

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
MAY 18, 2005**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.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, 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, Finance Director J. Carey McLelland and Paralegal Connie Rayfield.

Absent was: Deputy Clerk to the Board Amy Brantley.

CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance.

PLEDGE OF ALLEGIANCE

Commissioner McGrady 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

Chairman Moyer announced that at 2:00 the groundbreaking ceremony for the Human Services Building would be held at the site on Spartanburg Highway. He invited all to attend.

Commissioner McGrady had suggested the Board defer action on Nominations until the next meeting, due to the absence of the Deputy Clerk.

Chairman Moyer added a Discussion Item to be discussed first – Courthouse Architect Process. He also stated that several items would be added for discussion in Closed Session.

Commissioner McGrady requested the May 2nd minutes be pulled from the Consent Agenda for revision.

Commissioner McGrady made the motion to adopt the agenda as amended by the Chairman. All voted in favor and the motion carried.

CONSENT AGENDA

Commissioner McGrady made the motion to adopt the Consent Agenda with the exception of the May 2, 2005 minutes. All voted in favor and the motion carried.

The Consent Agenda items were:

DATE APPROVED _____

Minutes

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

- January 19, 2005 - regular meeting
- February 9, 2005 – special called meeting
- February 16, 2005 – regular meeting

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collectors Report dated May 16, 2005 for the Board's information.

Destruction of audio tapes of past Board meetings

At the Board of Commissioners' 4 August 1997 meeting, a motion was passed which required audio tapes of Board of Commissioners meetings to be retained for a period of one year before destruction. The minutes of that meeting also included the following:

“Commissioner Kumor suggested that the Clerk keep the tapes for one year but also keep a record of anyone who asks for the tapes during that time. If no one needs to listen to the tapes then there may not be a need to keep them for a year. It was the consensus of the Board to revisit this policy in one year.”

This policy has not been revisited by the Board since 4 August 1997. Your Clerk reports that since 4 August 1997, there have been zero (0) requests to review any audio tapes of Board of Commissioners meetings.

Pursuant to the Records Retention and Disposition Schedule (County Management), prepared by the North Carolina Department of Cultural Resources Division of Archives and History, Archives and Records Section, Government Records Branch, video and sound recordings of meetings can be destroyed “after approval of official minutes.” If the Board is so inclined, the following motion is suggested: I move that that Board's policy regarding destruction of audio recordings of the meetings of this Board be amended, such that audio recordings will be destroyed at the end of thirty days after the meeting records, or upon the approval of the official minutes of such meeting, whichever time is later.

Tax Releases

A list of 39 tax release requests was presented by the County Assessor for consent approval by the Board.

Tax Refunds

A list of 5 tax refund requests was presented by the County Assessor for consent approval by the Board.

Tax Discoveries

A list of 7 tax discovery requests was presented by the County Assessor for consent approval by the Board.

Employee Recognitions/Awards

The following recognitions/awards had been received by County Departments and/or employees. The Board of Commissioners had asked that these be included on the agenda for special recognition of our departments' and employees' achievements:

- Natalie Berry, Zoning Administrator: *N. C. State Government State Coordinator's Award presented For Reducing Potential Flood Losses Through Community Service in Floodplain Management*

Resolution

The Western Highlands Network Area Authority is currently conducting a search for a new Executive Director. A resolution was presented for the Board's consideration which waives the Board's authority to approve the appointment of the Executive Director provided that the appointment is approved by no less than 75% of the Western Highlands Board of Directors.

A similar resolution was adopted as part of the last hiring process for Western Highland's Executive Director. It was also noted that Commissioner Messer is serving on the Search Committee that will make a hiring recommendation to the Western Highlands Board of Directors.

Cane Creek Water and Sewer District

Presented for the Board's information were copies of Sewer Line Extension Requests #X0056CC and #X0057CC. These were routine extensions which required no Board action. The agenda item was for informational purposes only.

Water Line Extensions

The City of Hendersonville had requested County comments on proposed water line extensions to two proposed subdivisions: Cloud Nine, Phase 1 and Ridgeview at Sweetwater Hills. A City of Hendersonville Project Summary sheet with staff comments for each of the projects was presented to the Board for their consideration. The County Manager recommended that the Board of Commissioners approve the water line extensions with the condition that the staff comments be conveyed to the City of Hendersonville.

NOMINATIONS**Notification of Vacancies**

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

1. **Asheville Regional Housing Consortium – 1 vac.**
2. **Henderson County Board of Health – 4 vac.**
3. **Juvenile Crime Prevention Council – 18 vac.**
4. **Mountain Area Workforce Development Board – 2 vac.**

Nominations

Due to the absence of the Deputy Clerk/Volunteer Coordinator, there were no nominations at this time and all items were rolled to the next meeting.

1. **Alliance for Human Services – 1 vac.**
2. **Blue Ridge Community College Board of Trustees – 2 vac.**
3. **Cane Creek Water & Sewer District Advisory Committee – 5 vac.**
4. **Environmental Advisory Committee – 4 vac.**
5. **Henderson County Historic Courthouse Corporation – 3 vac.**
6. **Jury Commission – 1 vac.**
7. **Juvenile Crime Prevention Council – 2 vac.**
8. **Land-of-Sky Regional Advisory Council on Aging – 1 vac.**
9. **Library Board of Trustees – 2 vac.**
10. **Nursing/Adult Care Home Community Advisory Committee – 4 vac.**
11. **Planning For Older Adults Block Grant Advisory Committee – 1 vac.**
12. **Social Services Board – 1 vac.**

DISCUSSION ITEMS**COURTHOUSE ARCHITECT**

Chairman Moyer informed the Board that some questions had been raised with respect to the Architect for the Historic Courthouse project. Chairman Moyer had requested the County Attorney look into the Architect selection process, and provide the Board with advice and recommendations in making sure the process was appropriate under the law.

Russ Burrell stated that he had spoken with Cathe Evans, the Executive Director of the North Carolina Board of Architecture. Following that conversation, Mr. Burrell determined that if the Board continued on the course having been followed thus far, the County would be contracting with Antoine Architects. Whether that is Alan Antoine, or with his Limited Liability Company (LLC), would be based on which is licensed. He is personally licensed in North Carolina already. Ms. Evans had also stated that the LLC was also in the process of being licensed and expected that to be accomplished within a period of less than two weeks.

There was an agreement that any intellectual property that was the property of Mohsen Ghoreishi or the Kohan Group could be used by Mr. Antoine in coming up with the plans for the courthouse. As long as the County's contract is with Mr. Antoine, the County will have done everything necessary to fulfill the law.

Commissioner Baldwin clarified that the issue at hand was the fact that though Mr. Ghoreishi had done some work on the Historic Courthouse as an employee of Freeman White, he was not a licensed North Carolina Architect. The County had used Mr. Ghoreishi as a consultant, and would like to continue to do so as he was the originator of many of the courthouse ideas.

SET DATE TO CONTINUE DISCUSSION ON PROPOSED ZONING MAP AMENDMENTS FOR CONTESTED PARCELS IN THE U. S. HIGHWAY 25 NORTH ZONING STUDY AREA (REZONING ACTION #R-05-01)

On Monday, May 9, 2005, The Board of Commissioners held a public hearing on the Proposed Zoning Map Amendments for the U.S. Highway 25 North Zoning Study Area (rezoning action #R-05-01) and on the re-consideration of the Interim Development Ordinance for the U.S. Highway 25 North Interim Development Area. Following public comment, the Board approved a motion to adopt the zoning study recommendations as proposed by the Planning Board except for those properties whose owners had contested the rezoning recommendations. The Board also approved a motion to lift the Interim Development Ordinance. The Board directed Planning Staff to compile a list of all property owners who had contested the rezoning recommendations for their property. The Board also intended to continue its discussion regarding the rezoning of the contested parcels.

Karen Smith discussed the list of contested properties, stating that there were 68 contested parcels with approximately 40 different property owners. She reminded the Board that those properties were not rezoned at the May 9th meeting, they were still zoned as they were prior to that hearing, and were no longer subject to the moratorium. It was the consensus of the Board to schedule a special called meeting under Important Dates to move through each of the individual properties.

INITIATION OF THE PROCESS TO AMEND THE HENDERSON COUNTY 2020 COMPREHENSIVE PLAN AND OFFICIAL ZONING MAP OF HENDERSON COUNTY TO PROTECT SITES FOR FUTURE INDUSTRIAL DEVELOPMENT

Public input gathered during the development of the *Henderson County 2020 Comprehensive Plan (CCP)*, *Designing Our Future, Lockwood Greene Study (Henderson County Economic Development Master Plan)*, and the *1993 Henderson County Land Use Plan* placed considerable emphasis on economic development and job creation with the need to reserve adequate/appropriate locations for future industrial and commercial growth. The CCP, based on this input, has reiterated the need for local government, in collaboration with other economic development organizations, to become involved in economic development initiatives by emphasizing the connection between economic sustainability and long-term prosperity for the citizenry of Henderson County.

Recommendation E-01 of the Economic Development element of the CCP highlights the need to “Support the industrial sector of the economy by implementing the recommendations of the Lockwood Greene Study”. On February 16, 2005 the Board of Commissioners began the implementation of Recommendation E-01 of the CCP by adopting it as Strategy 1.1 under Goal 1 (To Implement Phase I of the Henderson County 2020 Comprehensive Plan) of the Henderson County 2005 Strategic Plan (Strategic Plan). Supporting Action Steps for Strategy 1.1 included: (1) “work with the Partnership for Economic Development and other entities to implement elements of the Lockwood Greene Study”, and (2) “Identify appropriate land to preserve for future industrial development”.

Since February, Planning Staff had been working, in cooperation with the Partnership for Economic Development (of the Greater Hendersonville Chamber of Commerce), to identify areas most suitable for industrial development in Henderson County’s planning jurisdiction. The process began by establishing a set of criteria that identified critical needs of industrial operations and circumstances where industrial development may conflict with surrounding land uses and/or the natural environment. These factors were then applied, by using a Geographic Information Systems (GIS) model, on a parcel level basis throughout the County’s jurisdiction. Results of the analysis were then checked for integrity and each site identified by the model as being appropriate for industrial development was visited and compared to prior recommendations from the former Committee of 100 (now the Partnership for Economic Development). Recommendations to

modify the Future Land Use Map were then drafted by County Planning Staff and reviewed by representatives from the Partnership for Economic Development.

As a result of prior discussions by the Board of Commissioners and in order to implement the goals and recommendations of the CCP and the Strategic Plan, information was presented to the Board of Commissioners for review, and if acceptable, initiation of the processes to amend the CCP and Official Zoning Map of Henderson County (Official Zoning Map). The amendment processes could be conducted concurrently or as two separate actions. If the Board agreed to initiate one or both the processes, Staff proposed the next step be for the Board of Commissioners to refer the item(s) to the Planning Board for review and recommendations.

Commissioner Baldwin made the motion to refer the processes to the Planning Board. All voted in favor and the motion carried.

DRAFT 2006-2012 STATE TRANSPORTATION IMPROVEMENT PROGRAM – HENDERSON COUNTY COMMENTS

Justin Hembree reminded the Board that the North Carolina Department of Transportation (NCDOT) had recently released the draft 2006-2012 State Transportation Improvement Program (TIP). The NCDOT had scheduled a public hearing for Thursday, May 19 to receive comment concerning the draft TIP. County staff planned to attend this hearing.

As the Board is aware, the NCDOT has indicated that they are suffering a severe budget shortfall. Therefore, the draft TIP reflects delays in many projects and pushes numerous off of the “funded” list. The Henderson County Transportation Advisory Committee (TAC) reviewed the draft TIP during their last meeting and agreed, considering NCDOT’s financial situation, by consensus that the County’s priorities should remain the same as for the last TIP update.

A letter had been prepared, addressed to Mr. Conrad Burrell, our local NCDOT Board representative, which outlined Henderson County’s priorities in terms of major highway projects. Those were the same priorities that were presented during the last TIP update public input process. Staff requested the Board authorize the Chairman to sign that letter.

There was discussion about the planning process for Highway 191. It had not yet been determined whether NCDOT was anticipating improvements to shoulders and curves, a three lane with a turning lane, or a four lane divided highway. It was noted that improvements on 191 were reflected as delayed, and that endorsing the prepared letter said nothing about the plans for that area.

Commissioner McGrady made the motion to authorize the Chairman to sign the presented letter. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

Move – David Nicholson

The Strategic Plan outlined the following moves:

- 2005 – Move County Administration to the Fourth Avenue Building
- Move the Sheriff Department’s Administration to the County Office Building
- Move Patrol, currently in the Detention Center, to the basement of the Nuckells Building

- 2006 – Move DSS to Human Services Building
- Move remaining Sheriff’s Department to County Office Building
- Sell Nuckells Building
- Terminate lease on “Mac Auto Parts” Building
- Move County Administration to Historic Courthouse

Recently however, concerns had been raised with respect to how the moves would coordinate. Based on those concerns, Chairman Moyer had requested the County Manager reconsider the move, and devise an alternative plan.

Based on that direction, Mr. Nicholson suggested the following Alternate Plan:

- 2005 - Move Sheriff's Patrol Division to Fourth Avenue

- 2006 - Move DSS to Human Services Building
Move Sheriff's Department to County Office Building
Sell Nuckells Building
Terminate lease on "Mac Auto Parts" Building
Move County Administration to Historic Courthouse

Following some discussion by the Board, *Commissioner McGrady made the motion to amend the Strategic Plan to approve the Alternative Plan. Following additional discussion, all voted in favor and the motion carried.*

Cemeteries – Justin Hembree

During the Board's May 2, 2005 meeting, Mr. Jay Jackson, Chairman of the Cemetery Advisory Committee, updated the Board on the activities of the Cemetery Advisory Committee and briefly outlined specific topics being considered by the Committee. Those topics included the Mill Pond Cemetery, identification signs for cemeteries, and local legislation relating to cemeteries.

Justin Hembree stated that with regard to the Mill Pond Cemetery, the Cemetery Advisory Committee felt that was an abandoned public cemetery. The Committee had submitted an application for the County to consider taking control of the cemetery. Staff was reviewing that application, and planned to bring it to the Board at the June 6, 2005 meeting with a recommendation.

Mr. Hembree then discussed identification signs. He reminded the Board that Chapter 76, section 6 of the Henderson County Code requires that the County clearly lay out the boundaries of and mark all abandoned public cemeteries under the County's control. The County's authority in this area applies only to abandoned public cemeteries. Therefore, the county could create a voluntary program through which persons that own property on which cemeteries are located, families, and/or descendants could place signs on cemeteries throughout the County. A standard sign could be decided upon and could be sold to interested parties at cost.

Michael Arrowood, a member of the Cemetery Advisory Committee, discussed some of the issues currently before the Committee, such as a possible "Adopt a Cemetery" program, and eleven cemeteries that currently cannot be located at all. He reminded the Board that Representative Justus had indicated that she had two blank bills that could be used for some type of local legislation relating to cemeteries. The Cemetery Advisory Committee however did not feel they had the authority to make recommendations on legislation to the Board. Staff recommended that the Board ask the Cemetery Advisory Committee to study possible legislation for recommendation to the Board.

Commissioner Baldwin thanked the Committee for their work in creating a public interest in the whole process. He felt it was important to the history of the County to establish a link between those interred in the cemeteries and their descendants, as well as to the newcomers to the County. He liked the idea of an "Adopt a Cemetery" program. Finally, Commissioner Baldwin discussed the issue of maintenance of the abandoned public cemeteries, proposing the possibility of a non-profit organization.

Commissioner Young questioned what parameters, qualifications or regulations were used on properties that contained cemeteries to keep them from being desecrated or destroyed when people wished to build subdivisions or houses. Karen Smith answered that currently, the Subdivision Ordinance does not have any provisions for cemeteries. Staff does require, during the pre-application conference, that applicants show on a sketch plan areas that have natural features, however there were no specific rules about cemeteries.

Commissioner Baldwin requested Staff do some research and bring back a recommendation on how the Board could use police powers, the subdivision ordinance and zoning to protect cemeteries. There followed much additional discussion regarding the best way in which to protect cemeteries. Chairman Moyer stated that based on the discussion, the following action steps should be taken:

- The Board would ask the Cemetery Advisory Committee, in conjunction with staff, to look at the local legislation issue with respect to “Adopt a Cemetery” and bring back a recommendation.
- The Cemetery Advisory Committee should determine what their next charge should be, where to go next.
- The Cemetery Advisory Committee should have further discussion regarding how maintenance of abandoned public cemeteries should be done, and provide a recommendation.
- Have Staff bring the Board specific expressions of their authority as a local governing body to enact a local ordinance through either the subdivision regulations or zoning regulations to preserve and protect cemeteries. Staff would also look at the State Law to determine what authority the County had for enforcement.

Commissioner Baldwin made the motion for the County Manager to work with the Planning Director to offer a menu of options we can use with respect to subdivisions and our zoning regulations to preserve and protect cemeteries, give us our authority and what it is that we can do in working in conjunction with the County Attorney and bring those back to us. Also, have the Cemetery Advisory Committee bring a list to the Board of Commissioners of recommendations of the future role of the Committee and charge the Committee to review legislation drafted by Carolyn Justus and get their recommendations and comments regarding “Adopt a Cemetery”. The Board would also like to hear from the Committee about what should be done as cemeteries are found. Following additional discussion, a vote was taken on the motion. All voted in favor and the motion carried.

COUNTY MANAGER’S MONTHLY REPORT

The County Manager’s Monthly Report for May, 2005 was distributed for the Board’s information. Specific points within the Report were Strategic Plan Updates, the CIP Master Schedule and a General Project Update.

Chairman Moyer stated that he had discussed with Judy Abrell the possibility of a County-wide Historical Preservation Commission. The idea had been discussed with the LGCCA about the interest of the various units of government. The consensus of the LGCCA was to take the idea back to the various units of government for consideration.

Mr. Nicholson also updated the Board on the current status of the Animal Shelter, Human Services Building and Mills River Interceptor project. There followed much additional discussion about future needs and plans for County buildings and services such as EMS.

FISCAL YEAR 2005-2006 BUDGET

David Nicholson submitted his recommendation for the Fiscal Year 2005-2006 Budget for Henderson County. He stated that the guiding principal throughout the Budget had been the Strategic Plan. The following key points of the Budget were outlined:

- The proposed (base) budget was \$91,000,000
- That reflected a 6% increase over the current budget in total dollars
- The Assessor’s Office had projected an evaluation of \$9 billion
- Within the base budget, a four (4) cent property tax increase was added which would make the tax rate 51.5¢
- 3¢ of that increase was debt service on Dana and Sugarloaf Road Schools
- 1¢ was for the increase in mandated Medicaid funding from \$3,662,775 to \$4,544,554
- A 6% increase in sales tax revenues was projected
- ½ funding for Compensation Study implementation was recommended

- The following personnel were in the proposed budget:
 - 4 Detention Officer positions
 - 2 Telecommunicator (911) positions
 - 2 Building Inspector positions
 - 4 Income Maintenance Caseworkers (DSS)
- Within the base budget for education were:
 - Uncontrollables
 - Balfour personnel/program funding
 - Technology
 - Arts
 - Salary increases

Mr. Nicholson noted that this was his 30th Budget with Henderson County. There were some special issues within the Budget. He felt it was important that the Board focus on the base budget, but asked the Board also to consider this as the year to address some issues within County Government. He distributed a “Budget List” which outlined: Base Budget Highlights, Additions to Base Budget, Priority #1 Enhancements, Priority #2 Enhancements, and Priority #3 Enhancements.

Mr. Nicholson thanked the Department Heads and Agencies for their assistance with the Budget. He particularly thanked Selena Coffey and Carey McLelland for their patience and hard work on the budget.

PUBLIC HEARING -To Consider Proposed Financing Contract for Purchase of Sugarloaf Road Real Estate

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

Carey McLelland reminded the Board that this was a Public Hearing to take any comments on a proposed contract with First Citizens Bank to purchase approximately 44 acres off of Sugarloaf Road for a new elementary school to be constructed in the fall. He requested that at the end of the Public hearing, the Board consider approving the draft installment contract, and authorize the Chairman and Staff to execute the documents necessary to close the transaction.

Public Input

1. Fielding Lucas – Mr. Lucas stated that he had reviewed the materials and research collected over the past months, and was amazed at how little the community seemed to have learned since the '97 bond referendum failed. He expressed concern about the lack of interest in the fiscal impact of class size reductions, the Schools Board's facility appetite, the absence of the Times-News from the debate, and the absence of a voter issue. Mr. Lucas reminded the Board that they must play the role of the public in the process, and asked them to work to protect the voter's interest.

Commissioner Baldwin made the motion to approve the financing agreement authorizing the Chairman to sign and deliver the agreement. All voted in favor and the motion carried.

Commissioner Messer made the motion to go out of Public Hearing. All voted in favor and the motion carried.

IMPORTANT DATES

Commissioner Messer noted that the Recreation Advisory Committee had requested a meeting with the Board during the budget process to discuss their plan. Chairman Moyer requested David Nicholson work such a meeting into the budget schedule.

Chairman Moyer reminded the Board that as part of the Board's earlier discussion on the Proposed Zoning Map Amendments for the U.S. Highway 25 North Zoning Study Area, a special called meeting needed to be

scheduled. *Chairman Moyer made the motion to schedule that meeting for June 8, 2005 at 6:00 p.m. All voted in favor and the motion carried.*

Request to Set a Public Hearing on the FY 2005-2006 Budget

Commissioner Messer made the motion that the Budget Public Hearing be scheduled for June 9, 2005 at 6:00 p.m. All voted in favor and the motion carried.

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION

Chairman Moyer made the motion to go into Closed Session as allowed pursuant to NCGS 143-318.11 for the following reasons:

1. *(a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.*

All voted in favor and the motion carried.

ACTION FOLLOWING CLOSED SESSION

Russ Burrell stated that the County had offered, and had acceptance of that offer, employment in an attorney position that would be primarily responsible for Department of Social Services and Health Department work. Susan Fosmire, who was for nine years the Guardian Ad Litem Attorney for the 29th Judicial District, was scheduled to begin employment with Henderson County on June 13, 2005. Mr. Burrell anticipated it would be an outstanding situation for the County to have someone with that experience step into what is a growing field.

Commissioner Young stated that during the interview process for the County Attorney, a request had been made to the Board of Commissioners to authorize a new Assistant County Attorney position. A primary duty of this position would be to provide legal advice on issues of planning, zoning and enforcement. Mr. Burrell would be finalizing the procedure to hire for that position. *Commissioner Young made the motion to create the position, so Mr. Burrell could hire the position. All voted in favor and the motion carried.*

ADJOURN

Commissioner Messer made the motion to adjourn the meeting at 11:45. All voted in favor and the motion carried.

Attest

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman