

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
JANUARY 3, 2006**

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

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

Also present were: Planning Director Judith Frances, Public Information Officer Chris S. Coulson, Fire Marshal Rocky Hyder, Finance Director J. Carey McLelland, and Development and Enforcement Director Toby Linville. Deputy Clerk to the Board Amy Brantley was present through nominations.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

Commissioner Shannon Baldwin gave the invocation.

Chairman Comments – Chairman Moyer announced that it was Commissioner Baldwin's Birthday and wished him a happy birthday.

INFORMAL PUBLIC COMMENTS

Chairman Moyer asked each person who had signed up for informal public comments to please limit their time to about 3 minutes.

1. Eva Ritchey – Ms. Ritchey, on behalf of the Democratic Party, invited the Commissioners to the forum they are having Thursday night at the Kaplan Auditorium at the Library entitled "The Prescription Drug Plan in Plain English".

She spoke as a private citizen in regards to the decisions about voting machines, coming up on this agenda. The legislature, this past year, passed the Public confidence in Elections Act 108 to 0. She stated that Catawba Commission Chair Kitty Barnes who is also President of the NC Association of County Commissioners is trying to get the public confidence and elections act repealed or delayed and also get permission for Catawba County to keep its voting machines. If she succeeds, her efforts will cost the state up to \$55,000,000 in federal funding, cause the primaries to be delayed, and cause the state to be in violation of the Federal Help America Vote Act mandate. She asked if the Commissioners agreed with those actions. She asked the Commissioners to take a position that they support the Public Confidence in Elections Act and that they do not support Mrs. Barnes.

She also asked the Commissioners to look at optical scan voting machines because 1) they are considered the most accurate, and 2) they are the least expensive.

2. Douglas Coggins – Mr. Coggins addressed the issue of Tuxedo School. He stated he would wait another 30 years on a ballpark or a park in Tuxedo rather than mess up the opportunity of getting a

DATE APPROVED _____

decent park in Tuxedo. He asked the Board to delay their decision on the library subject so that residents may be able to locate property in the community.

3. Debra Stierwalt – Ms. Stierwalt addressed the issue of saving the school building in Tuxedo. She asked the Board to consider the possibility of having the park with a ball field at the site in question and to have the library located somewhere else.
4. Evelyn Nichols – Ms. Nichols also addressed the Tuxedo issue. She spoke in favor of leaving the old school building on the property. She asked the question “how many people visit the library on an average day?”
5. Joyce Beddingfield – Ms. Beddingfield opted not to speak at this time, stating that Ms. Jones would present the petition.
6. Karen Jones – Ms. Jones stated that she had a petition of the people who want the school building torn down. The names were gathered in about 2 weeks. She stated that the community really does need a park. “If having that building is gonna cost us that park, I think we’re just not interested in that building.”

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer added one item under Update on Pending Issues as #5 “EMS Billing Update”. There were no additional adjustments.

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

CONSENT AGENDA

Chairman Moyer pulled item “H – Rules Change for Quasi-Judicial Hearings” for some discussion.

Commissioner McGrady made the motion to adopt the consent agenda with the exception of agenda item H. All voted in favor and the motion carried.

Consent Agenda included the following:

Minutes

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

December 13, 2005 special called meeting

Tax Collector’s Report

Terry F. Lyda, Henderson County Tax Collector, presented the Tax Collectors’ Report dated January 1, 2006, for the Board’s information and consent approval.

Financial Report – November 2005

Cash Balance Report – November 2005

These reports were presented for information and consent approval.

Non-departmental expenses are for Property/Liability and Workman’s Compensation Insurance coverage that have been or will be allocated out to each department during the fiscal year.

The YTD deficit in the Emergency 911 Communications Fund is due to FY2006 approved appropriations for the purchase of Emergency Medical Dispatch software, necessary replacement of the 911 Center’s dated Un-interruptible Power Supply-Battery Backup System and a GIS software application update that links GIS data with the Computer Aided Dispatch (CAD) system in the 911 Center.

