

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
NOVEMBER 16, 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 Brantley.

Also present were: Budget and Management Director Selena Coffey, Public Information Officer Chris S. Coulson, Planning Director Judith Francis, Finance Director J. Carey McLelland and Development and Enforcement Services Director Toby Linville.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

David Nicholson gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer noted that the Board had received a letter from the Hendersonville High School Bearcats tennis team, thanking the County for the four additional tennis courts built at Jackson Park. The Bearcats had a very good year, with one doubles team winning the 11A State Championship.

INFORMAL PUBLIC COMMENTS

1. **Ethel Adams** – Ms. Adams resides at the East Flat Rock School which had been turned into apartments for seniors. She urged the Board to consider a similar renovation for the Tuxedo School.
2. **Beth DeVilling** – Ms. DeVilling also resides at the East Flat Rock School. She stated that it's good for seniors to be together in a community setting, and the Tuxedo School could be just as valuable to the seniors in that area.
3. **Spence Campbell** – Mr. Campbell stated that he was the past Chair of the 2003 Historic Courthouse Committee and current Chair of the Henderson County Republican Party. The 2003 Courthouse Committee developed a concept that was approved by the Board for the renovations to the Courthouse. He discussed the process followed by the Committee to arrive at that concept, explaining that it was just a concept, and that changes to it would be necessary. Some such changes had resulted in concern from a few citizens, which now threatened to postpone the renovations. Mr. Campbell stated that he believed the Board had chosen a course of action that had the support of the community at large, and urged them to resolve the matter and stay the course.
4. **Martha Mohidin** – Ms. Mohidin stated that a meeting had recently been held regarding the Tuxedo school property. The meeting was well attended, and the consensus was to request the Board consider the proposal of Ted Alexander, with the NC Preservation Society. She stated that it was important to have a place to go home to, and thanked the Board for their considerations.

DATE APPROVED: _____

5. **Debra Stierwalt** – Ms. Stierwalt stated that a Committee had been formed in Tuxedo that was searching for a person or group to fund a tract of land in that area for a ball park. She asked that the Board allow the community time to search for an appropriate piece of land to accommodate a park and library that would serve their needs.

DISCUSSION/ADJUSTMENT OF AGENDA - continued

Chairman Moyer added a recycling presentation to be discussed prior to Discussion Item “A”. He pulled Discussion Item “C” – Sales Tax. Under Update on Pending Issues he added #3 – County Projects and Change Order procedures. Under Important Dates he added discussion regarding the December 21st meeting, discussion of a Special Called Meeting to consider County Manager applicants, and a Joint Facilities meeting. He added to Closed Session a personnel matter.

Chairman Moyer stated that following Closed Session, the Board would be back as they would be continuing the meeting until 2:00 when the discussion regarding the Historic Courthouse would be held.

Commissioner Baldwin added Discussion Item “G” – Discussion about Hancock County, Mississippi.

Commissioner McGrady made the motion to adopt the agenda with the amendments as suggested. 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 consisted of the following:

Tax Collector’s Report

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

Tax Refunds

A list of 6 tax refund requests was presented by the County Assessor for consent approval by the Board.

Tax Releases

A list of 85 tax release requests was presented by the County Assessor for consent approval by the Board.

Pending Tax Discoveries

A list of 1,129 tax discovery requests was presented by the County Assessor for information only.

Improvement Guarantee for White Oak Village, Phases 1 through 4

The Board of Commissioners approved an improvement guarantee application on May 9, 2005 for Phases 1 through 4 of the White Oak Village subdivision. The improvement guarantee covers the installation of public sewer improvements (and related remaining engineering fees) as well as storm drainage improvements.

The developer posted with the County a surety performance bond in the amount of \$535,375.00 to cover the cost of the improvements (\$428,300.00) as well as the required twenty-five percent (25%) contingency (\$107,075.00) on May 12, 2005. The completion date for the improvements is January 1, 2006.

Paul Patterson, engineer for the project, submitted a letter requesting to extend the completion date from January 1, 2006 to September 1, 2006. Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners, upon proof of difficulty, to grant extensions to completion dates for improvement guarantees for a maximum of one additional year, provided that the time between initiation and completion of the improvements does not exceed two years.

An amended draft Performance Guarantee Agreement which reflected a new completion date was presented for the Board's consideration. If the request were approved, the developer must submit an amended surety performance bond in accordance with the terms of the Agreement. Once the County receives an amended bond in proper form, the relevant parties must execute the Agreement.

The County Manager recommend that the Board approve the request to extend the completion date, subject to the developer submitting to Henderson County an amended surety performance bond in accordance with the terms of a draft Performance Guarantee Agreement.

Referral of rezoning request

The Henderson County Board of Education was requesting rezoning of Henderson County Parcel Identification Number 9577763603 ("old fairgrounds property") from its current Office and Institutional classification to Industrial-2. This matter was to request the Planning Board's recommendation on the rezoning, pursuant to §200-75 of the Henderson County Code.

The County Manager supported the proposal. The following motion was suggested: *I move that the Board request the recommendation of the Henderson County Planning Board on the request for rezoning.*

NOMINATIONS

Notification of Vacancies

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

1. **Criminal Justice Partnership Program Task Force – 6 vac.**
2. **Fire and Rescue Advisory Committee – 2 vac.**
3. **Fire Commission – 3 vac.**
4. **Henderson County Zoning Board of Adjustment – 4 vac.**
5. **Hospital Corporation Board of Directors – 3 vac.**
6. **Laurel Park Zoning Board of Adjustment – 1 vac.**
7. **Library Board of Trustees – 1 vac.**
8. **Planning for Older Adults Block Grant Advisory Committee – 5 vac.**
9. **Senior Volunteer Services Advisory Council – 1 vac.**
10. **Travel and Tourism Committee – 4 vac.**

Nominations

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

1. **Apple Country Greenway Commission – 2 vac.**
Commissioner McGrady reminded the Board that they had recently approved a new InterLocal Agreement which decreased the number of members appointed by the Board from three to two. He nominated Barbara Kuykendall for the one year position and John Antrim for the two year position. *Chairman Moyer made the motion to accept Barbara Kuykendall and John Antrim 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.**
There were no nominations at this time so this item was rolled to the next meeting.
4. **Juvenile Crime Prevention Council – 4 vac.**
There were no nominations at this time so this item was rolled to the next meeting.
5. **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.
6. **Planning For Older Adults Block Grant Advisory Committee – 1 vac.**
There were no nominations at this time so this item was rolled to the next meeting.

RECYCLING PRESENTATION

David Lowles stated that he was present representing the Ad Hoc Committee for Recycling Reform. The group was a broad-based group of concerned citizens. The group formed because the recycling issue was not addressed in the Comprehensive Plan. They felt that Henderson County lags behind most other Western North Carolina counties in recycling, and reviewed several statistics comparing Henderson County to Buncombe, Transylvania and Madison. They felt that the current recycling program was inadequate, and a change of direction was needed.

The committee requested that the Board modify the Solid Waste Advisory Committee (SWAC) Charter to include responsibility for developing a complete recycling plan, and change their meeting schedule from as needed, to monthly. They also requested that the Board establish goals and timetables to implement the plan. With respect to upgrading the recycle program, the following suggestions were made:

- Develop a Strategic Recycling Plan to be included in a Solid Waste Section of the Comprehensive Plan
- Institute scheduled electronic recycling
- Institute scheduled household hazardous waste collection
- Develop long term recycling programs
 - Appoint a recycle coordinator
 - Public education per SWAC recommendation
 - Use Channel 11 TV
- Construct at least two additional collection sites
 - South – Flat Rock/Zirconia
 - East – Edneyville/Dana
- Enable curbside collection of recycle goods
 - Facility for haulers
 - Promote via incentives
- Expand school recycling program
 - Aluminum cans
 - Plastic bottles

Commissioner Baldwin made the motion to direct the Solid Waste Advisory Committee to implement these suggestions, or let the Board know if there was a problem in doing so. All voted in favor and the motion carried.

Commissioner McGrady suggested a separate motion reflect the charge to the Committee. *He made the motion to amend the charge to the Committee, striking the language about recommending a plan, adding recycling, and reflecting that meetings would be monthly as a general matter. All voted in favor and the motion carried.*

Commissioner McGrady suggested that in addition to the recycle program suggestions described above, that the County's governmental facilities also look at ways to recycle. Chairman Moyer expressed some concern about the role SWAC had wished to have with regards to a recycling program. Stan Kumor addressed the Board, stating that the Ad Hoc Committee had met with SWAC, and there was a lot of enthusiasm for moving forward.

HENDERSON COUNTY COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED JUNE 30, 2005

Finance Director J. Carey McLelland was in attendance to present the Comprehensive Annual Financial Report (CAFR). He distributed copies of the CAFR to the Board, and narrated a PowerPoint presentation which covered the following:

- **General Fund Activity**

Revenues and Transfers totaled \$87.2 million which was an increase of 6.3% over FY2004. The leading sources of revenue were property taxes (48.8%), sales taxes (22.6%), and Intergovernmental (17.6%).

- **Property Taxes** – The 2005 assessed valuation was \$8.9 billion which was an increase of 1.3% over the previous fiscal year. 97.3% of first year tax levy was collected. That remains one of the State’s best collection rates.
- **General Fund Expenditures and Transfers** – Expenditures and transfers totaled \$85.9 million which was an increase of 7.9% over FY2004. Leading expenditures included education, human services and public safety which made up 73.2% of the general fund budget.
- **Expenditures for Public Schools** – Expenditures for schools made up 26.7% of the general fund budget last year or \$23 million for schools. Current expenses were \$16 million, capital was \$2 million, and debt service was \$5 million. That ranked 26th out of 100 counties in total resources per student. Current expense funding alone ranked us 28th out of 100 counties.
- **Capital Projects**
We spent \$1.9 million in School Capital Projects, \$1.3 million on the Human Services Building, \$214,000 for new tennis courts, \$300,000 on the new animal shelter and \$1.5 million on the Mills River Sewer project.
- **Fund Balance Position**
The total general fund balance was \$16.3 million which was an increase of \$1.3 million over FY2004. Of that \$16.3 million, \$9.9 million was unreserved at the end of the fiscal year which represents 11.56% of our total General Fund Expenditures. No fund balance was appropriated for FY2006.
- **Debt Position**
At June 30, 2005 we had \$71.7 million in outstanding debt which was evidenced by bonds of \$8.6 million and installment contracts of \$63.1 million. \$26.6 million of new debt was issued for school and county facilities in FY 2005.
- **Debt levels** – Actual outstanding debt is 0.8% of our total assessed value. Actual debt service payments are 7.72% of the General Fund operating expenditures.
- **Debt Subsequent Year** – We plan to issue debt of approximately \$38 million for schools, community college, and county projects in FY2006. The projected tax increase would be about 2.5 cents to pay the debt serve on \$38 million.
- **Fiscal Highlights**
 - Strategic Plan approved by Board of Commissioners including financial and capital project strategies for the County
 - Board adopted Fund Balance and Debt Management Policies
 - Financing for new Human Services Building and Dana Elementary School projects completed
 - Financing to purchase land for a new elementary school completed
 - Compensation/Classification Study funded and completed
- **Positive Audit Results**
 - Successful audit process with outside CPA firm
 - Adequate internal control structure
 - No disagreements with management
 - No significant audit adjustments
 - No difficulties encountered in performing the audit
 - No Single Audit Findings of Questioned Costs on Federal and State grant programs
 - LGC has approved audit report
 - “Unqualified Audit Opinion” (Best)

Mr. McLelland thanked the Board and management for their commitment to a strong financial position for the County. He also thanked his staff for their work on the report. Commissioner McGrady thanked Mr. McLelland, noting that the stronger fund balance position provided a pleasant surprise. Mr. McLelland answered several questions from the Board on specifics of the CAFR.

PRESENTATIONS CONCERNING USE OF 2004/2005 MAINTENANCE OF EFFORT FUNDS FOR MENTAL HEALTH SERVICES

Justin Hembree reminded the Board that last year they had implemented an innovative program for the use of Maintenance of Effort (MOE) funds, or funds that were traditionally spent on mental health services under the

old mental health system. The Board had identified key area of service that they wished to address in the community, and determined which agencies would best be able to provide those services. As part of a funding agreement, they were required to provide an end of year report to the Board concerning how funds were spent, and what successes and challenges were experienced. Representatives from the agencies who received FY04-05 funds were present to make presentations to the Board regarding the use of those funds.

Will Callison and Barry Beavers, representing Mountain Laurel Community Services, discussed the challenging times being experienced by community mental health care providers. Mr. Callison stated that there were three primary areas where funds had been used: removing barriers to access and care, ensure appropriate levels of care, and provide more options for people in crisis.

Mr. Beavers then discussed some specific programs developed by Mountain Laurel such as emergency intake slots for hospitals, special access units, an after hours emergency on call service, and a mobile assistance team that provided on-site clinicians at places like the jail, rescue mission and local health department. He also discussed their work on moving from office based therapy to a more community based approach. Three such programs they outlined were: MAJIC (Mobile Assessment for Jail and Incarcerated Clients), Mountain Laurel-and-Health Department OutStationed BiLingual Therapist, and MASH (Mobile Assessment for Shelter and Homeless). He also reviewed the following specific 2005 MOE Fund Expenditures, the totals of which were:

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|---|-------------|
| • 24/7 Protocall HelpLine Service | \$35,000 |
| • Extended Clinic Hours | \$87,773 |
| • Overall MOE Staff Hiring | \$1,027,050 |
| ▪ Total | \$1,149,823 |
| ▪ Offset by estimated billable revenues | \$576,800 |
| • Total MOE Costs: | \$573,023 |

Mr. Beavers stated that Mountain Laurel was excited about continuing to work on the mobile crisis programs and substance abuse programming. Mr. Beavers and Mr. Callison answered several questions from the Board about the relationship with the LME, and plans for the future given possible changes in the LME structure.

Dr. Helen Owen, representing the Henderson County Public School system, showed the Board one of the critical incident response kits that had been placed in each of the schools. She stated that last years funds had been used to train 54 staff members, representing at least two staff members from each school. 41 of those staff members trained were teachers or counselors not on contract after June 4th. A large part of the funding was used to pay stipends for those staff members to participate in the training. The trainer was Tina Brookes, who provided an intense two day session to update staff on how to deal with critical crisis situations where students required assistance for safety and mental health issues.

Rodney Wesson, Chief Court Counselor with the Department of Juvenile Justice, reported that with the funding received, they had tried to establish an adolescent female group with girls who were exclusively court involved. They intended to try to work with ten girls, and ended up working with 12 girls ranging in age from 14 to 17, on schooling, their families, and behaviors in the community. The group met weekly, and provided a positive peer environment for the girls to talk to one another with the help of two counselors. Mr. Wesson felt that it was a very successful venture, with the group helping the girls develop coping skills for resolving conflict and problem solving. Mr. Wesson explained some of the projects and achievements of the group.

UPDATE ON PENDING ISSUES

Tuxedo School Site

Justin Hembree updated the Board on the Tuxedo School Site. Staff continued to work to gather the information required to develop a more precise budget estimate for this capital project. He discussed the following information which had been received regarding the site/project:

- The Environmental Health Section of the Henderson County Department of Public Health had conducted an analysis of the septic systems on the site. The analysis described the septic systems currently located on the site, and spoke to the use of the septic systems in relation to various development options for the property.

- Cooper Construction Company had worked to obtain an estimated cost for the demolition of the building on the site. D. H. Griffin Wrecking Company via Cooper Construction estimated a cost of \$190,000 for demolition of the buildings on the site. Staff had also received word that citizens in the Tuxedo Community were working to gather additional demolition estimates, though none had been received.
- A company named HSMM had submitted a proposal to conduct an architectural and engineering study of the main school building. They proposed to develop a report that would include an assessment of the building's condition and component systems, a building code analysis, a hazardous materials analysis, and a preliminary budget for renovation. The estimated cost of the report was \$4,550 plus any required hourly rate based services that might be required.

Mr. Hembree requested some guidance from the Board on how they would like to proceed from this point. Chairman Moyer felt the price for the architectural and engineering study was better than he would have thought, and asked some questions about the specifics to be included in the report. Mr. Hembree stated that he believed the report would be for the building if it were renovated to the form it was currently in, with no alterations. He also felt that one of the most beneficial things that would come from the study was the hazardous materials analysis/inventory. There was some additional discussion about the water and septic systems on the site.

Commissioner Baldwin expressed concerns about the building being assessed in its current form. Without a specific use being specified, it would be assessed as a school building which would make it difficult to determine its true value. Information could still be pulled from the report, but it might be more helpful if two or three options were offered, such as demolition, community uses or renovation for apartments.

Commissioner Young felt that since only two Commissioners had seen Ted Alexander's proposal to turn the building into a public use such as apartments, the Board should allow Mr. Alexander to present the proposal to the entire Board and staff.

Commissioner McGrady questioned whether there had been any communication from the School Board regarding how long they were willing to hold the property, and how much it was costing to carry the building. Mr. Hembree answered that there had been no formal communication with the School Board regarding how long they were willing to hold the building. Several different figures had been offered regarding the cost to carry the building, but Mr. Hembree did not have an exact figure. Chairman Moyer stated that he had not heard an exact figure either, but indications from the School Board were that they did wish to have a decision relatively quickly.

Commissioner Young asked Mr. Burrell what he found with regards to the deed and title to the building. Mr. Burrell answered that he'd had conversations with both the Chairman and Attorney of the Board of Education. When one of the two pieces of property that make up the site was conveyed to the Board of Education in about 1916, the deed was not recorded for an additional three years. That deed states that the property may only be used for schools and school house purposes. It had no express right of reversion or right of re-entry. North Carolina law is unclear on the language necessary to create a right of re-entry under a reverter clause. The Attorney for the School Board was going to be preparing an opinion for the Board of Education as well as the Board of Commissioners on that issue. Mr. Burrell expected that opinion to say that if there was any right, it would be a difficult decision to say who had that right. Finding who might have that right, and whether they would be willing to release it would be a difficult challenge which would typically be covered by title insurance.

Ted Alexander, Director of the Southwest Regional Office for Preservation North Carolina, addressed the Board. He stated that Preservation North Carolina was a statewide non-profit organization which had been in existence for about 50 years. The County previously worked with Preservation North Carolina on the East Flat Rock School project. Mr. Alexander believed that the three interests for the property, a park, library and retention of the building did not necessarily have to compete with each other. They proposed a scenario that would take the six acres of land, and divide off a portion for a library which would be in a separate building.

The remaining property could be conveyed to Preservation North Carolina for historic preservation, who would in turn market it to groups interested in development of historic buildings. That developer could then either donate a conservation easement back to the County for purposes of recreational activities, or such property would not be conveyed to begin with. That would allow for some passive recreational facilities, though not baseball or soccer fields.

Commissioner McGrady stated that the water and sewer options were one of the key issues in evaluating the feasibility of what Preservation North Carolina had proposed. If water and sewer issues would not allow the building to be used for residential purposes, the Board would have very limited options for the building. He asked that Mr. Alexander follow up with potential developers on that issue. There followed additional discussion about potential issues related to water and sewer.

Following additional discussion regarding the potential title problems, *Commissioner McGrady made the motion to accept the proposal submitted by HSMM with the understanding that Mr. Hembree would clarify what the needs were as suggested by Commissioner Baldwin. Chairman Moyer clarified that those needs were a library, community room and voting facility, and a second possibility of a residential or commercial use.* Commissioner Messer questioned whether the Board wished to put a cap on an hourly rate based services. Mr. Hembree stated that he did not anticipate significant costs being incurred from those services. A vote was then taken on the motion. *All voted in favor and the motion carried.*

Additional discussion of the Tuxedo School site was scheduled for the first meeting in January, 2006. Chairman Moyer requested that for that meeting, Mr. Hembree obtain a cost figure for what the County would be responsible for under Preservation North Carolina's plan.

PUBLIC HEARING - FOR ABANDONMENT OF A PORTION OF PARADISE ROAD/SR 1845

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

Mr. and Mrs. Brent Easler had requested a portion of SR 1845 be abandoned. The amount requested to be abandoned was approximately 20 feet and was entirely on property recently purchased by the Easlars. A gate was currently in place at the entrance to the property. Russ Burrell noted that the Board needed to find whether the public interest demanded that this section of the road be closed.

Angela Beeker addressed the Board on behalf of the applicant. She stated that Mr. and Mrs. Easler had purchased the property in July, and would like to put up a fence at the property boundary. They requested that the Board ask the Department of Transportation to abandon that portion. The public interest would not be harmed because the public did not have access into the property. Currently the public was paying to maintain the section in question, but had no use of the section.

Public Input

There was none.

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

Commissioner Baldwin made the motion to request that NCDOT abandon that portion of the road based on the fact that tax dollars were being used to maintain that portion of the road that the public had no use of. All voted in favor and the motion carried.

2006-07 STRATEGIC PLAN

David Nicholson stated that the Management Team wished to discuss the process for the upcoming Strategic Plan with the Board. For last year's plan, Staff had received ideas from the Board, and then held a retreat to incorporate those ideas into a plan. The Board then held a retreat to go through that plan, went through it line by line, and made appropriate changes. Staff then finalized that plan and it was adopted by the Board.

There were several items in the current Strategic Plan as well as the Comprehensive Plan which would naturally roll into the '06-'07 Plan. Mr. Nicholson questioned whether the Board wished to use a process similar to last year's for the upcoming plan, and what additional items the Board wished to have included.

Commissioner Baldwin stated that he believed it would be important to have a planning session including Commissioners every few years, but especially when new Commissioners came onto the Board. Commissioner McGrady stated that he was generally happy with the process which had been followed, and would be happy with following a similar process for the '06-'07 Plan. Several Commissioners discussed the need to include implementation of the pay study in the plan.

It was the consensus of the Board to forward their ideas for items to be included in the Plan to Staff, and have Staff work those into a draft. Selena Coffey stated that she would plan to have a draft presented to the Board by the mid-month January, 2006 meeting.

COUNTY MANAGER'S MONTHLY REPORT

Selena Coffey distributed the County Manager's Monthly Report for November, 2005. David Nicholson highlighted the following specific updates reflected in the report:

- Amend CCP and Zoning Map to protect industrial sites in the County – Planning Staff had revised their study based on recommendations from the Land Use Subcommittee and had forwarded those revised recommendations to the subcommittee members.
- Consider participation in the National Flood Insurance Program – The Flood Damage Prevention Ordinance had been forwarded for federal review. Once federal review comments were received, staff would draft any required revisions.
- Participate in the development of a countywide affordable housing plan – A final draft of that program had been received from the Asheville Regional Housing Consortium.
- Develop a Land Development Code – The draft Code had been submitted to the Planning Board for their review on September 20, 2005. The first workshop to review the draft was scheduled for October 11, 2005.
- Begin small area plan meetings – These were scheduled for Mills River and Etowah/Horseshoe in November, 2005.
- Develop a funding plan for the purchase of necessary electronic voting equipment – Elections staff was scheduled to attend demonstrations on certified voting systems on December 15, 2005 at AB Tech and had invited the Board to see those demonstrations.

Mr. Nicholson then discussed an addendum to the Report dealing specifically with capital projects. Those pages referred to specific projects, and contained information about the budget, estimated completion date, progress, change orders and upcoming issues. He specifically updated the Board on the status of the Human Services Building, and the Animal Shelter, both of which were essentially on schedule.

Mr. Nicholson then addressed change orders. He stated that he had been working under the same authority the Board had given him when the Detention Center was under construction to keep the project moving forward without unnecessary time delays in processing change orders. That authority included approving all change orders that did not increase the construction budget by more than 1/4th of the amount budgeted for contingencies. Any increase over that amount would have to be approved by the Board. A report to the Board must be made of individual changes between the amounts of \$10,000 and \$40,000. All emergency change orders that exceed \$40,000 may be given tentative approval by the Manager with the understanding that the Board had the right to make the final decision at its next meeting.

Chairman Moyer stated that this matter came up due to recent concerns about Henderson County's bidding process. Several of the Commissioners expressed their confidence in Cooper Construction Company, which was the contractor on both the Human Services Building, and the Animal Shelter. *Commissioner McGrady made the motion to continue to use the change order process as outlined above. All voted in favor and the motion carried.*

CLOSED SESSION

Chairman Moyer made the motion that the Board go into Closed Session to protect privileged or confidential material and for personnel issues as more fully set out in the request for Board Action for this agenda item. All voted in favor and the motion carried.

ACTION FOLLOWING CLOSED SESSION

Chairman Moyer stated that during Closed Session, there had been discussion with respect to the County organization in light of Mr. Nicholson's retirement. *Commissioner McGrady made the motion that the Board appoint Justin Hembree Interim County Manager effective January 1, 2006 to continue in that capacity until such time as the Board names a new County Manager. All voted in favor and the motion carried.*

Commissioner Baldwin made the motion that the Board appoint Selena Coffey as Interim Assistant County Manager effective January 1, 2006. All voted in favor and the motion carried.

Mr. Hembree and Ms. Coffey thanked the Board for their confidence, and stated that they looked forward to continued service to the County and the Board.

HANCOCK COUNTY, MISSISSIPPI

Commissioner Baldwin stated that the previous week he had gone with his faith community to Mississippi. While there he had several conversations with members of Hancock County's local government. He spoke with the Superintendent of the county education system, who expressed some needs and was receptive to the possibility of Henderson County schools adopting some of their schools to help meet some needs. Commissioner Baldwin also had a phone conversation with two members of the Hancock County Board of Supervisors, which were the Commissioners counterparts.

He stated that he believed what they would appreciate more than anything was moral support, and some attention being brought to that part of Mississippi which had been lost in the shadow of New Orleans. He stated that by the Board passing a resolution, or bringing attention to the destruction in that area, we may be able to encourage people to go volunteer in that area.

Chairman Moyer commended Commissioner Baldwin for his service, and asked that he work with Mr. Hembree to draft a resolution to be approved at the next meeting.

UPDATE ON PENDING ISSUES - continued**Strategic Plan for Children**

David Nicholson updated the Board on the Children and Family Resource Center. They had already begun work on an update to the Strategic Plan for Children in Henderson County. In the late 1990's, the Board had asked the Center and the JCPC to work on such Strategic Plan. That group had put together the Plan, which was adopted by the Board in 2002. The data gathered in The Strategic Plan for Children 2002 had been very useful. However, the information was now dated and needed to be renewed to keep the community informed. The Center requested the Board's support, endorsement and participation in updating the Plan.

Commissioner McGrady stated that he was a Board member of the Children and Family Resource Center. The Center was seeking a letter of support, and a request from the County to all the involved agencies to cooperate with the updating of the Plan. Such a request had helped the Center compile the original Plan. Commissioner McGrady was in support of affirming the Board's support for the Plan via a letter to all the agencies requesting their cooperation with the Center's work.

Chairman Moyer made the motion that the Board proceed to use the Children and Family Center to update the study and Strategic Plan for Children, and ask all departments, groups and staff to cooperate with them in putting a new plan together. All voted in favor and the motion carried.

County Projects and Change Order Procedure

This was discussed as a part of the County Manager's Monthly Report.

LGCCA Meeting Update

Chairman Moyer stated that the important issue of the cable franchise renewal continues to arise at LGCCA meetings. One key issue had been what to do with the education channel. The Cable Franchise Renewal Advisory Committee (CFRAC) had come up with a recommendation which would involve a substantial capital contribution from either the County or Blue Ridge Community College, annual operating expenses to keep the channel going, and some kind of interlocal agreement where the municipalities would agree to share in the annual operating costs. The municipalities however, had indicated that they were not interested in paying the annual operating expenses.

Despite the indications from the municipalities, CFRAC wished to continue to move forward with the idea. Chairman Moyer told them that they would need to come to the Commissioners at the first meeting in December, lay out the plan including where the necessary funding would come from, and see if the Board would support it. CFRAC had planned to present the plan to Mediacom for comments prior to sending it to the Board. Chairman Moyer had requested that the plan come to the Board before being presented to Mediacom. He stated that he wished for the full Board to hear the presentation from CFRAC, and would add it to the December 5th meeting.

IMPORTANT DATES**December 21st Meeting**

Chairman Moyer stated that several people had brought to his attention that the mid-month December meeting was very close to Christmas. Following some discussion, *Chairman Moyer made the motion to reschedule the meeting set for December 21st, to Thursday, December 15th at 9:00. All voted in favor and the motion carried.*

State Board of Elections

David Nicholson informed that Board that on December 15th from 2:00 – 7:00 there would be a demonstration of electronic voting equipment at AB Tech. He encouraged the Board to attend that meeting because the Board would ultimately have to make the decision on the equipment. Chairman Moyer asked Mr. Hembree to take the lead on this matter, making sure the Board is kept up to date on the necessary information.

Drop in Reception for David Nicholson

Justin Hembree reminded the Board that there was a reception planned for December 29th from 3:00 – 6:00, in the Commissioner's meeting room, in honor of Mr. Nicholson's retirement.

Holiday Luncheon

Commissioner McGrady reminded the Board of the upcoming Annual Christmas Luncheon dates, scheduled from 11:00 – 2:00 on December 7th and 8th.

Joint Facilities Meeting

Chairman Moyer noted that there was a Joint School Facilities meeting scheduled for November 30th at 4:00 at the Board of Education.

Special Called Meeting regarding County Manager applicants

Chairman Moyer noted the need to schedule a special called closed session meeting for the Board to review applications received for the County Manager position. *Commissioner McGrady made the motion to set a special called meeting for purposes of reviewing the applications for County Manager on December 13, 2005 at 5:00. All voted in favor and the motion carried.*

Chairman Moyer made the motion to continue the meeting until 2:00 for the sole purpose of discussing the Historic Courthouse. All voted in favor and the motion carried.

HISTORIC COURTHOUSE DISCUSSION

Alan Antoine addressed the Board regarding the Courthouse project. His company's name is Antoine Architects, and is located in Mandeville, Louisiana. He noted that he was licensed to practice architecture in North Carolina. He also introduced Tom Wilson, an engineer from Asheville with Wilson Engineering. Mr. Antoine read the following quote he felt might be of interest: "Dealing with a historic building is both a

challenge and an opportunity. If the primary objective is to preserve the historic building, while accommodating new needs, the architect must first understand the building, the character of its features and its spaces. That challenge is to make both the historic building and the new uses work together.”

He stated that the 1905 courthouse had the potential to be functionally useful as well a rehabilitated historical monument. The recommended plan of action would return the Board of Commissioners, County Management and a history museum back to the original seat of government. Mr. Antoine went on to discuss the deterioration experienced by the facility since it had been vacated in 1995. He also discussed his following project experience in Henderson County:

- Numerous projects from 1989 through 1997 as project architect/manager for Grier-Fripp
- Facilities evaluation – February 1993
- Social Services Office – 1993
- New Henderson County Courthouse – April 1995
- Henderson County Courthouse Rehabilitation Study – March 1996
- Conceptual Design for the Henderson County Community Center – October 1996
- Report on the Proposed Relocation of the Land Development Departments – February 1997
- Report on the Proposed Relocation of the Department of Social Services – February 1997
- Historic Courthouse Rehabilitation Phase 2 – February 1997

Additional architecturally historical projects included:

- Courthouse and Facilities Study for Polk County – November 1995
- Orange County Jail Addition and Courthouse Addition – 1997

Mr. Antoine stated “It is my hope that this review of my experience, qualifications and reputation will solidify your confidence in your Architect for the most important project in Henderson County. I love your Historic Courthouse and everything that it stands for in the areas of history, justice, architectural symbolism, grandeur, monumentality and prosperity for the citizens of Henderson County.”

Mr. Antoine continued his presentation providing an overview of the rehabilitation of the Historic Courthouse. The Secretary of Interior standards for treatment of historic properties recognizes four possibilities for ways to treat such properties: preservation, rehabilitation, restoration or reconstruction. This project was considered rehabilitation, the definition of which acknowledged the need to alter or add to historic properties to meet the continuing and changing uses while retaining the property’s historic character. He outlined some of those necessary alterations such as the ADA and fire code requirements, functional requirements, updating mechanical systems, scheduling and phasing considerations, and budget constraints.

Mr. Antoine discussed the history of the Courthouse, the renovation schedule, and answered questions about the plan review process. He provided an overview of the project, and outlined in detail the plans for the renovations to be done in each area of the courthouse, and explained the specific reasons for any changes being made to the original components, such as the marble floor and exterior brick work.

Commissioner McGrady questioned the nature of the services being provided by Moshen Ghoreishi, and what work had been done by Mr. Ghoreishi prior to Mr. Antoine becoming actively re-engaged with the project. Mr. Antoine stated that in his contract with the County, he was listed as the Architect for the project. In that contract Mr. Antoine had listed which consultants he would use on the project. Mr. Ghoreishi was one of those consultants, and was providing drafting and historical reference services. Additional consultants were: Tom Wilson for engineering services, GAR for sprinkler design services, and S&ME for asbestos and lead abatement work.

Tom Wilson then addressed the Board regarding his qualifications. He stated that he had graduated from North Carolina State University in 1979. He was a native of Asheville, and had lived there most of his life. He had worked for himself the past four years, and had designed about two million square feet of buildings in Henderson and Buncombe County. Some of his Henderson County design projects included the Manual Woodworkers distribution center on Sunset Road, the Pentecostal Holiness Church on Upward Road, and a

manufacturing facility for the Warm Company on Sunset Road. He continued to describe additional projects he had worked on in Asheville, Statesville, Fletcher and Swannanoa.

Commissioner McGrady then discussed the projected schedule for the project. That schedule called for Mr. Antoine to provide construction documents by the end of December, 2005. It would then go to bid and construction would start in the spring of 2006 with completion in the early summer of 2007. Commissioner McGrady questioned Mr. Antoine's confidence in that schedule. Mr. Antoine answered that January was a good time to put projects out to build. In December contractors were typically completing projects, but were ready to bid projects in January that would begin in summer.

If additional changes were made however, he would need time to incorporate those changes into the drawings. He stated that he understood there were some questions about the view from the Boardroom. He showed several pictures of the existing view, which would be blocked if the proposed annex was built. Because of that, they were considering changes to the annex to allow the view to remain. If a change like that were made, Mr. Antoine would need about 30 days to incorporate that change, but felt it might be worth it.

Mr. Antoine and Mr. Wilson answered several questions from the Board on their experience with historic rehabilitations, and the cost for the project. Chairman Moyer reminded the Board that the schedule and estimated \$9 million for the project hinged on the Board's direction on issues like the annex. There was also discussion regarding the stability of the building's foundation, and whether soil borings should be performed. Mr. Wilson noted that soil borings had been performed, and the soils appeared to be average for the area. The net allowable bearing capacity was about 2,000 pounds per square foot, and settlement was not expected to be anything but normal.

Commissioner Young questioned whether there was anything Mr. Antoine knew of that might evolve into a financial surprise as the project progresses. Mr. Antoine answered that with a renovation of this nature there would be surprises, but Mr. Nicholson had a contingency allowance in the budget that should be adequate to cover such surprises. He stated that they were aware of some cracks in the foundation, and water damage at roof trusses and framing. There was also discussion about the support of the dome, and the trusses that had been put in place in the 1930's and reinforced in the 1980's.

Chairman Moyer stated that an allegation had been made that Moshen Ghoreishi was really doing the architectural work, and that if the State found that he was not a qualified architect it would cause problems for the project. Mr. Antoine stated again that he was the Architect for the project, he had signed the contract with the County, and he had checked every drawing and every specification. Even if it were found that Mr. Ghoreishi had some state licensing violation, there would be no effect on the project because he was never the Architect on the project. Though the County had submitted payment to the Kohan Group, with whom Mr. Ghoreishi associated, the work done was essentially space planning which could be done by anyone.

Ken Gaylord, a local Architect and member of the original Historic Courthouse Committee, stated that he had never had any issues with Mr. Alan Antoine. His issues had been with Moshen Ghoreishi, the way the County went through the selection process, and how the baton was passed from Mr. Ghoreishi to Mr. Antoine. Mr. Gaylord also stated that in his 20 years experience, he had never seen one individual provide structural, mechanical and electrical engineering. He was concerned that one individual, who had no additional staff, was performing all the engineering work particularly in light of the accelerated schedule. He was also concerned that Mr. Wilson has stated that he was not accustomed to working on projects like this one, and that he was associated with Moshen Ghoreishi rather than Mr. Antoine.

Mr. Wilson responded, stating that what he actually said was that for the most part, he did not prefer to work on these types of projects. Generally he preferred not to work with architectural firms, but mainly worked with contractors providing space planning, structural, mechanical and core engineering. He also stated that with regards to staff, if he needed help he relied on single practitioner contracting for help on things like drafting.

Dr. George Jones stated that he did have some concerns about the west side, and the view from the Boardroom, but it was his understanding that those concerns could be worked out. Stuart Stepp stated that he

shared Mr. Gaylord's concerns if the Board of Architecture had not yet made a determination on Mr. Ghoreishi, but that he had worked with Mr. Wilson in the past and knew that he had experience with all the required engineering disciplines. Judy Abrell stated that she had been pleasantly surprised by what she had been reading and hearing, that Mr. Wilson and Mr. Antoine were much more qualified than the Courthouse Committee had been led to believe.

Mr. Antoine then referred to a list of discussion items which had been distributed to the Board. The list is used when he and Mr. Nicholson meet to discuss items pertinent to the project. He had just added hazardous material and remediation work to the project, explaining that to have the general contractor do that work would keep the historic fabric of the building intact. Other items he discussed which were on the list included a survey of the property, the issue of opening up the courthouse windows to the west and the possibilities that existed.

Chairman Moyer asked Mr. Antoine to explain the problems associated with returning the building to its original form in the back. Mr. Antoine explained that the original building was in the shape of an "H". In the 1920's, the back side of the "H" was filled in with a two story concrete addition. It had been functional over the years, and if it were removed there would be extensive repairs to the three sides it touched. It would also make the building short of the square footage needed for functional needs. Therefore he recommended leaving that section, but removing the appendage of the annex that used to be the Register of Deeds area because it did not blend in with the existing courthouse. There was additional discussion about the possibilities for the west side of the building.

Chairman Moyer asked Mr. Antoine whether he had in any way been pressed to cut corners or take short cuts, or do less than what he felt was architecturally right to gain speed on the project. Mr. Antoine responded that he would never do that, there was too much on the line with his reputation to put a project out to bid before it was ready. Commissioner McGrady suggested giving Mr. Antoine instruction to work with the Historic Courthouse Corporation and its Architect to come up with an annex that supplies the needs but is as consistent as possible with the original design. Mr. Antoine believed that he could follow that directive and bring back sketches within two weeks. Changes to other systems would depend on what came from those sketches.

Following some additional discussion among the Board about how to move forward from this point while dealing with the west wing, it was the consensus of the Board to have Mr. Antoine work with the Corporation, rework the sketches for the west side of the courthouse, and bring the matter back to the Board at the first meeting in December.

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