

October 12, 2009 – Regular Session

The Swain County Board of Commissioners held a regular session on October 12, 2009. Present were Chairman Jones, Vice-Chair Lindsay, Commissioner Monteith, Commissioner Carson and Commissioner Moon.

Chairman Jones called the regular session to order. Commissioner Moon led with prayer and the pledge.

Adjust Agenda

Commissioner Monteith made a motion to adjust the agenda to better facilitate the meeting. Vice-Chair Lindsay seconded the motion. A vote was unanimous.

Minutes

Commissioner Carson made a motion to approve the July 28 special session and August public hearing. Commissioner Moon seconded the motion. A vote was unanimous.

Public Comments

Comments were received from Linda Hogue, Vivian Cook, Ellen Monteith and Mike Clampitt.

Administrative Reports

Tax Collector's Report: Peggy Hyde presented a report to the Board for the month of September, 2009. Ad-Valorem tax receivable was reported at \$4,377,811.01. There was \$420,902.95 collected for the month. Total collections year to date were \$579,808.63. The tax collection percentage year to date was 7.34%. Total releases were \$9,002.08, total discoveries were \$98,387.55 and refunds were \$397.72. Commissioner Moon made a motion to approve the Tax Collector's report as presented. Commissioner Monteith seconded the motion. A vote was unanimous.

Finance Report: Kevin King presented a report to the Board for the month of September, 2009. Mrs. Cody reported revenues for the month were \$708,055.61. Total revenue year to date is \$2,187,071.29. We have approximately 19.95% of revenues for 2009-2010 fiscal year. Expenditures for the month were \$741,117.46. Year to date we have expended \$1,999,690.10. We have paid out approximately 18.89% of the General Fund appropriations for 2009/2010 fiscal year. Commissioner Monteith made a motion to approve the Finance Officer's report as presented. Commissioner Carson seconded the motion. A vote was unanimous.

ACTION ITEMS

Establish a Voluntary Agriculture Advisory Board: The Board appointed Robert Randal, Danny Barker, Lee Boston, Billy Dills and Harley Cunningham. A vote was unanimous.

DCA Resolution: The Board approved a resolution requesting the services of the NC Department of Commerce, Division of Community Assistance for an update of the County's 1994 Land Use Plan, by a unanimous vote.

Rail Line Resolution: The Board approved a resolution requesting the NC general Assembly to exclude the Appalachian Development Highway Safety Funding from the NC Department of Transportation equity formula. A vote was unanimous.

Furlough Resolution: The Board approved the following resolution with a unanimous vote.



STATE OF NORTH CAROLINA
COUNTY OF SWAIN

Resolution # 900-2009-12

**RESOLUTION DECLARING BUDGET-REQUIRED FURLOUGH DAYS FOR
SWAIN COUNTY EMPLOYEES**

The Swain County Board of Commissioners hereby resolves the following at a regularly scheduled meeting:

WHEREAS, The extreme fiscal crisis that has affected the economy in Swain County, North Carolina, the United States, and the World has substantially reduced the Swain County revenue projections for the 2009-2010 fiscal year.

WHEREAS, Due to the economic crisis as set out above and more specifically the sudden and unexpected reduced State funding which resulted in a large reduction in revenues for the 2009-2010 fiscal year.

WHEREAS, Spending and Economies in County expenditures must be effected immediately and systematically in order to meet the compelling County's interest of enacting a balanced budget in accordance with the North Carolina Law and to protect the interests of the people of Swain County, North Carolina.

WHEREAS, the County has previously made substantial and reasonable efforts to assist with this financial crisis by the following methods, including but not specifically limited to: a Reduction in Force enacted at the beginning of the fiscal year; elimination of eight positions within the County; hiring freeze has been put in place; and all travel and educational expenses have been cut out of the budget unless absolutely necessary. However, these measures have not eliminated the financial crisis for Swain County.

WHEREAS, Given the broad scope and depth of other budget reduction and efficiency measures required, allowing voluntary and requiring mandatory furloughs of county employees, when necessary, is a reasonable measure to avoid disruptive mass layoffs, and the elimination of positions in public employment, to preserve the public health, safety, and welfare and to continue effective administration of important governmental functions in the interest of the people of Swain County, North Carolina. This is one action that the Swain County Board of Commissioners must take to balance the County's budget for the fiscal year.

NOW THEREFORE BE IT RESOLVED that the Swain County Board of Commissioners at its October 12, 2009 meeting, adopted this resolution declaring authority and the reasonableness of budget-required furloughs for Swain County Employees.

Adopted this the 12th day of October 2009.

Glenn Jones, Chairman
Swain County Commissioners

ATTEST:

Cindi C. Woodard, Clerk to the Board
Swain County Commissioners

Lease for DSS Parking: Vice-Chair Lindsay made a motion to approve a lease for DSS parking which would allow us to purchase it. Commissioner Carson seconded the motion. A vote was unanimous.

EMS Ordinance: Commissioner Carson made a motion to adopt the following ordinance:



EMERGENCY MEDICAL SERVICES ORDINANCE

GENERAL REFERENCES

§ 120.1 Definitions.

Unless the context otherwise requires, the following definitions shall apply in the interpretation and enforcement of this ordinance:

AMBULANCE

Any privately or publicly owned motor vehicle, aircraft or vessel that is specially designed, constructed or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this County of persons who are sick, injured, wounded or otherwise incapacitated or helpless and that is permitted by the Department of Human Resources, Division of Facility Services, Office of Emergency Medical Services, and any vehicle meeting the definition of an "EMS nontransporting vehicle" under Title 10A of the North Carolina Administrative Code (currently found in 10A NCAC 13P.0109), as it may be amended from time to time.

AMBULANCE ATTENDANT

An individual who has completed a training program in emergency medical care and first aid approved by the North Carolina Office of Emergency Medical Services (NCOEMS) and has been certified as an ambulance attendant by NCOEMS.

AMBULANCE PROVIDER LICENSE

The legal authorization issued by NCOEMS for a person, firm, corporation or association to operate an ambulance service within a specified geographical service area which includes the areas of Swain County that a franchisee is authorized to serve under the terms of the franchise.

AMBULANCE SERVICE

A public or privately owned enterprise that is engaged in the transportation of patients to emergency and/or non-emergency medical facilities.

APPROVED

Approved by the North Carolina Medical Care Commission pursuant to the latter's rules and regulations promulgated under N.C.G.S. 143B-165.

BACKUP AMBULANCE SERVICE

The system of personnel and equipment meeting the same criteria as ambulance service but not normally dispatched at first-call response.

COUNTY

The County of Swain Board of Commissioners or designated representative.

DISPATCHER

A person who is available at all times to receive requests for emergency services, to dispatch emergency services and to advise the city police, County Sheriff and emergency medical facilities of any existing or threatened emergencies.

EMERGENCY and EMERGENCY TRANSPORTATION SERVICE

The operation of an ambulance in order to provide medical care and transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

EMERGENCY MEDICAL TECHNICIAN

An individual who has completed a training program in emergency medical care at least equal to the National Standard Training Program for emergency medical technicians as defined by the United States Department of Transportation and has been certified as an emergency medical technician by NCOEMS.

FIRST RESPONDER

The first dispatched medical or rescue aid to arrive at the scene and provide emergency medical assistance to stabilize the patient while waiting for further medical aid and/or transport.

FRANCHISE

A permit issued by the County to a person for the operation of an ambulance service.

FRANCHISEE

Any person having been issued a franchise by the County for the operation of an ambulance service.

LICENSE

Any driver's license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.

NONEMERGENCY TRANSPORTATION SERVICES

The operation of an ambulance for any purpose other than an emergency.

OPERATOR

A person in actual physical control of an ambulance which is in motion or which has the engine running.

OWNER

Any person or entity who or which owns and operates an ambulance service.

PATIENT

An individual who is sick, injured, wounded or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated.

PERSON

Any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

RESCUE

Situations where the victim cannot escape an area through the normal exit or under his own power.

§120.2 Franchise required.

A. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business or service of emergency and/or nonemergency transportation of patients within the County of Swain unless the person holds a valid permit for each ambulance used in such business or service issued by the Office of Emergency Medical Services of the North Carolina Department of Human Resources and an ambulance provider license and has been granted a franchise for the operation of such business or service by the County pursuant to this chapter.

B. No person shall operate an ambulance or drive, attend or permit a vehicle to be operated for ambulance purposes within the County of Swain unless he or she holds a currently valid certificate as an ambulance attendant or emergency medical technician issued by the State of North Carolina, except pursuant to a mutual aid agreement entered into between Swain County and an agency or entity licensed under standards comparable to those employed in this chapter.

C. No franchise shall be required for:

(1) Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe or emergency for which the services franchised by the County of Swain are insufficient or with which the services franchised by the County of Swain are unable to cope.

(2) Any entity operated from a location or headquarters outside of the County of Swain in order to transport patients who are picked up beyond the limits of the County of Swain, but no such entity shall be used to pick up patients within the County of Swain for transporting to locations within the County of Swain or other locations unless it is rendering assistance as referred to in Subsection [C\(1\)](#) above.

(3) Law enforcement personnel.

(4) County-owned and -operated ambulances.

§120.3 Franchise application.

Application for a franchise to operate ambulances in the County of Swain shall be made upon such forms as may be prepared or prescribed by the County and shall contain:

- A. The name and address of the applicant and of the owner of the ambulance.
- B. The trade or other fictitious names, if any, under which the applicant does business along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
- C. A resume of the training and experience of the applicant in the transportation and care of patients.
- D. A description and copy of state certification for each ambulance owned and operated by the applicant.
- E. A description and copy of the ambulance provider license issued by NCOEMS.
- F. The location and description of the place from which it is intended to operate.
- G. An audited financial statement of the applicant as the same pertains to the operations in the County of Swain, said financial statement to be in such form and in such detail as may be required by the County.
- H. A description of the applicant's capability to provide twenty-four-hour coverage, seven days per week, for the district covered by the franchise applied for and an accurate estimate of the minimum and maximum time for a response call within such districts demonstrating that minimum and maximum response times within the district covered by the franchise applied for would meet the requirements for the level of service for which application is made.
- I. Any information the County shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance service in the County of Swain in accordance with the requirements of state laws and the provisions of this regulation.

§120.4 Grant of franchise.

- A. Prior to accepting applications from applicants for the operation of an ambulance service, the Board of Commissioners may designate specific service areas as franchise districts. Said districts will be established on criteria that include geographic size, road access, the location of existing medical transportation services, population and response time. The Board of Commissioners shall have the authority to redistrict or rearrange existing districts at any time at its discretion.
- B. An applicant may apply for a franchise to operate either emergency transportation service or nonemergency transportation service. If both types of service are to be provided, separate applications must be filed for each type.
- C. Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant. Within 30 days after the hearing, the County shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.
- D. A franchise may be granted if the County finds that:
 - (1) The public convenience and necessity require the proposed ambulance service.
 - (2) Each such ambulance of the applicant, has required equipment and the premises designated in the application have been certified by the County and the State of North Carolina.
 - (3) Only duly licensed ambulance attendants and emergency medical technicians are employed in such capacities.

§120.5 Term of franchise.

A. The County may issue a franchise hereunder to an owner of an ambulance service, to be valid for a term to be determined by the County, provided that either, as its option, may terminate the franchise upon 60 days' prior written notice to the other party. After a notice of service termination is given, the ambulance service shall reapply for a franchise if continued service is desired.

B. If any franchisee shall violate or fail to comply with any provision of this chapter or a franchise issued hereunder, said franchisee shall be cited by the County for said violation or failure to comply. The County, after a hearing pursuant to the citation, may impose a civil penalty as provided in § [120.13](#) hereinafter or may suspend or revoke the franchise. If, upon such hearing, the County shall find that the franchisee has corrected any deficiencies and has brought his operation into compliance with the provisions of this chapter, the franchise shall not be suspended or revoked, but a civil penalty as provided in § [120-13](#) hereinafter may be imposed.

C. Upon suspension, revocation or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation or termination of a driver's license or attendant's certificate or emergency medical technician certificate, such person shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service or attend an ambulance, and no person shall employ or permit such individual to drive an ambulance or provide medical care in conjunction with an ambulance service.

§120.6 Operation of franchise; sale or transfer.

A. Each franchised ambulance service shall comply at all times with the requirements of this chapter, the franchise granted hereunder and all applicable state and local laws relating to health, sanitation, safety, equipment and ambulance design and all other laws and ordinances. Each franchised ambulance service shall also comply at all times with the then-current Swain County Emergency Services program. Each franchised ambulance service shall be provided with a copy of this program and all its requirements at the time of the grant of its franchise, and shall be provided with copies of all amendments to the program.

B. Prior approval of the County shall be required where ownership or control of more than 10% of the right of control of the franchisee is acquired by a person or group of persons acting in concert, none of whom own or control 10% or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the County shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the County.

C. Any change of ownership of a franchised ambulance service without the approval of the County shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this chapter as upon original franchising.

D. No franchise may be sold, assigned, mortgaged or otherwise transferred without the approval of the County and a finding of conformance with all requirements of this chapter as upon original franchising. Each franchised ambulance service, its equipment and the premises designated in the application, and all records relating to its maintenance and operation, as such, shall be open to inspection by the state, the County or their designated representatives.

E. No official entry made upon a franchise may be defeated, removed or obliterated.

§120.7 Drivers and attendants.

Standards for drivers and attendants as developed by the North Carolina Medical Care Commission as requirements for certification of ambulance attendants and emergency medical technicians pursuant to North Carolina General Statutes Chapter 131E, Article 7, and Chapter 143, Article 56, shall be applied, and the same are incorporated herein by reference.

§120.8 Vehicles and equipment.

Vehicle and equipment standards as developed by the North Carolina Medical Care Commission pursuant to North Carolina General Statutes Chapter 131E, Article 7, and Chapter 143, Article 56, shall be applied, and the same are incorporated herein by reference.

§120.9 Communications.

A. Each ambulance must be equipped with a two-way VHF radio licensed by the Federal Communications Commission which must be in operative condition at all times.

B. Each ambulance service shall provide the County a copy of the Federal Communications Commission license authorizing the use of the communication equipment owned and operated by that service.

C. Each base of operations must have at least one open telephone line. Telephone numbers must be registered with each law enforcement agency and communications center in the County of Swain.

§120.10 Insurance.

No ambulance franchise shall be issued under this chapter, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the County of Swain, unless there is at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and/or operated by or for the ambulance service providing the payment of damages:

A. In the sum of no less than \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agent; and

B. In the sum of \$1,000,000 for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the State of North Carolina or as approved by the County of Swain.

§120.11 Records.

Each franchisee shall maintain the following records:

A. Record of dispatch, which shall show the time the call was received, the time the ambulance dispatched, the time arrived on the scene, the time arrived at destination, the time in service and the time returned to base.

B. Trip record, which shall state all information required in Subsection [A](#), in addition to the patient's address and telephone number, condition of the patient, type of medical assistance administered before reaching the hospital, total trip miles, schedule of charges and the name of the attendant and the driver. The trip record shall be so designated as to provide the patient with a copy thereof containing all required information. A copy of the trip record may serve as a receipt for any charges made.

C. Daily report log, which shall be maintained for the purpose of identifying more than one person transported in any one day.

D. Daily driver and attendant checklist and inspection report, which shall list contents and description of operations for each vehicle, signed by the individual verifying vehicle operations and equipment.

E. Monthly activities report, which shall be submitted as requested to the Swain County Department of Emergency Medical Services.

§120.12 Rates and charges.

A. The franchisee must keep on file with the Swain County Office of Emergency Medical Services its current rate schedule for services provided in accordance with the franchise. The franchisee is expressly prohibited from charging any rate of service that exceeds the comparable rate of service charged by Swain County without first obtaining specific approval from the Swain County Board of Commissioners.

B. No ambulance service shall attempt to collect rates on emergency calls until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the ambulance service, but such service may attempt to collect rates with the family or guardian of the patient once the patient is in the process of receiving medical attention.

C. On nonemergency calls, or calls where a person requires transportation to a nonemergency facility, attempts to collect payment can be made before the ambulance begins its trip.

§120.13 Violations and penalties.

Violation of this chapter, or the terms of any franchise granted hereunder, shall be subject to the penalties set forth in Chapter [1](#), General Provisions, Article [II](#).

§120.14 Enforcement.

The Swain County Office of Emergency Medical Services shall be the enforcing agency for the regulations contained in this chapter. Such office will:

- A. Receive all franchise proposals from potential providers.
- B. Study each proposal for conformance with this chapter.
- C. Recommend to the Board of Commissioners the award of the franchise(s) to the applicant(s) submitting the best proposal(s).
- D. Inspect the premises, vehicles, equipment and personnel of franchisees to assure compliance with this chapter and perform any other inspections that may be required.
- E. Recommend the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this chapter.
- F. Recommend the imposition of misdemeanor or civil penalties as provided therein.
- G. Ensure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended.
- H. Receive monthly reports from ambulance services and consolidate the same into a quarterly summary for review by the Board of Commissioners.
- I. Receive complaints from the public, other enforcing agencies and ambulance services regarding franchise infractions and review the complaint with the Board of Commissioners by monthly written report.
- J. Recommend improvements to the County which will ensure better medical transportation.
- K. Maintain all records required by this chapter and other applicable County regulations.

§120.15 Territorial jurisdiction.

The provisions of this chapter shall apply in both the incorporated and unincorporated areas within the geographic confines of the County of Swain.

§120.16 Inspections.

The County may inspect a franchisee's records, premises and equipment at any time in order to ensure compliance with this chapter and any franchise granted hereunder.

§120.17 Amendments.

The Board of Commissioners of the County of Swain may, through appropriate actions, amend or expand this chapter to include other emergency departments or agencies as deemed necessary.

This Ordinance shall become effective the ___ day of _____ 2000.

SWAIN COUNTY, NORTH CAROLINA

(SEAL)

By: _____
Glenn Jones
Chairman, Board of Commissioners

ATTEST:

Cindi Woodard

Commissioner Moon seconded the motion. A vote was unanimous.

Budget Amendment : TABLED

NEW BUSINESS

Audit Report: Eric Bowman presented the audit report for the County. For more information, Please see written report.

Animal Control : TABLED

Informal Discussion

Commissioner Monteith discussed the 1943 Agreement.

Adjournment

With no further business to discuss, Commissioner Moon made a motion to adjourn. Commissioner Carson seconded the motion. A vote was unanimous.

Respectfully Submitted,

Cindi C. Woodard,
Clerk to the Board
Swain County Commissioners

Glenn Jones,
Chairman
Swain County Commissioners