The YTD deficit in the Mills River Watershed Protection Project, the Mud Creek Watershed Restoration Fund and the Mills River Sewer Capital Project are all temporary due to timing differences in the expenditure of funds and the subsequent requisition of Federal and State grant funds or Cane Creek Water & Sewer District funds for the Mills River Sewer Project to reimburse these expenditures.

Henderson County Public Schools Financial Report – November 2005

The Schools Report was presented for information and consent approval.

E-911 Communications Fund-Request to Use Unreserved Fund Balance for Capital Outlay Purchase

The Henderson County Fire Marshal's office in conjunction with the E911 Communications Center requested proposals to replace 20-year old generators on each of the County's three mountaintop communication sites located on Jumpoff, Bearwallow, and Corbin mountains. Three proposals were received with the lowest responsive bid received being from Carolina Energy Systems for \$42,775.

Staff proposed using E911 Communications Fund–Unreserved Fund Balance for the purchase of these generators. The E911 Communications Fund–Unreserved Fund Balance is currently in excess of \$209,000. A budget amendment was presented for the Board's consideration, requesting to use these funds for the purchase of the new generators.

The County Manager supported the use of E911 Communication Fund-Unreserved Fund Balance to purchase new generators to replace 20-year old equipment for each of the three Henderson County communications sites located on Jumpoff, Bearwallow, and Corbin mountains.

Register of Deeds – Request to use ROD Restricted Funds for Automation, Enhancement and Document Preservation

The General Assembly enacted legislation that required counties to place 10% of certain revenues generated by the Register of Deeds Office into a fund to pay for automation enhancements and document preservation beginning in January 2002. This fund which is a portion of the County's Restricted General Fund Balance has in excess of \$160,000 currently. Only the Board of Commissioners may authorize the use and release of these restricted funds.

A budget amendment was submitted for the Board's consideration, requesting to use the Register of Deeds Restricted General Fund Balance for the purchase and installation of software to continue upgrading their current system and database conversion from their old vendor, Cott Systems, Inc. Also included in this total cost is a support agreement for the new software. The total proposed cost to purchase and install the new software with support is \$96,621.

The County Manager supports the use of these restricted funds by the Register of Deeds Office to cover the cost of purchasing the new software and support for database conversion. It would be appropriate for the Board to consider adopting the prepared budget amendment to appropriate \$96,621 from the Register of Deeds Restricted General Fund Balance for this request.

Request for Pawnshop License

Bruce Gosnell has applied, pursuant to Section 134-5 of the Henderson County Code, for a license to conduct the business of pawnbroker within Henderson County. Mr. Gosnell has previously applied for, and been granted, this license. He has supplied the required documentation for such license, including the \$50.00 annual fee.

Under our ordinance, this is an annual process. Section 134-6 requires that such applications be brought "for the consideration by the Board of Commissioners at a regular scheduled meeting".

The County Manager supports granting this proposal.

If the Board is so inclined, the following Motion was suggested:

I move that the Board grant a renewal of a pawnshop license to Bruce Gosnell, as applied for.

Set Public Hearing on Rezoning Application #R-2005-05

Rezoning Application #R-2005-05, which was submitted on November 15, 2005, requested that the County rezone approximately 27.03 acres of land, located off Mills Street (SR #1819) from an O&I (Office and Institutional) zoning district to an I-2 (General Industrial) zoning district. The Subject Area appears to be parcel #9577-76-3603 which is owned by Henderson County Board of Public Schools. The Applicant is Henderson County Board of Public Education, and the Applicant's Agent is Patsy Brison.

The Henderson County Planning Board considered rezoning application #R-2005-05 at its regularly scheduled meeting on December 20, 2005. During that meeting, the Board voted 5 to 1 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2005-05 to rezone the Subject Area from an O-I zoning district to an I-2 zoning district.

Before taking action on the rezoning application, the Board of Commissioners must hold a public hearing. Staff proposed that the hearing be scheduled for Monday, February 6, 2006, at 7:00 p.m.

The County Manager recommended that the Board of Commissioners schedule a public hearing on rezoning application #R-2005-05 for Monday, February 6, 2006 at 7:00 p.m. , or schedule a special called meeting.

Set Public Hearing for Quasi-Judicial Hearing on January 18, 2006 at 11:00 a.m. for assigned address appeal

Mr. Clement Feldmann of 33 Spring Blossom Lane, Horse Shoe, filed an appeal of the property address assigned to his residence by the Henderson County Property Addressing office. The original date for this hearing was set at the November 16, 2005 Board of Commissioners' meeting.

The County Manager recommended setting the date of the appeal for January 18, 2006.

Discussion of pulled item – “H – Rules Change for Quasi-Judicial Hearings”

Chairman Moyer stated that Quasi-Judicial Hearings are cumbersome procedures to follow. They are intended to preserve everyone's legal rights. We now have some changes which have been mandated to us with respect to Quasi-Judicial Hearings.

Russell Burrell reviewed and discussed his memo with the Board which contained the following:

“The North Carolina State Bar's Authorized Practice Committee has issued an opinion letter finding that it to be the unauthorized practice of law to represent another person or a company in a quasi-judicial hearing. As a result, the common practice of developers being represented by engineers or surveyors, and of the County being represented by planning staff, is illegal. Attached you will find a draft amended rules which would temporarily solve this problem. These rules are proposed to be temporary in nature, pending the response to the inquiry that your County Attorney has made of the State Bar, a copy of which is attached.

The only changes to this Board's Rules for Quasi-Judicial Proceedings are as follows:

- 1) A new section 38.1 is added, as follows:

Rule 38.1 Representation. Any party who is an individual may represent themselves in a quasi-judicial hearing. Parties who are not individuals (including all may only appear through an attorney licensed to practice law in North Carolina. Witnesses may be questioned only by the individual party or by an attorney licensed to practice law in North Carolina representing a party in the hearing.

- 2) A new sentence is added to the preamble to the rules (just prior to Rule 34), as follows:

Notwithstanding any contrary provision of any rules or by-laws of other Board or body of Henderson County government, these rules shall be followed by all Boards or other governmental bodies of Henderson County when hearing matters required to be quasi-judicial proceedings.”

The County Manager supported the proposal.

Much discussion followed. It was determined that this was a State Bar Association opinion only and it was the consensus of the Board not to adopt this opinion nor agree with it.

NOMINATIONS

Notification of Vacancies

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

1. Animal Services Committee – 3 vac.
2. Henderson County Transportation Advisory Committee – 9 vac.
3. Industrial Facilities and Pollution Control Financing Authority – 1 vac.

Nominations

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

- 1. Child Fatality Prevention Team – 1 vac.**

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

- 2. Hendersonville City Zoning Board of Adjustment – 1 vac.**

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

- 3. Juvenile Crime Prevention Council – 3 vac.**

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

- 4. Nursing/Adult Care Home Community Advisory Committee – 9 vac.**

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

MUD CREEK WATERSHED RESTORATION PROJECT UPDATE

Chairman Moyer recognized Ms. Diane Silver who had requested to be allotted time during this meeting to provide an update concerning the Mud Creek Watershed Restoration Project.

Ms. Silver is the watershed coordinator, working with the Cooperative Extension Service in the county. She updated the Board on what they had been working on, and what they will be working on in the future.

A new grant has been funded for the county to continue to support the Mud Creek Project for the next three years, a federal grant through the EPA-319 Project that supports surface water protection and is in the amount of \$427,000 over the next three years. The bulk of that funding is to provide materials and labor to do on the ground projects within the watershed, specifically within a sub-watershed of Lewis Creek. They will be focusing on this particular small area of the Mud Creek Watershed because it's an opportunity to focus the scope of the work in order to attain measurable improvements in stream quality which is what the EPA is looking for as a result of their money. Over the next three years they are going to be carrying out the bulleted deliverables provided in the agenda packet. They will be doing some stream restoration work through partnering with the ECO System Enhancement Program. This is a branch of DENHR State Agency that does stream restoration. That work provides the matching funding required for this federal grant. They will supplement that with a variety of best management practices out on the ground that will help to slow sedimentation and erosion of streams and slow the non point source run-off that is contributing to the

degradation of our streams. These practices include a variety of methods to reduce pesticide use in the environment. They will work with growers in that area to encourage them to use a technology called "smart sprayers". This helps them reduce the volume of pesticide product that they need to use and that helps reduce the amount put into the environment, saves them money, saves the environment. It's a win/win solution. They also have funding to provide pest scouts which again helps reduce the volume of pesticide that might be needed because it enables growers to spray for pests only when they're actually present rather than spraying according to some schedule, whether or not the pests are there. Another technique that was approved on this grant is the use of a technology called "theramone disruption", a very interesting science that helps to disrupt the breeding cycle of pests. They also have funding to do stream bank stabilization work, plantings to help stabilize eroding stream banks. They also have money for the mitigation of abandoned apple orchards. These sites that are abandoned tend to be attractions of pests and create a problem for adjacent active orchards and require increased use of pesticides. This whole group of practices put together are going to be an effort to reduce the use of toxic chemicals within the watershed that may be running off into streams and pair that with stabilization of streams. They hope that over the three year project they will be able to see some measurable improvements.

Ms. Silver stated that they are very pleased to have received this grant to continue the project and they think that it is significant to be bringing a significant amount of money into the county. Most of that funding is going to be spent on local resources, hiring contractors, purchasing materials locally, so it is a nice infusion of funding into the county.

She stated that they have a second grant that will be coming in next year for what has been dubbed the stream doctor project which is an effort to train local landscapers in the best techniques for repairing eroding stream banks in order to take care of some of the smaller problems that fall through the cracks, that are not candidates for these larger state projects that we get funding for. That training program is bringing in another \$100,000 in grant money into the county.

Ms. Silver stated that this past year they received grant support in the amount of \$65,000 so for the period of 2005 through 2008 they have brought in over \$800,000 into the county in support of the Mud Creek Watershed, most of which is spent locally on the work that the Mud Creek Project is doing.

She thanked the Board for their support in enabling this project to take place. It is administered through the county offices. Her position is housed in the Cooperative Extension office.

The Commissioners asked to be kept updated on the measurable results for this project.

DISTINGUISHED PUBLIC SERVICE AWARD RECOGNIZING THE RETIREMENT OF DAVID E. NICHOLSON

Chairman Moyer stated that at the end of December 2005, David Nicholson retired as County Manager. Before the Board was a proposal to grant David the Distinguished Public Service Award to recognize his retirement and 30 years of service with Henderson County. Chairman Moyer read the award (attached as a part of these minutes).

Commissioner Messer made the motion to adopt the award as read. All voted in favor and the motion carried.

ELECTIONS EQUIPMENT UPDATE

Selena Coffey stated that this item was on the agenda in order to keep the Board of Commissioners and the public informed about the issues the county is facing with regard to elections equipment and in particular Senate Bill 223 which is titled "Public Confidence in Elections".

The North Carolina Association of County Commissioners has formally requested that Governor Easley convene the General Assembly for a special session to discuss and take action regarding the impacts on

counties caused by the passage of Senate Bill 223. This Bill created additional state mandates regarding the functionality of voting equipment and established a procurement process that decertified all existing elections equipment in the state on December 1, 2005.

In addition to asking for more time to make decisions regarding voting equipment purchases, the Association has also asked that the State Board of Elections certify additional equipment vendors. This would give counties more options and allow vendors to modify their existing equipment to meet the paper trail mandate. This latest request from the Association comes on the heels of learning that Diebold has pulled out of the process, leaving only one company, ES&S (Election Systems and Services), from which counties may obtain certified voting equipment under Senate Bill 223.

Selena Coffey stated that these new mandates have the potential to cause major problems for the state's counties due to the financial constraints imposed with such a short timeframe in which we have to purchase the equipment as well as the fact that we're left with only one certified vendor from which to choose. Our estimated cost is looking to be about \$1,000,000 after subtracting about \$464,000 from federal HAVA grants for the equipment.

She also informed the Board that the NC Association of County Commissioners (NCACC) has requested that Governor Easley convene the General Assembly for a special session to discuss and take action regarding the impacts on counties caused by the passage of the Senate Bill. This formal request also includes asking the State Board of Elections to certify additional vendors in order to give counties more choices with regard to equipment. If the Board wishes to do so, staff would recommend sending a letter stating the Board's position in this regard, if they want to join in the associations' call for a special session. Staff can certainly draft a letter for authorization to go to the State Board as well as to legislators.

Commissioner Messer serves on the Board of Directors of the NCACC. He stated that the association does not want to delay the primary in May but there is concern about the timing, costs, etc. The funding for this is already in the State Board of Elections' hands and we just have to apply for those grants. He stated that if the State General Assembly calls a special session and gives other carriers the opportunity for the counties to purchase these voting machines, we might be able to get everything up and running by the primary in May. Timing and costs are the big factors.

Beverly Cunningham, the County's Elections Director, was present and answered some questions from the Board. She stated that in early December the State Board started putting into effect what the legislature passed in August. She explained that ES&S offer two types of systems, a DRE (direct record equipment) and an optical scan. Her office and her Board are in the process of reviewing the equipment and asking many questions. She stated that she had been told that we would receive \$464,090, a federal grant that came down to the state. The monies were based on the number of precincts in your county and then the number of voters that voted in the last presidential election. A public forum date has been set for January 13 from 10:00 a.m. to noon at Blue Ridge Community College. ES&S will have both types of equipment here to demonstrate at that forum. We are suppose to have a contract in place with a vendor before January 20 to receive the HAVA funds, unless of course something different happens with the NCACC or the General Assembly goes back into session.

The Board asked Carey McLelland to circulate the numbers between now and the next meeting.

This item will be back on the next meeting agenda, January 18, with recommendations from the State Board of Elections.

Commissioner Messer read a letter into the record from NCACC, to consider as a model letter, as follows:

"On behalf of the County Board of Commissioners and the Board of Elections we are seeking your support for a special session in the General Assembly to enact a modest delay in implementation of the Senate Bill

#223 Public Confidence in the Election. We're asking that you take this drastic step because we have serious concerns about the time constraints in which we must make a costly decision that would impact the integrity of the 2006 Primary Election in county we equipment, etc. the equipment was purchased. While we agree it is important to maintain the integrity of the democratic process by ensuring that every citizen vote is accurately tabulated, the Henderson County taxpayers will pay _\$_____ (insert dollar amount) to upgrade and replace our voting machines. We are asking that you use the weight of your office to unite and call a special legislative session to allow the counties to use their current voting equipment if it meets the federal HAVA requirements for the May primary. The present process allows negotiable time to vendor delivery, installation, and testing of the equipment and training. Funds to purchase this equipment will not be budgeted in this current fiscal year. We are concerned that the short timeframe of implementation can actually destroy what the legislature was trying to accomplish, improve voter confidence. While we support the accountability intent of this legislature, we oppose the flawed implementation process. We need your support for the legislature to intervene."

Commissioner McGrady stated that the whole last paragraph deals with the issue of second chance certification. Based on what Beverly has told the Board about our present machines and their age, that paragraph has no application to us.

Chairman Moyer made the motion to modify the model letter, eliminating most of the final paragraph but stating our concern about the timing and getting ready for the Primary in May and that we send the letter on behalf of our county. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

Tuxedo Library and Recreation Project

Justin Hembree stated that as requested by the Board of Commissioners, enclosed as part of the agenda packet is information compiled by the County's Library Director, specifically in regards to the library portion of the project.

Staff will receive the final report from HSM&M very soon. A working draft was e-mailed out today. The plan is for HSM&M to be at the January 18 meeting to present their final report of the inventory and analysis of the Tuxedo School building. Staff plans to come back to the Board on January 18 with a recommendation as to how to proceed with the project.

William Snyder, Library Director, explained that in accordance with Board direction issues at a Commissioners' meeting in November the Library has sought more detailed input as to possible use of the 1930 Tuxedo School as a public library. To best meet the information needs of the Board, he sought a company with a thorough understanding of libraries as well as construction. He chose the firm of Craig, Gaulden and Davis of Greenville, S.C. This firm did the interior of the main library in 1990/1991 as well as the entire Edneyville Library. In addition to library work for us the firm has designed over 30 libraries ranging in size from small branch libraries to major university libraries. The firm also completed many civic buildings including the Peace Center.

Their report was included for the Board's review.

The architects do not believe that it is financially sound to attempt the renovation of the school as a library, especially given the size of the school versus the needs of the library. Reuse of the newer, two-classroom building is more feasible. Including an addition to the existing building it appears that this can be done for \$150 per square foot plus professional services, site work, etc. Reuse of the older facility would cost substantially more per square foot.

It was Mr. Snyder's recommendation that the County not attempt to reuse the 1930 facility but rather to move forward with the smaller project.

Mr. Snyder had also discovered that the owner of the old Mill Store or Community Store in the heart of Tuxedo was interested in selling at this time. Justin Hembree informed Mr. Snyder that we needed to get an appraisal of that property. A firm has been hired to give us an appraisal of the building to determine what the actual value of the property is. It is about 1.4 acres including parking and driveways. Landscaping is already done. Hopefully those numbers will be available by the January 18 meeting. Stuart Stepp was also hired to give an estimate of what it would cost to renovate the facility. The Library Board meets next week and this item will be on their agenda.

Much discussion followed. Commissioner Messer asked to have figures on the usage of the Green River Library at the Jan. 18 meeting. Justin Hembree will have options for the Board at the next meeting also.

It was time for the public hearings. The Board will continue on discussion items following the public hearings.

PUBLIC HEARING – on new roads

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

Toby Linville informed the Board that this public hearing is for the following new road names:

Spring Hollow Lane
L Lyda Continental Divide

Mr. Linville stated that Spring Hollow Lane is a private road which will run off Deep Gap Road in the Gerton community. L Lyda Continental Divide is a private drive at the end of East Lyda Road.

Public Input

There was none.

Commissioner Messer made the motion to approve these two new road names as presented. All voted in favor and the motion carried.

Commissioner McGrady made the motion for the Board to go out of public hearing. All voted in favor and the motion carried.

PUBLIC HEARING – on new property address changes

Commissioner Messer made the motion for the Board to go into public hearing. All voted in favor and the motion carried.

Toby Linville stated that this hearing is a requirement of NCGS 153A-239.1 which requires counties to hold public hearings on new road names or new addresses. There are roughly 500 addresses that are predominantly new lots that have been created. There are some that were corrections. This is approximately 6 months worth of property address changes.

Public Input

There was none.

Commissioner McGrady made the motion to approve the list of new property addresses as presented. All voted in favor and the motion carried.

Commissioner McGrady made the motion for the Board to go out of public hearing. All voted in favor and the motion carried.

Solid Waste/Recycling

Chairman Moyer reminded the Board of the number of discussions over the last few board meetings with respect to access to the landfill site, the recycling program, charter. He asked County Engineer Gary Tweed to go back to square one and talk about the membership of the committee, where we stand with respect to the charter, what his recommendations are with respect to the items the Board has been discussing.

Gary Tweed distributed a several page hand-out and then reviewed it with the Board.

1. The Charter of the Solid Waste Advisory Committee (SWAC) was the first two pages.
2. Page three was a list of items that was presented to both the SWAC and to the Board back in November from the Ad Hoc Committee for Recycling Reform – items that they would like for the Solid Waste Advisory Committee to review and to study.
3. The third thing in the hand-out is a memo from Mr. Tweed to the County Manager dated November 15, 2005 (4 pages) which addresses some of the previous issues brought up about entrance, second scale, traffic, etc.

Gary Tweed stated that there were a couple of issues with regard to the Charter that need to be resolved. The current Charter was developed a couple of years ago and set the membership of the committee at seven. There are currently eleven members on the committee which is what it was prior to the Charter. The thought had been that as folks rotate off the committee, they'd work it back to seven. That hasn't happened yet. He asked whether the Board wanted a committee of eleven members or seven. The other issue is the Chairmanship of that committee is appointed by the Board. The current Chairman, Bill Ramsey, is scheduled to rotate off the committee April 1. He has indicated to Gary that he no longer wants to serve on the committee. They will be dealing with the appointment of a new chair.

Following discussion, it was the consensus of the Board to wait and see how the committee members go as we have some rotate off. The Board favored diversity on the committee but preferred not to assign specific slots.

Recycling

The Board also wished to make it clear in the Charter that we want recycling, and to separate it from public education in the Charter. Recycling Program updates that the Ad Hoc Committee for Recycling Reform would like to see were:

- 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

Gary Tweed felt that of these items the SWAC could go through and review each of these and make a report or recommendation to the Board of Commissioners as to what programs they might want to expand into. He felt that they should go on further and establish exactly what those programs are, how they would be accomplished, what the cost would be and a recommendation on how to cover those costs.

Break

Chairman Moyer called a technical break, to change videotapes.

Exit Scale

Gary Tweed reminded the Board that there had been some discussion in the past about installing an exit scale. Gary Tweed has met with a consultant (CDM) and has come up with short-term and long-term recommendations as to how to approach this.

In the mid-90's we went to a flat rate system for cars and pick-up trucks because by charging flat rates for those vehicles, they did not have to be weighed. It was done to eliminate some of the traffic issues at the time. He suggested expanding the flat rate system to include more smaller type vehicles. By doing so, along with the purchase of a hand-held computer system that can be operated out on the line, they could process those flat rate folks and not have to put them on the scale at all, reducing scale traffic by about half. By doing so, he felt he could avoid building a second scale at this time. He also introduced a Proposed Fee Schedule for flat rates. For a long-term solution they are looking at the entire site to see if they can make changes to the traffic flow, entrance lanes, a new convenience center, a new recycling center, etc. to get all the flat rate folks away from the scale entrance.

Mr. Tweed recommended the Board consider raising the current tip fee of \$47.91/ton which was set in 1998 to \$52/ton. He felt that the timing is right to increase our fees, compared to fees in the area.

Gary Tweed expected the Ad Hoc Committee for Recycling Reform would meet once a month and to complete their recycling study by mid 2007. The Board wished for that schedule to be condensed so the report would come back to the Board of Commissioners this calendar year. The Board approved staffing the Ad Hoc Committee so that they could meet more often and finish their report sooner.

Chairman Moyer made the motion to adopt Gary Tweed's recommendation and direct the SWAC to study all these and come back to the Board of Commissioners with a recycling plan that lists the pros and cons, the costs, benefits, and other considerations. This did not include approval of the Proposed Fee Schedule but would approve the proposal to help move more vehicles through on a flat fee and get them off the scale and not do the recycling center charge or the increase in the tipping fee. The bag for bag would stay. Discussion followed. All voted in favor and the motion carried

Chairman Moyer made the motion to charge the Solid Waste Advisory Committee (SWAC) with coming up with a plan, based on the recycling recommendations, as to how to deal with the recommendations, including the pros and cons and the associated costs. All voted in favor and the motion carried.

These are issues in the Strategic Plan. Justin Hembree stressed that what he heard from the Board tonight was that whatever staff resources or consulting resources that it takes, to get this done and ensure that it is finished in a 4 month period.

Gary Tweed updated the Board regarding the Mills River Sewer Project. The Mills River Elementary School is now on-line, on public sewer. They were tied in over the holidays even though they are still under construction.

Announcement

Gary Tweed informed the Board that he received word just today that Jim Erwin, Utilities Director, has announced his retirement effective January 1. They are in the process of deciding what to do with that position.

Sugarloaf School Property

Commissioner Young had asked that this be put on the agenda. This was discussed at the last Public Schools Joint Facilities Meeting and a diagram was distributed.

Justin Hembree discussed the site plan developed by the School Board's architect to show the general lay-out of the facility – the new elementary school they will be building at Sugarloaf. The southern boundary of the school is bounded by a stream that is running through the site. The northern boundary is set back from the road considerably, there's open space between the road and where the parking lot for the busses and the cars begins. There would be access down a road which comes down the east side of the property that would access the school and the back property there. They obviously don't want open access to the school lots or property all the time. That could be resolved through fencing or other things that could be put in place along the roadway to get access to the rear of the property.

Chairman Moyer stated that probably the most successful school design we've had has been the Clear Creek design, which they are trying to use again whenever the site lends itself to do so. They needed to go back this far in the site to enable them to have the spread of the wings of the building to make it work on the property. It also gives a long enough access road to get school traffic off the main road and onto school property. Henderson County still owns this land and will be leasing some of it to the schools. The stream helped dictate where the school would be located on the property. Some questions were raised by Commissioners regarding whether this was the best use of the property.

Government Channel #11/WHKP

Selena Coffey reminded the Board that in a letter dated Dec. 13, 2005, Mr. Roach from WHKP informed the Board that they were unable to find equipment to block radio commercials as had been discussed by the Board. Upon receipt of that letter the Board of Commissioners, at the last meeting (Dec. 15), asked that staff come back with some alternatives for addressing the issues that had been raised over the last several months. Staff had met and came up with a list of major issues:

- Emergency broadcasting
- School events
- Advertisements and Commercials
- Religious and Political Programming

She called attention to a document created by staff where each of these issues was listed on a table with the current situation and alternatives. She stressed that the number one issue seems to be emergency broadcasting. Staff wished to assure the Board and the general public that the county's emergency operations plan (EOP) is an exceptional mechanism for coordinating and disseminating emergency information. It is a good tool for us, with or without WHKP's audio broadcast on HCTV-11.

Staff requested no action at this time but did want to get this information to the Commissioners for review.

It was the consensus of the Board to have staff draft a letter (formal RFP) based on prior discussions about a proposal, send it to each of the two radio stations but allow the Board to review it at the Jan. 18 meeting before it gets mailed. It will then be sent to the radio stations to see what they are prepared to offer in the areas that we want.

EMS billing issues

Carey McLelland hopes to have some more detailed information for the Board at their Jan. 18 meeting but today told them that things continue to improve. They are progressing and trying to get this straightened out. It has been slow due to the volume of patient calls. He currently has two ladies on staff working on the

Medicare and Medicaid pass-through claims. They had a December 31 deadline. He estimated that they filed or refilled somewhere between 1500 and 2000 Medicare/Medicaid claims by the end of December. They got somewhere between 98-99% of those pass-through claims filed by that deadline. There were some they were still working on. They had a 5:00 p.m. deadline on December 31 and they worked up to that time. Mr. McLelland stated that they did the best they could with the timeframe they had. They asked Medicare for an extension of time which they did not grant. They continue to file and re-file claims that are still outstanding that did not fall within the timeframe. They continue to post payments that have come in since this happened six weeks ago. They are making address changes and information changes on people as they call or send information in. They are filing for new claims that have happened over the past month. They are advertising for the vacant position this week and hope to have that person on board soon. His two employees have committed to helping train the new person. He will come back to the Board if he feels he needs additional help to help the new person. He will bring more information to the Board at the next meeting on the 18th.

There was some discussion of doing external audits of all our departments that handle any cash, maybe every third year with internal audits yearly.

IMPORTANT DATES

Chairman Moyer stated that the Board is set up and ready for the special called meeting on January 12 which will be a closed session for personnel reasons.

NCDOT now cannot meet on January 19 so the Board needs to reschedule. NCDOT would like to meet on the week of February 6. *Chairman Moyer made the motion to set a special called meeting for the NCDOT Secondary Road Public Hearing for Wednesday, January 25 at 10:00 a.m. All voted in favor and the motion carried.*

There was a need to set a Public Hearing on Amendment to Special Use Permit Application#SUP-46-96-A3, Four Seasons Hospice. *Commissioner McGrady made the motion to set the Public Hearing for February 6 (regularly scheduled meeting) at 7:00 p.m. All voted in favor and the motion carried.*

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION – none

ADJOURN

Commissioner McGrady made the motion to adjourn the meeting at 8:40 p.m. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman