

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
MARCH 23, 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. The meeting was originally scheduled for Wednesday, March 16.

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, Public Information Officer Chris S. Coulson, Fire Marshal Rocky Hyder, County Engineer Gary Tweed, Finance Director J. Carey McLelland, and Planners Lori Sand and Matt Cable. 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.

PLEDGE OF ALLEGIANCE

Chairman Moyer led the Pledge of Allegiance to the American Flag.

INVOCATION

David Nicholson gave the invocation.

INFORMAL PUBLIC COMMENTS

There were none.

DISCUSSION/ADJUSTMENT OF AGENDA

David Nicholson requested that Consent Item "J" be moved to Important Dates. *Chairman Moyer made the motion for the Board to approve the agenda with that change. All voted in favor and the motion carried.*

CONSENT AGENDA

Commissioner McGrady made the motion to approve the consent agenda, with the exception of item "J – Subdivision Ordinance Variance, Pinnacle Falls Subdivision". All voted in favor and the motion carried.

The Consent Agenda now consisted of the following:

Minutes

Draft minutes were presented for the Board's review and approval of the following meeting(s):
January 3, 2005, regularly scheduled meeting

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collectors Report dated March 14, 2005 for the Board's information.

Tax Releases

A list of 18 tax release requests was presented by the County Assessor for consent approval by the Board.

DATE APPROVED _____

Tax Refunds

A list of 9 tax refund requests was presented by the County Assessor for consent approval by the Board.

Tax Discoveries

A list of 15 tax discovery requests was presented by the County Assessor for consent approval by the Board.

CJPP Grant

Each fiscal year, the Criminal Justice Partnership Program (CJPP) grant application is placed on the Board of Commissioners' agenda for review. There are no County funds required for this grant. The grant provides funding for substance abuse treatment to sentenced offenders and the County's Pre-Trial Release Program.

The grant application has been approved by the CJPP Advisory Board and must be submitted to the Division of Community Corrections by March 31, 2005.

Staff requested that the Board approve the CJPP grant application as provided and authorize the County Manager, Finance Director, and CJPP Advisory Board Chair to sign the application for submittal to the Division of Community Corrections.

WCCA Community Services Block Grant

Staff had provided a copy of WCCA's FY 2005 Community Services Block Grant Application to the NC Department of Health and Human Services in the amount of \$186,489 (no county funding). The application was approved by the WCCA Board of Directors on March 10, 2005. The application process requires review and comment from the Board of Commissioners. This is a continuing grant that represents year two of a three-year funding cycle. This grant program is the main support for WCCA's outreach to low-income residents as well as for self-sufficiency, homeownership, and senior adult program.

County Staff recommended that the Board authorize WCCA to continue with the application process with no further review or comment by the Board of Commissioners.

HIPAA Security Policies

Federal law requires all medical care providers to be subject to the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, known colloquially as "HIPAA"). In 2002 this Board elected "hybrid entity" status under HIPAA (only those units of Henderson County government which actually fall under HIPAA's reach are required to meet its requirements, rather than all of County government), and in 2003 this Board adopted privacy policies as required by HIPAA. HIPAA now requires adoption of policies addressing electronic data security.

The proposed policies and proposed resolution adopting the policies are intended to allow Henderson County government's "Hybrid HIPAA Entity" to meet the security requirements of the Administrative Simplification provisions of HIPAA. They have been drafted by the legal department, and reviewed by appropriate personnel from the information technology, health and emergency medical services departments (the other departments which are a part of the Henderson County "hybrid entity").

The County Manager supported approval of this proposal.

2005 HOME Program Allocations

This board action is to inform the Board of Commissioners that Henderson County was allocated \$200,000 in HOME Program funds for the 2005 program year. Of this amount, Housing Assistance Corporation was allocated \$90,000 for Mainstay Manor, a shelter for the victims of domestic violence, which is located within the Village at King Creek development. Habitat for Humanity was also allocated \$110,000 for its Shuey Knolls Development. These figures only include the County's planning level allocations, whereas Housing Assistance Corporation received an additional \$60,000 as a Community Housing Development Organization (CHDO) for its Home Ownership with Sweat Equity Rehab (HOWSER) program.

This year's allocations process was somewhat difficult, as the Consortium had applications totaling approximately \$2.2 million and HOME funds of only \$1.4 million. Therefore, the Board had to make some difficult decisions regarding some excellent projects across the region.

This item was for information purposes only – no action was required.

Contract, former City Water Department building

Pursuant to the Board of Commissioner's direction at its January 3 meeting, Henderson County gave notice to the City of Hendersonville of its intent to exercise its option to purchase the former City of Hendersonville Water Department building located on Fourth Avenue East, Hendersonville, adjacent to the Henderson County Courthouse parking lot.

Under the terms of the option agreement, both the County and the City were to obtain appraisals for the property and the average of the two appraisal prices is to be the purchase price. The appraisal obtained by the County indicated a value for the real estate of \$782,100.00, and the appraisal obtained by the City indicated a value for the real estate of \$851,000.00. The average of the two figures is \$816,550.00. The proposed contract indicates that amount. (Both the County-obtained and City-obtained entire appraisals are available for inspection in the County Manager's Office, but are not included herewith in interest of space and paper conservation.)

The County Manager supports this proposal. It is consistent with both the option contract on the property and with the Board's direction at its meeting on January 3, 2005.

Human Services Building Boundary Line Agreement

The Board was presented a proposed Agreement with Mr. and Mrs. William Harper, who own the real estate adjoining that owned by the County which is the site for the future Human Services Building. This agreement is intended to establish the boundary line between the two properties free from dispute by either. If approved by the Board and executed on the Board's behalf, it will be recorded in the Register of Deeds office of the Courthouse.

The settlement of this matter was discussed by the Board with its attorney in closed session on February 16, 2005. This Agreement is consistent with the direction provided by the Board.

The County Manager supports this proposal.

Extracts of March 9, 2005 meeting minutes

Amy Brantley is working on the draft minutes of the March 9, 2005 meeting. Russell Burrell and Elizabeth Corn prepared the extracts of said minutes for submission with financing documents. Mr. Burrell felt it would be in the Board's best interest to go ahead and approve the extract (a portion of the regular minutes) of the minutes for that meeting. When the full set of minutes is ready for approval they will appear on your agenda for approval of the full set, so the Board will see the extract again.

NOMINATIONS

Notification of Vacancies

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

1. Environmental Advisory Committee – 1 vac.
2. Henderson County Planning Board – 3 vac.

Nominations

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

1. EMS Quality Management Committee – 20 vac.

Amy Brantley explained to the Board that all the positions will become vacant later this month. She sent letters to all twenty members, asking if they wished to be reappointed to the committee. She has heard from all those people and everyone except for Mr. Nicholson in position #8, Greg Garland in position #13, and Bob Goodwin in position # 15 would like to be reappointed.

David Nicholson has recommended Rocky Hyder serve in position #8 as the County Government Official representative.

Terry Layne has recommended that Rhonda Brissie serve in his place in position #13.

Bob Goodwin has recommended Gayle Sams serve in the Pardee Hospital Administration slot in position #15.

Frank Simpson has indicated he is unable to serve another term. Per Terry Layne, this position can be eliminated as Jay Alley is serving as the BRCC EMS Educator. (position #20)

Ms. Brantley informed the Board that we did not have an application on file yet for Gayle Sams. It has been e-mailed to her and Ms. Brantley asked that she send it back as soon as possible.

Commissioner Messer made the motion to approve all these persons except for position #15. All voted in favor and the motion carried.

Commissioner Baldwin made the motion to eliminate position #20. All voted in favor and the motion carried.

2. Fletcher Planning Board – 1 vac.

Commissioner Messer nominated Dewayne Jones. There were no other nominees. *Chairman Moyer made the motion to accept Mr. Jones by acclamation. All voted in favor and the motion carried.*

3. Juvenile Crime Prevention Council – 2 vac.

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

4. Nursing/Adult Care Home Community Advisory Committee – 6 vac.

There are six vacancies but only two that the Board can act on at this time. For position #7, Joy Davenport has indicated that she is willing to continue to serve. For position # 21, Leca Harris has indicated that she is willing to continue to serve, if reappointed.

Commissioner McGrady moved the reappointment of both Joy Davenport and Leca Harris. There were no other nominees. A vote was taken and the motion carried.

5. Solid Waste Advisory Committee – 3 vac.

James Phelps in position #2 and Emily Anderson in position #5 have both indicated a willingness to continue to serve, if nominated.

Commissioner McGrady moved the reappointment of Mr. Phelps and Ms. Anderson. There were no other nominees. All voted in favor and the motion carried.

Commissioner McGrady moved the nomination of Tom McCullough for the vacant position (#9). He will submit an application between now and the next meeting.

HENDERSON COUNTY SHERIFF'S DEPARTMENT/TOWN OF MILLS RIVER CONTRACT

Chairman Moyer recognized Sheriff George Erwin to present this item regarding a potential contract with Mills River for a Deputy. Sheriff Erwin introduced Captain Rick Davis but stated that he would be available to answer any questions as needed.

On November 24, the Mills River Town Council unanimously approved a measure that would lead to the hiring of a new Sheriff's Deputy.

Captain Davis explained that the Town of Mills River is interested in entering into a contract with the Sheriff's Department to provide law enforcement services within its municipal limits. The Town has agreed to pay all costs (personnel, training, and equipment) associated with one full-time patrol officer. The Town is interested in entering into a three-year contract with the Sheriff's Department.

County Staff recommended that the Board:

1. Establish a new deputy position within the Sheriff's Department to serve as the Town of Mills River's patrol officer and
2. Authorize the Sheriff to enter into a three-year contract with the Town of Mills River to provide law enforcement services through one patrol officer with the understanding that the Town of Mills River will pay the County for all costs (personnel, training, and equipment) associated with the patrol officer.

Commissioner Messer made the motion to hire a new deputy position within the Sheriff's Department to serve the Town of Mills River and to authorize the Sheriff to enter into a three-year contract with the Town of Mills River to provide law enforcement services through one patrol officer with the understanding that the Town of Mills River will pay the County for all costs (personnel, training, and equipment) associated with the patrol officer. All voted in favor and the motion carried.

REFERRAL OF US 25N MORATORIUM ORDINANCE

This draft ordinance is in furtherance of the order ceasing the granting of land use permits of all sorts in the US 25 North zoning study area pending adoption of a limited moratorium ordinance. A required procedure for this type ordinance is its referral to the Planning Board for review and recommendations prior to Commissioner consideration. The Board has already scheduled a public hearing on the review of this moratorium ordinance (in some form) for the April 4, 2005 meeting.

This resolution refers the draft ordinance to the Planning Board and requests their response in advance of the April 4, 2005 public hearing.

Russ Burrell presented this item. He and Karen Smith answered questions. The County Manager supports this proposal.

Commissioner McGrady made the motion to refer this draft ordinance to the Planning Board for consideration prior to our next meeting (April 4, 2005).

Discussion followed. *A vote was taken and the motion carried unanimously.*

DRAFT FLOOD DAMAGE PREVENTION ORDINANCE

Karen Smith reminded the Board that through the public input process of the Henderson County 2020 Comprehensive Plan (CCP) development, water quality, air quality, floodplain protection, and protection of scenic views and mountain areas all ranked very high in importance. Based on this public input and other factors influencing growth in Henderson County, one of the recommendations in the Natural Resources Element of the CCP is to minimize the potential for damage to personal property, infrastructure, and life due to flooding.

Rocky Hyder began review of the Power Point presentation on this issue, a copy of which is attached as a part of these minutes. Karen Smith picked back up with the things included in the Comprehensive Plan and other studies that the Planning Department has completed (part of the Power Point presentation).

Floodplain management is critical to flood minimization as the county continues to grow. Natural floodplains that are amply vegetated and clear of manmade obstructions serve an important role by allowing

floodwaters to spread across their extent. This spreading action, coupled with the friction provided by vegetation, reduces the velocity and force of floodwaters and allows the floodplain to absorb some of the volume. Floodplains also provide valuable wildlife habitat and are necessary for the protection of water quality. Furthermore, floodplain lands are often productive agricultural areas that play an extremely important role in the agricultural component of the county's economy, and their protection would further the recommendations of the Agriculture Element of the CCP.

Thus far, Henderson County has not adopted a flood damage prevention ordinance thereby staying ineligible to participate in the National Flood Insurance Program (NFIP). Floodplains are, therefore, protected only by the inability of anyone building in the floodplain to acquire a conventional mortgage and flood insurance. To date, this approach has afforded some protection to the floodplain. However, it is evident from the evaluation of development patterns in Henderson County that this approach has not fully protected the county from floodplain development and as development pressures increase and land process continue to rise, the temptation to fill and develop portions of the floodplain will also increase.

In addition to public sentiment, floodplain management is critical due to recent changes in North Carolina State law making it unlikely that Henderson County will be eligible for disaster assistance funds in response to any natural hazard if the County does not have a flood damage prevention ordinance and participate in the NFIP. In response to these factors, Henderson County and its municipalities adopted the Henderson County Multi-Jurisdictional Hazard Mitigation Plan on December 17, 2004. Included in the goals and recommendations of the Hazard Mitigation Plan is the establishment of a Henderson County Flood Damage Prevention Ordinance.

According to the Multi-Jurisdictional Hazard Mitigation Plan, flooding has repetitively affected the unincorporated areas of Henderson County. There are numerous residential, commercial and industrial structures, as well as critical facilities located within the floodplain. In the past 10 years alone, Henderson County has been affected by at least seven significant flooding events causing power outages and extensive damage to property and infrastructure as well as substantial agricultural losses. Additionally, flooding has led to mud slides causing major injuries to occupants of damaged homes. As a result of this history, floods are one of the most important considerations in determining mitigation strategies in the Hazard Mitigation Plan. Mitigation Goal 3 in the Multi-Jurisdictional Hazard Mitigation Plan is the following: "Minimize the potential for damage to personal property, infrastructure, and life due to flooding." Implementation measures stated for achieving this goal are:

1. Encourage County participation in the National Flood Insurance Program and subsequent participation in the Community Rating System Program.
2. Develop a County Flood Damage Prevention Ordinance.

The NFIP provides flood insurance to individuals in communities that are members of the program. Membership in the program is contingent on the community adopting and enforcing floodplain management and development regulations. Part of the NFIP is the Community Rating System (CRS), a program that adjusts flood insurance premiums in relation to a community's investment in flood damage mitigation. To be included in the system, a community's floodplain management procedures must be reported and evaluated. There are ten classes within the CRS system, with 1 providing the greatest premium reduction and 10 providing no reduction.

The recommendations from the Comprehensive Plan and the Hazard Mitigation Plan echo earlier recommendations of the 1993 Comprehensive Land Use Plan and the Mills River/Fletcher Area Land Use Study. Additionally, the Board of Commissioners' 2005 Strategic Plan, Strategy 1.7, Action Step 1, lists the adoption of a Flood Hazard Prevention Ordinance as an action to be completed in FY 04 -05.

As a result of prior discussions by the Board of Commissioners and in order to implement the goals and recommendations in these previously mentioned plans, the Henderson County Flood Damage Prevention

Ordinance has been drafted and was submitted to the Board of Commissioners for review and adoption. A summary of the ordinance was attached as a separate memo.

David Nicholson recommended that the Board determine if it wants to hold a workshop, refer the draft ordinance to other boards, committees and groups for comment and/or consider if it wants to set a public hearing date to initiate the adoption process for the Henderson County Flood Damage Prevention Ordinance.

The proposed Flood Damage Prevention Ordinance is more stringent than the minimum FEMA standards. The most significant difference is that according to FEMA standards communities are allowed to permit development in floodplains in the A zones and B zones provided they elevate, floodproof and do other things such as that but we have limited what uses would be allowed in those A and B zones.

Currently the ordinance would be administered through the Planning Department. If the Board develops a Department of Inspections and Permitting, it would be enforced through that department.

Karen Smith recommended that the Board refer this item to the Planning Board. The Board is not required to do so, because it is under our Police Power currently instead of under Zoning.

Commissioner McGrady made the motion to refer this draft ordinance to the Planning Board and Agriculture Advisory Board for comment and that the Board set a public hearing for Monday, May 2 at 7:00 p.m. and to authorize Karen Smith to also send this to any other Boards that might be affected by the ordinance. All voted in favor and the motion carried.

PROPOSED COMPREHENSIVE PLAN AMENDMENT PROCESS

Karen Smith reminded the Board that at their February 18 meeting the Board had asked staff to propose a process for amending the Henderson County Comprehensive Plan. Establishing a Comprehensive Plan amendment process is critical in order to maintain the integrity of the CCP and its successive Small Area Plans. Staff conducted research regarding plan amendment processes in North Carolina, and compiled a document available for review at the Board of Commissioners' Office and Planning Department.

The draft process addresses amendment types, those parties who may initiate each type of amendment, and includes interim, five-year and annual review and amendment schedules and procedures. The amendment types identified, the permitted parties that may initiate them, and the schedule to be followed are as follows:

Substantive amendments, which change the meaning or intent of the plan, may be initiated by: (1) the Board of Commissioners for consideration during the interim, five-year and annual review periods or at any time outside of the annual review period; or (2) the County Manager, Planning Board, or Planning Director for consideration during the annual review period.

Administrative amendments, which correct errors of a technical or clerical nature, may be submitted to the Planning Director by the Board of Commissioners, County Manager, Planning Board or Planning staff. The Planning Director drafts proposed administrative amendments and presents them directly to the County Manager for consideration and action by the Board of Commissioners. An administrative amendment can be drafted and considered at any time.

As a result of prior discussions by the Board of Commissioners and in order to maintain the integrity of the Comprehensive Plan and successive Small Area Plans, the Henderson County Comprehensive Plan Amendment Process had been drafted and was submitted to the Board of Commissioners for consideration.

David Nicholson recommended that the Board adopt the proposed Henderson County Comprehensive Plan Amendment Process by approving the prepared draft resolution.

Discussion followed. It was suggested that some wording be deleted from the next to the last paragraph on the last page of the draft "Henderson County Comprehensive Plan Amendment Process". The wording to be deleted was "after the completion of the last Small Area Plan".

Chairman Moyer made the motion to adopt the proposed Comprehensive Plan Amendment Process with the suggested change on the last page as well as adopt the resolution. All voted in favor and the motion carried.

ANIMAL SERVICES

Rocky Hyder reviewed three issues with the Board concerning animal services:

- #1. Staff requested comment and consideration of the prepared amendment to the Animal Ordinance (Chapter 66-A, Henderson County Code) establishing guidelines and permit requirements for Kennels and Catteries.
- #2. A civil penalty fee schedule was attached for the Board's consideration and required formal adoption by the Board to be utilized.

Commissioner McGrady made the motion to adopt the amendment as proposed regarding kennels and catteries as well as the proposed fee schedule. All voted in favor and the motion carried.

- #3. Staff also requested the Board consider tasking the Animal Services Committee with development of Animal Ordinance amendments regarding Exotic Animals, Security Dogs and Animal Restraint.

Commissioner McGrady made the motion to task the Animal Services Committee with these three items, as proposed. Commissioner McGrady clarified that the Board is not telling the Committee to come forward with an Animal Restraint yet, just tasking with that if they determine that there is that need.

A vote was taken and the motion carried unanimously.

FINANCIAL MANAGEMENT POLICIES

Carey McLelland informed the Board that as part of the County's 2005 Strategic Plan, Goal #3, Strategies 3.1 and 3.2, Staff had prepared two financial management policies for the Board's consideration and approval.

The first policy deals with the County's General Fund Balance Reserves and the minimum and desired levels that should be available for appropriation in a fiscal year. This policy also discusses what reserves should be used for and the budgetary/financial options available to maintain available fund balance at desired levels. As a part of this policy, the County Manager will include annually in his proposed budget a plan to increase fund balance reserves to meet the Board's fund balance goal.

The second is a Debt Management Policy to be used as a guideline in managing future debt issuances by the County. It addresses areas such as the purpose and different types of debt that may be issued, maximum debt levels, investment of financing proceeds, bond rating agencies, arbitrage and disclosure requirements, enterprise fund debt, capital project funds and the County's Capital Improvement Plan.

Staff requested the Board's consideration and approval of these very important financial management policies, with any necessary changes, to serve as guidelines during the budget process and future debt issuance decision-making.

Since these two important financial management policies are part of the Board's 2005 Strategic Plan, Mr. Nicholson recommended that the Board approve them at this time.

Following much discussion, *Commissioner Baldwin made the motion that the Board adopt both policies as presented. A vote was taken and the motion passed unanimously.*

Chairman Moyer made the motion that he would like to see staff come back with a specific plan of how to get our fund balance up to 12% and a recommended time frame for that, presented by the mid-month April meeting. All voted in favor and the motion carried.

COUNTY MANAGER'S MONTHLY REPORT

Selena Coffey distributed copies of the Manager's Monthly Report.

Mr. Nicholson encouraged the Board to look at this monthly report at their convenience, stating that he and staff would be available to answer any questions the Board might have. He mentioned the following:

- The Land Development Code is a little ahead of schedule.
- He informed the Board that he had been meeting with the architect on the jail demolition package.
- The animal shelter is out to bid.
- We have begun to occupy the Southeast EMS Substation at Upward Road and I-26. On Monday, April 11, as part of County Government Week at 2:00 p.m. will be a ribbon-cutting and reception at the new facility.
- We continue to work with the Historic Courthouse Committee.
- The Human Services Building is also out to bid. The City Planning Board has approved it. The City Council will approve it at their meeting of April 6 or 7. We had no citizen comments at the Planning Board level for the project.
- Today the Board approved the City Water Department purchase. Staff will start working on that project.
- Staff is currently holding budget meetings with department heads.
- The Mills River Sewer Project – Phase I is coming along well. Phase II is the line that goes to the school and well as the businesses downtown. The Engineer is drawing up the bid package for Phase II of the Project. We're hoping that when school opens in the fall, we'll be able to serve Mills River Elementary School
- Our housing programs are coming along – the Parkside Commons Project is finished and they are marketing those apartments. The water project to Brookside Camp and Howard Gap is going well
- Animal Services Director – there is a hiring recommendation on his desk currently for that position.
- We are currently taking applications for the Director of Development of Enforcement Services
- Commissioner Messer chaired a Cane Creek Advisory Committee meeting where they approved a new sewer extension policy. That discussion has also been held at the LGCCA level. Mr. Nicholson stated he would like to take that policy to the LGCCA level before Board adoption in April or May.
- Staff has sent a proposed lease to the City of Hendersonville to lease some additional land that is next to the old field #8 at Jackson Park, for soccer purposes.

Some of the Commissioners expressed favor with the new way the County Manager is sharing a monthly report with the Board.

UPDATE ON PENDING ISSUES**Facilities – Commissioner Young**

Commissioner Young wanted an opportunity for some discussion regarding County facilities. He mentioned the issue of renovating the Historic Courthouse to be a county office building, stressing that Dr. Jones came to the last Commissioner's meeting recommending tearing down the courthouse annexes and rebuild them which adds drastically to the cost of the renovation of the courthouse. He suggested that we keep County Administration in this building, renovate the building to the tune of about a half million dollars to bring the Sheriff and his department in and give the Courthouse Committee the amount of funding (\$2.5 - \$3 million) along with the grants and funds they can achieve to renovate the Historic Courthouse for non-profits for a museum/landmark type structure. He also offered several other suggestions for other departments/groups.

Chairman Moyer reminded Commissioner Young that the Board had already been over all this information previously. The Board has adopted a Strategic Plan for the next two years which lays all these issues out. He stated that the Board could not keep hashing over these issues or they would never get anything done. The Board needs to move forward with these projects.

Sheriff Erwin was in attendance and he came forward and reminded the Board that he had submitted a Facility Plan years ago when Bill Blalock was in charge of that project. He stated that they more than justified occupying this entire facility.

LGCCA meeting update

Chairman Moyer had decided not to give an update at this time.

County Attorney Applications

Chairman Moyer stated that he and Commissioner Young are screening the applications for the County Attorney position. They will narrow it down to about four and will set up interviews, which the Board will be welcome to participate in. After interviews, they will narrow it down to a few and get the whole Board involved in the final decision.

Technical Break

The Board took a brief technical break, to change videotapes.

PUBLIC HEARING – Draft Financing Documents Proposed to Finance the Cost of Construction of a New County Human Services Building and the Construction and Renovation of Facilities Located at Dana Elementary School Estimated at Approximately \$26,000,000

Commissioner McGrady made the motion for the Board to go into Public Hearing. All voted in favor and the motion carried.

Carey McLelland reminded the Board that a public hearing to hear comments on the financing documents is required by the State of North Carolina when entering into an installment contract for bank financing pursuant to NCGS 160A-20 (g). The notice of the public hearing was advertised on March 10, 2005 in the Times-News.

This proposed financing is considered Installment Contract Financing; therefore, we must hold a public hearing to take public comments on the financing documents, specifically that have been drafted by our bond council. A full set of the draft documents was presented for Board review.

Public Comments

There were none.

Carey McLelland stated that he would be bringing back the final documents to the Board for approval at the April 4 meeting.

Chairman Moyer made the motion to close the public hearing. All voted in favor and the motion carried.

IMPORTANT DATES

Lunch – Joint meeting with the Chamber of Commerce

Chairman Moyer informed the Board of a request from the Chamber of Commerce to have a joint luncheon meeting at 1:00 p.m. on Thursday, March 31, 2005 at the Expressions Restaurant.

Commissioner Messer made the motion to set that special called meeting for March 31 at 1:00 p.m. All voted in favor and the motion carried.

Subdivision ordinance variance, Pinnacle Falls subdivision

The Henderson County Planning Board has considered the granting of a variance under the Subdivision Ordinance for certain standards for the Pinnacle Falls subdivision. This request is that the Board set a quasi-judicial hearing on this variance request. Under the Board's Rules of Procedure, a "Quasi-Judicial Proceeding is a Proceeding held by the Board in which the Board has discretion to apply Board policies or Ordinances to a person's situation and determine that person's rights".

Commissioner McGrady made the motion to set the public hearing for April 20 at 11:00 a.m. All voted in favor and the motion carried.

Reschedule Quasi-Judicial Public Hearing on Communications Tower Ordinance Variance Application #CTV-05-01

Karen Smith reminded the Board that Mr. Harold K. Timmons, agent for Pegasus Tower Company, submitted an application for a variance (application #CTV-05-01) from Henderson County Communications Tower Ordinance Section 81-6B(2)(a)[10], Easement Acquisition Documents. The variance application was submitted on February 3, 2005, to the County Communications Tower Ordinance Administrator.

The Board of Commissioners previously scheduled a required quasi-judicial hearing on the variance application for 11:00 a.m. on March 23, 2005. However, following a discovery that notices prepared by the Planning Department had advertised the hearing as being scheduled for 9:00 a.m., staff learned that the Henderson County Communications Tower Ordinance requires that the hearings be held during an evening meeting of the Board of Commissioners. Therefore, staff requested that the Board reschedule the hearing to its April 4, 2005 meeting.

Chairman Moyer made the motion to set this Quasi-Judicial Proceeding for April 4 at 7:00 p.m. All voted in favor and the motion carried.

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION

Chairman Moyer made the motion for the Board to go into closed session as allowed pursuant to NCGS 143-318.11 for the following reasons:

1. (a)(4) *To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.*

All voted in favor and the motion carried.

ADJOURN

Chairman Moyer adjourned the meeting at 11:33 p.m.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman