

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
JANUARY 3, 2005**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 5:30 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Shannon Baldwin, Commissioner Chuck McGrady, County Manager David E. Nicholson, Assistant County Manager Justin Hembree, Acting County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Planning Director Karen C. Smith, Budget and Management Director Selena Coffey, Paralegal Connie Rayfield, Public Information Officer Chris S. Coulson, Fire Marshal Rocky Hyder and Finance Director J. Carey McLelland. Deputy Clerk to the Board Amy Brantley was present through nominations.

### CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance. He wished Commissioner Baldwin a Happy Birthday. He also noted that Russ Burrell was present at the meeting serving as Acting County Attorney.

### PLEDGE OF ALLEGIANCE

Commissioner McGrady led the Pledge of Allegiance to the American Flag.

### INVOCATION

David Nicholson gave the invocation.

### INFORMAL PUBLIC COMMENTS

1. Michael Arrowood – Mr. Arrowood thanked the Board for his recent appointment to the Cemetery Advisory Committee, and requested the first meeting be set as soon as possible. He also requested guidance from the Board on topics such as timeframes and what types of results were expected.
2. Mary Singleton – Ms. Singleton requested that the Board follow the recommendations made by the Historic Courthouse Committee with regard to that building. The Courthouse should be restored, it is historic, and should be treated as such. She asked the Board to follow the wishes of the public.
3. Jerald Willingham – Mr. Willingham stated that he owned property which contained a cemetery. The cemetery was included in his deed, he paid taxes on it and was liable for anything that happened on that property. He was concerned about some of the approaches being taken by people concerned about these types of cemeteries.
4. Brenda Coates – Ms. Coates stated that she was the interim executive director of a group called the Old Mill Cultural Center. The group wished to turn the old Gray Hosiery Mill into a performing arts center. She requested that the group be placed on a future agenda for a formal presentation of their vision for the center.
5. Norman Miller – Mr. Miller also thanked the Board for his recent appointment to the Cemetery Advisory Committee. He requested a meeting with the Board for some working guidelines.

### DISCUSSION/ADJUSTMENT OF AGENDA

*Commissioner Moyer made the motion to approve the agenda as presented. All voted in favor and the motion carried.*

DATE APPROVED: \_\_\_\_\_

**CONSENT AGENDA**

Commissioner Young requested that items “E”, “F” and “G” be pulled for discussion. Commissioner Baldwin requested that “C” and “I” be pulled for discussion. *Commissioner McGrady made the motion to approve the remainder of the Consent Agenda. All voted in favor and the motion carried.*

The Consent Agenda items approved by Commissioner McGrady’s motion were:

**Minutes**

Draft minutes were presented of the following meetings for the Board’s review and approval:

- October 18, 2004, regular meeting
- November 10, 2004, special called meeting
- June 16, 2004, CCWSD

**Tax Collector’s Report**

Terry F. Lyda, Henderson County Tax Collector, presented the Tax Collectors’ Report dated December 28, 2004, for the Board’s information.

**Henderson County Public Schools Financial Report - November 2004**

The Schools Financial Report was provided for September for information and consent approval.

**Set Public Hearing for CDBG**

Henderson County was eligible to receive \$400,000 for a Scattered Site Housing Program in 2005 through a Community Development Block Grant. In order to begin the process, and in keeping with the Citizen Participation Plan, the Board was requested to set a public hearing for January 19, 2005 at 11:00 am. That would be the first of two required public hearings under CDBG requirements. At the public hearing, the public would have the opportunity to express their views on the program. The second public hearing would seek comments on the application.

There was discussion on the following Consent Agenda Items:

**Item C - Financial Report - November 2004, Cash Balance Report – November 2004**

These reports were presented for the Board’s information and consent approval.

The YTD costs in the General Fund Non-Departmental line item is the annual property/liability and workers compensation insurance premiums paid to the NCACC Insurance Risk Pools for FY2005. The remaining costs will be allocated out to departmental budgets in succeeding months.

The YTD deficit in the CDBG-Scattered Site Housing Project, the Mud Creek Watershed Protection Project and the Mills River Sewer Capital Project are all temporary due to timing differences in the expenditure of funds and the subsequent requisition of Federal and State funds to reimburse these expenditures.

The Human Services Building Project deficit is due to architectural fees, demolition/abatement and utilities relocation work performed at the former Carolina Apparel Building. It is anticipated that these costs will be recouped from financing proceeds for the project.

Commissioner Baldwin questioned the Emergency Management expenditures of which 77.4% of the budgeted amount had been used. Carey McLelland answered that Homeland Security Funding had been spent because much of the funding came from grants. That money had been spent to meet the deadlines necessary to close out the Federal 2003 grants.

**Item E – Emergency Watershed Protection Program Project Agreement**

A proposed project agreement for the Emergency Watershed Protection Program had been prepared for the Board’s consideration. The agreement was between the County and the Natural Resources Conservation Service, a USDA agency. North Carolina had been allocated \$65 million in federal funds for the USDA’s Emergency Watershed Protection Program. The Program provides funding for locally-sponsored watershed

protection projects that repair damage resulting from hurricanes, tornadoes, fires, drought and floods. Through the program the Natural Resources Conservation Service provides technical and financial assistance to protect life and property threatened by excessive erosion and flooding caused by the sudden impairment of a watershed. The Natural Resources Conservation Service works in partnership with local, state and federal agencies to ensure public safety and to undertake restoration efforts on private land. Rehabilitation projects should provide sound erosion control solutions that are economically and environmentally defensible. Specifically funds should be used to remove debris from waterways, restore eroded stream banks, and take other steps to mitigate threats to humans and property.

Henderson County was eligible to participate in the program. The program, like most other federal disaster relief programs, requires a 25% match by the sponsoring agency. The State had a history of providing the required 25% match for those federal programs. County staff had been assured by officials with the North Carolina Division of Emergency Management that the State would provide the required matching funds for the program. Henderson County's projects totaled \$1,856,880. Of that total, the State would be providing \$464,220 in matching funds.

Commissioner Young expressed concern about the State providing the 25% match. Justin Hembree explained that the State had assured Staff that they would provide the match, but the project agreement had been written in such a way that if the State reneged on that assurance, the County would be able to back out of the agreement. Commissioner Young also questioned wording regarding the County's requirement to provide quality assurance, financial obligations and liability for cost over runs.

Commissioner McGrady questioned the time frame in which the Board would need to approve the project agreement. Justin Hembree answered that it was imperative that the County send the agreement back as soon as possible. He explained that Soil and Water had agreed to handle the majority of the specific project, getting permits and letting construction bids and contracts. Some workshops on the program had been held in anticipation of counties participating in the programs. The Corp. of Engineers and Department of Water Quality had held two meetings with Soil and Water to update them on the requirements such as how to draw permits.

Commissioner Messer pointed out that the recommendation stated "... the enclosed attachments with the understanding that the State of North Carolina will provide the required local matching funds". Russ Burrell told the Board the motion should say that the expenditure of funds is conditional on receiving of the State's match. David Nicholson suggested a letter be sent stating that the County assumed the State would be fronting the necessary money. He also suggested inviting staff from Soil and Water to provide a presentation on how the program would operate.

*Commissioner Moyer made the motion to approve the project agreement presented including the enclosed attachments with the understanding that the State of North Carolina would provide the required local funding match. Commissioner McGrady added to that motion the understanding that the Board would ask the Natural Resources Conservation Service to join them at a future meeting to outline how to administer the process. The motion carried 4-1 with Commissioner Young voting nay.*

#### **Item F - Water and Sewer Line Extensions**

The City of Hendersonville had requested county comments on a proposed water line extension project to serve a portion of Kenmure, Phase V, as well as proposed water and sewer line extension projects to serve Carriage Park, Section 19, Phase 1.

Commissioner Young questioned whether the Kenmure project was within Henderson County's jurisdiction. Karen Smith answered that the section in question was within the County's jurisdiction, though the rest of Kenmure was within Flat Rock's jurisdiction. Commissioner Young also questioned whether hydrant pressure would be sufficient for the Carriage Park extension. Rocky Hyder answered that the pressure did meet the County's standards for structure spacing of 50 feet.

*Commissioner McGrady made the motion to accept Consent Agenda Items "C" and "F". All voted in favor and the motion carried.*

**Item G - Governor's Crime Commission Grants**

The Sheriff had expressed interest in applying for two grants for Fiscal Year 2005-2006 through the Governor's Crime Commission. The grants would provide Henderson County with \$326,171.16 to purchase advanced emergency communications equipment. All Crime Commission grants require a 25% local match. The total local match for the grants would be \$81,542.79 (\$37,497.75 and \$44,045.04). The Sheriff had indicated that the required local matches could be allocated from the E-911 Fund (for two consoles) and federal forfeitures (for data terminals). The Board of Commissioners must formally authorize the Sheriff to proceed with the grant application process and certify to the Governor's Crime Commission that, if the grants are approved, the required matching funds would be allocated in the budget for Fiscal Year 2005/2006.

Commissioner Young questioned how many consoles there were in the 911 Center, and how many were currently being used. Captain Davis answered that six terminals were currently being used, with four to five operating on a normal day. An extra terminal is kept operating in the event that another terminal experiences computer problems. The 911 center was currently operating at capacity. During surges, with the existing equipment the center operates on a delayed process. When the 911 center opened in 1997, they received 52,611 calls. Total calls for service in 2004 was 111,129.

Commissioner Baldwin questioned how many data terminals were planned to be purchased. Captain Davis answered that 17 terminals would be purchased, and the match for those would come from federal forfeitures, or drug money.

There was some discussion about what was driving the rise in calls, given that the number of calls had doubled in the past seven years. Captain Davis explained that the 111,129 figure was just calls for service. The total number of calls to 911 in 2004 was slightly over 288,000. *Commissioner McGrady made the motion for approval for the Sheriff to make application for two grants under the Governor's Crime Commission Grants, Item G on the Agenda. All voted in favor and the motion carried.*

**Item I -Cane Creek District Extension**

The County had received a request for a sewer line extension for The Townes at Bagwell Mill. David Nicholson had approved that request, and was informing the Board of that action at this meeting. Commissioner Baldwin questioned the process used to oversee the installation of the sewer lines, and asked what standards and specifications had been adopted by the County. Mr. Nicholson answered that the County used the Metropolitan Sewerage District (MSD) standards, which were very high standards for lines and connections.

Chairman Moyer asked Mr. Nicholson to provide all the requested information to the Board in a written memo.

**NOMINATIONS****Notification of Vacancies**

The Board was notified of the following vacancies and these will appear on the next agenda for nominations:

**1. Cemetery Advisory Committee - 2 vac.**

Commissioner Messer nominated Karen Carswell. Commissioner Baldwin nominated Louis Dunbar. Commissioner McGrady nominated Jerald Willingham. A vote will be taken on these nominees at the next meeting.

**2. Community Child Protection Team – 1 vac.**

*Commissioner McGrady made the motion to suspend the rules to provide for the nomination of Grace Poli to the vacant position. All voted in favor and the motion carried. Commissioner McGrady nominated Grace Poli. Chairman Moyer made the motion to appoint Grace Poli by acclamation. All voted in favor and the motion carried.*

**3. Regional Water Authority – 1 vac.**

*Commissioner Baldwin made the motion to suspend the rules and take a nomination for the Regional Water*

*Authority. All voted in favor and the motion carried. Commissioner Baldwin nominated Commissioner McGrady to the Regional Water Authority. Chairman Moyer made the motion to suspend the rules and appoint Commissioner McGrady by acclamation. All voted in favor and the motion carried.*

#### **4. Solid Waste Advisory Committee – 1 vac.**

##### **Nominations**

Chairman Moyer reminded the Board of the following vacancies and opened the floor to nominations:

##### **1. Cable Franchise Renewal Advisory Committee – 6 vac.**

Chairman Moyer suggested rolling this item following Discussion Item “F” - Cable Franchise Renewal Process. It was the consensus of the Board to defer this item.

##### **2. Community Child Protection Team – 1 vac.**

There were no nominations at this time so this item was rolled to the next meeting.

##### **3. Criminal Justice Partnership Act Task Force – 4 vac.**

There were no nominations at this time so this item was rolled to the next meeting.

##### **4. Juvenile Crime Prevention Council – 1 vac.**

There were no nominations at this time so this item was rolled to the next meeting.

##### **5. Land-of-Sky Regional Advisory Council on Aging – 1 vac.**

There were no nominations at this time so this item was rolled to the next meeting.

##### **6. Mountain Area Workforce Development Board – 1 vac.**

There were no nominations at this time so this item was rolled to the next meeting.

##### **7. Nursing/Adult Care Home Community Advisory Committee – 13 vac.**

There were no nominations at this time so this item was rolled to the next meeting.

##### **8. Planning for Older Adults Block Grant Advisory Committee – 2 vac.**

Commissioner Baldwin nominated Hugh Price and Wes Davis to the Committee. Amy Brantley reminded the Board that Position #5 was specified for an individual considered an older adult, or someone over 60 years of age. Commissioner Baldwin nominated Wes Davis to fill Position #5 and Hugh Price to fill Position #15. *Chairman Moyer made the motion to accept them by acclamation to Positions #5 and #15. All voted in favor and the motion carried.*

#### **FACILITY USAGE PLAN**

At the Board’s December 15, 2004 meeting, the Board directed staff to change the focus on who would be housed within the Historic Courthouse and the building on Spartanburg Highway. The Board also directed Staff to begin the process of the demolition of the old Jail. The Board then directed Staff to develop an overall plan for the use of these and other Henderson County facilities.

Mr. Nicholson presented recommendations to the Board pertaining to a facility usage plan. He explained that though it would take a number of years to fully implement the plan, the recommendations did set forth a plan that would begin during the current fiscal year. A summary of the use of the buildings was as follows:

##### Historic Courthouse

Board of Commissioners  
County Manager  
Legal Department  
Finance Department (Annex)  
Human Resources (Annex)

##### Human Services Building

Department of Social Services  
Public Health Department  
Veterans’ Service

##### County Office Building

Sheriff’s Department

Current Health Department

Inspections  
 Planning  
 Fire Marshal  
 Emergency Management  
 Property Addressing  
 Enforcement Division

City Water Department Building

Temporary Offices – County Administration  
 Emergency Medical Services  
 Future Courthouse Annex

Buildings to be sold

Nuckells Building  
 Allen Street Building

For each of those buildings David Nicholson provided a detailed project description including special issues associated with that project, time frames and cost. The following is a brief synopsis of the discussion held regarding each of those buildings:

Human Services Building

Project Description – The Board had directed this building house DSS and Public Health. Mr. Nicholson suggested it also house Veterans' Services and a maintenance position. By eliminating Administration and Land Development there will be a reduction of 24,000 square feet and a savings of approximately \$2.4 million.

Special Issues – Mr. Nicholson recommended this facility also house Environmental Health.

Time Frame – The plan was to bid the project in February or March and open bids by the end of March. The time frame was in keeping with the time frame needed to fund the school capital projects. The project had an approximate completion date of June, 2006.

Cost – The last estimate was \$10.4 million, but will be reduced by the reduction in floor space. Costs were expected to change based on contingencies, financing costs, architect fees, and proceeds from selling properties and utilizing Medicaid Reserve.

Historic Courthouse

Project Description – The building was proposed to house the Board of Commissioners, County Manager, and Legal Department. Finance and Human Resources would remain in the annex.

Special Issues – Mr. Nicholson proposed a service annex be added to the rear of the facility. The annex would allow for better access throughout the facility by elevator, new restrooms, and a fire safety stairwell. There would be a parking lot on the site following removal of the jail and former patrol offices. Chairman Moyer discussed the problem with the jail issue, in that the State maintained that the jail had to stay and had to be preserved in order to receive any federal funds.

Mr. Nicholson requested the Board approve a resolution exempting it from the 'qualification based' architect process and approve the hiring of the Kohan Group to develop the plans to demolish the old Jail and construct a new wall for the annex and authorize staff to negotiate an agreement with the Kohan Group based on the Phase I project.

Time Frame – It was anticipated that bids would be accepted in August, 2005. A 10 month project was projected with occupancy in July, 2006.

Cost – The renovation estimate done by the Historic Courthouse Committee in 2004 was between \$7.5 and \$8 million. An estimate done in 2001 was between \$6 and \$6.5 million.

City Water Department Building

Project Description – The building would first be used as a temporary location for departments moving into the Historic Courthouse. Following the renovation of the Courthouse, the property would be used for the main offices of Emergency Medical Services and additional parking for the Courthouse.

Special Issues – The Board and City Council need to agree on the purchase price. If unable to agree upon price, both parties would hire an appraiser and the County would pay the average of the two appraisals.

Time Frame – March 2005

Cost – To be determined by mutual agreement or by averaging two appraisals.

#### County Office Building

Project Description – Facility would house the Sheriff's Department following the completion of the Human Services Building and the renovation of the Historic Courthouse.

Special Issues – Continued use of the meeting room for Board meetings.

Time Frame – Following the County's purchase of the water department building.

Cost – Minimal.

#### Current Health Department

Project Description – Departments within the current land development building would be moved to the current Health Department Building.

Special Issues – Possible home for a true Central Permitting system. Recommended renovations included painting and new carpet as well as a survey of the roof, heating and air conditioning and electrical systems.

Time Frame – Following the completion of the Human Services Building and renovation.

Cost – To be determined.

Commissioner Young questioned why, if the historic courthouse was such a good structure, the new courthouse was built. He questioned why, when the new jail was built, wasn't the Sheriff's office built in the same facility. At one point, the Board had determined that the facility to be built on Spartanburg Highway would cost between \$10.5 and \$12 million. If an additional \$8 million were spent on the Historic Courthouse the total would then be \$20 million, minus \$2.4 from the deletion of space on Spartanburg Highway. \$500,000 would be spent to renovate the County Office Building, while the Health Department Building renovation would cost another \$250,000.

Commissioner Young stated that Tom Bridges wanted Environmental Health and the Health Department to stay together. The Board wanted Inspections to go with Environmental Health. He stated that if the Environmental Health Department followed the Health Department, one-stop shopping would not be possible. He also stated that the County Office Building was about 37,000 square feet. DSS was using 30,000 square feet, while Administration was using about 7,000. If the Sheriff took the space DSS was using, their floor space would increase from 17,000 square feet to 30,000 square feet. Commissioner Young went on to discuss his opposition to the recommendation.

Commissioner Baldwin stated that he felt the Board should determine what programs the County wished to provide, how to best provide them, and then construct facilities to accommodate the programs. When one starts looking at the most efficient and effective way to operate, one must look at the span of control. The County will not be increasing the span of control because County services would still be operating at three to four locations. He suggested taking some additional time for a retreat to work through some issues before moving forward on building plans.

Commissioner McGrady questioned where the Board of Elections would be located. David Nicholson answered that they would remain at their current location, 120 South Grove Street. Commissioner McGrady stated that he also felt that the public should remain involved in plans for the Historic Courthouse, and hoped there would still be a cultural and historic role for the structure. David Nicholson noted that he did plan for the building to have space dedicated for historic and cultural purposes including historical displays and

community events. Commissioner McGrady stated that he felt Mr. Nicholson had presented a positive proposal, and one that he was in support of. It deals with parking, the expansion issues associated with DSS and the Health Department, consolidating the Sheriff's Department, and renovation of the Historic Courthouse. At the appropriate time, he stated that he would like to offer a motion suggesting generic support of the project.

Commissioner Messer stated that he was ready to make the motion to approve the Resolution needed to take the next step. There is a plan in place, and felt it was the best plan out there. Questions would arise and details did need to be worked out, but Commissioner Messer felt that the Board could work together to iron out the details.

Commissioner Young expressed his concern about the cost of the proposed plan. He felt that with the projected costs, as well as the need to raise the amount of money in the fund balance, the tax rate was sure to rise significantly. He also expressed his concern about the County's ability to borrow money for the projects with the fund balance as low as it was.

Commissioner Baldwin stated the concept of centralization is something that increases efficiency in any department. He supported having the various Sheriff's Departments under one roof. However, the Sheriff's Department is not the only County function, and Commissioner Baldwin felt the Board should strive for centralization in all departments.

There followed additional discussion about the various opinions available to the Board, and the best path to take.

*Commissioner McGrady made the motion to approve the facility usage plan as a guide for going forward with respect to the capital improvements outlined therein.* Following some additional discussion, a vote was taken on Commissioner McGrady's motion. *The motion carried 3-2 with Commissioner Baldwin and Commissioner Young voting nay.*

*Commissioner Messer made the motion to approve the Resolution exempting the Board from the Request for Qualifications and hiring the Kohan Group as read in the Resolution.* Commissioner Young expressed concern over the hourly rates specified by the Kohan Group. David Nicholson stated that he was only asking for approval to begin a negotiation for Phase I. Unless the Board exempts itself, it will have to go through a formal qualification based selection process. The Kohan Group had already done some preliminary work, which the County would not have to pay for again if this firm was selected. Following much additional discussion, a vote was taken on the motion. *The motion carried 3-2 with Commissioner Baldwin and Commissioner Young voting nay.*

#### **PUBLIC HEARING ON ROAD NAMES**

Rocky Hyder reminded the Board that on December 6, 2004 the Board had established a public hearing for this date for the following new road names:

**Proposed Name**  
Gage Lane  
Gary's Lane  
Ladyslipper Lane

#### **Public Input**

There was none.

*Commissioner Messer made the motion to adopt the road names as presented. All voted in favor and the motion carried.*

#### **PUBLIC HEARING ON REZONING APPLICATION #R-04-03 AS AMENDED (R-20, R-15 & T-15 TO C-2) HENDERSON COUNTY MANAGER, APPLICANT**

Autumn Radcliff reminded the Board that Rezoning application #R-04-03, which was submitted on June 4,



2004, requested that the County rezone multiple parcels of land totaling approximately 150.31 acres, located at and near the intersection of Stoney Mountain Road and Mountain Road from R-2 (Low-Density Residential), R-15 (Medium Density Residential), and T-15 (Medium Density Residential with Mobile Homes) districts to a C-2 (Neighborhood Commercial) zoning district. Henderson County, the Henderson County Board of Public Education and the North Carolina State Highway Commission owned the parcels that were the subject of the rezoning application. Henderson County Manager David Nicholson was the lead applicant.

The Henderson County Planning Board first considered rezoning application #R-04-03 at its regularly scheduled meeting on Tuesday, August 17, 2004, at which time the Board agreed to wait until its regularly scheduled September meeting to set a date to hold a public input session on and revisit the rezoning request. On Tuesday, September 21, 2004, the Planning Board voted to hold the public input session during its regularly scheduled October meeting and requested that staff notify adjacent property owners.

The Henderson County Planning Board held a public input session and reviewed the application at its meeting on Tuesday, October 19, 2004, at which time the County Manager amended the application to include an additional 12.03-acre parcel of land (PIN 9650-83-0296) that was not included in the original application. The Planning Board voted (4 to 3) to send the Board of Commissioners a favorable recommendation on the amended application to rezone the entire subject area, with the exception of two parcels (PINs 9650-83-0296 and 9650-92-0038) to a C-2 zoning district (See Attached Planning Board's Recommended Zoning Map). Before taking action on the application, the Board of Commissioners must hold a public hearing. The Board of Commissioners canceled the public hearing that was scheduled for November 30, 2004 due to problems with the public hearing notification process. In addition, the November 30, 2004 meeting itself was canceled.

In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the January 3, 2005, Public Hearing regarding Rezoning Application # R-04-04 as amended were published in the Hendersonville Times-News on December 15, 2004 and December 22, 2004. The Planning Department sent notices of the hearing via first class mail to the applicants and owners of properties adjacent to the Subject Area on December 9, 2004. Planning Staff posted signs advertising the hearing on the Subject Area on December 10, 2004.

Ms. Radcliff explained permitted uses within the C-2 Neighborhood Commercial District. She also noted that the property was located in a WS IV Watershed Area, and explained the density, built-upon limits and natural drainage and filtering system bonus for that Watershed. She discussed the proposed widening of 191, and discussed how the project fit into the 1993 Comprehensive Land Use Plan and the 2020 Comprehensive County Plan (CCP).

Staff recommended the Board address two questions. Should the existing commercial district at the intersection of Stoney Mountain Road and Mountain Road be expanded. If the Board concluded it should be expanded, the question would become whether the size of the commercial district proposed was appropriate for the location. Ms. Radcliff discussed the language in the 2020 CCP as it related to the appropriateness of the rezoning request. It was the consensus of Staff that with the exception of the transfer station, land fill, and materials recovery, which were not regulated by County Zoning, and with the exclusion of the Trace Property, that rezoning the subject area C-2 would bring the subject area into closer conformity with the Zoning Ordinance as it currently existed.

### **Public Input**

1. **Carol Kaiser** – Ms. Kaiser did not wish to speak, having thought the Public Hearing was for Rezoning Application #R-04-04.
2. **Mary Borowski** – Ms. Borowski did not wish to speak, having thought the Public Hearing was for Rezoning Application #R-04-04.
3. **Dan Theron** - Mr. Theron did not wish to speak, having thought the Public Hearing was for Rezoning Application #R-04-04.

Mary Borowski stated that it was her understanding that the public would be allowed to make comments regarding #R-04-04 at this meeting. Chairman Moyer stated that no public input would be taken at this meeting except with regard to #R-04-03. The date for that hearing was scheduled for later on the agenda.

4. **George Bond** – Mr. Bond stated that his home was on View Rock Lane which abutted property on the eastern third of the property. He was not opposed to a new animal shelter being built on the Crosby property. He was also not opposed to adding office space to the Board of Education bus garage. He was opposed to an incinerator being placed on the property, and viewed a successful transfer station as the preferred alternative. He expressed concern about rezoning the eastern tract, given that it was the current C&D landfill, and could never be used for garbage. He proposed upholding the recommendations of the Planning Board by rezoning only the western two thirds of the property, and leaving the eastern neighbors with the protection afforded by the current R-15 zoning.
5. **Dave Duggin** – Mr. Duggin also requested the Board follow the recommendations of the Planning Board by not rezoning the easternmost portions of the subject property.
6. **Kenneth Sutton** – Mr. Sutton had already left the meeting, having thought the Public Hearing was for Rezoning Application #R-04-04.
7. **Barbara Doster** – Ms. Doster had already left the meeting, having thought the Public Hearing was for Rezoning Application #R-04-04.
8. **Owen Doster** – Mr. Doster had already left the meeting, having thought the Public Hearing was for Rezoning Application #R-04-04.
9. **Barbara Bond** – Ms. Bond had already left the meeting, having thought the Public Hearing was for Rezoning Application #R-04-04.
10. **David Nicholson** – Mr. Nicholson stated that he was the lead applicant on the rezoning request. He pointed out that the properties in question were not residential in nature, and in fact the largest parcel was purchased by the County in 1944. He stated that he did not know why it had been zoned residential, since it had never been used as such. He reviewed several maps with the Board, stating again that in the 1993 Comprehensive Land Use Plan and the 2020 CCP, the area was designated for community service centers. Mr. Nicholson stated that the C-2 zoning designation had been requested because it was the closest possible designation for the proposed use.

Following public input, there was much additional conversation between David Nicholson and the Board, regarding future uses of the property and the implications involved in C-2 zoning. There being no further questions from the Board for Staff, *Commissioner McGrady made the motion to go out of Public Hearing. All voted in favor and the motion carried.*

*Commissioner Baldwin made the motion that the Board re-zone the properties in accordance with the Planning Board's recommendation, in that it would be in harmony with the 1993 Land Use Plan as well as the Comprehensive Plan recently adopted. All voted in favor and the motion carried.*

#### **OPTION FOR WATER DEPT PROPERTY**

At a previous meeting, the Board directed staff to bring back the steps necessary to exercise the option that the County had on the water department property owned by the City of Hendersonville which was adjacent to the new Courthouse property. The option provided that the option period begin upon the City's vacating the property, or May 10, 2005, whichever was earlier. Once the option period began, it would run for two years. The County paid \$5,000 for the option which would be credited against the purchase price for the property were the option exercised.

Russ Burrell noted that the County Manager was recommending that the County exercise the option. The

three step process that the County must go through was:

1. Give Notice of Intent to Exercise the Option to the City.
2. The fair market value was to be determined by averaging the appraised values received by both the City and County from each's own independent MAI appraiser.
3. Give an Offer to Purchase on the property, and close the transaction.

*Commissioner McGrady made the motion to start the process to exercise the option on the water department property. Following some additional discussion, all voted in favor and the motion carried.*

#### **ORDINANCE REGARDING ABANDONED PUBLIC CEMETERIES**

David Nicholson reminded the Board that there had previously been discussion regarding regulating abandoned cemeteries. To that end Staff had prepared a two part Ordinance. Part One was the abandoned public cemeteries law. The Board of Commissioners does have responsibilities for abandoned public cemeteries, but only in unincorporated areas of the County. Part One defined the term "abandoned" and "public cemetery" in accordance with research and the assistance of the State Archeologist. Some of the duties of the Board as well as duties of the County Manager were also defined in Part One of the Ordinance.

Part Two of the Ordinance dealt with the removal of graves for abandoned cemeteries. The Ordinance defined "abandoned cemetery" and described the process that must be followed to disturb such a cemetery. Russ Burrell informed the Board that this was the first reading of the Ordinance. If all Board members approved, the Ordinance could be enacted at this meeting. If not, a second reading would be held at the next reading.

Commissioner Baldwin stated that he would like the Committee to have a chance to review the Ordinance and make recommendations on such. Following further discussion among the Board, *Commissioner Messer made the motion to approve the Ordinance as Chapter 76 of the Henderson County Code.* Chairman Moyer suggested the Board adopt the Ordinance as a guide to the Committee, get the Committee's input, and then finalize the Ordinance. *A vote was taken, and the motion carried 4-1 with Commissioner Baldwin voting nay.*

Chairman Moyer stated that a meeting would be called with the Cemetery Advisory Committee, the Ordinance as it appeared on the first reading would be presented as a guide, and the Committee would have a chance to give input on that Ordinance. The Ordinance will appear for a second reading at the January 19<sup>th</sup> meeting.

There followed discussion regarding the appointment of the Chairman of the Committee. The Charter read that the Board reserved the right to choose the Chair if so desired. Commissioner Young nominated Wanda Case and Richard Waters to serve as Chairman. Commissioner McGrady nominated Michael Arrowood. Chairman Moyer suggested the nominating Commissioner ask if the nominee was willing to serve as Chairman, and hold a vote at the January 19<sup>th</sup> meeting.

#### **REQUEST FOR CONSENT TO ACQUIRE PROPERTY IN HENDERSON COUNTY**

The Asheville Airport had requested the consent of the Board of Commissioners to purchase approximately 1.5 acres of property in Henderson County. The property fronts on Highway 280, and was between J & S Cafeteria and the Fairfield Inn. The purchase price to be paid by the Airport Authority was \$795,000. Once purchased the property would be titled in the name of the City of Asheville, as was all of the other airport property.

Pursuant to N.C.G.S. § 153A-15, before a municipal government located outside of Henderson County acquires property within Henderson County, they must first obtain the consent of the Henderson County Board of Commissioners. Mr. Nicholson reminded the Board that there are three properties in Henderson County that were purchased by the Airport Authority in the 1990's, after Henderson County was added to the legislation, for which no consent was given. The Airport Authority was unaware of the requirement at that time.

David Nicholson recommended that prior to approving this request, the Board resolve the other properties that were purchased by the City of Asheville for airport uses. He recommended that the Board consent to the land purchase by Asheville Regional Airport based on an agreement that requires the City of Asheville or the

Asheville Regional Airport to provide on a yearly basis a payment in lieu of taxes based on Henderson County's assessed valuation and annual countywide tax rate. Henderson County already receives some payment in lieu of taxes from the U.S. Government and the Hendersonville Housing Authority. Those payments are for property that has been removed from the tax base by those government agencies. Mr. Nicholson suggested that if the Board supported his recommendation, a letter be written to the City of Asheville and the Airport Authority concerning the offer.

Commissioner McGrady stated that he would be inclined to contact the Town of Fletcher regarding their opinion about the agreement. Commissioner Young stated that he would like Henderson County to have a representative on the Airport Authority. Chairman Moyer suggested taking the proposed offer to Fletcher and/or Mills River, if they were involved, and asking if the concept was acceptable. There followed much additional discussion of the possibility of using the proposal as a bargaining chip to release restrictions on the Bent Creek property and get a representative on the Airport Authority.

Dave Edwards, Director of the Asheville Regional Airport, was present to address the Board. He stated that the City of Asheville did not request that the Airport Authority purchase the property. The Airport Authority, through its planning processes, had identified the property as potential property for needs such as parking facilities and/or rental car facilities. Mr. Edwards stated that as to a seat on the Authority Board, the Authority recognized a partnership that needed to be established with Henderson County. He had been in discussion with Buncombe County and the City of Asheville about the possibility of having a seat on that Board represented by Henderson County.

Commissioner Young discussed the need for everyone in the region to come together and work together, because we are in a regional area. Mr. Edwards agreed that he too would like to see every party working for mutual benefit. He stated that since the airport was acquiring property that would serve a public purpose, he hoped there would be consideration when determining any payments in lieu of taxes.

David Nicholson suggested the Board authorize him to speak to Fletcher and if appropriate to Mills River concerning the proposal to buy and the payment in lieu idea, and that a letter be written to the Airport Authority, with a copy going to the Asheville City Manager, regarding that idea. The letter would also state that the Board of Commissioners had discussed that they would like to seek representation on the Asheville Regional Airport Authority. *Chairman Moyer made the motion to accept the County Manager's suggestion. The motion carried 3-2 with Commissioner Young and Commissioner Baldwin voting nay.*

### **RESCUE SQUAD FUNDING**

After reviewing the Rescue Squad budget for the first time this year, the Fire and Rescue Advisory Committee realized the Rescue Squad provides a unique and expansive list of services to our community. Rocky Hyder reminded the Board that the Rescue Squad provided at least 12 unique services to the County, that were not provided by anyone else. The forecast trends for these services projected continued growth and expansion. The Committee felt that in order to continue those services to an increasing population, the Rescue Squad needed to develop a funding stream that was stable, and provided for growth commensurate with service expectations. As demand for service increases, the Rescue Squad will need the flexibility to plan for service provision in a more effective and efficient manner which means capital reserves and cash flow are not only important, but necessary. The Committee had reviewed several funding options for Rescue Squad services without requiring additional allocation from the County's general fund. In fact the intention was to eliminate the general fund appropriation altogether. After considering the available options, the Fire and Rescue Advisory Committee would like the Board to consider a request for special legislation to establish a special county-wide tax district to fund Rescue Squad services.

*Commissioner Messer made the motion to support a local bill to establish a special tax district.* Commissioner Baldwin stated that he had some reservations about supporting such a district if there were services that were in fact being duplicated. Rocky Hyder answered that there had been a concerted effort to ensure that there was not an overlap of services. He gave some examples of the ways in which the Rescue Squad worked with other units as a collaborative effort, such as providing a presence at high school football games. Chairman Moyer suggested beginning the process of pursuing the special legislation, while having Mr. Hyder provide a presentation to the Board at a future meeting detailing the need for the special services

provided by the Rescue Squad. *All voted in favor and the motion carried.*

#### **CABLE FRANCHISE RENEWAL PROCESS**

David Nicholson informed the Board that the issue of the County's role in assisting the cities in their franchise negotiations with Mediacom continued to arise. He requested that the Board clarify the relationship between the County's cable franchise renegotiation process and that of the city's cable franchises. Mr. Nicholson stated that the County has to go through a legal process to have a franchise. That process though, is the County's process. The municipalities will still have to go through their own legal process.

Chairman Moyer stated that he felt the County should work in collaboration with the municipalities, and the Committee should have representation from all the municipalities. Commissioner McGrady shared Chairman Moyer's view, stating that the last time the franchise was negotiated he was a Flat Rock Councilman, and appreciated the cooperation with the County. He suggested the Board appoint six people, and ask each municipality to appoint one person. Commissioner Messer and Commissioner Young also indicated that they felt the County and the municipalities should work together on the renewal.

*Chairman Moyer made the motion that the County have a Committee that would include representation of the municipalities, that it be an 11 member committee, and that the concept be taken to the LGCCA for discussion informing them that the County would like to work together with the municipalities to get the best deal for everyone in Henderson County. All voted in favor and the motion carried.*

#### **PROJECT TRACKING SYSTEM**

David Nicholson stated that Staff was developing a process through which they would report to the Board on a monthly basis on activities assigned to Staff by the Board. Mr. Nicholson noted that this reporting would be done both electronically and via hard copy. He explained that the system would be informative for the Board, but would also help Staff in trying to meet goals. The goal of the project is to present the previous month's progress at the mid-month meeting.

#### **UPDATE ON PENDING ISSUES**

##### **County Manager Hiring Process**

Commissioner Baldwin stated that Henderson County was a growing County. He felt it important for the Board to ensure that as we transition from one manager to the next, to do so in such a way that is in keeping with the level of service the Board wished to maintain. He thought it would be appropriate to seek a professional headhunter when it becomes time to start the search for a future County Manager.

Chairman Moyer stated that he felt the proper process was best determined when the time came to make such a decision. Since the Board was not currently looking for a manager, he did not feel it was timely to make any such decision. Commissioner Baldwin explained that he was not suggesting any decision be made at this time, but wanted to ensure that when the time came, there would be continuity in services, and a smooth, flawless transition process.

##### **Communications and Detention Center Positions**

Chairman Moyer stated that he was seeking Board support to ask Mr. Nicholson to develop a recommendation for adding an additional staff person in both the Detention Center and the Communications Center. Following some discussion about the needs in these Departments, *Commissioner Messer made the motion to support the two positions as recommended by the County Manager. All voted in favor and the motion carried.*

##### **Animal Services Committee Charter**

David Nicholson stated that Staff was proceeding with the Board's agreement to have the County Manager take over Henderson County's Animal Control Division. Mr. Nicholson had discussed the transition with Staff, and was working on a job description for a Director of that Department. He stated that there needed to be an advisory committee to hear dangerous dog hearings, but felt such a committee could be expanded to allow them to work with Staff and the Board providing input on animal services.

Mr. Nicholson had prepared a draft Charter for the Board's consideration establishing such a committee. Chairman Moyer proposed posting the five vacancies suggested in the Charter so the process could begin as

soon as possible. It was the consensus of the Board to post those vacancies, and have Mr. Nicholson bring the Charter back at the next meeting for additional input.

### **IMPORTANT DATES**

#### **Set Public Hearing on Rezoning Application #R-04-04 As Amended (R-30 to C-2) Ingles Markets, Inc., Applicant; William G. Lapsley & Charles L. Murdock, Applicant's Agents**

Rezoning application #R-04-04, which was submitted on November 19, 2004, requested that the County rezone a 5.64-acre (approximate) portion of parcel #00964079954255, located at the intersection of NC 191 and North Rugby Road, from an R-30 (Low-Density Residential) zoning district to a C-2 (Neighborhood Commercial) zoning district. The original applicant and property owner was Conomo Properties, LLC., and the applicant's agent was William G. Lapsley & Associates, P.A. Staff was notified on Monday, December 20, 2004, that on Friday, December 17, 2004, the Subject Area parcel was sold to Ingles Markets, Inc. ("Ingles"). The nature of the rezoning application did not change, and Ingles requested to continue with rezoning application #R-04-04 as amended to reflect the change in property ownership. William G. Lapsley and Charles L. Murdock were appointed the agents for Ingles in all matters relating to this rezoning application.

The Henderson County Planning Board first considered rezoning application #R-04-04 at its regularly scheduled meeting on Tuesday, December 21, 2004, at which time the Board took the following actions:

1. Voted unanimously (6-0) on a motion to accept rezoning application #R-04-04 as amended to show the change in applicant and property owner name, and reappointing the Applicant's agents.
2. Voted five to one (5-1) on a motion to send the Board of Commissioners an unfavorable recommendation on rezoning the Subject Area to a C-2 district.
3. Voted three to three (3-3) on a motion to recommend that if the Board of Commissioners decides that the 2020 CCP recommendation for a commercial node at the intersection of NC 191 and North Rugby Road is appropriate, then the size of the Subject Area should be reduced to five (5) acres and rezoned to a C-1 zoning district, and also that the Board take into account the concerns of the community and the comments made by the applicant.

Before taking action on the application, the Board of Commissioners must hold a public hearing. Staff proposed that the hearing be scheduled for Monday, February 7, 2005, at 7:00 P.M. Commissioner Messer suggested holding the Public Hearing as a special called meeting at West Henderson High School. It was the consensus of the Board to have David Nicholson inquire with West Henderson High regarding a meeting date. February 9<sup>th</sup> was suggested as the primary date, with February 14<sup>th</sup> being the backup date. It was further the consensus of the Board to begin the hearing at 6:00 pm.

Commissioner McGrady requested discussion at the January 19<sup>th</sup> meeting regarding the County Attorney hiring process, the status of the animal shelter, and the agenda planned for the Board's upcoming retreat.

### **CANE CREEK WATER & SEWER DISTRICT – no business**

### **CLOSED SESSION – none**

### **ADJOURN**

*Commissioner McGrady made the motion to adjourn the meeting. All voted in favor and the motion carried.*

Attest

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Elizabeth W. Corn, Clerk to the Board

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William L. Moyer, Chairman