133 notice to Seller prior to Closing and receive a full refund of the Earnest Money within five (5)  
134 business days of receipt by Title Company of said written notice.

135 **6. CONVEYANCE.** Seller agrees to convey to Purchaser fee simple marketable title to the  
136 Property, together with all easements, rights of way, privileges, appurtenances and other rights  
137 pertaining thereto, by general warranty deed subject only to the Permitted Exceptions (the  
138 "Deed").

139  
140 **7. CONDITIONS PRECEDENT TO CLOSING.** The obligations of Purchaser and Seller  
141 under this Agreement are subject to all covenants, agreements, actions, proceedings, instruments  
142 and documents required pursuant to this Agreement having been performed, complied with or  
143 delivered (as the case may be) in accordance with this Agreement.

144 **8. CLOSING.** The closing of the sale and purchase of the Property (the "Closing") shall  
145 take place at such location as both parties shall reasonably agree one hundred twenty (120) days  
146 after the later to occur of (a) the end of the Inspection Period and (b) the date on which Purchaser  
147 receives all necessary permits and approvals to construct on the Property Purchaser's intended  
148 student housing apartment community, or at such other date as may be reasonably agreed upon  
149 by the parties hereto in writing (the "Closing Date"). Purchaser shall have the right to extend the  
150 Closing Date for two thirty (30)-day periods by giving written notice thereof to Seller.

151  
152 **9. DELIVERIES AT CLOSING.** At the Closing, Seller shall deliver those certain items  
153 listed on Exhibit C. At the Closing, Purchaser shall deliver a closing statement executed by  
154 Purchaser, any documents reasonably required of it from the Title Company in order to close,  
155 and the funds due from Purchaser pursuant to said closing statement.

156  
157 **10. COSTS AND FEES.** Seller shall be responsible for the payment of all recording taxes,  
158 documentary stamps and other charges for recording the Deed, and any other costs customarily  
159 borne by a seller in commercial real estate transactions in the county where the Property is  
160 located. Purchaser shall be responsible for the title insurance premium for Purchaser's owner's  
161 title insurance policy (and the title search and abstract fees associated with said title insurance  
162 policy), the cost of the Survey, any other third party reports obtained by Purchaser, any closing  
163 or escrow fee charged by the Title Company, and any other costs customarily borne by a  
164 purchaser in commercial real estate transactions in the county where the Property is located.  
165 Seller and Purchaser shall each pay its respective costs for its own attorneys' fees for services  
166 related to the negotiation and preparation of this Agreement and the sale and purchase of the  
167 Property.

168  
169 **11. AD VALOREM TAXES.** Ad valorem taxes and assessments, if any, for the tax year in  
170 which the Closing occurs are to be prorated (on the basis of a 365-day year) as of the date of  
171 Closing on the basis of the tax assessment for the tax year in which Closing occurs. If the  
172 Closing shall occur before the tax assessment for the current tax year shall be established, the tax  
173 assessment for the preceding tax year shall be used for such proration at Closing. Should the tax  
174 assessment for the current tax year once known differ by greater than ten percent (10%) from the  
175 tax assessment used for such proration at Closing, either Seller or Purchaser may demand and  
176 shall be entitled to receive on demand a payment from the other correcting such proration within  
177 ninety (90) days of the date in which such taxes are known.

178

179

180

181

182

183

184

185

186

187

In the event the tax parcel(s) in which the Property is located contains any additional property as of the Closing Date, Seller and Purchaser agree to enter into a tax proration agreement at Closing, which shall provide, among other things, that (i) as soon as reasonably possible after Closing, the parties will diligently pursue until completion a tax parcel split that creates a separate tax parcel that includes the Property and no other property and (ii) in the event such tax parcel split is not effective prior to the delivery of any tax assessments following the Closing, each party will be responsible for its pro rata share of such assessment. The obligations in this paragraph shall survive Closing and the delivery of the Deed.

188

189

190

191

192

193

Seller shall be solely responsible for any and all roll back taxes or other deferred property taxes, if any, that are due or become due either before or after Closing. If the same are reasonably known at Closing, any such roll back taxes shall be estimated and escrowed with Title Company (pursuant to an escrow agreement agreed to by Title Company) at Closing until a bill therefor has been presented. Any excess funds shall be reimbursed back to Seller.

194

195

196

197

198

**12. SELLER'S REPRESENTATIONS AND WARRANTIES.** To induce Purchaser to enter into this Agreement, Seller makes the following representations and warranties, all of which are true as of the date hereof (unless otherwise specified) and shall also be true as of the Closing Date:

199

200

201

202

203

204

205

206

207

a. Seller is the sole owner of good, marketable, and insurable fee simple title to the Property. Seller has the legal authority and capacity to enter into this Agreement and to sell the Property. The execution and delivery of this Agreement and the performance by Seller of its obligations hereunder have been duly authorized by all requisite action and no further action or approval is required in order to constitute this Agreement as a binding and enforceable obligation of Seller. The execution of this Agreement by the Seller will not create a default of any kind for Seller, violate any restrictions which Seller is subject to, or violate any applicable code, resolution, law, judgment, regulation, statute, decree or rule.

208

209

210

211

b. No leases, options or other contracts for the Property have been granted or entered into which are outstanding as of the date of this Agreement, and no party other than Seller has any right of possession as to all or any part of the Property.

212

213

214

c. To Seller's actual knowledge, there are no pending condemnation or eminent domain proceedings for all or any part of the Property.

215

216

217

218

219

d. To Seller's actual knowledge, no act or omission has occurred with respect to the Property and no materials or services have been furnished or delivered on or to the Property which would create or otherwise encumber the Property with any mechanics, materialmen, laborer, or other similar type of lien after the Closing.

220

221

222

223

e. To Seller's actual knowledge, there is no pending claim, litigation or other proceeding whether in a court of law or other venue that currently affects or potentially could affect the Property or Seller's right to convey the Property.

224 f. To Seller's actual knowledge, Seller has complied with all applicable laws,  
225 ordinances, regulations, statutes, rules and restrictions affecting the Property.

226

227 g. To Seller's actual knowledge, neither Seller nor any previous owner, tenant,  
228 occupant or user of the Property, nor any other person, has engaged in or permitted any  
229 operations or activities upon, or any use or occupancy of the Property, or any portion thereof, for  
230 the purpose of or in any way involving the handling, manufacture, treatment, storage, use,  
231 generation, release, discharge, refining, dumping or disposal of any Hazardous Materials (as  
232 hereinafter defined) in violation of any applicable laws or regulations on, under, in or about the  
233 Property, or transported any Hazardous Materials to, from or across the Property, nor are any  
234 Hazardous Materials presently constructed, deposited, stored, or otherwise located on, under, in  
235 or about the Property, nor have any Hazardous Materials migrated from the Property upon or  
236 beneath other properties, nor have any Hazardous Materials migrated or threatened to migrate  
237 from other properties upon, about or beneath the Property, nor are any underground  
238 improvements, including but not limited to storage tanks, dumps, or water, gas or oil wells now  
239 located or have ever been located on the Property. As used herein, the term "Hazardous  
240 Materials" means:

241

242 i. any substance the presence of which requires investigation or remediation  
243 under any federal, state or local statute, regulation, ordinance, order, action, policy or common  
244 law; or

245 ii. any substance which is or becomes defined as a "hazardous waste,"  
246 "hazardous substance," pollutant or contaminant under any federal, state or local statute,  
247 regulation, rule or ordinance or amendments thereto including, without limitation, the  
248 Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et  
249 seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); or

250 iii. any substance which is toxic, explosive, corrosive, flammable, infectious,  
251 radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any  
252 governmental authority, agency, department, commission, board, agency or instrumentality of  
253 the United States, the State of North Carolina or any political subdivision thereof; or

254 iv. any substance the presence of which on the Property causes or threatens to  
255 cause a nuisance upon the Property or to adjacent properties or poses or threatens to pose a  
256 hazard to the health or safety of persons on or about the Property; or

257 v. any substance the presence of which on adjacent properties could  
258 constitute a trespass by Seller; or

259 vi. any substance, without limitation, which contains gasoline, diesel fuel or  
260 other petroleum hydrocarbons; or

261 vii. any substance, without limitation, which contains polychlorinated  
262 bipheynols (PCBs), asbestos or urea formaldehyde foam insulation; or

263 viii. without limitation, radon gas.

264 With respect to the representations and warranties contained in subparagraphs (a) through  
 265 (g) above, Seller agrees to indemnify, defend, reimburse and hold harmless Purchaser, its  
 266 affiliates, successors and assigns from any and all liabilities, costs, damages and expenses  
 267 (including without limitation, attorneys' fees) arising from or related to the breach of any  
 268 representation or warranty as to conditions existing on or prior to the Closing Date for a period  
 269 ending two (2) years after the Closing.

270 Except for the representations and warranties of Seller specifically set forth in this  
 271 Agreement, the Property is being sold and conveyed by Seller to Purchaser in its "AS IS,  
 272 **WHERE IS," PHYSICAL CONDITION WITH ALL FAULTS.** Except for the  
 273 representations and warranties of Seller specifically set forth herein, Seller makes no guarantee,  
 274 warranty or representation, express or implied, as to the quality, character or condition of the  
 275 Property (or any part thereof) or to the fitness of the Property (or any part thereof) for any use or  
 276 purpose or any representation as to the existence or nonexistence of any hazardous or toxic  
 277 substances or materials. In no event shall Seller be liable for any incidental, special, exemplary  
 278 or consequential damages due to the physical condition of the Property, absent a breach of  
 279 Seller's express representations and warranties contained herein. Purchaser represents and  
 280 warrants to Seller that as of the Closing Date, Purchaser will have had ample opportunity to  
 281 make a proper inspection, examination and investigation of the physical condition of the  
 282 Property to familiarize itself with the condition and that it will do so to its satisfaction. The  
 283 provisions of this paragraph shall survive the Closing and delivery of the Deed.

### 284 **13. DEFAULT.**

285

286 a. Default by Seller. In the event any of the specific representations, warranties or  
 287 covenants of Seller contained in this Agreement proves to be untrue in any material respect, or if  
 288 Seller refuses to perform its obligations at or prior to Closing after Purchaser tenders its  
 289 performance of its obligations or to comply with any of the provisions hereof at or prior to  
 290 Closing, then, at Purchaser's option, Purchaser may elect to (a) terminate this Agreement and  
 291 receive a refund of the Earnest Money from Title Company within five (5) business days of  
 292 written receipt by Title Company of a written request from Purchaser (with a copy going to  
 293 Seller) and/or (b) proceed with any legal or equitable remedy available to Purchaser, including,  
 294 without limitation, the right to monetary damages, and the right of specific performance.

295

296 b. Default by Purchaser. In the event Purchaser fails to timely tender its obligations  
 297 to be performed at the Closing, then, if Seller is not in default as specified in the foregoing  
 298 paragraph, Seller shall be entitled to the Earnest Money, as full liquidated damages, the same  
 299 being Seller's sole remedy, whereupon this Agreement and all rights and obligations created  
 300 hereby shall automatically terminate and be null and void and of no further force or effect  
 301 whatsoever. In this regard, the Title Company shall disburse the Earnest Money to Seller within  
 302 five (5) business days of receipt by Title Company of a written request from Seller (with a copy  
 303 going to Purchaser). It is agreed by Seller and Purchaser that, in the event of a breach by  
 304 Purchaser, the amount of actual damages suffered by Seller would be expensive and difficult to  
 305 ascertain and the retention of the Earnest Money as liquidated damages are a reasonable estimate  
 306 of the parties of the actual damages to Seller herein and are not a penalty.

307

308 In the event of a dispute as to which party is entitled to the Earnest Money and litigation  
309 is necessary, the prevailing party shall be entitled to the recovery of its costs and reasonable  
310 attorney's fees.

311

312 **14. CONDEMNATION AND DESTRUCTION.** If, on or prior to the Closing Date, any  
313 portion of the Property is the subject of a pending or contemplated taking by eminent domain  
314 which has not been consummated or if the Property has been materially damaged or destroyed,  
315 Seller shall notify Purchaser within five (5) days of obtaining knowledge of such fact, and  
316 Purchaser shall have the option to terminate this Agreement upon giving written notice to Seller  
317 prior to Closing. In the event Purchaser shall elect to terminate this Agreement, Purchaser shall  
318 receive a refund of the Earnest Money within five (5) business days of receipt by Title Company  
319 of written demand (with a copy going to Seller), and neither party shall have any further rights or  
320 obligations hereunder. If, after receipt of Seller's notice, as aforesaid, Purchaser does not  
321 exercise its option to terminate this Agreement, the parties hereto shall remain bound hereunder  
322 and Seller shall assign and turn over at Closing, and Purchaser shall be entitled to receive and  
323 keep, all awards for the taking by eminent domain described in said notice or all insurance  
324 proceeds payable as a result of such destruction or damage.

325 **15. NOTICES.** All notices, requests, consents and other communications hereunder shall be  
326 in writing and shall be personally delivered, or delivered by overnight courier, or mailed by first  
327 class, registered or certified mail, return receipt requested, postage prepaid, or delivered by  
328 facsimile (provided that a notice delivered by facsimile shall immediately thereafter be delivered  
329 by one of the other methods permitted in this Section 15), as follows:

330

331 Notice to Purchaser: Campus Crest Development, LLC  
332 2100 Rexford Rd., Suite 414  
333 Charlotte, NC 28211  
334 Attention: General Counsel  
335 Facsimile: (704) 943-4298

336

337 with a copy to: Dawn Helms Sharff  
338 Bradley Arant Boult Cummings LLP  
339 One Federal Place  
340 1819 Fifth Avenue North  
341 Birmingham, AL 35203  
342 Facsimile: (205) 488-6200

343

344 Notice to Seller: Watauga County, North Carolina  
345 c/o Nathan A. Miller, Chairman of  
346 Watauga County Board of County Commissioners  
347 814 West King Street, Suite 205  
348 Boone, NC 28607  
349 Facsimile: \_\_\_\_\_

350

351 with a copy to: \_\_\_\_\_  
352 \_\_\_\_\_  
353 \_\_\_\_\_

354 Facsimile: \_\_\_\_\_  
 355  
 356 Notice to  
 357 Title Company: First American Title Insurance Company  
 358 National Commercial Services  
 359 30 North LaSalle St., Suite 2700  
 360 Chicago, IL 60602  
 361 Attention: John E. Beckstedt, Jr.  
 362 Facsimile: (888) 279-8547  
 363

364 Any such notice, request, consent or other communications shall be deemed received at  
 365 such time as it is actually delivered, on the first business day following an overnight delivery, or  
 366 on the fifth business day after a mailing, as the case may be. Either party hereto may change the  
 367 address for receiving notices hereunder by notice sent in accordance with the terms of this  
 368 Section 15.  
 369

370 **16. BROKER.** The parties warrant to each other that no broker is entitled to commission on  
 371 the sale and purchase of the Property hereunder and that each party will indemnify and hold the  
 372 other party harmless of any demands, claims or other obligations asserted by any person for a  
 373 brokerage commission through such party, except as follows:  
 374

375 Upon the closing of the transaction evidenced hereby, Seller shall pay a commission to  
 376 Miller Properties, Inc. in accordance with the terms of a separate agreement.  
 377

378 **17. INTENTIONALLY BLANK.**  
 379

380 **18. MISCELLANEOUS.**  
 381

382 a. Governing Law. This Agreement shall be governed by and interpreted by the  
 383 internal laws of the state in which the Property is located, without regard to its conflicts of law  
 384 provisions.  
 385

386 b. Entire Agreement. This Agreement represents the entire agreement between  
 387 Purchaser and Seller and supersedes any other agreements or understanding whether written or  
 388 verbal and may not be changed unless in writing and fully executed by both Purchaser and  
 389 Seller.  
 390

391 c. Survival of Representations and Warranties. All representations, warranties,  
 392 covenants and agreements made in this Agreement shall survive closing and the delivery of the  
 393 Deed. Seller agrees to perform any acts reasonably required by Purchaser to effectively transfer  
 394 the Property to Purchaser without additional cost to Purchaser for a period of six (6) months after  
 395 the Closing.  
 396

397 d. Time of the Essence. Both parties hereto specifically agree that time is of the  
 398 essence to this Agreement with respect to the performance of the obligations of the parties under  
 399 this Agreement.

400  
401 e. Assignment; Successors and Assigns. This Agreement may be assigned by  
402 Purchaser, without Seller's consent, and shall be binding upon and inure to the benefit of the  
403 parties hereto and their respective representatives, successors and assigns.

404 f. Section 1031 Like-Kind Exchange. Seller acknowledges that Purchaser may  
405 engage in a like-kind exchange with respect to the Property under Section 1031 of the Internal  
406 Revenue Code (the "1031 Exchange"). Seller agrees to cooperate with Purchaser, at no expense  
407 to Seller, in connection with a 1031 Exchange of the Property and consents to the assignment of  
408 this Agreement by Purchaser to a "qualified intermediary" (within the meaning of Section  
409 1.1031(k)-1 of the Treasury Regulations) for purposes of effecting a 1031 Exchange.

410  
411 g. Standstill. While this Agreement is in effect, Seller will not actively market, sell  
412 or encumber the Property in any manner, will not accept, negotiate or entertain any other offers  
413 for the Property and will maintain the Property in its current condition and in compliance with  
414 applicable laws.

415  
416 h. Captions and Interpretations. Paragraph titles or captions contained herein are  
417 inserted as a matter of convenience and for reference, and in no way define, limit, extend or  
418 describe the scope of this Agreement or any provision hereof. No provision in this Agreement is  
419 to be interpreted for or against either party because that party or its legal representative drafted  
420 such provision.

421  
422 i. Business Days. In the event any period of time provided for in this Agreement  
423 ends on a day other than a business day on which banks are generally open for a full day for  
424 business, such ending date shall automatically be extended to the next business day.

425 j. Counterparts; Electronic/Facsimile Signatures. This Agreement may be executed  
426 in two or more separate counterparts, each of which, when so executed and delivered, shall  
427 constitute an original, and all such counterparts shall together constitute one and the same  
428 instrument, and any party may execute this Agreement by executing any one or more of such  
429 counterparts. Signatures delivered electronically or by facsimile shall be as binding as original  
430 signatures.

431 k. Confidentiality. Except for those public disclosures required by applicable law,  
432 Seller hereby agrees that the matters contained herein and any information regarding the  
433 relationship between Purchaser and Seller, including any communications preceding the  
434 execution of this Agreement, shall remain confidential, and that Seller will not reveal to any third  
435 parties other than Seller's attorneys and other advisors the contents of this Agreement or the  
436 details of any such communications. Seller acknowledges that Purchaser will have all remedies  
437 available at law or in equity in the event of a breach of this subparagraph (k) by Seller or its  
438 affiliates.

439 **19. WATER/SEWER CAPACITY.** As a condition precedent to Purchaser's obligation to  
440 close hereunder (which condition precedent may be waived by Purchaser in its sole discretion),  
441 Seller agrees that prior to the end of the Inspection Period, Seller, at its sole cost and expense,  
442 will furnish to Purchaser evidence reasonably satisfactory to Purchaser that Seller has caused the

443 previous capacity of 365,367 gallons per month (impact) for water and sewer serving the  
444 Property to be permanently reinstated to the Property.

445 **20. TRAFFIC LIGHT.** As a condition precedent to Purchaser's obligation to close  
446 hereunder (which condition precedent may be waived by Purchaser in its sole discretion), Seller  
447 agrees that prior to the end of the Inspection Period, Seller, at its sole cost and expense, will  
448 cause to be reinstated the traffic light previously serving the Property and located at the  
449 intersection of Highway 105 and High School Drive and will ensure that said traffic light is in  
450 good condition and fully functioning.

451 **21. DEMOLITION OF EXISTING BUILDINGS.** As a condition precedent to Purchaser's  
452 obligation to close hereunder (which condition precedent may be waived by Purchaser in its sole  
453 discretion), Seller agrees that prior to Closing, Seller, at its sole cost and expense, will cause to  
454 be demolished, in accordance with all applicable laws and regulations (including laws and  
455 regulations related to asbestos-containing materials) and pursuant to properly issued permits and  
456 licenses, all existing vertical improvements currently located at the Property. Seller will provide  
457 to Purchaser evidence reasonably satisfactory to Purchaser that said demolition work has been  
458 paid for in full and that the contractor(s) performing such work has issued a full lien waiver with  
459 regard to any rights said contractor(s) might otherwise have to file a mechanics' lien against the  
460 Property.

461

462

463

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

464

465

466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511

**IN WITNESS WHEREOF**, Purchaser and Seller have executed this Agreement as of the day and year first above written.

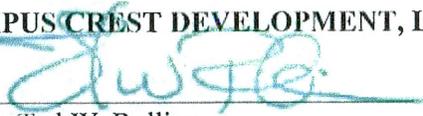
**SELLER:**

**WATAUGA COUNTY**, a North Carolina corporate and body politic chartered by the State of North Carolina

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PURCHASER:**

**CAMPUS CREST DEVELOPMENT, LLC**

By:   
Name: Ted W. Rollins  
Title: Co-Chairman and Chief Executive Officer

512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534

**JOINDER**

First American Title Insurance Company hereby acknowledges the receipt of the Earnest Money described in the Agreement to which this Joinder is attached and agrees to hold said Earnest Money in accordance with the terms hereof, and in accordance with the terms of its Conditions of Escrow, a copy of which is attached hereto as Exhibit D.

**FIRST AMERICAN TITLE INSURANCE COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556

**Exhibit A**

[Legal Description or Depiction of the Property]

that certain real property conveyed to Seller in the following instruments recorded with the Watauga County, North Carolina register of deeds:

Book 1084, Page 728

Book 1084, Page 732

Book 1353, Page 115

Parcel ID numbers and Bk/Pg:

2910-02-7724-000 Bk1353 Pg115,

2910-03-2114-000 Bk1353 Pg115,

2910-13-4202-000 Bk1084 Pg728,

2910-13-0228-000 Bk1084 Pg732,

2910-01-5763-000 Bk1353 Pg115,

2910-11-0378-000 Bk1353 Pg115,

2900-92-7413-000 Bk1353 Pg115,

as recorded in Watauga County.

558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582

**Exhibit B**

[Items to be provided by Seller]

all existing surveys and surveyor's reports, any studies, maps, plans, reports or other documents relating to the Property and prepared by or at the request of Seller, including, but not limited to, appraisals, traffic studies, environmental studies, soil boring data and testing documents and title insurance commitments/policies

582  
 583  
 584  
 585  
 586  
 587  
 588  
 589  
 590  
 591  
 592  
 593  
 594  
 595  
 596  
 597  
 598  
 599  
 600  
 601  
 602  
 603  
 604  
 605  
 606  
 607  
 608  
 609  
 610  
 611  
 612

**Exhibit C**

[Seller's Deliverables at Closing]

- (a) A fully executed Deed;
- (b) Fully executed versions of an owner's affidavit, lien waiver, or any other agreements, affidavits, or indemnities necessary for the purpose of removing the "standard" exceptions from Purchaser's owner's title insurance policy for the Property;
- (c) "Payoff Letters" with respect to all real estate liens or other instruments or agreements to be canceled pursuant to the terms of this Agreement;
- (d) Fully executed versions of any state and federal affidavits of residency reasonably required by Purchaser;
- (e) A fully executed certificate of non-foreign status to insure Seller's compliance with Foreign Investment in Real Property Tax Act ("FIRPTA") (Section 1445 of the Internal Revenue Code of 1986, as amended);
- (d) A closing statement executed by Seller;
- (e) Fully executed versions of any other documents as are reasonably required by the Title Company and Purchaser to evidence Seller's existence and authority to convey the Property to Purchaser, and as may be required to close;
- (f) Possession of the Property; and
- (g) Any other documents specifically contemplated in this Agreement.

613 **Exhibit D**

614 **FIRST AMERICAN TITLE INSURANCE COMPANY**  
 615 **CONDITIONS OF ESCROW**

616 Except as specifically modified by the written escrow instruction(s) received and accepted by the  
 617 Escrow Agent, the following Conditions of Escrow shall apply to this escrow or settlement.

618 1. **ESCROW AGENT:** First American Title Insurance Company is herein referred to as the Escrow  
 619 Agent.

620 2. **DEPOSIT OF FUNDS:** All checks, money orders or drafts will be processed for collection in the  
 621 normal course of business. Escrow Agent may commingle funds received by it in escrow with escrow  
 622 funds of others, and may, without limitation, deposit such funds in its custodial or escrow accounts with  
 623 any reputable trust company, bank, savings bank, savings association, or other financial services entity,  
 624 including any affiliate of Escrow Agent. It is understood that Escrow Agent shall be under no obligation,  
 625 except to the extent noted on Instruction For Investment of Escrow Funds form, to invest the funds  
 626 deposited with it on behalf of any depositor, nor shall it be accountable for any earnings or incidental  
 627 benefit attributable to the funds which may be received by Escrow Agent while it holds such funds.  
 628 Deposits held by Escrow Agent shall be subject to the provisions of applicable state statutes governing  
 629 unclaimed property.

630 3. **LIMITATIONS OF LIABILITY:** Escrow Agent shall not be liable for any loss or damage  
 631 resulting from the following item(s):

632 (a) The effect of the transaction underlying this escrow including, without limitation, any  
 633 defect in the title to the real estate, any failure or delay in the surrender of possession of the property, the  
 634 rights or obligations of any party in possession of the property, the financial status or insolvency of any  
 635 other party, and/or any misrepresentations of fact made by any other party;

636 (b) The legal sufficiency of the document(s) purporting to transfer or otherwise encumber  
 637 title to the real estate; provided, however, that this limitation of liability shall not affect the liability of  
 638 First American Title Insurance Company under any title insurance policy which it has issued or may  
 639 issue.

640 (c) The default, error, act or failure to act by any other party to the escrow;

641 (d) Any loss, loss of value or impairment of funds which have been deposited in escrow  
 642 while those funds are in the course of collection or while those funds are on deposit in a depository  
 643 institution if such loss, loss of value or impairment results from the failure, insolvency or suspension of a  
 644 depository institution;

645 (e) Any defects or conditions of title to any property that is the subject of this escrow  
 646 provided, however, that this limitation of liability shall not affect the liability of First American Title  
 647 Insurance Company under any title insurance policy which it has issued or may issue.

648 NOTE: No title insurance liability is created by this agreement;

649 (f) The expiration of any time limit or other consequences of delay, absent receipt of a  
 650 properly executed escrow instruction, accepted by Escrow Agent, instructing the Escrow Agent to comply  
 651 with said time limit; and  
 652  
 653  
 654

664 (g) Escrow Agent's compliance with any legal process including, but not limited to,  
 665 subpoena, writs, orders, judgments and decrees of any court whether issued with or without jurisdiction  
 666 and whether or not subsequently vacated, modified, set aside or reversed.  
 667

668 (NOTE: This paragraph shall not be construed to limit Escrow Agent's liability for its own gross  
 669 negligence or willful misconduct.)  
 670

671 4. DEFAULT AND/OR DISPUTES: In the event any party to the transaction underlying this  
 672 escrow shall tender any performance after the time when such performance was due, Escrow Agent may  
 673 proceed under this escrow, unless one of the parties to this escrow shall give to the Escrow Agent a  
 674 written direction to stop the further performance of the Escrow Agent's functions hereunder. In the event  
 675 of written notice of default or dispute is given to the Escrow Agent by any party, Escrow Agent will  
 676 promptly notify all other parties of such notice. Thereafter, Escrow Agent will decline to disburse funds  
 677 or to deliver any instrument or otherwise continue to perform its escrow functions, except upon receipt of  
 678 a mutual written agreement of the parties or upon an appropriate order of court.  
 679

680 5. ACCOUNTING: Escrow Agent shall account to the parties for all funds received and disbursed  
 681 hereunder at the time of final settlement and closing of this escrow. Escrow Agent shall not be liable for  
 682 the accuracy of information furnished to it by other persons in the normal course of business, or the  
 683 failure to adjust items not designated in writing. Adjustment items shall be prorated on the basis of a  
 684 calendar year and a thirty day month. Escrow Agent shall account for adjustments, credits and charges of  
 685 expense items according to the custom and usage of the community. Absent specific written instructions  
 686 to the contrary, signed approval of settlement statements or other accounting of funds shall constitute the  
 687 authority to Escrow Agent to disburse funds as shown thereon, and deliver instruments held in escrow as  
 688 set forth in the escrow instruments. Upon completion of the disbursement of funds and delivery of  
 689 instruments, Escrow Agent shall be released and discharged of its escrow obligations hereunder.  
 690

691 6. FEES, CHARGES AND/OR OTHER EXPENSES: Escrow Agent shall charge for its service  
 692 hereunder in accordance with its current schedule of fees (which includes annual maintenance fees) unless  
 693 otherwise provided. Unless otherwise directed, such fees shall be charged to the buyer and seller equally.  
 694 All fees, charges and expenses are due and payable at settlement and such amounts may be deducted by  
 695 Escrow Agent from any funds held in escrow due to the party from whom such amounts are due and  
 696 owing.

697 Additional amounts which may become due for any reason shall be promptly paid to Escrow  
 698 Agent by the party owing such amounts. Escrow Agent shall not be required to advance its own funds for  
 699 any purpose provided that any such advance, made at its option, shall be promptly reimbursed by the  
 700 party for whom it is advanced, and such optional advance shall not be an admission of liability on the part  
 701 of Escrow Agent.  
 702

703 7. APPLICABILITY: These conditions of escrow shall apply to and be for the benefit of agents, if  
 704 any, of the Escrow Agent so employed by it for services in connection with this escrow.  
 705

706 8. ATTORNEYS' FEES: In the event that litigation is initiated relating to this escrow, the parties  
 707 hereto agree that Escrow Agent shall be held harmless from any and all attorneys' fees, court costs and  
 708 expenses relating to that litigation to the extent that litigation does not arise as a result of the Escrow  
 709 Agent's gross negligence or willful misconduct. The parties hereto agree to indemnify Escrow Agent for  
 710 all such attorneys' fees, court costs and expenses. To the extent that Escrow Agent holds a fund under the  
 711 terms of this escrow, the parties agree that the Escrow Agent may charge that fund with any such  
 712 attorneys' fees, court costs, and expenses as they are incurred by Escrow Agent.  
 713

**AGENDA ITEM 5:**

**TAX MATTERS**

*A. Monthly Collections Report*

**MANAGER'S COMMENTS:**

Interim Tax Administrator Larry Warren will present the Monthly Collections Report and be available for questions and discussion.

The report is for information only; therefore, no action is required.

**AGENDA ITEM 5:**

**TAX MATTERS**

*B. Refunds and Releases*

**MANAGER'S COMMENTS:**

Mr. Warren will present the Refunds and Releases Report. Board action is required to accept the Refunds and Releases Report.

**AGENDA ITEM 6:**

**BUDGET AMENDMENTS**

**MANAGER'S COMMENTS:**

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

Board approval is requested.



# WATAUGA COUNTY FINANCE OFFICE

814 West King St., Room 216 - Boone, NC 28607 - Phone (828) 265-8007 Fax (828) 265-8006

## MEMORANDUM

TO: Deron Geouque, County Manager  
FROM: Margaret Pierce, Finance Director  
SUBJECT: Budget Amendments-FY 2012/13  
DATE: September 24, 2012

The following budget amendments require approval of the Watauga County Board of Commissioners.

<u>Account#</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
103586-332006	Senior Health Insurance Information Grant		\$6,328
105550-449901	SHIP Program supplies	\$6,328	

To recognize grant award for senior health insurance information program from NC Department of Insurance. No match is required.

<u>Account#</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
103586-332004	Senior Center Grant		\$15,670
105550-449900	Senior Center Grant	\$15,670	

Per Board action 9-18-12, to recognize grant award for senior center general purpose funding received from the State. County match of \$5,224 was already present in the Project on Aging budget.

<u>Account#</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
103586-385505	Self Supporting Class Fees		\$14,000
105550-469515	Self Supporting Class	\$14,000	

To recognize estimated revenues and expenses for POA classes offered to seniors. No County funding is required for these classes.

<u>Account#</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
143583-344080	Youth Services Links Funds		\$5,000
145410-440802	Special Links	\$5,000	

To recognize additional estimated funding for Youth Services from State funds. This is a fully reimbursed DSS program.

<u>Account#</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
103300-345000	ROAP Transportation Grant		\$102,569
104500-469843	Appalcart-RGP	\$60,580	
104500-469844	Employment	\$10,511	
105550-431301	POA-E&D	\$22,739	
104500-469846	Watauga Opportunities-E&D	\$8,739	
143300-345000	E& D Transportation Grant		\$22,846
145310-469845	E& D Transportation Grant	\$22,846	

To recognize the award of the NC Public Transportation Division FY 2012-13 Rural Operating Assistance Program grant funds.

<u>Account#</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
103586-332003	POA In Home Services	\$2,910	
105550-429200	Program Supplies		\$2,910
143531-323000	Admin Cost Reimbursements	\$2,910	
145310-439902	Purchased Services		\$2,910

To recognize reduction in funding allocation from the state for in home services provided to DSS clients by POA programs and staff.

Blank Page

**AGENDA ITEM 7:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

***A. Proposed Resolution for Blue Star Memorial Highway Designation***

**MANAGER'S COMMENTS:**

Mr. Sam Halsey, North Carolina Board of Transportation, Division 11 representative, is requesting the Board adopt the attached resolution designating Highway 421 from the Wilkes County line to the Tennessee State line as a Blue Star Memorial Highway to honor all veterans and service men and women who have or will serve in the United States Armed Forces.

Board action is requested to adopt the resolution as presented.

STATE OF NORTH CAROLINA

DRAFT

COUNTY OF WATAUGA

**BLUE STAR MEMORIAL HIGHWAY RESOLUTION**

**WHEREAS**, the Blue Star Memorial Highways are a tribute to the armed forces that have defended and are currently defending the United States of America; and

**WHEREAS**, while this originally began to honor World War II veterans, it enlarged its mission and in 1951 it was expanded to include all men and women, who had served, were serving or would serve in the armed forces of the United States.

**NOW, THEREFORE, BE IT RESOLVED**, that the Watauga County Board of Commissioners presents this request to the North Carolina Department of Transportation to honor our veterans by designating Highway 421 North from the Wilkes County Line to the Tennessee State line a **Blue Star Memorial Highway** and requests a marker be erected in observance of this designation.

**ADOPTED** this the 2<sup>nd</sup> day of October, 2012.

**ATTEST:**

\_\_\_\_\_  
Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

\_\_\_\_\_  
Anita J. Fogle, Clerk to the Board

**AGENDA ITEM 7:****MISCELLANEOUS ADMINISTRATIVE MATTERS*****B. Boards and Commissions*****MANAGER'S COMMENTS:**

AppalCART has submitted the following nominations for appointment to their Board of Directors: Mr. John Dinkins as a user representative and Ms. Elaine Norris as the Human Service Agency Representative.

Mr. Allen Culler's term on the Valle Crucis Historic Preservation Commission (VCHPC) expires this month and he is willing to be reappointed for the 3 year term. The VCHPC is involved in the issuance of "Certificates of Appropriateness" pursuant to the Valle Crucis Historic District Ordinance. The Commission's membership includes 3 residents of the historic district and 2 residents of the Valle Crucis community who are also members of the elected Valle Crucis Community Council. Mr. Culler's seat is one of the 2 Community Council member seats. The VCHPC historically meets infrequently.

Ms. Janet Miller's term on the Watauga County Board of Adjustment expires in November and she is willing to be reappointed for the 3 year term. Ms. Miller is an at-large member and at-large members fill 2 of the 6 seats on the Board. The other 4 are filled by representatives of the zoned and watershed areas in the county. The Board of Adjustment historically meets infrequently.

All the above are second readings; therefore, action may be taken if so desired.

**Anita.Fogle**

---

**From:** Info at AppalCART <info@appalcart.com>  
**Sent:** Tuesday, August 28, 2012 4:56 PM  
**To:** Anita.Fogle  
**Subject:** Re: AppalCART Board Member - John Dinkins

Thanks much Anita!

**From:** [Anita.Fogle](#)  
**Sent:** Tuesday, August 28, 2012 4:10 PM  
**To:** [Info at AppalCART](#)  
**Cc:** [Chris Turner](#)  
**Subject:** RE: AppalCART Board Member - John Dinkins

Hi Joanna,

Both Elaine Norris and John Dinkins will have to be officially appointed to the AppalCART Board by the Board of Commissioners prior to serving.

The Board of Commissioners' cancelled their first regular meeting in September due to the Labor Day Holiday. Therefore, I will place the nominations on the September 18, 2012, agenda for their first reading and then on the October 2, 2012, meeting for their second reading and Board action.

Thanks so much!  
 Anita

Anita J. Fogle, Clerk to the Board  
 Watauga County  
 814 West King Street, Suite 205  
 Boone, North Carolina 28607  
 828.265.8000 Phone  
 828.264.3230 Fax  
[Anita.Fogle@watgov.org](mailto:Anita.Fogle@watgov.org)  
[www.WataugaCounty.org](http://www.WataugaCounty.org)

---

**From:** Info at AppalCART [<mailto:info@appalcart.com>]  
**Sent:** Tuesday, August 28, 2012 3:46 PM  
**To:** Anita.Fogle  
**Cc:** [dinkinsjw@appstate.edu](mailto:dinkinsjw@appstate.edu); Chris Turner  
**Subject:** AppalCART Board Member - John Dinkins

Hi Anita,

John Dinkins is a User of AppalCART, and is willing to step in to [User] Donald Ray's seat on the AppalCART Board. John is available when and if the Commissioners approve him.

AppalCART's next meetings  
 Monday Sept 24th at 3:00PM  
 Monday Oct 22 at 3:00PM

John Dinkins  
132 Appalachian St  
Boone, NC 28607  
828.264.8991  
[dinkinsjw@appstate.edu](mailto:dinkinsjw@appstate.edu)

Thank you,  
Joanna Wilcox  
828.264.2280 phone  
[info@appalcart.com](mailto:info@appalcart.com)

**Anita.Fogle**

---

**From:** Info at AppalCART <info@appalcart.com>  
**Sent:** Tuesday, August 28, 2012 3:17 PM  
**To:** Anita.Fogle  
**Subject:** Fw: AppalCART Board Member - DSS Elaine Norris

Hi Anita,

1) Below, Elaine Norris says she is willing to replace Jeannine Taylor on the AppalCART Board. Do I need to do anything else for you to forward to Commissioners? Elaine's first meeting would be: Mon Oct 22, 2012.

2) Also, we're looking for someone (an AppalCART user) to replace Donald Ray. I'll get back to ya on that one.

Thank you,  
 Joanna

**From:** [Elaine Norris](#)  
**Sent:** Tuesday, August 28, 2012 2:58 PM  
**To:** [Info at AppalCART](#)  
**Cc:** [Anita.Fogle](#) ; [Chris Turner](#) ; [Jim.Atkinson](#)  
**Subject:** RE: AppalCART Board Member - DSS Elaine Norris

Hi Joanna,  
 Yes I will be willing to serve on the AppalCART board to represent DSS. Thank you.  
 I am also sending cc to Jim Atkinson.  
 Elaine

---

**From:** Info at AppalCART [<mailto:info@appalcart.com>]  
**Sent:** Tuesday, August 28, 2012 12:58 PM  
**To:** Elaine\_Norris  
**Cc:** Anita.Fogle; Chris Turner  
**Subject:** AppalCART Board Member - DSS Elaine Norris

Hi Elaine,  
 copy to:  
 Anita Fogle, County Managers Office  
 Chris Turner, AppalCART Director

As you know, Jeannine Taylor is retiring from DSS effective Oct 1, 2012. She has been an AppalCART Board member since January 2006. On the Board, we will need a Human-Agency Rep to fill

Jeannine's spot, effective Monday October 22, 2012 at 3PM.

We meet on the 4th Monday of every month at 3PM.

We are still meeting at AppalCART's present facility at 274 Winkler's Creek Rd, until our new facility on 105 Bypass gets finished.

We hope that you will be interested, consider it, and let me know. Copy to Anita too.

Thank you,

Joanna Wilcox  
AppalCART  
828.264.2280 phone  
[info@appalcart.com](mailto:info@appalcart.com)

---

**From:** Joe Furman  
**Sent:** Monday, September 10, 2012 11:28 AM  
**To:** Deron.Geouque  
**Cc:** Anita.Fogle  
**Subject:** Boards and Commissions

Deron,

There are two seats on planning-related boards to be filled as follows.

1. Valle Crucis Historic Preservation Commission: Allen Culler's term expires this month. He is willing to be reappointed. The VCHPC is involved in the issuance of "Certificates of Appropriateness" pursuant to the Valle Crucis Historic District Ordinance. The Commission's membership includes 3 residents of the historic district and 2 residents of the Valle Crucis community who are also members of the elected Valle Crucis Community Council. Mr. Culler's seat is one of the 2 Community Council member seats. Terms are 3 years. The VCHPC has historically met infrequently.
2. Board of Adjustment: The term of Janet Miller, who is an at-large member, expires in November. She is willing to be reappointed. At-large members fill 2 of the 6 seats; the other 4 are filled by representatives of the zoned and watershed areas in the county. Terms are 3 years. The Board of Adjustment has historically met infrequently.

Joseph A. Furman, AICP  
Director, Watauga County Planning & Inspections and Economic Development  
331 Queen Street, Suite A  
Boone, NC 28607  
(828) 265-8043  
(828) 265-8080 (fax)  
[joe.furman@watgov.org](mailto:joe.furman@watgov.org)

**AGENDA ITEM 7:****MISCELLANEOUS ADMINISTRATIVE MATTERS***C. Announcements***MANAGER'S COMMENTS:**

High Country Recreation will host a presentation on Tuesday, October 2, 2012, from 5:30 P.M. to 7:00 P.M. conducted by Mr. Bob Conklin, CEO/President for the YMCA of Catawba Valley. The presentation will focus on how a YMCA provides year-round recreational opportunities and additional child care options for working parents. The location of the meeting is yet to be determined.

A joint meeting is scheduled with the Watauga County Economic Development Commission to discuss potential use of the old high school property on Monday, October 8, 2012, from 4:30 P.M. until 6:00 P.M.

An Interlocal Governmental Retreat is scheduled for Thursday October 11, 2012, from 5:00 P.M. to 7:00 P.M. at the ASU Athletics Center. Craig Hughes with High Country Council of Governments and NCDOT planning staff will make presentations.

Two public hearings are scheduled for the Tuesday, October 16, 2012, Board meeting. The hearings will allow public comment regarding proposed amendments to the Valle Crucis Historic District Ordinance and the submission of an application for the Community Development Block Grant NC Catalyst Program of which funds, if received, will be used for the rehabilitation of local homes.

A public comment period will also be placed on the October 16<sup>th</sup> agenda to hear comments regarding a recent request to rename a portion of the NC 194 Scenic Byway in Valle Crucis in honor of Mr. Ed Yates.

**From:** Deron.Geouque  
**Sent:** Thursday, September 06, 2012 8:25 AM  
**To:** Anita.Fogle  
**Subject:** FW: Possible YMCA Presentation Dates

9-18-2012

Deron Geouque  
Watauga County Manager  
814 West King Street  
Boone, NC 28607  
(P) 828-265-8000  
(F) 828-264-3230  
Email [Deron.Geouque@watgov.org](mailto:Deron.Geouque@watgov.org)

---

**From:** Brian Lowe [<mailto:blowe@choosehope.org>]  
**Sent:** Friday, August 31, 2012 12:27 PM  
**To:** Deron.Geouque  
**Cc:** Joe Furman  
**Subject:** RE: Possible YMCA Presentation Dates

Deron and Joe,

Here are the confirmed details for the YMCA presentation:

**What:** YMCA Presentation for Watauga County – How a YMCA could be the solution to our undisputed needs of greater, year-round recreational opportunities and additional child care options for working parents.  
**When:** Tuesday, October 2<sup>nd</sup>, 5:30 PM – 7 PM  
**Who:** Bob Conklin, CEO/President for YMCA of Catawba Valley  
**Where:** TBD  
**Invitees:** Any local governmental leaders and staff, Chamber of Commerce members, business owners, community organizations, and interested community members.  
**Host:** High Country Recreation – a newly formed local nonprofit committed to making the High Country a sustainable and healthy community by providing the comprehensive information source about recreation and advocating for improved recreation opportunities. For more information, please go to [www.highcountryrecreation.org](http://www.highcountryrecreation.org).

Please feel free to forward this information to the Board of Commissioners and the Economic Development Commission.

We will notify you as soon as a location is determined.

Thank you, Deron.



C. Brian Lowe  
Executive Director  
Hope Pregnancy Resource Center

(O) - 828.262.3951  
 208 Howard Street  
 Boone, NC 28607  
[www.choosehope.org](http://www.choosehope.org)

*This e-mail and any documents transmitted with it are private and confidential and are solely for the use of the above noted recipient. It may contain material which is legally privileged, protected or confidential. If you are not the recipient or the person responsible for delivering to the recipient, be advised that you have received this e-mail in error, that any use of it is strictly prohibited, and that you should delete the email and attachments. Please contact Hope PRC at 828-262-3951 to advise of this fact.*

---

**From:** Deron.Geouque [<mailto:Deron.Geouque@watgov.org>]  
**Sent:** Thursday, August 30, 2012 9:29 AM  
**To:** Brian Lowe  
**Subject:** RE: Possible YMCA Presentation Dates

Brian:

Sept 25, 27 and Oct 2 are good for me. I will present to my Board on our Sept. 18<sup>th</sup> meeting and let you know what works for them.

Sincerely,

Deron Geouque  
 Watauga County Manager  
 814 West King Street  
 Boone, NC 28607  
 (P) 828-265-8000  
 (F) 828-264-3230  
 Email [Deron.Geouque@watgov.org](mailto:Deron.Geouque@watgov.org)

---

**From:** Brian Lowe [<mailto:blowe@choosehope.org>]  
**Sent:** Tuesday, August 28, 2012 2:28 PM  
**To:** Deron.Geouque; [MasonLO@aol.com](mailto:MasonLO@aol.com)  
**Subject:** Possible YMCA Presentation Dates

Deron and Lynne,

Bob Conklin, CEO for the YMCA of Catawba Valley, is very interested in coming up to make a presentation. In fact, the YMCA just concluded a three-year strategic plan. One of the goals was to re-visit the possibility of a YMCA in Watauga County.

For any presentation, our priority is to have as many community leaders as possible attend, especially the Board of Commissioners and Town Council Members.

The four proposed dates are as followings:

- Tuesday, September 25, 5:30 PM
- Thursday, September 27, 5:30 PM
- Monday, October 1, 5:30 PM

Please take a look at the calendars for both the Commissioners and Council Members and let me know the two best dates that do not conflict with official meetings.

Thank you,



C. Brian Lowe  
Executive Director  
Hope Pregnancy Resource Center

(O) - 828.262.3951  
208 Howard Street  
Boone, NC 28607  
[www.choosehope.org](http://www.choosehope.org)

*This e-mail and any documents transmitted with it are private and confidential and are solely for the use of the above noted recipient. It may contain material which is legally privileged, protected or confidential. If you are not the recipient or the person responsible for delivering to the recipient, be advised that you have received this e-mail in error, that any use of it is strictly prohibited, and that you should delete the email and attachments. Please contact Hope PRC at 828-262-3951 to advise of this fact.*

---

**AGENDA**

**WATAUGA INTERGOVERNMENTAL RETREAT**

**OCTOBER 11, 2012**

**5:00 P.M.**

**ASU ATHLETIC CENTER (KIDD BREWER STADIUM)**

- I. Call to Order
- II. Introductions
- III. Dinner
- IV. Watauga Comprehensive Transportation Plan
  - Craig Hughes, High Country Council of Governments
  - Cooper Sellers, NCDOT
- V. Consolidated Dispatch Services – Vince Gable, Vice-Chairman, Watauga County Board of Commissioners



# WATAUGA COUNTY

*Department of  
Planning & Inspections*

331 Queen Street Suite A • Boone, North Carolina 28607

Phone (828) 265-8043  
TTY 1-800-735-2962  
Voice 1-800-735-8262  
or 711  
FAX (828) 265-8080

Public Hearing Notice  
Watauga County Board of Commissioners  
Tuesday, October 16, 2012  
6:00 PM

The Watauga County Board of Commissioners will hold a public hearing at 6:00 p.m. on Tuesday, October 16, 2012, in the Commissioners' Board Room at the Watauga County Administration Building located at 814 West King Street, Boone, North Carolina. The purpose of the hearing shall be to allow public comment on proposed amendments to the Valle Crucis Historic District Ordinance. Interested parties are encouraged to attend. For information or questions, please call (828) 265-8043.



## STAFF REPORT

### VALLE CRUCIS HISTORIC DISTRICT ORDINANCE

---

**DATE:** August 30, 2012

**APPLICANT:** Valle Crucis Historic Preservation Commission

**LOCATION:** Valle Crucis, North Carolina

**STAFF CONTACT:** John Spear, AICP

#### **BACKGROUND:**

Valle Crucis was the first rural historic district designated in North Carolina. The Historic District Ordinance has been in effect since its original adoption effective September 1, 1990. It has been amended four times for various reasons.

#### **INTENT:**

This proposed amendment will allow low-level, external illumination of advertising signs when street or site lighting is insufficient; clarify staff's role in issuing Certificates of Appropriateness for advertising signs; and extend the validity of Certificates of Appropriateness from 6 months to 12 months.

The following areas of the Citizens' Plan for Watauga lend support to this request:

Pg. 43, Key Economic Sectors - recognize the importance of tourism as a key economic sector.

Pg. 57, Preservation of Unique Community Identities and Heritage - ensure the preservation and protection of the Valle Crucis Historic District.

#### **PUBLIC HEARING AND NOTICE:**

Prior to taking action on any proposed amendment, the board of commissioners must hold a duly advertised public hearing in accordance with NCGS §153A-323.

#### **PLANNING BOARD RECOMMENDATION:**

The planning board will review and comment on whether the proposed amendment is consistent with the Citizens' Plan for Watauga via a written recommendation addressing plan consistency in accordance with NCGS§153A-344.

#### **RELATION TO CITIZENS PLAN FOR WATAUGA:**

The board of commissioners shall consider the plan consistency statement along with public comment and other relevant information before making a final determination.

#### **COUNTY COMMISSIONERS ACTION:**

Prior to adopting or rejecting any proposed amendment, the board of commissioners shall adopt a statement of plan consistency and explain why the board considers the action taken to be reasonable and in the public interest. The plan consistency statement is required by NCGS §153A-341.

Commissioners may take one of the following actions:

- a. Approval of the application.
- b. Approval of a modified version of the application.
- c. Denial of the application.

**PROPOSED AMENDMENTS:**

*Please Note:*

1. Proposed amendments are shown high-lighted in yellow.
2. Existing text to be removed is shown ~~struck through~~.
3. New text is shown in **bold print**.

2.5 Performance Standardse. Signage

In order to maintain the rural historic character of the District, signs must be limited in size and number. Therefore, off-premises advertising signs are prohibited. On-premises signs are limited as follows:

- a) Signs shall not be placed within a public road right-of-way.
- b) Signs located fifteen (15) feet to twenty five (25) feet from the centerline of a road shall be limited to ten (10) square feet in size.
- c) Signs located twenty five (25) to thirty five (35) feet from the centerline of a road shall be limited to twenty (20) square feet in size.
- d) Signs located thirty five (35) feet or more from the centerline of a road shall have a maximum size of thirty two (32) square feet.
- e) Each establishment is limited to a maximum of two signs (one (1) detached and one (1) attached). However, in a situation where a detached sign is not visible from both directions due to topography or other obstruction, two (2) detached signs may be permitted and shall have a maximum size of ten (10) square feet each.
- f) The maximum height of detached signs is ten (10) feet measured from the ground.

**EXISTING** ~~g) Signs shall not be lighted by either interior or exterior illumination.~~

**PROPOSED** g) Signs shall not be internally illuminated – i.e. translucent plastic signs prohibited.  
h) Where street or site lighting does not provide sufficient illumination, signs may be externally illuminated by low level, shielded stationary bulbs installed in compliance with North Carolina Statutes §136-32.2. Sign lighting shall be turned off at 11 pm.

2.8 Certificate of Appropriatenessa. Required

**EXISTING** No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features) nor above ground utility structure ~~nor any type of outdoor advertising sign~~ shall be erected, altered, restored, moved or demolished within the Valle Crucis Historic District until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Valle Crucis Historic Preservation Commission.

*(Staff Note: The planning staff has historically issued sign permits in the Historic District following the Historic Preservation Commission's adopted Rules of Procedure. The intent of this amendment is to clarify and maintain the staff's role in issuing sign permits within the District).*

## 2.14 Compliance

Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Watauga County Department of Planning and Inspections.

Failure to comply with a Certificate of Appropriateness shall be a violation of this Ordinance.

**EXISTING** ~~The discontinuance of work or the lack of progress towards achieving compliance with a Certificate of Appropriateness for a period of six months shall be considered as failure to comply with a Certificate of Appropriateness.~~

**PROPOSED** **To ensure continued compliance with the provisions of this ordinance, each approved certificate of appropriateness shall expire 12 months from the date on which final action was taken to approve the application, unless otherwise identified in the certificate, if the alteration, construction, demolition, relocation, or removal has not been initiated. Time extensions may be granted in accordance with the Commission's Rules of Procedure Section 10.17.**

Nothing contained in this Ordinance shall prohibit, impair or limit in any way the power of Watauga County to prevent the construction, reconstruction, alteration, or removal of building structures, appurtenant fixtures or outdoor signs in the Historic District in violation of the provisions of this Ordinance.

The enforcement of any remedy already provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in any other ordinances or laws. (See North Carolina General Statutes 160A-175 and 160A-389)

### **SAMPLE STATEMENTS OF PLAN CONSISTENCY:**

#### Planning Board

*The planning board finds the proposed zoning text amendments consistent with the findings and recommendations of the Citizens' Plan for Watauga. The board members therefore recommend approval because:*

- 1. Advertising signage is critical to the success of local merchants who rely on tourism, a key economic sector.*
- 2. Sign lighting provides guidance and informs both visitors and residents after dark.*
- 3. Tasteful, low-level exterior illumination is consistent with the Rural Historic District Guidelines for Valle Crucis.*

#### Board of Commissioners

*The Board of Commissioners finds adoption of the recommended zoning text amendments to be consistent with the findings and recommendations of the Citizens' Plan for Watauga. The commissioners hereby approve and adopt the amendments as reasonable and in the public interest because:*

- 1. Advertising signage is critical to the success of local merchants who rely on tourism.*
- 2. Sign lighting provides guidance and informs both visitors and residents after dark.*

## WATAUGA COUNTY TO HOLD PUBLIC HEARING

Watauga County will be holding a public hearing to solicit citizen input on the submission of an application for 2012 Community Development Block Grant funds in the NC Catalyst category in the amount of \$175,000. The CDBG funds will be to help rehabilitate houses occupied by very low-income homeowners in Watauga County. The public hearing is scheduled for Tuesday, October 16, 2012 at 6:00 pm in the Commissioners Boardroom located at the Watauga County Administration Building at 814 W. King Street, Boone, NC. All interested citizens are invited to attend.

Hearing impaired persons desiring additional information or having questions regarding this subject should call Relay North Carolina at 1-800-735-2962.

This information is available in Spanish or any other language upon request. Please contact Joe Furman, County Planner at (828) 265-8043 or at 331 Queen Street, Boone, NC, for accommodations for this request at least 48 hours prior to the hearing.

Esta información está disponible en español o en cualquier otro idioma bajo petición. Póngase en contacto con la Joe Furman, County Planner en el (828) 265-8043 on en 331 Queen Street, Boone, NC, de alojamiento para esta solicitud al menos 48 horas antes de la audiencia.

Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

**DRAFT**

**RESOLUTION SUPPORTING THE NAMING OF A PORTION OF  
NC 194 MISSION CROSSING SCENIC BYWAY IN HONOR OF ED YATES**

**WHEREAS**, the Ed Yates family has lived in Watauga County since the 1870’s with strong ties to the community; and

**WHEREAS**, Ed Yates had a special interest in machinery and electricity and learned to operate a steam shovel; and

**WHEREAS**, the North Carolina Department of Transportation recognized Mr. Yates’ ability with equipment and hired him to build roads for the State of North Carolina and the Citizens of Watauga County; and

**WHEREAS**, Mr. Yates was instrumental in the construction of NC 194 from Todd to Elk Park, NC 88 from Warrentsville, NC, to Trade, TN, and US 321 from Boone to Blowing Rock; and

**WHEREAS**, Ed Yates was a community leader and, in many ways, ahead of his time by understanding machinery and how new inventions such as the automobile and electricity could have a significant improvement on the lives of those in the community; and

**WHEREAS**, Blue Ridge Electric Membership Corporation could not have had a better advocate than Mr. Yates in promoting the benefits of electricity; and

**WHEREAS**, Mr. Yates was the 10,000<sup>th</sup> member of Blue Ridge Electric Membership Corporation; and

**WHEREAS**, upon his retirement from the North Carolina Department of Transportation, Ed Yates operated his farm and continued his service to the community by loaning equipment and assistance to his neighbors.

**NOW, THEREFORE, BE IT RESOLVED** that the Watauga County Board of Commissioners supports the naming of a 4.2 mile section of NC 194 Mission Crossing Scenic Byway from Valle Crucis to Hade Smith Road Intersection in Honor of Ed Yates.

**ADOPTED** this the 18<sup>th</sup> day of September, 2012.

ATTEST:

\_\_\_\_\_  
Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

\_\_\_\_\_  
Anita J. Fogle, Clerk to the Board

(SEAL)

Ralph Yates  
335 Cool Woods Dr  
Boone, NC 28607  
Phone: 828-264-0984

Mr. Nathan Miller, Chairman  
Watauga County Commissioners  
Boone, NC 28607

Date July, 21, 2012

Subject: The naming of NC 194 Scenic Byway from Vallie Crucis to the Avery County line in honor of Ed Yates (posthumously).

Mr. Chairman, this is a request to the commission, asking that they consider naming NC 194 Scenic Byway (posthumously) in honor of Ed Yates of the Matney/Cool Springs Community.

The Yates's have been land owners in Watauga County since around 1870. Ed Yates's Grandfather Alford Yates a Civil War Veteran who enlisted in the Confederate Army on June 12, 1861. Alford Yates was engaged in the battle for Gettysburg Pa. Other battles was the "Bloody Angle," the "Wilderness campaign" and finally the battle at Spotsylvania Courthouse, where more than 10,000 men on both sides had been killed, wounded, or captured. Alf Yates was one of the Confederate soldiers taken as a prisoner of war that day. He was taken to camp Point Lookout a stretch of sand thrusting into the Chesapeake Bay. The death rate at Point Lookout was reported at 30%. One option offered the prisoners' at Point Lookout was to pledge allegiance to the Union and go fight the Plains Indians in the Dakota Territory. Alf Yates took this option and records show that he was present in July 1865 at Fort Rice, ND . Alf Yates returned to his home on Reedy's Branch in Wilkes County until 1869. He then moved to Stony Fork in Watauga County and in 1875 moved to the Cool Springs Community in the Shawneehaw Twp. They settled on a 231 acre tract on the water of Laurel Fork on the east end of Beech Mountain. He built a ten room two story house on the property that is still in the Yates family today. All of the Yates's were farmers and two of the brothers Ed & Calvin had large farms in the Cool Springs Community and two Coy & Fred owned large farms in the Vallie Crucus area. These farms are still in the family's today.

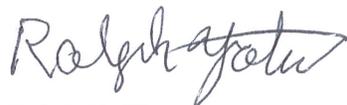
Ed Yates was interested in machinery and eventually learned to operate a steam shovel and build roads for the NCDOT. These were powerful machines powered by steam and one shovel was assigned to several counties. From all reports Ed was a gifted operator and road builder. Some of the roads he helped build was NC 194 from Todd to Elk Park. NC 88 from Warrensville to Trade. US 321 from Boone to Blowing Rock. On the NC 194 project The Big S as it is know by locals has always been a problem , with many

tractors hung up on the Big S taking hours to untangle. When NC 194 was being built Ed told the engineer that he could lay out and build a better road if he would leave the Big S out and let him gradually bring the road on around and up the mountain. The engineer told him that the Big S would be a huge tourist attraction as two bus lines made daily runs from Charlotte to Johnson City TN. Keep in mind that these roads were built before bulldozers, motor graders, track holes, or large dump trucks came on the scene. Horse drawn drags, sleds, rakes and shovels was the tools of choice.

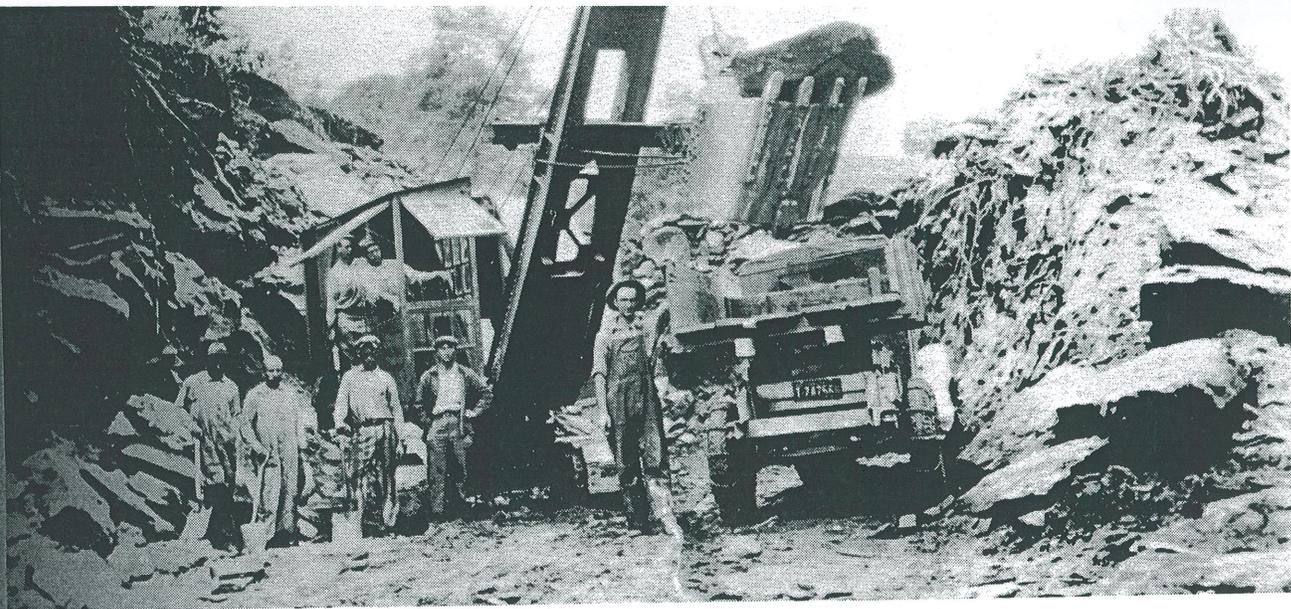
Ed Yates was a community leader and in many ways he was ahead of his time by understanding machinery and what new inventions such as automobiles and electricity would mean to his world. Ed would hold community meetings in his home and have BREMCO officials com and explain what electricity could do for them and make their lives better. Ed and his family was recognized as the 10,000 member of BREMCO. After his retirement from the NCDOT Ed operated his farm and made use of many of the new equipment and improved farming techniques. He was always willing to loan this equipment to his neighbors and help them to understand the operation of the equipment. Ed Yates was a trusted man and leader in his community and it was common knowledge that his word was his bond.

Mr. Chairman your consideration in this matter will be appreciated.

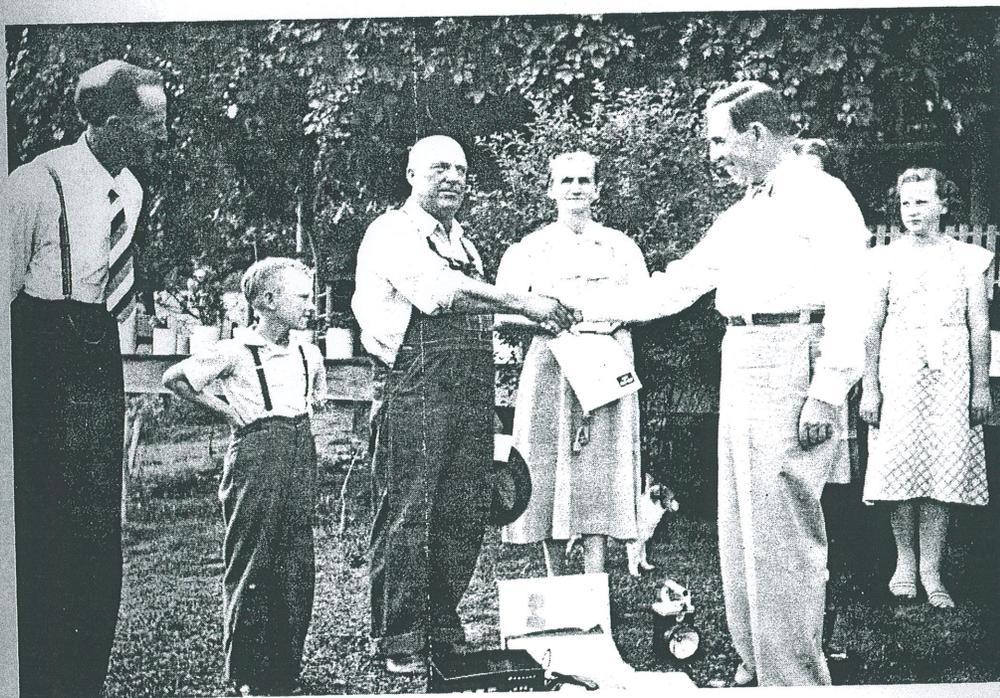
Sincerely,

A handwritten signature in cursive script that reads "Ralph E. Yates". The signature is written in dark ink and is positioned above the printed name.

Ralph E. Yates



Ed Yates (#11) working on the steam shovel



Ed Yates, 10,000th Blue Ridge member being congratulated by Gwyn Price, N. C. REA.

## PROCEDURES FOR NAMING ROADS/BRIDGES/FERRIES

The following documentation and information is required before any naming request will be considered by the Board of Transportation.

### Information to be provided by the local nominating entity:

- 1. Background information on nominee.** Sufficient information must be provided to explain why the naming is warranted; for example, local, state, and/or national contributions and accomplishments. If the designee is recently deceased, the request will be reviewed after a one year waiting period.
- 2. Description of what is requested to be named.** The Board will consider naming Ferries, Interstate, US, and NC routes/bridges only, or more significant bridges on the state's secondary road system. The distance of dedication should be approximately 5 miles or less. Law enforcement officers will be honored with bridge dedications in lieu of highways.
- 3. Resolutions from all local governing bodies associated with or affected by the request.** City or town councils and/or county commissioners must adopt resolutions in sufficient detail to adequately justify the request.
- 4. Strong public input and support.** Explain the degree to which the public supports the request and had notice of action with an opportunity for input.

### NCDOT Staff Review:

- 5. Whether another facility has been previously named by the BOT.**  
The Board does not name more than one facility for the same individual. Requests for duplicate family members reviewed on case by case basis.
- 6. If the facility is planned or under construction, expected completion date.** The Board typically does not name facilities until approximately three months prior to completion.
- 7. Opposition.** The Board does not mediate local disagreements.

### Action by the Road and Bridge Naming Committee and Board of Transportation:

- a. Board member must endorse request and present to Committee and Board.
- b. NCDOT Secretary and Board Chairman are Co-Chairs of the Committee and call meetings and approve the agenda.
- c. A naming request reviewed and recommended by the Committee will be "held" for at least one month before being considered by the full Board.

**SUPPLEMENTAL INFORMATION TO ASSIST WITH ROAD/BRIDGE NAMING REQUESTS  
FROM INDIVIDUALS AND GOVERNMENTS:**

- The requesting party should have the family's support for the road or bridge naming request including agreement with the requested location of the dedication.
- The requested wording to appear on the actual signs needs to be stated in the resolution by the local government (with the family's concurrence) to insure the signs are manufactured correctly. Final wording is at the Department's discretion.
- Interstate designations will use the wording "Freeway" and NC & US roadways designation will use the wording "Highway".
- Local governments could consider the "Adopt a Highway" program as an alternative method of honoring an individual or group.
- The Board does not typically name a facility for accident victims. An individual's accomplishments and contributions to the state and community are used as criteria for consideration for a memorial designation.
- It is the responsibility of the individual seeking the road or bridge naming request to work directly with the local government to obtain the necessary resolution for submittal to the Board.
- Municipalities may name municipally owned streets or bridges in honor of individuals or groups. This does not require DOT review or approval.
- It is the Board's opinion that the Blue Star Memorial Highway designation honors all veterans and military groups in the state. Therefore, any other designation of a road or structure for veterans or military groups would be considered duplication.
- Honorary signs will be ground mounted; overhead signs will not be installed. Signs will be installed at the beginning and ending termini of the approved roadway segment, and will not be installed on exits, Y-lines, or intersecting roadways.
- Signs will not include titles except for certain designations as determined by the committee (i.e. Trooper, Congressman, Governor).
- Dedications for law enforcement officers are for North Carolina officers killed in the line of duty.

**AGENDA ITEM 8:**

**PUBLIC COMMENT**

**AGENDA ITEM 9:**

**BREAK**

**AGENDA ITEM 10:**

**CLOSED SESSION**

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