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MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
SEPTEMBER 21, 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 Deputy Clerk to the Board Amy R. Brantley.

Also present were: Budget and Management Director Selena Coffey, Public Information Officer Chris S. Coulson, Fire Marshal Rocky Hyder, County Engineer Gary Tweed, Development and Enforcement Services Director Toby Linville and Finance Director J. Carey McLelland.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

David Nicholson gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

David Nicholson informed the public that a new Planning Director had been hired. Her name is Judy Francis, and she is currently the Planning Director in Burke County. Ms. Francis' first day with Henderson County will be October 3, 2005.

INFORMAL PUBLIC COMMENTS

1. Eva Ritchey – Ms. Ritchey spoke as the head of the Henderson County Democratic Party. She addressed the Board on the issue on WHKP. She urged the Board to follow their own policies, and not allow a private industry a forum on a public resource. She also discussed the Transportation Plan, and urged the Board to reconsider the Plan focusing on a cleaner environment, alternative fuels, and public transportation.

2. Margaret Davidson - Ms. Davidson spoke on behalf of the Edneyville community. She requested the Board support Edneyville in building a recreation facility. To date, the community had raised \$100,000, and would be purchasing land on September 30th. They were prepared to apply for grant funding, would continue their fund raising efforts, and hoped to have the center built soon.

DISCUSSION/ADJUSTMENT OF AGENDA - continued

Chairman Moyer added to the Consent Agenda Item "F" – North Carolina Governor's Highway Safety Grant. Chairman Moyer also added Discussion Item "F" – County Manager's Monthly Report.

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

CONSENT AGENDA

Commissioner McGrady made the motion to adopt the Consent Agenda. All voted in favor and the motion carried.

The Consent Agenda items included the following:

DATE APPROVED:

Minutes

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

June 13, 2005 – Special Called Meeting

September 6, 2005 - Regular Meeting

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collectors Report dated September 19, 2005 for the Board's information.

Set Public Hearing: 2002 CDBG Scattered Site Housing Program Closeout

Staff requested that the Board of Commissioners set a Public Hearing on the closeout of the 2002 Community Development Block Grant (CDBG) for the Scattered Site Housing Program for Monday, October 3, 2005 at 7:00 p.m.

Improvement Guarantee for Cummings Cove Mountain Top Area Phase I and Phase II

Cummings Cove Company, LLC, owner of the project, submitted an application for an improvement guarantee for two phases in the Cummings Cove major subdivision. Phase I of the Mountain Top Area in Cummings Cove will consist of 40 single family lots on 36 acres of land. Phase II proposes 25 single family lots on 23 acres of land. Both Phases were conditionally approved by the Planning Board on July 19, 2005. The improvement guarantee is proposed to cover the grading, construction of the road, the water distribution and sewer system improvements, erosion control and road shoulder stabilization for Phase I and Phase II of the Mountain Top Area in Cummings Cove.

According to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance, where the required improvements have not been completed or in lieu of completing all of the required improvements in order to submit a Final Plat and also prior to Final Plat approval, the developer may post a performance guarantee for the improvements. Section 170-38 of the Henderson County Subdivision Ordinance also states that the installation of the improvements must be completed within two years of the date of approval of the improvement guarantee. The developer intends to post with the County an irrevocable letter of credit in the amount of at least \$2,311,562.50 to cover the cost of the improvements (\$1,849,250.00) as well as the required twenty-five percent (25%) contingency (\$462,312.50). The proposed completion date for the improvements is June 30, 2006.

A draft Performance Guarantee Agreement was presented for the Board's consideration. If the application is approved, the developers must submit an irrevocable letter of credit in accordance with the terms of the Agreement. Once the County receives a letter of credit in proper form, the relevant parties must execute the Agreement.

The County Manager recommended that the Board approve the improvement guarantee application for Phase I and Phase II of the Mountain Top Area of Cummings Cove, subject to the developers submitting to Henderson County an irrevocable letter of credit in accordance with the terms of the draft Performance Guarantee Agreement.

Non-Profit Funding Agreements

Subsequent to the approval of the FY 2005-06 Budget, staff had distributed the funding agreements to the non-profit agencies receiving County allocations. Staff will be including signed funding agreements on the Board's consent agendas as we receive them from the agencies.

The County Manager recommended that the Board authorize the Chairman to execute the following funding agreements and, in doing so, authorize the release of the first of the aforementioned agencies' quarterly allotments.

1. Partnership for Health
2. Helping Hand
3. Mainstay

North Carolina Governor's Highway Safety Grant

Staff received a request from the Henderson County Sheriff's Department to proceed with a grant request for funding under the Governor's Highway Safety Program. The amount of the grant was \$10,000 and requires no match.

NOMINATIONS

Notification of Vacancies

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

1. **Community Child Protection Team** – 6 vac.
2. **Nursing/Adult Care Home Community Advisory Committee** – 2 vac.
3. **Planning For Older Adults Block Grant Advisory Committee** – 1 vac.

Amy Brantley requested the addition of a Notification of Vacancy on the Animal Services Committee. Position #4, Joe Duckett has resigned from the Board, having moved out of state.

Nominations

1. **Cemetery Advisory Committee – 7 vac.**
Commissioner Baldwin nominated John Boyd, Michael Arrowood, Karen Carswell, Jay Jackson, Wanda Case and Jerald Willingham for reappointment to the Committee. There were no other nominations. *Chairman Moyer made the motion to appoint the nominees by acclamation. All voted in favor and the motion carried.*
2. **Child Fatality Prevention Team – 1 vac.**
There were no nominations at this time so this item was rolled to the next meeting.
3. **Hendersonville City Zoning Board of Adjustment – 1 vac.**
At the last meeting, Commissioner Young nominated Joe Cox. Mr. Cox currently serves on that Board in an alternate position. *Chairman Moyer made the motion to accept the nomination to move Mr. Cox from the alternate position to regular position #2. All voted in favor and the motion carried.*
4. **Hendersonville Planning Board – 1 vac.**
There were no nominations at this time so this item was rolled to the next meeting.
5. **Juvenile Crime Prevention Council – 5 vac.**
Commissioner McGrady nominated Don Fisher for reappointment to Position #2 – Chief of Police. *Chairman Moyer made the motion to accept Mr. Fisher by acclamation. All voted in favor and the motion carried.*
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 – 2 vac.**
There were no nominations at this time so this item was rolled to the next meeting.
8. **Senior Volunteer Services Advisory Council – 2 vac.**
Commissioner McGrady nominated Catherine Lee for appointment to Position #1 and Jerald Wright to Position #3. Mr. Wright is interested in serving, but does not currently have an application on file. Mr. Wright will be filing an application. *Chairman Moyer made the motion to accept Ms. Lee to Position #1 by acclamation. All voted in favor and the motion carried.*

CENTRALIZED PERMITTING PRESENTATION

Toby Linville presented the following presentation regarding the Development and Enforcement Services Department.

HENDERS ON COUNTY Development & Enforcement Services Department


*A new and innovative way to better
serve the citizens of our County*



Henderson County, North Carolina

PURPOSE


The purpose of this presentation is to provide an overview of the Development and Enforcement Services Department and share our vision of a new way of providing services to the Citizens of Henderson County.



Henderson County, North Carolina

OVERVIEW

On February 16, 2005 the Board of Commissioners took a bold step in establishing the Development and Enforcement Services Department. As County staff, we are excited about the opportunity to improve customer service through this new department.




Henderson County, North Carolina

STRATEGIC PLAN

- Develop departmental goals and objectives for centralized enforcement and permitting.
- Develop plan for centralized permitting process to include cross-training of functions.
- Incorporate the centralized enforcement and permitting process into facility transition plans.
- Fully implement centralized enforcement and permitting process.


Source: Strategy 4-4, Henderson County Strategic Plan



Henderson County, North Carolina

DEPARTMENTAL MISSION

To protect and enhance the quality of life and promote orderly growth in Henderson County.




Henderson County, North Carolina

OBJECTIVES

We will accomplish our mission by:

- Providing an efficient and effective system for obtaining development-related permits; and
- Insuring that the laws of the State of North Carolina and Henderson County are enforced in a consistent manner.



Henderson County, North Carolina

DEPARTMENTAL ORGANIZATION



*This department will work collaboratively with Environmental Health, Solid Waste Enforcement, Fire Prevention, and Planning.



Henderson County, North Carolina

DEPARTMENTAL FUNCTIONS

Permitting
Allows for a centralized "one-stop shop" where all development-related permits are obtained in a simple, customer-friendly process.

Inspections
Allows for the enforcement and administration of the North Carolina Building Code.


Enforcement
Allows for proactive enforcement of all State and local development-related regulations.



Henderson County, North Carolina

PROCESS


- Reorganization of development and enforcement functions to improve customer service.
- Cross-training of Permit Specialists, Enforcement Officers, and clerical staff.
- Relocation of an Environmental Health Specialist to the Land Development Building.
- Development and implementation of a formal Customer Service Policy.



Henderson County, North Carolina

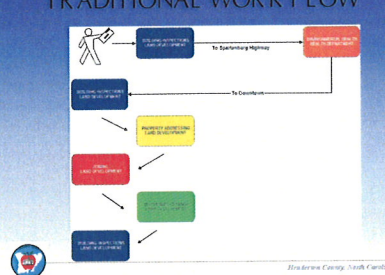

BENEFITS

- Simplifies the permitting process.
- Facilitates efficient communications between County departments.
- Encourages cost savings through cross-training of employees.
- Increases focus on customer service.
- Promotes the development of a more attractive community, resulting in increased property values.
- Optimizes technology through centralized permitting software and GIS.
- Promotes consistency in enforcement efforts



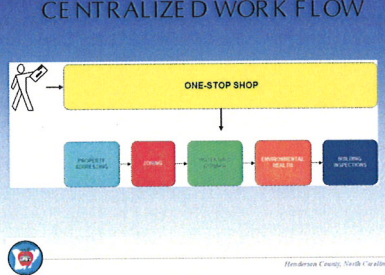

Henderson County, North Carolina

TRADITIONAL WORK FLOW

Henderson County, North Carolina

CENTRALIZED WORK FLOW

Henderson County, North Carolina


TIME LINE

August 2005:

- Begin cross-training of current staff.
- Zoning function moved from Planning.
- Reorganized physical facility to create a centralized permitting area.

September 2005:

- Hire and train 2 Enforcement Officers.
- Hire and train 2 Building Inspectors.
- Enhance webpage with forms and fee schedules.



Henderson County, North Carolina

TIME LINE (continued)

October 2005:


- Relocation of Environmental Health Specialist.
- Begin public information campaign.
 - Home Builders Association
 - Board of Realtors
 - Community Groups

January 2006:

- Hire an additional Permit Specialist.

August 2006:

- Relocate staff to current Health Department Building.
- Fully implement "one-stop" permitting process.
- Continue enhancements to centralized enforcement and its software.



Henderson County, North Carolina

QUESTIONS & COMMENTS



Toby Linville, Director
Development & Enforcement Services
Phone: 828-553-6403
E-Mail: tlinville@hendersoncountync.org



Henderson County, North Carolina

APPLICATION FOR SOLICITATION PERMIT

David Nicholson presented to the Board for their consideration an Application for a Solicitation Permit from Mr. Andrew M. Torres of Torres Concessions, Tropical Dreams. Mr. Torres wished to place a hot dog/sandwich push cart at the new Courthouse each weekday from 7:30 AM to 2:00 PM. A copy of the Solicitation Policy was also presented for the Board's information.

There was some discussion about possible problems such an operation may generate regarding litter around the courthouse. There was also discussion about licensing issues with the City of Hendersonville, and the problems that might arise if additional solicitation permit requests were made.

Commissioner Young made the motion to deny the permit request. The motion carried 3-2 with Commissioner Baldwin and Commissioner McGrady voting in opposition.

PARKS AND RECREATION TRUST FUND GRANT

Justin Hembree reminded the Board that the County's Five Year Capital Improvement Program (CIP) includes a line item entitled "Jackson Park Improvements" with a total estimated cost of \$1,103,000. As the Board may recall, the majority of these funds were planned to be used for a multi-purpose recreation facility in Jackson Park. Per the CIP, a portion of the costs for this facility is planned to be paid for through a 2005/2006 Parks and Recreation Trust Fund (PARTF) Grant.

County staff had been approached by citizens from the Edneyville Community concerning a planned recreation facility in that part of the County. As the Board was aware, the Edneyville Community had been working to raise funds to pay for a recreation facility for some time and has raised approximately \$100,000 to date. The Community had requested that the County apply for a 2005/2006 PARTF Grant to assist in the costs of the Edneyville project. The Community also requested that the County agree to own, operate, and maintain the proposed recreation facility.

Obviously, it would not be wise for the County to apply for two PARTF Grants in the same year. Therefore, these two projects, the Jackson Park Improvements and the Edneyville Recreation Project, needed to be prioritized. In order to facilitate this process, the Parks and Recreation Advisory Board considered this issue during their meeting on September 20, and voted unanimously to recommend that the Board of Commissioners support the Edneyville Community by either applying for a PARTF grant, or applying for a PARTF grant on behalf of the Edneyville Community, and that the multipurpose facility in Edneyville be placed on an amended CIP to priority over the multipurpose facility in Jackson Park.

