

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
JANUARY 18, 2006

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, Interim County Manager Justin Hembree, Interim Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth Corn.

Also present were: Public Information Officer Chris S. Coulson, Planner Nippy Page, Finance Director J. Carey McLelland, EMS Director Terry Layne, Fire Marshal/Emergency Services Director Rocky Hyder, Planning Director Judy Francis, Development and Enforcement Services Director Toby Linville, Health Department Director Tom Bridges and Elections Director Beverly Cunningham. 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

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

INVOCATION

Commissioner Baldwin gave the invocation.

INFORMAL PUBLIC COMMENTS

1. Jim Phelps – Mr. Phelps spoke to the issue of voting machines. He felt that the amount of money that was planned to be spent was excessive. He reviewed the history of the decision on the voting machines. He listed several questions that he felt the Board should consider before making their decision: Is the proposed solution the most cost effective, is the system easier to use, is it easier to verify if something goes wrong, is it easier to control, and will the cost maximize the investment? Mr. Phelps stated the answer for each question, was no.

2. Douglas Coggins – Mr. Coggins spoke to the Tuxedo School site. He had approached the Roscoe Green family regarding the current Tuxedo library site, and the family had stated the library could continue their lease of the site. He hoped that leaving the library at its current site could help the community have an expanded library and a ball park, and that the school could be left for some other purpose that would benefit the County and the community.

3. Debra Stierwalt – Ms. Stierwalt requested that the Board have an appraisal done on the Bell property in Tuxedo for a six acre park. While the current school property was sloping and would only provide 3.5 acres, the Bell property would provide 6 acres of flat property that could possibly have a multi-purpose field on it by spring. The Friends of Tuxedo wanted to have it all, a park, the library, and be able to retain the school.

4. Eva Ritchey – Ms. Ritchey stated these were perilous times for many North Carolina families, having trouble paying heating bills and finding affordable housing. Given these times, she requested the Board consider the optical scanning voting machines which she felt were less expensive and more accurate than the machines being considered. She also asked the Board if the County had a “Made in America” policy. Justin Hembree answered that we did not. Ms. Ritchey requested the Board consider such a policy for county purchasing.

DATE APPROVED: _____

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer pulled Discussion Item "L" – Lease with Henderson County Historic Courthouse Corporation, stating that it was not yet ready for consideration. He also added a Closed Item with respect to personnel matters. *Commissioner McGrady made the motion to adopt the agenda with the revisions 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:

Minutes

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

- November 16, 2005 – Regular
- December 5, 2005 – Regular
- December 15, 2005 – Regular

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 Releases

A list of 151 tax release requests was presented by the County Assessor for consent approval by the Board.

Tax Refunds

A list of 10 tax refund requests was presented by the County Assessor for consent approval by the Board.

Non-Profit Semi-Annual Performance Reports

During the most recent budget process, The Board of Commissioners requested that staff step-up its efforts to measure the success of County-funded non-profits in achieving their objectives as presented within their County funding applications. In addition to requiring funded non-profits to complete an extensive application, execute a formal performance agreement with the County, and provide an annual performance report, staff is now requiring these organizations to complete semi-annual performance reports as well. Semi-annual performance reports were provided for the following organizations:

- The Alliance for Human Services
- Blue Ridge Literacy Council, Inc.
- Boys and Girls Club of Henderson County
- Children and Family Resource Center of Henderson County, Inc.
- Henderson County Council on Aging
- Henderson County Crime Stoppers
- Dispute Settlement Center of Henderson County
- Environmental and Conservation Organization
- The Free Clinics
- The Housing Assistance Corporation
- The Healing Place, Inc.
- Helping Hand Development Center
- Interfaith Assistance Ministry
- Mainstay, Inc.
- Partnership for Health, Inc.
- Pisgah Legal Services
- WCCA/Apple Country Transportation

Resolution Requesting an Increase in State Funding for DuPont State Forest

Several months ago the Board discussed the need for additional State funding for DuPont State Forest and requested that a resolution voicing this need be drafted. A resolution was drafted/reviewed by Mr. Dick

Thompson, Commissioner McGrady, and staff, and presented to the Board for their consideration. If adopted, the resolution would be distributed to appropriate local and State officials. The County Manager recommended adoption of the resolution.

County Sponsorship of Lewis Creek Restoration/Nature Trail Project

The Carolina Mountain Land Conservancy and the French Broad Training Center had requested that the County sponsor a grant application for the Lewis Creek Restoration/Nature Trail Project. A project description was presented for the Board's consideration. No County funds were involved or committed through this sponsorship. The local match was to be obtained from sources other than the County as outlined in the resolution. The County Manager recommended the adoption of the resolution.

Vaccine Supply Resolution

On January 4, 2006, the Henderson County Board of Health passed a resolution, in support of a resolution, that was being considered by local Boards of Health and County Commissioners across North Carolina. The purpose of this resolution is to inform the North Carolina Congressional Delegation about the difficulty in assessing who is being administered vaccines and the shortages of vaccines in recent years. For example, the Henderson County Department of Public Health places its influenza vaccine order early in the calendar year for its fall flu clinics. In spite of signed contract orders with various suppliers, we have seen significant price increases above original estimates and significant delays from project delivery dates. This places a tremendous burden upon providers, especially when planning and coordinating a mass vaccine clinic. Without a coordinated effort at planning and distribution of this seasonal event, it is difficult to know how much to order and how extensive the clinic needs to reach. What results are less effective intervention programs and decreased protection of our citizens. At the same time there can be erosion of the public's confidence and trust in health providers' provision of vital health services. The County Manager recommended the Board of Commissioner also adopt the resolution.

Water Line Extension

The City of Hendersonville had requested County comments on a proposed water line extension project to serve the Village on Charming Lane development. A City of Hendersonville Project Summary sheet, with backup documents and a County review sheet with staff comments were presented for Board review and action. The County Manager recommended the Board approve this water line extension and direct staff to convey the County's comments to the City of Hendersonville upon Board approval.

NOMINATIONS

Notification of Vacancies

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

- 1. Agriculture Advisory Board – 1 vac.**
- 2. Board of Equalization and Review – 6 vac.**
- 3. Recreation Advisory Board - 3 vac.**

Nominations

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

1. Animal Services Committee – 3 vac.

Commissioner McGrady nominated for reappointment Vicki Audia – #1, Walter Kidd – #4, and Meg Paton – #7. Commissioner Young nominated Kimberly Osborne to Position #4. *Commissioner McGrady made the motion to reappoint Vicki Audia to Position #1. All voted in favor and the motion carried. Commissioner McGrady made the motion to reappoint Meg Paton to Position #7. The motion carried 4-1 with Commissioner Baldwin voting in opposition.* Appointment to Position #4 was rolled to the next meeting.

2. Child Fatality Prevention Team – 1 vac.

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

3. Henderson County Transportation Advisory Committee – 9 vac.

Ms. Brantley reminded the Board that there were 18 members on this Board, and that each February, half

the terms expire. She had heard back from the following members that they wished to be reappointed: Renee Kumor – #1, Matt Matteson - #3, William Crisp - #5, Virgil McClure - #7, Eddie Henderson - #15, Keith Maddox - #17. John Antrim, Paul Stepp and Ron Swartzel had indicated that they did not wish to be reappointed. Commissioner Baldwin nominated for reappointment Renee Kumor – #1, Matt Matteson - #3, William Crisp - #5, Virgil McClure - #7, Eddie Henderson - #15 and Keith Maddox - #17. *Chairman Moyer made the motion to accept those nominations by acclamation. All voted in favor and the motion carried.* Commissioner Baldwin then nominated Lee King to Position #9. Commissioner Young nominated Bruce Benton to Position #11. Commissioner McGrady nominated Terry Hicks to Position #11 and Tedd Pearce to Position #13. *Chairman Moyer made the motion to accept Lee King to Position #9 and Tedd Pearce to Position #13 by acclamation. All voted in favor and the motion carried.*

4. Hendersonville City Zoning Board of Adjustment – 1 vac.

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

5. Industrial Facilities and Pollution Control Authority – 1 vac.

Commissioner McGrady nominated Hall Waddell for reappointment. *Chairman Moyer made the motion to accept Mr. Waddell by acclamation. All voted in favor and the motion carried.*

6. Juvenile Crime Prevention Council – 3 vac.

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

7. Nursing/Adult Care Home Community Advisory Committee – 9 vac.

Ms. Brantley stated that the Chairman of the Committee recommended Elizabeth Tait for appointment to Position #12. Commissioner McGrady nominated Ms. Tait for appointment to Position #12. *Chairman Moyer made the motion to accept Ms. Tait by acclamation. All voted in favor and the motion carried.*

2006 HOME APPLICATIONS

Habitat for Humanity and Housing Assistance Corporation (HAC) were requesting funding application approval for HOME funds. HOME funds are administered through the Asheville Regional Housing Consortium. HAC was requesting \$65,000 for their Down Payment Assistance Program and \$266,850 for construction of 18 homes for low-income households in a development named Summit Springs. Habitat for Humanity was requesting \$120,100 for infrastructure for 20 homes for low-income households in the Shuey Knolls Subdivision. Shuey Knolls was located in Edneyville, consisted of 46 acres, and 80 homes were planned for construction over the next several years.

The Asheville Regional Housing Consortium had been told to expect an 11% reduction in the entitlement amount for its members for 2006 Henderson County's planning level would be 18.5% of the net entitlement, and dollar amount was estimated to be approximately \$165,345.

A representative from HAC briefly discussed the Down Payment Assistance Program, which offers \$5,000 to \$10,000 worth of assistance per client. Those clients obtain their primary lending on their own. Funds from the Program can be used toward the down payment itself, closing costs, or to defray the cost of the loan to make it more affordable. They also discussed the Summit Springs project, which was planned to have 18 single-family homes. 10 of which would be built through a program called self-help housing, where groups of families help each other build their own homes. The funds requested would be used for site work, and infrastructure development for those homes.

Doug Watson was present representing Habitat for Humanity. In the past 17 years, 83 Habitat Homes had been built in Henderson County. Those homes housed 130 adults and 303 children. They expected that their next 80 houses would be built in eight years, or less. Their request for \$120,100 would be used to pay for road work, and a water line into the development.

Commissioner McGrady questioned whether sending both applications in requesting full funding would put them at risk. Selena Coffey stated that typically, all applications would be put into a pot of projects. Not all municipalities use their full planning level allocation. When those allocations are opened and placed back into

the mix, some of those allocations can be used to fund additional projects. Ms. Coffey was not of the opinion that the Board sending all of the applications through would jeopardize them, but would show that Henderson County had the need and that need was supported by the Board of Commissioners.

Commissioner McGrady made the motion that the Board approve the HOME funding applications at their full amount. All voted in favor and the motion carried.

SUGARLOAF SCHOOL SITE

Chairman Moyer reminded the Board that at the last meeting, there had been some discussion with respect to the school site. There were some concerns about the placement of the school on that site. Chairman of the Board of Education Ervin Bazzle, Superintendent Stephen Page, Bo Caldwell and Jack Robertson were present to provide information and answer questions.

Ervin Bazzle stated that by nature, the property was divided into four tracts. There was a wooded area, an open area, and two additional wooded areas divided by creeks. The proposed school building plan was the same plan used for Clear Creek, and almost the same plan used for Fletcher. When the architects locate the site for a school, they look at several things: the layout of the land, minimizing costs as much as possible, safety issues, and environmental impact. Consideration of those issues led to the school being located centrally on the property. They elected to not completely strip the front of the property of all trees, nor place things right next to the road for safety reasons, and to control access and entry.

Mr. Bazzle stated that if all the property were laid out the same way, the back of the property would be the ideal school site. However, subsurface investigations had shown that ground water was most excessive in the area of the creeks, and the geotechnical engineers further clarified that the ground water dissipated as one moved up toward Sugarloaf. Mr. Bazzle stated that the site they had selected was the best site for the school, and was the least costly site. Building on the back would require a lot more pavement, and more construction with multiple culverts.

Dr. Page discussed the safety issues related to the location of the ball fields. The State has to approve the site plan and how the school is arranged. One of the State's requirements is that students not have to cross a parking lot or road to get to playing fields around a school. Given the nature of this site, that requires that the parking lots be on one side and the ball fields on the other. He felt it made the most sense to have the parking lots in the front and ball fields in the back.

Mr. Bazzle, answered several questions from the Board about the prototype school, and the cost difference for building Fletcher versus Clear Creek. Commissioner Baldwin questioned whether they could put a ball field on the front of the property, and still comply with State law. Mr. Bazzle stated that he did not believe it could be done. However, the County could put in a park with a full size ball field, which would be separate from the school. The County can use the back of the property for a County use. Commissioner Baldwin stated that master planning could accommodate both sides, and that the County and School Board should jointly work on such a plan. Commissioner Baldwin and Commissioner Messer both requested that the School Board provide the cost difference for building Fletcher versus Clear Creek.

There followed additional discussion about the potential uses for the back of the property. The Board of Education requested that the Board of Commissioners approve the site plan, and that both Boards would work together on a joint plan for the front and back of the site so building could move forward. *Commissioner McGrady made the motion to approve the site plan for the Sugarloaf School. Chairman Moyer requested that he add to that motion that the Board would work with the School Board and School System to develop a joint plan for the remainder of the site. Commissioner McGrady agreed to add that amendment to the motion. All voted in favor and the motion carried.*

Dr. Page stated that it was important that there not be a delay to the beginning of construction for the school. They would need to be able to get into that school when it opens in 2007. He felt that July was a critical date to begin construction. He requested they devise a way to work together, while allowing the project to stay on

schedule. This was a new school that would be drawing students from Clear Creek, Dana and Upward Elementary. If the school were not ready in time for the beginning of school, it created any number of problems for the School system.

Chairman Moyer stated that a discussion of capital project financing was scheduled for later on the agenda, during which time financing of the school would be discussed. It was the consensus of the Board to move Discussion Item “G” - Capital Projects Financing, up to this point on the agenda.

CAPITAL PROJECTS FINANCING

Carey McLelland reminded the Board that four major capital projects were being contemplated for financing by the County during the current fiscal year. The Joint Schools Facilities Committee and the Joint Community College Facilities Committee had both met within the last month to discuss their respective projects, costs and timeframes. County staff had been working closely with the staff of the public schools and the college to obtain the most current cost estimates from their architects and timetables for bidding, contracting and starting the projects. The total estimated cost for all four major capital projects was currently \$49.5 million.

County staff had a preliminary meeting with the staff of the Local Government Commission on Friday, January 6th to discuss the four capital projects, the need for financing, including possible interim financing for one of the projects and the issuance of Certificates of Participation (COPs), which is the type of financing instrument being contemplated by staff to recommend to the Board to use. The Local Government Commission did not express any concerns about the necessity of the projects or the use of COPs to finance these projects long-term since it has been a financing instrument the County had used successfully for three major debt issuances in previous fiscal years. The LGC had provided staff an application to begin the financing approval process.

The Capital Projects Timetable for FY2006 was:

<u>Project</u>	<u>Projected Cost</u>	<u>Open Bidding</u>	<u>Contract</u>	<u>Begin Project</u>
Historic Courthouse	\$9.3 million	April 2006	May 2006	June 2006
New Elementary School	\$14.3 million	March 2006	April 2006	May 2006
BRCC Tech. Building	\$16.2 million	May 2006	June 2006	July 2006
Mills River Elementary	\$9.7 million	June 2006	June 2006	July 2006
Total	\$49.5 million			

Mr. McLelland pointed out that the New Elementary School project was about two and a half months out in front of the other three projects, and there did need to be some discussion about how to handle that. Options were bringing that project in line with the others, the possibility of interim financing, or somehow bridging that time gap. He stated that the LGC meeting, where he would seek approval was early June, and they could close on the COPs by mid-June. He then reviewed the projected debt service requirements for FY2007.

<u>Projects</u>	<u>Annual Projected Debt Service</u>
New Elementary School	\$1,365,425
Mills River Elementary School	\$929,750
BRCC Technology Building	\$1,549,400
Historic County Courthouse	<u>\$413,363</u>
Total Projected Debt Service	\$4,257,938
Less: Debt Service in FY06 Budget	(\$742,636)
Net Projected FY07 Debt Service	\$3,515,302*

Debt Policy Thresholds:

Total Outstanding Debt to Total Assessed Value	1.24%
Total Debt Service to Total GF Expenditures	12.31%

*The net projected debt service number might be reduced further by using a conservative estimate of \$500,000 from lottery proceeds that may be received in FY2007

Outstanding debt was currently at \$63 million, and total debt service was slightly less than \$8 million. The addition of these projects would bring the total debt to about \$112 million. Commissioner Young expressed doubt that the monies from the lottery would cover the increased cost for construction. He pointed out that one cent of property tax generated about \$880,000, and we would therefore need a four cent tax increase. Chairman Moyer noted that there are a lot of items in the budget, and while the cost of these projects may equate to four cents, that did not necessarily mean there would be a tax increase in that amount.

Mr. McLelland needed authorization to develop financing plans for the Historic Courthouse, Mills River Elementary School and the BRCC Technology Building. He also needed authorization to try to develop some type of financing vehicle to get the New Elementary School started, while wrapping all that together into a June major COPs issue. Mr. McLelland agreed that the new elementary school should not stand alone, but should be rolled into the COPs issue.

Commissioner McGrady questioned whether funding for Balfour could potentially be freed up to allow Sugarloaf to proceed. Justin Hembree stated that at a recent meeting with the School representatives, one issue discussed was how to bridge the gap between when the contract needed to be signed, to the other COPs rolling in, in mid-June. One idea considered was the possibility of having a separate, stand alone contract for site preparation on the site. That would allow that portion of the project to move forward, with an interim financing for the cost of site preparation, which would be rolled into the COPs issues. Dr. Page stated that the Balfour Education Center had a class being taught on auto technology. One of the commitments made, was that they would offer Auto Technology II, which required a laboratory. They had searched for cost effective alternatives, but had yet to find anything satisfactory to hold a laboratory for kids. They could put that off until the second semester next year, which would allow those funds to be used.

Chairman Moyer made the motion to authorize Mr. McLelland to move forward with the financing plan, and to work with Mr. Hembree, the Board of Education and the School System to develop a means of bridging the gap on Sugarloaf so it could begin on schedule with the ability to roll it into a bigger financing package. Following some additional discussion, a vote was taken on the motion. All voted in favor and the motion carried.

HANCOCK COUNTY, MISSISSIPPI DONATIONS FUND

Presented for the Board's review and approval was a draft copy of the Community Foundation's Donor Advised Fund Agreement with the Henderson County Board of Commissioners to create a fund for Hancock County, Mississippi to collect donations and remit them to Hancock County to be used for Hurricane Katrina relief and recovery efforts. This specific action to create a fund for this purpose was approved by the Board in their resolution adopting Hancock County as a Sister Community at the December 5, 2005 Board meeting.

Mr. McLelland had spoken with Mr. McCray Benson, President and CEO of the Community Foundation of Henderson County, about setting up the fund. He noted that the County Manager was named the primary advisor of the fund and would make recommendations on behalf of the Board of Commissioners as directed. He also stated that there was a small management fee for the fund, which was charged on a quarterly basis. An initial contribution of \$5,000 would be required to create the fund, but Mr. Benson had indicated that would be waived in this case.

Mr. Benson stated that the Foundation was privileged to represent the independent sector and be a partner in participating with the community on this fund. He explained how citizens could contribute to such a fund, and how it would be sent on to the Hancock County citizens. Any contributions made to the fund would be tax deductible at the highest level, since the Foundation was a public charity.

Commissioner Baldwin made the motion to approve the agreement presented and to move forward with the project as outlined. All voted in favor and the motion carried.

WESTERN HIGHLANDS NETWORK PRESENTATION

Larry Thompson, past CEO of Western Highlands, presented Western Highland's semi-annual report. He highlighted the following points of interest for Henderson County:

- Total individuals served in FY 2005 were 2,715.
- Mountain Laurel served 1,785 clients.
- The total amount of state and Medicaid money that passed through Western Highlands for Henderson County was \$8.7 million.
- The recently approved Medicaid plan would change the categories of services provided, the biggest impact of which would be on Community Based Services (CBS). In Henderson County, CBS funds for FY 2005 were \$2,687,184. \$800,000 of that went to clients with developmental disabilities. At this point there was no alternative service in place to replace that.
- The Mental Health Oversight Committee was working to try to get resources allocated to help with crisis services, particularly operational money. Broughton Hospital is being reduced in size and will not be as accessible, so Western Highlands was trying to develop an alternative plan that would involve development of a crisis stabilization program.
- They were also working with the State to provide some resources that are physician managed. The reimbursement rates for that service had been reduced, and it no longer paid for itself.
- When studies pertaining to mental health reform were published in the late 1990's, they talked about 8-12 LMEs. There are currently 29. In October, Secretary Owen introduced a reorganization proposal that was based on 12 regional hubs for key services the LME's would provide. The State had recommended a 20 County LME for the western counties. Western Highlands had proposed that they be allowed to continue as an 8 County LME. No final decision had been made on that proposal.

Mr. Thompson answered questions from the Board regarding the future of mental health. He also introduced Arthur D. Carder, Jr., the new CEO of Western Highlands Network.

PUBLIC HEARING – REZONING APPLICATION #R-2005-06 (R-15 PROPOSED) COUNTY PLANNING STAFF INITIATED

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

Autumn Radcliff stated that in early November, 2005, Planning Staff had learned that three parcels split zoned by a County R-15 (Medium-Density Residential) zoning district and a City of Hendersonville R-15 (Low-Density Residential) zoning district, had been requested to be removed from City of Hendersonville's Extra Territorial Jurisdiction (ETJ). These three parcels, totaling approximately 40.27 acres, were located adjacent to Stoney Mountain Estates off of US Highway 25 North, and had access off Randy Drive and Lyndhurst Drive.

According to the City of Hendersonville, a request was filed by the property owners to remove these three parcels (the "Subject Area") from its ETJ. This means that the entire portion of the Subject Area will be placed back under the County's jurisdiction and would result in a portion of the properties being un-zoned. As a result, rezoning application #R-2005-06, was initiated by County Staff to rezone the remaining portion of the Subject Area to a County R-15 zoning district if the Subject Area is removed from the ETJ for the City of Hendersonville. The County's records indicate that CR Wilkes Inc., Thomas L. Tatham Farm Inc., and Deborah Cobb Baldwin own the three parcels in question. Per Henderson County tax records, the Subject Area contains the following parcels:

- CR Wilkes Inc. - PIN 9660113349
- Thomas L. Tatham Farm Inc. - PIN 9660009720
- Deborah Cobb Baldwin - PIN 9660105646

The Henderson County Planning Board first considered rezoning application #R-2005-06 at its regularly scheduled meeting on Tuesday, December 20, 2005, at which time the Board voted unanimously (7-0) on a motion to send the Board of Commissioners a favorable recommendation on rezoning the Subject Area to an R-15 zoning district. The Hendersonville City Council held a public hearing on relinquishing the Subject Area from the City of Hendersonville's ETJ on Thursday, January 5, 2006, and approved the application effective Wednesday, January 18, 2006. Before taking action on the application, the Board of Commissioners was required to hold a public hearing. In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the January 18, 2006, public hearing regarding rezoning application #R-2005-06 were published in the Hendersonville Times-News on December 28, 2005 and January 4, 2006. The

Planning Department sent notices of the hearing via first class mail to the applicants and owners of properties adjacent to the Subject Area on January 6, 2006. Planning Staff posted signs advertising the hearing on the Subject Area on January 5, 2006.

The subject area was approximately 4/10 of a mile east of the Henderson County Landfill, and approximately 2/10 of a mile north of Stoney Mountain Road. The area was split zoned by County R-15 that had been in effect since at least January, 1981. The area was approximately 245 feet west of the City of Hendersonville's R-15 medium density residential district. It was also in close proximity to a County C-2, and a County I-2 zoning district.

County R-15 is a medium-density residential zoning district allowing no commercial activities by right. Site-built and modular residential dwellings are permitted by right, while manufactured homes are not permitted. The standard lot size is a minimum of 15,000 square feet (.34 acres), with a minimum lot size per dwelling unit of 7,500 square feet for buildings with two or more dwelling units. Unless otherwise allowed through a Special Use Permit, setbacks are as follows: 75 feet from the centerline of major streets and 50 feet from the centerline of all others; 15 feet from the side and rear property lines; and a maximum building height of 35 feet for principal structures.

In comparison, Hendersonville's R-15 is a low-density residential zoning district allowing no commercial activities by right. R-15 allows by right single-family dwellings, and two-family dwellings. Manufactured homes are not permitted. The standard lot size is a minimum of 15,000 square feet (.34 acres). Unless otherwise allowed, setbacks are as follows: 30 feet in the front; 10 feet from the side; 15 feet from the rear; 85 feet minimum lot width at building line; and a maximum building height of 35 feet.

Looking at the surrounding area, most uses within the vicinity of the Subject Area are residential or undeveloped. It does not have access to public water or sewer, but there is a water line approximately 290 feet south, and another one approximately 400 feet east. There was a public sewer line less than ½ mile south west of the subject area. The County Comprehensive Plan (CCP) identified the area as being in an Urban Services Area, and in an area identified for conservation. The conservation designation was due to the steep slopes located in the area.

Based on Staff's review, they supported the R-15 zoning which was already on part of the area.

Public Input

1. Dave Duggin – Mr. Duggin stated that he was a neighbor of David Bayless, and was present to make comments on Mr. Bayless's behalf. He read the following: "Our family has six lots that are adjacent to three parcels that the County's Staff has initiated for rezoning applications R-2005-06. Because of the owners request that these properties be dropped from the City of Hendersonville Extra Territorial Jurisdiction, leaving them unzoned. We have been notified that a hearing be held on this issue today, January 18th at 11:00 am. We advocate zoning, and have in fact had our property zoned by our request with the guidance and leadership of a professional planner, Bill Lapsley. We feel the zoning proposed by the County Staff is in keeping with the adjacent zoning of our property. We support the County's Planning Staff's recommendation to zone these parcels to R-15 and urge you to support the decisions made by the Henderson County Planning Department."
2. Frieda McCoy – Ms. McCoy stated that she was at the base of the land that was planned for development. She questioned how building above her would affect her well and septic tank. Chairman Moyer stated that this was not an application to develop, but was just for the zoning aspect.

Ms. Radcliff stated that future plans could not be taken into account during a zoning. However, in the event that the property was developed into a subdivision, it would have to comply with the R-15 zoning and would be dependent upon septic systems.

Commissioner McGrady made the motion to approve the rezoning application R-2005-06, zoning the land R-15 as requested, finding that zoning classification to be consistent with the CCP. All voted in favor and the motion carried.

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

PRESENTATION OF HSMM BUILDING ASSESSMENT FOR THE TUXEDO ELEMENTARY SCHOOL

In November of 2005, the Board of Commissioners authorized the firm of Hayes, Seay, Mattern & Mattern (HSMM) to conduct a building assessment of the Tuxedo Elementary School. HSMM had completed this assessment and a copy of the "final" preliminary draft was presented to the Board. Ladson Brearley and Kevin Ultiz from HSMM were present to give their final report to the Board.

Mr. Ladson noted that HSMM had been asked to look at the building, make some recommendations on what it could be used for and what it might cost, and what its current state was. To do that, they took an architect, a structural engineer, a mechanical engineer, an electrical engineer, and an asbestos inspector to examine the building. Mr. Ultiz stated that their review of the project was for an as yet undetermined use, to determine the feasibility of renovation. He discussed the following observations from the assessment:

- The site was terraced on three levels, and the views to and from the site were very good
- Public water and sewer were not available at this time
- The kindergarten building was block and brick construction, and generally in good condition
- The canopy connecting the buildings was not in good condition, and would likely not be maintained
- The main building was a classic two story structure from 1924, with an addition from the early 1950's
- The main building was in good condition, with no significant structural problems in evidence
- Air conditioning was not present in either structure
- Plumbing fixtures would have to be replaced
- There was no fire protection system or sprinklers in the building
- Regarding electrical conditions, there were minimal outlets, suspended fluorescent lighting was in various states of repair, and computer cabling would have to be readdressed
- There were problems with walkways, and linoleum in the single story building
- Other materials would have to be tested, but there was likely lead paint, PCB's in light fixtures

Mr. Ultiz stated that something that had happened at the beginning of the year, that could have a great effect on the building, was the adoption of the North Carolina Rehabilitation Code statewide. The intent of the code was to try to save buildings that otherwise might have fallen into disrepair or been torn down. Two main principals of the Code were that first, undertaking a rehabilitation project does not require that all components of the building be affected, and no building should be made less safe than it was when the project began. Any addition that might be added to the building would fall under the North Carolina building codes and be to correct code standards.

Developing a budget for the project had been difficult since the final configuration of the project had not been determined. Therefore, HSMM had provided some options, included in the following categories:

- Category 1 – The most basic of renovations so that the building meets the bare minimum code requirements. This building would have a very low intensity of use such as storage, polling place or law enforcement training. Basically, to continue the buildings current use with renovations intended to preserve the building.
 - Construction costs - \$770,275
 - Soft costs - \$292,705
 - Total project cost \$1,062,980
 - \$52 per square foot
- Category 2 – This level of renovation would be intended to bring the building up to modern standards so that the building could be reused in a manner similar to the former use as a school. Potential uses would be county offices, community building, or light retail.

- Construction costs - \$1,331,275
- Soft costs - \$545,823
- Total project cost \$1,877,098
- \$93 per square foot
- Category 3 – This would be the most extensive renovation so the building would be brought to modern standards and adapted for a more intensive use. Potential uses would be a healthcare, residential or assisted living facility.
 - Construction costs - \$2,144,775
 - Soft costs - \$943,701
 - Total project cost \$3,088,476
 - \$153 per square foot

Ted Alexander, Southwest Regional Director of Preservation North Carolina, thanked the Board for the cooperation shown by the County on this project. He stated that the information found in HSMM's was quite informative, and that they had done a good job in laying out the various scenarios. He was concerned that some of the estimates might be on the high side, but understood the need to proceed cautiously. He continued with some additional discussion about the cost estimates. Mr. Alexander understood that the building was currently owned by the School Board rather than the County, but that if the County were to pursue acquisition of the building, Preservation North Carolina would be pleased to work with the County. They would also welcome working with the School Board, stating that their main desire was to see the building put back into productive reuse, and preserved as an important part of Henderson County history.

TUXEDO COMMUNITY LIBRARY AND RECREATION PROJECTS

Chairman Moyer updated the Board on the most recent events surrounding these projects. First, Nancy Green, owner of the property containing the existing library, had indicated a willingness to have a 99 year lease on the current library site. She had also indicated a willingness to extend the site to accommodate a bigger library, or community room. Additionally, Dr. John Bell had contacted the Chairman and stated that he was interested in helping the County acquire property for a park. He suggested that he would be willing to lease a five to six acre park located on the river, exchange it for some properties that the County already owned, or sell the property to the County. His strong preference though, was an exchange of property. Following additional discussions about terms and pricing, Dr. Bell had suggested the County get an appraisal on the property and determine whether moving forward was a viable option.

Justin Hembree reminded Staff and the community that there had been a longstanding desire, by both citizens and the County, to develop a recreation facility in the Tuxedo area. Likewise, there had been an interest in finding a new home for the Green River Branch Library. These projects had been formally placed on the County's "to do" list through the current Capital Improvement Program (CIP) and County Strategic Plan (CSP). The County's current CIP included a "place setting" of \$1 million for a library and park project in the Tuxedo community. It was evident through the capital and strategic planning processes that the Board of Commissioners had determined that the Tuxedo library and park project is one of the County's priorities.

During the preliminary planning stages of this project, staff developed a conceptual plan that proposed the use of the Tuxedo School site for a combined library and recreation project. Specifically, staff's initial conceptual plan called for demolition of the main Tuxedo School building, renovation of the site's auxiliary building for use as a new branch library, and use of open space on the site for active and passive recreation areas. An estimated budget for this plan was developed within the \$1 million set aside in the CIP. However, after much consultation with professionals in the engineering, construction, and design fields, it became obvious that the original estimated budget was unrealistic. Along the same line, estimates for the renovation cost of the main Tuxedo School building for use as a County facility range from \$2 million to more than \$3 million, depending on the use. Furthermore, many citizens voiced major concerns with the proposed demolition of the main Tuxedo School building. Based on these facts, staff began looking at other options to meet the library and recreations needs of the Tuxedo community. Information gathered through staff's analysis of the project and other pertinent information was provided for the Board's review.

Based on information gathered by staff, information provided by professionals, and citizen input, staff recommended the following actions:

- 1) Amend the County Strategic Plan to address the Tuxedo library and recreation projects separately, not as a combined project.
- 2) Pursue the long term lease for the library's current site, and expand that facility to meet the needs of the community.
- 3) Request that the Board direct Staff to proceed with getting an appraisal of the Bell property, and determine its potential use for a park.
- 4) Inform the Board of Education that the County has no interest in purchasing the Tuxedo School property.

It was generally the consensus of the Board to pursue an appraisal of the Bell property for a potential park, and keep the library at its current location with the long term lease and expansion possibilities. Commissioner McGrady suggested sending the HSMM building survey to the School Board for their use when they put the property back on the market. Commissioner Young stated that regarding the current library, it should be determined whether it needed to be expanded now, or at a later date. Commissioner Baldwin stated that rather than informing the Board of Education that the County had no interest in the School property, he would like to hear more about the possibility of a partnership where the County could help facilitate exchange of the property for possible use by Preservation North Carolina. Chairman Moyer stated that he wished to continue to explore the option for an exchange of property with Dr. Bell, while proceeding with an appraisal. Commissioner Messer pointed out that the Bell property was located along the river, and stated that in a second phase the county could consider some additional walking trails.

Commissioner McGrady made the motion to amend the County Strategic Plan to address the Tuxedo Library and the recreation project separately, and not as a combined project. All voted in favor and the motion carried.

Commissioner McGrady made the motion to direct staff to pursue a long term lease of the current library property, and ask the library staff and Library Advisory Board to come back to the Board with a plan for improvements and/or expansion of the current library based on the need there. All voted in favor and the motion carried.

Commissioner McGrady made the motion to authorize staff to get an appraisal of the approximately six acre tract currently owned by Dr. Bell or his family for potential use as a county park in the Tuxedo area. Chairman Moyer asked Commissioner McGrady to expand his motion to cover a possible exchange of property. Commissioner McGrady expanded the motion accordingly. All voted in favor and the motion carried.

Commissioner McGrady made the motion to inform the Board of Education that the County had no interest in purchasing the Tuxedo School property, and provide the Board of Education with the building assessment of the Tuxedo Elementary School the Board had undertaken. Chairman Moyer questioned whether Commissioner McGrady would change his motion to inform the Board of Education that it was not the County's current plan to purchase the property from the Board of Education, but to inform them that there were groups such as Preservation North Carolina who had expressed an interest, and if the County could help facilitate a community use we would do so. Commissioner McGrady withdrew his motion. Following additional discussion, Commissioner McGrady made the motion that the County inform the Board of Education that the County had no interest in purchasing the Tuxedo School property, and that the County provide the Board of Education with the building assessment of the Tuxedo Elementary School the Board had undertaken. He further moved that the County inform the School Board that the County would entertain an effort to work collaboratively with them in terms of redevelopment of property for the benefit of the community. All voted in favor and the motion carried.

The Board took a brief technical recess.

ELECTIONS EQUIPMENT

Selena Coffey reminded the Board that at the last meeting, they had requested that Staff bring back a more firm recommendation on the direction the County should go on this matter, as well as financing proposals for the equipment being sold by ES&S. Presented for the Board's review was the Board of Election's Resolution recommending the purchase of Direct Voting Electronic (DRE) equipment. Also presented were the equipment costs/financing estimates for the DRE equipment and Optical Scan equipment.

Ms. Coffey noted that staff had hoped to have more information from the legislature regarding where discussions were going, and whether the General Assembly planned to convene to discuss this issue. However, they had not and in two days the County was expected to have at least signed a contract to purchase equipment. She stated that Staff was uncomfortable with the short time frame provided to handle the situation, and the lack of a formal bid process.

Elections Director Beverly Cunningham thanked the Board and Staff for all the work that had gone into this equipment purchase. The County had tested three different DRE systems, in 2000, 2002 and 2004 during one-stop voting. In the 2004 election, 7,135 early voters had voted using the DRE equipment. When the machines were totaled on election day, she was happy to report that the machines had totaled up to 7,135 voters, coming out exactly as Elections staff showed they should. Voters had seemed happy with the DRE equipment. Ms. Cunningham also informed that Board that a committee appointed by the Chairman of the Democratic Party had studied the voting machines and what recommendation should be made. Following several meetings, in December that Committee had recommended to the Board of Elections that the County purchase the DRE equipment.

Staff had attended demonstrations of the DRE and Optical Scan equipment systems. Shortly before Christmas, the State informed counties that Diebold was pulling out of the certification process, which left ES&S as the only vendor. The Board of Elections had looked at ES&S' equipment, had held a public input forum, and on January 10th had passed a resolution to recommend the purchase of the Direct Record Equipment. The Board of Commissioners' had until January 20th to approve purchase of the recommended equipment.

Ms. Cunningham answered several questions from the Board. She stated that Transylvania, Haywood and Madison County had all voted to go with the DRE machines. She also discussed the costs associated with both systems, noting that while the DRE had a higher initial cost, the fact that paper ballots had to be purchased each year for the Optical Scan system made the overall costs even out a 10-12 year period. There were also costs associated with the number of people that would be necessary to count paper ballots on election night. There followed much additional discussion on the options available to the Board.

Carey McLelland explained that the financial information presented to the Board were estimates based on the purchase of 250 or 350 DREs or Optical Scan equipment. Based on the latest information, he had requested some bank bids based on the total maximum cost the County would need to purchase 259 machines, which was \$625,000. Bank of America was the lowest responsive bid at 3.70%, which was good through March 9th.

It was the consensus of the Board to roll this item to the beginning of a meeting already scheduled for 4:00 the following day, January 19, 2006.

FLU PANDEMIC PREPARATIONS

Rocky Hyder reminded the Board that Staff had been working on preparations in the event of a flu pandemic. Emergency Management, the Health Department, EMS, the Sheriff's Department and the hospitals had been involved in the planning process. Mr. Hyder noted that a seasonal flu virus might be an epidemic, but would not qualify as a pandemic, which was described as: "The outbreak of disease that occurs when a new influenza type A virus appears or emerges in the human population. It causes serious illness and then spreads easily from person to person worldwide." Mr. Hyder pointed out that the bird flu currently did not have the capacity to spread from person to person. He then gave a history about pandemic viruses in the United States, discussing the 1918-1919 Spanish flu, the 1957-58 Asian flu, and the 1968-69 Hong Kong Flu. The Spanish flu caused the largest amount of deaths, with fewer casualties during the Asian flu, and fewer still during the Hong Kong flu.

Pursuant to the ordinance passed by the Board in September, 2005 adopting the National Incident Management System, Staff had prepared an incident action plan to outline the objectives to be met in a pandemic situation, as well as the more detailed activities which would be implemented to control a pandemic. The major objectives were prevention, detection, disease control treatment, and mass care and support services that might be required for the community. The incident action plan was designed to pull multiple agencies together, identify the priorities and address tactical operations to achieve those priorities and assign the resources necessary to achieve the mission.

Mr. Hyder stated that while there is a very good detection system established at the State level, there were not good communications at the local level with regard to flu. There are certain diseases that are required to be reported to the Health Department, but the flu is not one of those diseases. He requested the Board's support in encouraging local medical care facilities to cooperate in the establishment of a local flu reporting system. There followed much additional discussion about the need to establish reporting protocols within the County to identify a potential flu pandemic as quickly as possible.

Mr. Hyder also discussed possible issues related to the availability of resources during a pandemic, such as vaccines and ventilators. Also discussed were the Communications Plan, Medical Plan, Incident Intelligence Summary, Outlook and Operational Planning Worksheet. He answered several questions from the Board regarding personal protective equipment, the use of flu medications for health care workers, and what steps could be taken at the state and local level to mandate communications.

CLOSED SESSION

Chairman Moyer made the motion to go into Closed Session pursuant to NCGS 143.318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment or conditions of initial employment of an individual public officer or employee, or prospective public officer or employee, or to hear or investigate a complaint, charge, or grievance by or against a public officer or employee. All voted in favor and the motion carried.

PUBLIC HEARING – QUASI-JUDICIAL HEARING FOR ASSIGNED ADDRESS APPEAL

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

Chairman Moyer – “I think as you know and, Mr. Feldmann I, I uh, will mention just so you're, are sure, this, we have to do this as a quasi-judicial proceeding in the matter of the appeal of uh, Clement Peter Feldmann where Mr. Feldmann is the applicant. A quasi-judicial proceeding is much like a court proceeding, it's one in which one's individual rights are being determined under specific rules of procedure. So we can't be as flexible as you have well noticed we are on many occasions. As such not every person has a right to give evidence in a quasi-judicial proceeding or to participate. Under the Rules of Procedure for Quasi-Judicial Proceedings, only persons who can demonstrate that they will be affected by the outcome of the decision are allowed to participate in the proceedings.

All persons who are allowed to speak and participate in the hearing, including all witnesses that will be called, must be placed under oath. Proceedings will be as follows, the Board will ask any persons other than the petitioner and the Henderson County enforcement staff, who desire to become parties to this action, to explain how they will be affected by this proceeding. For example there may be the owner of an adjoining parcel of property or some other special and unique interest that justifies their participation as a party. You should understand that you do not have to be a party in order to testify in this proceeding if some other party calls you as a witness. Then all witnesses and parties will be sworn in as a group to tell the truth, and that's where we'll add your part. Uh, the Board will then have the Enforcement Staff summarize the petition, and what is sought by petitioner. The Board will then have the petitioner or the petitioner's attorney present their evidence in support of the request. Each party will have the right to ask questions of the witnesses, and then there'll be additional evidence, cross examination, etc. as we proceed.

The Board of Commissioners obviously has the right to ask questions at any time as they deem appropriate. After the evidence is presented the Board will discuss the issues raised and will make a decision. The Board's decision must be made in writing within 45 days of the hearing, and at this time we will now identify the

parties. The Board acknowledges the petitioner, Peter Clement Feldmann. If you'll come forward Mr. Feldmann. And the Enforcement Staff, Toby is that gonna be you? Toby Linville, as parties to the proceeding. And if you'll just stand over here for a minute to be sworn in. Are there any other persons present who believe they have uh, an interest in this proceeding? You can demonstrate that they will be affected by the outcome of this proceeding. Has anyone indicated to you Mrs. Corn that they wish to be a party to this proceeding?"

Elizabeth Corn – "No sir."

Chairman Moyer – "Okay. Persons uh, please come forward, state your name address, um, to the Clerk and she will, now then swear in all parties and witnesses. Mr. Feldmann if you'll step over here to be sworn in, as Mr. Linville will. You can do it, you can do it together."

Elizabeth Corn – "Each of you needs to put your left hand on the bible, raise your right hand, left hand on the bible, raise your right hand. Do you swear, or affirm, that the testimony you shall give to the County Board of Commissioners shall be the truth, the whole truth, and nothing but the truth so help you God?"

In unison – "Aye."

Chairman Moyer – "Alright Mr. Feldmann if you'll have a seat we will begin with the presentation of the staff overview of the matter. And then you'll have a, a chance a little later. Toby, you wanna go ahead?"

Toby Linville – "Good afternoon. Um, this appeal comes after uh, Mr. Feldmann's address was changed by public hearing in February 20th of 2002. Um, there was a very large, that was one of the first public hearings after the addressing push occurred. Um, there were thousands and thousands of new addresses. Um, Mr. Feldmann's been getting mail at different addresses as, as most of us do when people make errors and luckily has been getting his mail. But he came in to see Curtis to see how his address was listed and, and he told him that it was 330 Spring Blossom Drive. And he's appealing that decision which ultimately was made um, in 2002. I'll be glad to answer any other questions."

Chairman Moyer – "Why was he given that address as part of the uh, process we went through?"

Toby Linville – "I think when Mr. Feldmann moved to this property he may have been the only house on this drive. But there've since been two, two more houses built which constitutes a road name creation. That's when Spring Blossom Drive was created and uh, that's when he was given that address."

Chairman Moyer – "So, when there's more than two on a uh, road, you have to designate it as a private road or drive, and then you name it."

Toby Linville – "Correct."

Chairman Moyer – "And then the people on there, you change their address to uh, whatever the new name of that street is. But they can no longer be identified if their drive used to enter off X Road, they can no longer have an address off X Road, it has to be the new drive."

Toby Linville – "Correct."

Chairman Moyer – "Having lived through that I understand that very well as you can see. Alright, any questions for Mr. Linville at this time? Mr. Feldmann, this will be your chance to present uh, your case to the Board."

Clement Feldmann – "I thank you and uh, to a degree I apologize for the rather parochial nature of this appeal, it seems to apply to me. However, I've been stewing over it for some five or six years, discussed it with many, many people, and have come to the conclusion that it affects many other people than me. It affects the integrity of uh, Henderson County. And uh, I do feel I have an obligation not only to my own well being and that of my family, but to the other citizens of this county. I had in the past been very active in civic affairs. As you can

probably tell, I'm a half back yankee, retired for 15 years or 12 or...but I'm now a happy resident of the mountains of North Carolina. I have a piece that I would like to, I think it will be much easier if we walk through this."

Chairman Moyer – "Go to the, give those to the Clerk and admit, and uh. Does Mr. Linville have a copy of that? Yeah he needs a copy and he will have the right to object to any of this if he so chooses."

Clement Feldmann – "I met with Mr. Linville yesterday and attempted to discuss some of these things but we just didn't seem to be able to have a meeting of the minds. Okay, with that material in front of us, and uh, the first page of the presentation is for my information not yours. I think you know who these gentlemen are. Uh, up until this morning I did not and I must confess my lack of participation in civic affairs the last 12 years. I moved here because of my wife's ill health. And that will be further evidenced in the, paging through. The next few pages are your law as passed regarding emergency 911 addressing. We can refer to it if needed as part of the discussion. The following page from Black's Law Dictionary. I in no way propose to be an attorney, that's what son does. He's a trial attorney. But by force of circumstance and the fact that uh NAFTA retired me by destroying my apparel business I have found myself necessary to be my own attorney and have appeared in several probate cases, one that lasted three years in Florida. I'm happy to say that I was able to prevail in that case. And I placed strong credence on Black's Law Dictionary and the definition of term when interpreting actions or what may or may not have happened. With that, we can come back to that.

The next page is the road name petition form which I executed back in about 1991 I believe it was when the 911 commission was just being formed. I think I was one of the first persons through the door at the courthouse when um, Susan Sneed was in charge of that division. We came up with the name Forge Crest Drive for the road which had been graded past my property on up till the Fullam property. And I got together with Don Fullam since he had a major interest, with a major development going in up above, and we elected Forge Crest as the name for that drive. And there were five people on it at that point in time and they all signed the property owner's petition on the back. And then the County went ahead and enumerated our addresses according to the formula uh, divided the number of feet from the intersection by 5.35 I believe it is or 85, and addresses were assigned to each of us. And I assumed that uh, took care of that.

The next is a map showing the curved road, that is all my property frontage. There's 3 1/2 acres with about 700 feet on Forge Crest Drive. The next page is an aerial of the same thing and my home appears there in the right hand corner. And my drive comes down and you'll see it in another condition, to Forge Crest Drive. Another map of the same thing showing the drive then going on up to the Fullam's development up on the top of the mountain. And we make come back to this in reference to North and South Forge Crest Drive, which is the split at the top of that page. That V split, the road is then identified as North to the right and South to the left.

Photos of my home from Forge Crest Drive, and the drive going down. To the right of the chimney there, on that desk, I established uh, I might say in a word of explanation my wife had received a heart transplant a number of years before we came to the mountains. We had to leave Florida because of the strain on her heart from the temperature. I was very, very concerned. I knew she was in a terminal state. We were fortunate enough to have ten more years, but I was extremely conscious of the 911 necessity and my dependence upon it. That is why...need early on, before the road was even paved. You'll see the next page is photos from inside my house looking out over the mountains. Which is why we came here. And then the photo of my driveway, and this will be a matter of intention and definition, whether it's my driveway or a right of way. And I will refer back to Black's Law dictionary for definition of term to support my case that my driveway goes down to Forge Crest Drive.

There are two neighbors above me that have a right-of-way over my driveway and accordingly, they have to have a name for their right of way, and they elected, or one of them elected contrary to the law that specifies that at least two thirds must name a street. Only one person signed that petition to the best of my knowledge. And the uh, they have been unable to find any records to refute that. So this whole dispute is really, is my address legally Forge Crest Drive or Spring Blossom Lane. And the ... says Spring Blossom Lane because my drive runs into it. But by definition my drive, by lawful definition, a driveway is, what a right-of-way is, my driveway goes to Forge Crest Drive. To me it's more than an academic question.

Uh, my sole asset is now this piece of property. To be identified on Spring Blossom Lane as against Forge Crest Drive where I have three and a half acres and 780 feet looking out over the mountains is not only distasteful to me by I have run it by many, many people and they thoroughly agree, uh, that I would be damaged if and when I need to sell my property if it's identified as Spring Blossom Lane. That's a secondary question, that's not the. The main thing is here you'll see the next page more photos of my driveway. By law I do not have a right-of-way. A right-of-way can only be on somebody else's property. So I maintain that is my driveway to Forge Crest Drive. And notice my neighbors all still carry the Forge Crest Drive numeration on their mailboxes as well as Spring Blossom Lane. The neighbor directly above me has a Forge Crest Drive identification at the beginning of his driveway 'cause he said he hates Spring Blossom Lane.

Um, next is a devise which was being produced in Fletcher at the very time 911 was being established. And I was thrilled to find it. And establish it, and it is on that second level eave of my home and can be seen probably a quarter of a mile down the road. And when I dial 911, if it's fire, red flashes, if it's medical, white flashes and if it's police blue flashes. So there is absolutely no difficulty in identifying my property. By the time you get to Spring Blossom Lane you've gone by that and you wouldn't see it anymore. So from a practical standpoint, and again respecting the necessity for 911, believe me I do, I made that investment.

From here on out you're just going to see a compilation and again in rereading the law and I've read it many times, it states that the 911 address does not have to be the same as your mailing address. But some how or other it has absorbed my mailing address which I consider 135 Forge Crest Drive. It's the only address I have ever given to anyone as my address, and all my credit records, my property records, 135 Forge Crest Drive. You'll find this in this uh, Asheville North Carolina, the Hill-Donnelly Corporation, and here my age showed up and I went to the library and asked for the Polk Directory, and they said we don't have the Polk Directory, we have the Asheville and Henderson directory. But it used to be the R.L. Polk Directory, so I'm telling on myself a little bit but now it's the Hill-Donnelly. Nowhere in this directory for 2005 does Spring Blossom Lane appear. My property appears on Forge Crest Drive. And I say this in reference to the fact that an address is more than a 911 reference, and I recognize the full important to that. In fact I had the need to call 911 within the last two weeks, and in both cases the operator asked me now are you up beyond the gate. Which would indicate North Forge Crest Drive and I said no, I'm well below the gate...and in both cases they found me. But, but they asked for that description from. I am also receiving mail. In fact I'm, and you will see a copy, the letter from your, or our Health Department, that was delayed two to three years in getting to me because it was addressed to Forest Acres Drive. Where that one came from I will never know, but I do continue to get mail, the Forest Acres Drive.

I have discussed this matter with the new postmaster at the mass distribution center in the mail distribution center in Asheville and explained my problem to him and he can say I can really understand why you do not want to be identified on Spring Blossom Lane. Let me see if I can be of any assistance to you. I spoke to him again some 10 days later and he said unfortunately, I can be of no assistance to you in Henderson County. If you were in Buncombe County this matter would be resolved without any difficulty.

We followed then with numerous phone book listings with mail that I received. North Forge Crest Drive, where this comes from I do not know. The first one, a Christmas card from my neighbor who named Spring Blossom Lane, and I notice on his return address he calls it Spring Blossom Drive. So um, the names that are given are beyond my comprehension. Here we have from Henderson County Emergency Medical Service, and I just received this about six weeks ago even though one of the billings took place in 02, and that one ended up being address to 135 Forest Acres Drive. I asked them where they got that address, they said we did not prepare that mailing we had the uh, the County prepare the mailing so I came down to the courthouse and I checked with vehicle addressing and home addressing and they never prepared such a thing but fortunately there was a lady across the hall on that first level. And it said addressing or something on the door, and she was very, very cooperative. Called somebody else in who said yes, we did this for the Emergency Medical Services, but we farmed it out to somebody in uh, Raleigh Durham I believe. All of which points out the fact that I've lived for some 75 plus years in probably 15 locations and had one address in each location for all those years. But I have lived here for some ten years and I've got five addresses right now and uh, and I just hate to think what the future holds.

Uh, the result of all of this is I frequently do not get mail delivered although I frequently do if it carries a proviso that uh, the address has to be such and so then it goes back. Which would include my bank checks if I order bank checks they can't deliver them to my address. I discussed this with my bank and they said you ever have this problem with anybody else and she said it's a nightmare. That's not a direct quote but she just rolled her eyes and said addressing is a significant problem.

I talked to my propane gas company. They have two addresses on my bill. One where they send to bill, which is the 33 Spring Blossom Lane but another one where they deliver the gas which is Forge Crest Drive. Their drivers wouldn't have the faintest idea where to find Spring Blossom Lane. Uh, I've had numerous encounters with UPS and FedEx deliverymen asking for help and trying to find various locations that their address was incomprehensible to. The rest of it is just again examples of the multitude of misaddressed deals. A real wealth of them came through at Christmas time with all of these very nice stickers which I would be very happy to contribute to, but none of them mean anything to me because the addresses are all wrong on them.

Um, I don't know what I'm asking for other than help and guidance and how do I deal with this problem. Uh, it's, if the mail address doesn't have to be the same as the 911 address even though I believe my 135 Forge Crest Drive is a more secure uh, I am concerned about the health and wealth for my family. If I could at least get my mail at the address which means something. Addresses don't just mean 911, they mean when guests come from out of town they look in the phone book and find out where to find you. Or if they want to send you a Christmas Card or what have we, an address is a very important part of our lives and to have it messed up as it is at this point in time, and I don't think I'm the only one in the County that shares this opinion, I asked for redress in this regard and uh, all that would be achieved I believe in your hands. I'm ready for questions."

Chairman Moyer – "Um, we'll ask Mr. Linville."

Clement Feldmann – "I will, I would, I had just one more thing. There were a pile of new phone books if you noticed, at the foot of the stairs downstairs. I picked one up just within the last half hour. My address is different in that phone book than it was in the year before. It's Spring Blossom Lane in there. It was Forge Crest Drive the year before. This is how people find me."

Chairman Moyer – "Mr. Linville, do you have any objection to any of the information in the packet that was given to us by Mr. Feldmann?"

Toby Linville – "No sir."

Chairman Moyer – "Alright. Do you have any questions for Mr. Feldmann?"

Toby Linville – "No sir."

Chairman Moyer – "Uh, Mr. Feldmann and the Board, I have some questions if you'll look in your packet of information. I wanna be sure I understand this."

Clement Feldmann – "Okay."

Chairman Moyer – "First dry, diagram."

Clement Feldmann – "I'm sorry, once more."

Chairman Moyer – "The first uh diagram if you will or map, or whatever you wanna call it following the petition for you address. This one."

Clement Feldmann – "Yeah, okay."

Chairman Moyer – "I want you to work me through, you live on lot 6 is that correct?"

Clement Feldmann – “I, lot 6, right. And if you look at it in this manner I am right here.”

Chairman Moyer – “Right. And the name of the road in question runs between lot 6 and 4 and 5.”

Clement Feldmann – “Runs along the border there.”

Chairman Moyer – “And that’s Spring Blossom Lane?”

Clement Feldmann – “It runs to lot 8. It runs the right-of-way, there’s a right-of-way across lot 7 and actually that stops at the border of lot 8. So it only runs across the two lots. And in the case of my lot it’s not a right-of-way by definition of what a right-of-way is. It’s a right-of-way to lot 7 and 8, but not to me. It is a driveway to me.”

Chairman Moyer – “What is the, what addresses do lots 4 and 5 have?”

Clement Feldmann – “Um, I’m not sure. Good question. I don’t know why I didn’t uh, raise it. I think uh, one of those lots was um, lot, lot 5 definitely enters off of Forge Crest Drive. Lot 4, I’m trying to think, it also enters off of Forge Crest Drive. And then you’ve got Hunters Ridge that it ... across the bottom to the right is Hunters Ridge. To the left is the run, uh, right-of-way that was never used and I intend to have that set aside because it was put in there just to get financing for those lots. And it can go nowhere, the mountain comes up sharply.”

Chairman Moyer – “On this same diagram that we have where is your driveway, enter off of the wherever that...”

Clement Feldmann – “We’re looking at the same drive, the same we just looked at? Right at the top, right where uh, the curved Forge Crest Drive meets the straight line across the top of the property. Maybe it shows up on the photo on the other, next page a little better. Yeah, if you’ll look at the photo on the next page it’ll be.”

Chairman Moyer – “Well I have to admit I’m confused. Maybe the rest of, I understand that but uh that, I don’t, where is his access off of uh. Maybe I better ask, where is his access off of Spring Blossom Lane. I don’t see that. No, stand.”

Clement Feldmann – “Well, Spring Blossom Lane and my driveway cover the same piece of pavement if you will. But I’m saying by legal definition that is not a right-of-way to me.”

Chairman Moyer – “Well let me hear from, let us hear from Mr. Linville with respect to this.”

Clement Feldmann – “Okay.”

Toby Linville – “Mr. Chairman I can, I can show you or I can describe it. I’ve got a, I’ve got one of our clear GIS aerials here.”

Chairman Moyer – “Do you have copies for everybody?”

Toby Linville – “I’m afraid I don’t. Would you like to?”

Commissioner Baldwin- “Pass it down.”

Chairman Moyer – “Yeah. Explain it to us then pass it down because I have to admit this is not clear to me.”

Toby Linville – “Okay. This is Forge Crest Drive um.”

Chairman Moyer – “Well, me get it in, in sync here. Now I got it the same way right, or not.”

Toby Linville – “Correct.”

Chairman Moyer – “No, here’s Hunter View down, oh, Hunter’s Ridge. Okay.”

Toby Linville – “Yeah there, there’s the curve.”

Chairman Moyer – “Right.”

Toby Linville – “Forge Crest. Spring Blossom is the private road that comes off.”

Chairman Moyer – “Off here. But his driveways way up here. That’s.”

Commissioner McGrady – “Well actually this is backwards.”

Commissioner Baldwin – “Yeah, it’s that way.”

Commissioner McGrady – “That way. See.”

Clement Feldmann – “I repaved.”

Toby Linville – “Run, runs along here. That’s where Spring Blossom runs. But that’s his house there. See where his drive cuts into the road coming out there.”

Chairman Moyer – “Oh. See well that’s what I was asking. It does not cut into here. That’s what see, we were.”

Commissioner McGrady – “No. It’s, here’s the driveway. In here.”

Commissioner Messer – “Comes out and goes in right here.”

Chairman Moyer – “Yeah. Yeah, okay now that makes sense.”

Clement Feldmann – “...photo I think you can see that clearly.”

Chairman Moyer – “I could not I, cause I couldn’t figure.”

Commissioner McGrady – “I had it backwards.”

Chairman Moyer – “I had it backwards too and it wasn’t making any.

Toby Linville – “...Spring Blossom Drive and that’s his driveway.”

Clement Feldmann – “Now what’s deceptive about this is that, while this is all my driveway and on my property and by legal definition not a right-of-way to me, I repaved this. I will. It’s necessary for...blacktop. The rest of my drive is two... because it’s all my driveway. This is all my driveway.”

Commissioner Baldwin – “Is there a state maintained road on this map? On this map?”

Toby Linville – “Yes.”

Commissioner Baldwin – “Which one is it?”

Clement Feldmann – “Forge Crest.”

Commissioner Baldwin – “That’s state maintained?”

Clement Feldmann – “Yes.”

Commissioner Messer – “Spring Blossom is not? It’s a private drive?”

Chairman Moyer – “And the problem is created by this house and this house?”

Toby Linville – “Correct.”

Chairman Moyer – “And they have addresses on Spring Blossom.”

Toby Linville – “Correct.”

Chairman Moyer – “And here’s the third one and that was moved from, when these other two were added that became now an access road or right-of-way or etcetera, but, instead of a driveway.”

Clement Feldmann – “Right-of-way to them, that’s my petition, my position.”

Chairman Moyer - “Anybody else need to?”

Clement Feldmann – “And I gotta go by Black’s law dictionary for...”

Chairman Moyer – “I think I finally understand at least now I got the maps right. You wanna see that Shannon?”

Commissioner Baldwin – “Let me see Toby. Here’s a state maintained road. This is, this is Spring Blossom, and his driveway is, is coming off of Spring Blossom.”

Toby Linville – “That’s right.”

Commissioner Baldwin – “His driveway is coming off Spring Blossom.”

Toby Linville – “Yes.”

Commissioner Baldwin – “Or is connected to Spring Blossom.”

Toby Linville – “Yes.”

Commissioner Baldwin – “And, and so basically what, what you’re asking for is to have a separate addr, address other than Spring Blo, Blossom Lane.”

Clement Feldmann – “I’m asking to have the original address...”

Commissioner McGrady – “He wants to stay on, where his frontage is along Forge Crest, which is running all the way here.”

Chairman Moyer – “I have exactly the same situation Mr. Feldmann so I can.”

Clement Feldmann – “Well you can ride right along with me.”

Chairman Moyer – “Maybe I shouldn’t vote.”

Someone speaking away from the microphone.

Chairman Moyer – “Alright, uh, Commissioner Baldwin do you have any more questions?”

Commissioner Baldwin – “I don’t guess so. I just.”

Chairman Moyer – “Yeah, be sure you understand it, because it’s, it’s, I had it backwards.”

Commissioner Baldwin – “...deliberation. I think out loud.”

Several people speaking at once.

Chairman Moyer – “No that’s not the issue. The issue under our law is the two homes that are on Spring Blossom are past you, that now you, getting the legal issue you’re claiming that’s your driveway, they’re claiming it’s a road that now serves, since it serves more than two homes, whether it’s by right-of-way or whatever that now becomes a road under the uh, our uh, 911 ordinance. Right Mr. Linville?”

Toby Linville – “Correct.”

Clement Feldmann – “But again I raise the question is the wording of the ordinance, comply with law. What the meaning of words are. I often use the phrase you can call a chicken a cow, but you aren’t gonna get it to give milk.”

Chairman Moyer – “Well just so we’re clear we have now into evidence the booklet that was put together by uh, Mr. Feldmann dated January 18 with respect to this application. Uh, we have a map from Toby which we’ll have to get a copy of for the uh, record. Um, are there additional questions for Mr. Feldmann at this time?”

Clement Feldmann – “May I present, and again I just did this over the lunch hour ... phone book. To show that within the last year my address has changed in the phone book. But the inner play between 911 and the post office eludes my understanding. Uh, why and how I have five addresses eludes my understanding.”

Chairman Moyer – “Well if you have Duke Power and Mediacom you may have more than, uh, that so uh, it is an issue there’s no question.”

Clement Feldmann – “I see, if I may make just one more statement, I see no loss to 911 or the security of my family, or any endangerment to anyone to grant me the address I was originally given, and that by definition is the address I’m entitled to.”

Commissioner Baldwin – “I, I’m just. I’m just gonna think out just for a second. If, if the result is that you’re, you’re granted um, your old address or another address other than Spring Blossom Lane, then there’s gonna be two signs posted there close together that, that one says Spring Blossom Lane and the other says some other name.”

Clement Feldmann – “No.”

Commissioner Baldwin – “Is that?”

Clement Feldmann – “No. Cause I, Forge Crest Drive is identified, I paid for the sign along with Don Fullam. Uh, I think, bought the pole and put it in and I paid for the sign. That’s where Forge Crest Drive joins Hunters Ridge. That is really the only identifying sign that I would call an official street sign until they get up to the top of the, to Don’s development up in Forge Crest where he has it where it splits off into North and South Forge Crest Drive. By the way his address is...”

Commissioner Baldwin – “The, the, and the reason.”

Clement Feldmann – “...in terms of any rules of engagement if you will but uh.”

Commissioner Baldwin – “The reason I raise the issue is, if, I’m in, I’m trying to put myself in the seat of an ambulance driver who’s cruising that street and um, he sees Spring Blossom and uh, can he find your house.”

Clement Feldmann – “He will see that green mailbox with 135 Forge Crest Drive before he even sees Spring Blossom. He will see my flashing lights, x hundreds of yards down the mountain before he gets to either one. Believe me my wife’s life was endangered by any delay in finding her. There was nothing more paramount in my mind that I do everything possible to see that ambulances get there.”

Chairman Moyer – “But in your case, as opposed to many of the others we have, and going to Commissioner Baldwin’s point, you’re so close that is true, but in other cases an ambulance driver coming down instead of seeing this sign to go back to your home, would see Spring Blossom Lane, and if he didn’t turn to Spring Blossom Lane he’d never find the house if he didn’t know the area. That, that’s.”

Clement Feldmann – “Well he would see my mailbox which is every bit as big as Spring Blossom lane and the numbers on it are every bit as big and he would see that before he saw Spring Blossom.”

Chairman Moyer – “Well he would be looking for a road sign. Not a um, not a mailbox, which can be knocked down or destroyed or taken or.”

Clement Feldmann – “Well if he’s coming up one, if he’s coming up any road, he’s not gonna see a street sign for every house, he’s gonna see a mailbox.”

Commissioner McGrady – “Toby if this uh, driveway did not enter onto Blossom whatever, um, and actually came off of Forge Crest, we would have numbered it Forge Crest?”

Toby Linville – “Correct.”

Chairman Moyer – “Absolutely.”

Commissioner McGrady – “The whole issue.”

Clement Feldmann – “Well I’m almost tempted to do that but it’s ridiculous. I can carve a new.”

Commissioner McGrady – “I know.”

Clement Feldmann – “Driveway in but it’s.”

Commissioner McGrady – “I mean it, that’s, that’s where it is, uh, the ir, the irony here is that if the, the driveway was curved a different way, and not that big a thing actually, you’d end up with the opposite address under the addressing system we’ve got in place.”

Toby Linville – “This would have never been an issue, that’s correct.”

Commissioner McGrady – “Or if the two lots in the back just had never been developed you would have ended up with Forge Crest.”

Chairman Moyer – “That’s correct.”

Commissioner McGrady – “Yeah. I’ve got the same issue by the way.”

Several people talking at once.

Chairman Moyer – “Go ahead Commissioner Young.”

Commissioner Young – “Mr. Feldmann, um, on this map uh, Forge Crest goes all the way through right.”

Commissioner Baldwin- “Is this your understanding?”

Commissioner Young – “Forge Crest Drive goes all the way through.”

Clement Feldmann – “Yes.”

Commissioner Young – “Is that right?”

Clement Feldmann – “Yes it comes down here to the Fullam property.”

Commissioner Young – “Can, and Spring Blossom Lane is a side street off of that, another street off of that.”

Several people speaking at once.

Commissioner Young – “But it could be developed on through there.”

Clement Feldmann – “Well...couldn't go anywhere. There's no right of way to it. There's no right-of-way across...property. The only right-of-way is across his property and my property.”

Commissioner Young – “And your driveway comes out on Spring Blossom.”

Commissioner Baldwin – “Toby.”

Clement Feldmann – “I'd say my driveway comes out on...”

Chairman Moyer – “That's the legal issue.”

Clement Feldmann – “my driveway comes out on Forge Crest Drive.”

Commissioner Young – “Well that's your driveway right there isn't it?”

Clement Feldmann – “It's my driveway all the way down to here. It's my property. It's not a right-of-way to me by legal definition. I can not have a right-of-way.”

Chairman Moyer – “We need you to get back, you're not being picked up.”

Commissioner Young – “But is, is Spring Blossom Lane a ma, a state maintained road?”

Clement Feldmann – “No.”

Chairman Moyer – “No, it's private.”

Commissioner Young – “A private drive. Okay.”

Chairman Moyer – “Alright. Are there additional questions for Mr. Feldmann? Toby uh.”

Commissioner Baldwin- “I'd like to pass an illustration down across the Board to, I'll put a star by it just to make sure that we all.”

Chairman Moyer – “You want this in the record?”

Commissioner Baldwin – “No.”

Chairman Moyer – “Then we can’t consider it.”

Commissioner Baldwin – “Alright, put it in the record. We’ll call it Exhibit A. But that’s what we’re dealing with. Is that your understanding?”

Chairman Moyer – “I think you have to. The way I look at the map, you have to swirl it in. I mean it’s not da, I mean you’re showing actually the beginning of his driveway starting almost at the intersection. Unfortunately it doesn’t it starts.”

Commissioner Messer – “Even though he owns the property it still starts way up.”

Chairman Moyer – “It doesn’t start till up here, yeah.”

Commissioner Messer – “Spring, Spring Blo, Blossom Lane.”

Chairman Moyer – “That’s, but that’s the problem.”

Commissioner Baldwin – “That’s the problem.”

Chairman Moyer – “Okay um Mr.”

Clement Feldmann – “May I make one more comment.”

Chairman Moyer – “Certainly sir.”

Clement Feldmann – “At uh, at some reservation because I may be wrong. I may not know how to read properly. But if we are to worship the letter of the law, the law being 911, I think you’re going to find that you need to change almost every address in the City of Hendersonville which would not be a very practical thing to do.”

Chairman Moyer – “Well we don’t have jurisdiction in the City of Hendersonville and, we don’t have jurisdiction in 911 in the City of Hendersonville, that uh, and.”

Clement Feldmann – “...that you do because...”

Toby Linville – “Actually we do issue permits for all the municipalities in the County.”

Clement Feldmann – “So there are some questions in terms of...that law and the court of law, of a couple of things that are being interpreted. I prefer not to be involved in that kind of thing. I would like very much to know how to resolve the conflict between a mailing address and a 911 address.”

Chairman Moyer – “Well this as I said has come up a number of times in the past. Toby I don’t know if you have any indication of the number of those we have. Apparently you have at least two people sitting up here who the same uh, uh situation and we’ve had a test case before. And we supported this under the ordinance. I tell you that’s the precedent we have in un, in this County and I forget the name of the case but it’s been within the last two or three years that we’ve had a case and I bet you we have a number of these uh, situations that we’ve already resolved and made them change their addresses. Or, as was suggested, you curve your drive a little more and you come in off of uh, the other road.”

Clement Feldmann – “Well my drive does come off.”

Chairman Moyer – “Well.”

Clement Feldmann – “You know.”

Chairman Moyer – “That, that’s your legal position. That’s, may not be mine.”

Commissioner Young – “Mr. Linville do you want this entered into the record?”

Commissioner Baldwin – “...his, if he gets the sign down here. Spring sign is moved down here that’s confusing.”

Chairman Moyer – “Is there any uh, any other questions for uh, any of the parties? Let do it that way. Mr. Linville or, Mr. Feldmann do you have any questions for Mr. Linville?”

Clement Feldmann – “I have attempt to address questions...in terms of how do I separate 911, which I am not concerned about. I know they’re gonna find me even though they have to ask me when I call in. Uh, I’m concerned about my mailing address and that I be able to get bills and that I be able to get packages delivered. Uh, and nobody can tell me how to do that. The postmaster at the distribution center in.”

Chairman Moyer – “The, the postmaster, when you changed these addresses did not the postal service agree that this would now be identified as Spring Blossom Lane.”

Toby Linville – “Yes. I’ve got the um, the lists from, I, I just printed those off after I talked to Mr. Feldmann yesterday to double check them to make sure they were correct but, our Entrato system, the 911 system, shows his address to be 33 Spring Blossom. Um, the postal service has his address as that. We get, we get a print off from them.”

Clement Feldmann – “Also may I ask what post is this, Wa, are we talking Washington?”

Toby Linville – “No, no, this is the local post office.”

Clement Feldmann – “The local.”

Toby Linville – “Horse Shoe.”

Clement Feldmann – “Horse Shoe.”

Toby Linville – “Um hum.”

Clement Feldmann – “Horse Shoe says they deliver to me at any address they get.”

Chairman Moyer – “Well they may do that but you’re.”

Toby Linville – “That doesn’t make it correct and some of them.”

Commissioner Young – “His address, according to record at the Horse Shoe Post Office is Spring Blossom?”

Toby Linville – “Correct.”

Clement Feldmann – “But then that is because you changed it is that correct?”

Toby Linville – “That’s correct. It was changed...”

Clement Feldmann – “And where in the code does it give you the right.”

Chairman Moyer – “Mr. Feldmann would you move around below the microphone, apparently we’re not picking you up.”

Clement Feldmann – “I guess...would ask where in the code, or your law, does it give you the power to change a postal address. I don't find that in there.”

Chairman Moyer – “We sit down with the post off, our procedure has been now for years we, after we change the addresses we sit down with the postal off, postal service, get their agreement and then they change the address. But this is worked out in conjunction with the postal service. Now I wanna make it very clear that all the utilities do not automatically change their addresses. That's a painful process and it's taking a while to get 'em corrected, but this is a combined operation between the county and the postal service and then they change the address. And they do not, until there's an agreement, they do not change it. But once they change it they make the change. We don't change it. So the postal service takes the information from us, and when they're satisfied that it's worked then they make the change. And they have done that apparently according to Mr. Linville in your case.”

Clement Feldmann – “Okay. Again I guess my petition is that the law be applied by the definition of the terms.”

Chairman Moyer – “Alright.”

Clement Feldmann – “And uh, we analyze it.”

Chairman Moyer – “I understand your legal position. Any other questions for Mr. Linville?”

Clement Feldmann – “No.”

Chairman Moyer – “Mr. Linville, do you have something you wish to add?”

Toby Linville – “I would just like to add, whatever address you appoint to him, if he'll change his driver's license, change his deed, and correct any mail that comes in improperly addressed, it, these will clear up. But mistakes happen. I mean I get mail to the wrong address and, and I've been here seven months.”

Chairman Moyer – “Alright.”

Toby Linville – “Just human error.”

Chairman Moyer – “Board have any other questions for any of the parties. Anybody wish to make a closing statement? I think you've articulated your position and well, but you have an opportunity to make a closing statement of you'd like.”

Clement Feldmann – “Again I appreciate your consideration, indulgence. It seems like a small matter in person, personal and I view it as far more than that. I view it as a court case. This is quasi-judicial. It has a right to go before a judge. I certainly hope that does not need to occur. But I think uh, for some reason or other there doesn't seem to be as much reliance on legal definition of terms as I, acting in a court environment, feel is merited. And I ask you again to give that due and serious consideration. And I do appreciate your time and consideration, and uh, look forward to your decision.”

Chairman Moyer – “Thank you. Mr. Linville do you wish to make a, any kind of final statement?”

Toby Linville – “No sir.”

Chairman Moyer - “Alright, thank you. All, all the uh, evidence is in and the closing uh, remarks have been made. Now it's time for uh, for Board discussion. I think as I indicated before we have 45 days uh, from the close of this hearing to render a decision. So I'll throw it open and say what is the uh, the Board's pleasure. Everyone's rushing in to speak huh? I think as painful uh, as it is for some of us involved here too, uh, that is the precedent that we've had. That is the rule that the prior Board's have enforced. I don't know of a single exception that has been approved by the Board in this situation. As, as difficult as uh, as these have been. And

they are difficult. Uh, and I know a lot of people have, have allowed access off their land, and additional homes and have never contemplated that this would cause them a change of address and that's uh, that's very, very unfortunate. But I, I think uh, we would be taking a uh, a major uh, step, and a problem step for us if we deviate from the precedents that, the precedent that we have followed in all of these cases so far."

Commissioner Young – "If there wasn't other homes on this Spring Blossom Lane I could understand his request. I, I, whether it's a private road or a state maintained road you've got other residences on this drive. And I, I think that uh, it needs to be uh, what the 911 established it to be. So that there wouldn't be duplications in, in the county. And I know where Forge Drive is, it's not a Forge Crest Drive, but Forge Drive. My daughter lives on it. So, uh, I, with other residences being on that, uh, I don't see how you can give one person a special address."

Commissioner McGrady – "I tend to agree with Commissioner Young. I mean if the um, driveway exited on Forge Crest, you know, just looped a different way uh, obviously in my mind you'd get a different result. But it doesn't do that. And you've got two other driveways somewhere past this house. And it's not just the issue of, of the address here but the other addresses. I mean it's a, it's a close call but um, I'm inclined to uh, I don't see any particular basis to, to switch the address."

Commissioner Baldwin – "Couple of, couple of things. I'd like to note in the photograph that was provided by Mr. Feldmann, one the Spring Blossom Lane sign is posted at the area where this particular road, which is per the sign, Spring Blossom Lane intersects with Forge Crest and number two that the servicing goes, it's very clear that the surfing, surfacing goes from uh, Forge Crest past uh, Mr. Feldmann's driveway so I think it would be reasonable to, to uh, say that what you have there from Forge Crest is Spring Blossom Lane. And his driveway um, intersects Spring Blossom Lane and not Forge Crest."

Chairman Moyer – "Any other statements? Is anybody prepared to make a motion?"

Commissioner McGrady – "Well um, we would normally come back with a written order and findings and all of that is that right?"

Chairman Moyer – "Yeah we would direct the uh, findings and the order to come back, but we'd make, we can make the decision. And I think we're gonna have to..."

Commissioner McGrady – "Well and that's what I was, I guess *I'm prepared to make a motion to direct staff to um, uh, draft an a, motion reflecting our decision that the uh, property addressing petition uh, be denied and that the address remain as.*"

Chairman Moyer – "33 Spring Blossom Lane."

Commissioner McGrady – "33 *Spring Blossom Lane.*"

Chairman Moyer – "Any further discussion? All in favor of that motion say aye."

"Aye" in unison.

Chairman Moyer – "Opposed? Alright, the appeal fails unanimously."

Clement Feldmann – "...a trial by a judge..."

Chairman Moyer – "Alright. That will up to you Mr. Feldmann."

Mr. Feldmann spoke to the Board, but was away from the microphone.

Chairman Moyer – “This order will probably be brought back to us if the County Attorney can get it done at our next meeting. The Board will take final action on that. You will certainly be entitled, and get a copy of that, and then you’ll have your time to do whatever you deem is appropriate.”

Mr. Feldmann spoke to the Board, but was away from the microphone.

Chairman Moyer – “I do not, I have not looked at that and I will not comment on that. I don’t know that that’s the case. That’ll be up to the decision for you and your attorney to make and.”

Mr. Feldmann spoke to the Board, but was away from the microphone.

Chairman Moyer – “Alright well then you’ll not need my opinion. I can’t give legal opinions anymore.”

DRAFT REQUEST FOR PROPOSALS FOR AUDIO BROADCASTING

At a recent meeting, the Board discussed issues surrounding WHKP and Channel 11, and directed Staff to develop a Request For Proposals (RFP) regarding the issue. Selena Coffey reviewed with the Board the draft RFP, which included: an ad that would be used to inform the public of the RFP process, and the draft RFP for Audio Broadcasting on HCTV-11 outlining topics such as background and issues, and the scope of services. She pointed out that while the county’s current broadcast policies did not explicitly address religious programming, one of the broadcasting restrictions dealt with “Programs advocating a personal viewpoint.” Ms. Coffey requested the Board make any necessary revisions to the draft RFP, direct staff to distribute the RFP to any interested parties, and set a deadline for receiving the proposals.

Chairman Moyer expressed doubts that the County would receive any responses to the RFP, due to what the stations would be required to do. Commissioner McGrady stated that the question would then become what the County would do if no responses were received. Despite that question, it was the consensus of the Board to send out the RFP with a 30 day deadline. It was also the consensus of the Board to specifically reference a restriction dealing with religious programming.

CURB MARKET PARKING LEASE

Provided to the Board for their consideration was a draft lease agreement for parking space at the “Curb Market”. The draft had been agreed to by the Henderson County Mutual Farmers Curb Market, which was an unincorporated association of farmers in Henderson County. The lease was for a three year term, with automatic renewals absent termination by either party, at a monthly cost of \$1,000 per month.

Following some discussion regarding the beginning date on the lease, *Chairman Moyer made the motion to approve the lease with the Curb Market, and move forward with its execution and delivery. The motion carried 3-2 with Commissioner Young and Commissioner Baldwin voting in opposition.*

INCREASE IN MILEAGE RATE FOR HENDERSON COUNTY EMS

Terry Layne explained that as approved by Medicare, effective January 1, 2006 eligible organizations can increase their ambulance mileage rate from \$8.94 to \$9.17 per mile. Henderson County currently charges \$8.94 per mile. An increase to \$9.17 per mile would generate \$8,000 to \$10,000 in additional revenue.

There was some discussion about what Medicare actually paid, and what portion of that any supplemental insurance would pay. There was also some discussion about whether the County should raise the fee, given the current billing situation. *Commissioner Messer made the motion to deny the rate increase until the Henderson County EMS situation resolved. The motion carried 3-2 with Chairman Moyer and Commissioner McGrady voting in opposition.*

2006 STRATEGIC PLAN DRAFT

Selena Coffey presented to the Board the Management Team draft of the 2006 Strategic Plan. She reviewed the Plan briefly, discussing the following elements which had been added and were in keeping with the Board’s guidance over the past year:

- Goal 1 – This was the CCP and growth management strategies related to the CCP

- Strategy 1.24 – To address a formal annual review process for the CCP.
- Strategy 2.4 – To improve customer service within County departments.
- Strategy 2.5 – To examine the roles of advisory Boards and Committees.
- Strategy 3.1 and 3.2 – Review county billing procedures and internal controls, and continued monitoring of the debt issuance policy.
- Goal 4 – Discussion of the Compensation and Classification Study to readdress how that was implemented and to determine whether the Board wished to implement it in a different way.
- Strategy 4.2 – Update the County's Personnel Resolution.
- Strategy 4.6 – To include recycling and waste management policies within county facilities.

Ms. Coffey requested that the Board schedule a workshop on the Strategic Plan, so the Board and Staff could have more detailed discussion of each of the action plans. It was the consensus of the Board to schedule that workshop when it reached Important Dates.

COUNTY MANAGER'S MONTHLY REPORT

The County Manager's Monthly Report for January, 2006 was distributed for the Board's information. Justin Hembree discussed two specific points within the Report which were the County's Strategic Information Technology Plan, and the Edneyville PARTF grant application which had recently been submitted.

David Nicholson updated the Board on the current status of the following projects:

- Historic Courthouse – On schedule. The architects were in town working on the plans.
- Animal Shelter – The project was progressing. There had been a change order for about \$1,100 to change the electrical breaker system. Mr. Nicholson anticipated the building would be completed in March, with the department moving in April.
- Human Services Building – The contractor was close to having the building dried in. Two weeks of dry, warm weather would allow for the masonry to be completed. With respect to furniture, he discussed making those purchases using either state contract or GSA federal contract versus putting together a bid package from another vendor. It was the consensus of the Board to have Mr. Nicholson prepare a package to solicit bids, so the Board would be able to compare any bids received with the state or federal prices, with Mr. Nicholson bringing that back to the Board for their next meeting.

UPDATE ON PENDING ISSUES

EMS Billing

Carey McLelland updated the Board on the EMS billing situation. He stated that they were continuing to file Medicare, Medicaid, and secondary insurance claims, and were primarily focusing on October 1, 2004 forward. Mr. McLelland's goal was to have the older claims cleaned up by the end of February. Thus far, 4,000 claims had been filed which had resulted in almost \$600,000 worth of revenues over the past eight weeks. There was some additional discussion about the capability of the software program to catch similar problems in the future.

IMPORTANT DATES

2006 Strategic Plan Workshop

Ms. Coffey had requested the Board schedule a workshop to review the 2006 Strategic Plan. *Chairman Moyer made the motion to schedule a workshop for Thursday, February 2, 2006 at 6:00pm. All voted in favor and the motion carried.*

Set Date and Time for Cable Franchise Renewal Workshop

During its meeting on December 15, 2005, the Board of Commissioners discussed holding a workshop concerning the renewal of the County's franchise with Mediacom and other issues associated with this renewal process. It was determined that the workshop should be scheduled for a date after the League of Women Voters' cable franchise renewal community forum, which was to be held February 20, 2006. *Chairman Moyer made the motion to schedule a workshop to discuss Mediacom franchise renewal issues for March 9, 2006 at 4:00 pm. All voted in favor and the motion carried.*

Adjourn

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

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman

DRAFT