Mr. Hembree stated that Staff supported the recommendation by the Parks and Recreation Advisory Board. He recommended that the Board direct Staff to amend the Capital Improvement Program and the Strategic Plan to reflect the change in priorities in terms of PARTF funding. With this action, at some point the County would take over ownership of the facility.

Commissioner McGrady made the motion to accept the recommendation of the Parks and Recreation Advisory Board as reported, specifically support the application of the grant, direct Staff to come up with the necessary language to amend the CIP and reflect the Board's understanding that the ownership, operation and maintenance of the proposed Edneyville facility will be the County's responsibility. All voted in favor and the motion carried.

MSD – EXTENSION OF INTERCEPTOR

David Nicholson informed the Board that the Metropolitan Sewerage District of Buncombe County, North Carolina (MSD) was requesting that Henderson County/Cane Creek Water and Sewer District waive the formal application process for a project to extend their sewer interceptor. They were planning to extend the current major interceptor line, which currently ends at the Cane Creek Industrial Park, through Henderson County and into southern Buncombe County.

Staff held a meeting with MSD staff concerning this request several months ago and requested that a flow study be completed that would analyze the future needs from both our projects, as well as expected flows from

southern Buncombe County. This study, which was performed by CDM, indicates that there is adequate capacity in the existing interceptor to handle these future flows.

Staff had no problem recommending to the Board that the formal application process be waived for the interceptor portion only. Any connections to this line would have to go through our normal application process. However, Mr. Nicholson recommended that MSD ensure Henderson County/Cane Creek Water and Sewer District that any need to enlarge the interceptor in the future due to additional needs in Buncombe County be borne by MSD.

Mr. Nicholson had attended a MSD Board of Directors meeting where this issue was discussed. He was asked by their Board to discuss the status of the District and our future plans. It was very apparent that the members of that Board do not understand the customer base and needs in northern Henderson County. One of the representatives from the City of Asheville on the Board raised the issue of membership from Henderson County on the MSD Board.

Following some discussion among the Board about the long range benefits of extending the sewer interceptor, and the application process that would still be followed by individuals tapping onto the interceptor, *Chairman Moyer made the motion to waive the formal application process for the project to extend the sewer interceptor with the caveat that MSD would bear the cost of any future expansion of the size of the line. All voted in favor and the motion carried.*

HCTV-11 RADIO CRITERIA

David Nicholson reminded the Board that at the last meeting, they had directed staff to develop a set of criteria concerning radio broadcasting on HCTV-11. The following were draft criteria including requirements for allowing a radio signal on the channel and the type of programming that would be prohibited:

Permitted by Broadcast Policy and not prohibited in the Mediacom Access User Guide/Contract

The following types of programs are permitted when submitted by a department of County Government, governmental entities, BRCC, Board of Public Education, or Henderson County Hospital Corporation.

- * Emergency programming affecting public safety and health in the community
- * Public meetings involving the elected and appointed officials within Henderson County;
- * Programs and meetings which explain county policies and programs, county facilities, and services;
- * Public meetings or programs of other governments that affect County Government or the residents of Henderson County
- * Programs that highlight the cultural and historic resources of Henderson County;
- * Public service announcements
- * Factual information concerning information on any ballot issue affecting County Government services may be allowed. (Character-generated) election results may also be aired.

Not Permitted by Broadcast Policy and Mediacom Access User Guide/Contract

Henderson County will not air any program submitted by an individual or agency not considered to be County Government, a Governmental Entity or an Approved Agency.

- * Programs containing slanderous, lewd, obscene or violent material
- * Programs containing copyrighted materials without proper copyright authorization.
- * Programs which promote, endorse, or advertise any nonprofit agency, private business, commercial service or product, profit-making activity, political candidate or partisan cause
- * Programs pertaining, directly or indirectly, to lotteries or other programs involving prize or chance (Note – does not apply to a State lottery under the authority of State law.)
- * Programs which solicit donations of any kind
- * Programs advocating a personal viewpoint

Items to be considered for inclusion in radio requirements

- * Contact person on call at night to break into network programming for emergencies
- * Cut-ins for local emergency news

- * Station would provide all necessary equipment required to broadcast radio signal on HCTV-11, and upon relocation of cable head-end, station would provide additional equipment as needed, based on the county's equipment standards
- * Station would supply engineering support for troubleshooting problems, and repair or replace station equipment in a timely manner
- * Hourly local news briefs at predetermined time
- * Daily community calendar listing of county meetings and events at predetermined time
- * Promotion of county's government channel including programming schedule
- * Twenty 30-second ads per month to be used at county's discretion
- * Free county use of other station advertising outlets – message boards, websites, publications
- * Unlimited public service announcements for county events or programs with no paid sponsorship
- * Some amount paid to county for use of the channel to be set aside for capital expense of video equipment.

Commissioner Baldwin discussed the points that he would like to see on the Channel, but felt it would be extremely difficult for any radio station to meet the criteria specified above. Chairman Moyer stated that it would be up to the stations to decide whether or not they could meet the criteria, once the Board decided on the criteria. It would be up to the radio stations to determine whether they can meet the criteria. He suggested sending a letter to the stations with the criteria, ask them how their radio station could comply with those criteria and what the limitations would be. He suggested a two week deadline, to allow for discussion at the Board's next meeting.

Commissioner McGrady stated that he didn't have any problem going forward as suggested, but felt that at some point the Board would have to deal with the issue of religious programming. Commissioner Messer expressed concern that the County was not in a position to broadcast emergency information in the event that no radio station was on the station. Commissioner Young questioned whether the County could broadcast live on the station in the event of emergencies. David Nicholson stated that he would determine the feasibility of such a broadcast, and place it on the next agenda for discussion.

Chairman Moyer made the motion that the criteria developed by Staff, including the issues raised with respect to religion and political talk shows involving Commissioners expressing views in an impartial way, be sent to radio stations so they may review the criteria to determine whether they would be willing and able to provide a radio signal over Channel 11, and if not, what changes would have to be made in the criteria to enable them to do so. All voted in favor and the motion carried. Chairman Moyer stated that letter would be sent the following day, and asked that the stations get their responses back a few days prior to the next meeting so it could be placed on the agenda for the next meeting.

COUNTY MANAGER'S MONTHLY REPORT

David Nicholson discussed the September 2005 County Manager's Report. He noted that with respect to the Land Development Code, the first draft had been submitted to the Planning Board. Other highlights of the report involved several capital projects: the former jail had been demolished, the slab for the animal shelter had been poured, and the Human Services Building continued to progress. He briefly discussed plans for the Etowah Library, the status of the fourth courtroom within the new Courthouse facility, and the plans for INET within the community. He also noted that the franchise for a cable company called Northland, which serves a handful of customers in the Gerton and Bat Cave area, would be due for renewal in the coming year.

With regards to the Tuxedo School property, Commissioner McGrady noted that demolition of the building was scheduled but he felt that should be changed. Based on a recent meeting with the community in regards to the building and property, he recommended the Board add discussion about that site to an upcoming meeting. It was the consensus of the Board to hold such discussion at one of the next two meetings.

Commissioner Baldwin questioned where the Regional Water Authority currently stood. Chairman Moyer stated that the process was moving far slower than he would prefer. He was hopeful that the process was not caught up in municipal elections, and stated that he would continue to try to push the process along.

CLOSED SESSION

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

1. *(a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to a claim.*

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

3. *(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.

DISCUSSION FOLLOWING CLOSED SESSION

David Nicholson announced that following 30 years of service, at the end of the year he would be retiring. He had offered to stay on in a part time, temporary capacity to continue to work on some capital projects. He appreciated having had the opportunity to serve the Board and the community for 30 years. The Board thanked David for his contribution to the County, stating they were looking forward to working with David in a new capacity.

PUBLIC HEARING – CDBG Housing Development Grant Closeout – Parkside Commons

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

Kate O’Hara stated that under the terms of the Community Development Block Grant program, the County was required to hold a closeout Public Hearing to receive citizens’ comments on the closeout of the Fiscal Year 2002 Community Development Block Grant (CDBG) for the Parkside Commons Senior Apartment Building Project.

Public Input

There was none.

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

IMPORTANT DATES

David Nicholson reminded the Board of the upcoming Historic Courthouse presentation at Blue Ridge Community College. It will be the first weekend in October, and Mr. Nicholson encouraged the Board to attend either the Saturday evening or Sunday afternoon performance.

CANE CREEK WATER & SEWER DISTRICT - no business

ADJOURN

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

Attest:

Amy R. Brantley, Deputy Clerk to the Board

William L. Moyer, Chairman