

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
FEBRUARY 15, 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, Assistant Interim County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

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

### CALL TO ORDER/WELCOME

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

### PLEDGE OF ALLEGIANCE

Herdis Nichols, a scout who was present, led the Pledge of Allegiance to the American Flag. He is part of Troop #628 at First Baptist Church.

### INVOCATION

Commissioner Shannon Baldwin gave the invocation.

### INFORMAL PUBLIC COMMENTS

1. Harold Nicholls- Mr. Nicholls addressed the Board regarding taxes, stating we have increased property taxes, a new fee for vehicle inspection, as well as an increase in gasoline taxes. Referencing this momentum, he proposed an additional tax source for the county. With growth as a major contributor to the financial burden of the county such as a need for classrooms, teachers, deputies, and other county employees, it would seem that the cause of growth is also a major source of meeting these costs. A surtax on all new construction of private residences is a method that is currently in use by other public governments faced with high growth and its unfair and inequitable tax burden to the in place taxed residents.

He volunteered to meet with the county revenue officer and offer his help. He stated that part II of that would be an impact tax on all new vehicles brought into the area.

Chairman Moyer responded that as part of developing our strategic plan for this coming year, that is listed as one of the items to study. We are calling it an impact fee and will see if it appears to be right for Henderson County. The Board will also look at other vehicles with respect to growth.

2. Michele Skeelee – Ms. Skeelee quoted that one American will turn 60 years old every 60 seconds for the next 19 years. Ms. Skeelee is project coordinator for the Henderson County Council on Aging. “Livable and Senior Friendly Communities” is a new project with a two-fold mission – to find out how to better serve the older population in Henderson County now and to suggest ways of planning for a wave of aging baby boomers bound for retirement in the next two decades. They have developed a survey for older adults in Henderson County and have distributed nearly 2,000 surveys since the beginning of November. Ms. Skeelee has visited with seniors at Community Clubs, Churches, and Senior Centers from Crab Creek to Gerton in an effort to ensure that every

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segment of Henderson County is heard from. To date they have 375 surveys back in their office which is about a 20% return rate. Five percent is average but she is pushing to the end of February to see a 25% return on the surveys.

Beginning this month, they are inviting older adults to a series of focus groups in order to hear more about the issues which concern them. The developed survey is very broad and will dive deeper into senior's responses to find out what they think are the best ways to age well and remain independent. She shared a schedule of up-coming focus groups and invited Board attendance, time permitting. In May the Henderson County Council on Aging in conjunction with UNC-Chapel Hill will issue a report on the findings. They will share the report with agencies in the County, State, and with the Board of Commissioners. They will be presenting their findings at the NC Agency on Aging Conference in Wilmington, NC in April.

3. Herdis Nichols – Mr. Nichols is the scout who led the Pledge to the Flag at the beginning of the meeting. He is with Boy Scout Troop #628. He is a first class scout working on his citizenship in the nation and citizenship in the community merit badges. One of his requirements is to visit a town meeting and be an active participant in the meeting. "I think the town meeting is a good way for everyone to share their thoughts about local issues. Thank you for letting me be here."

The next two speakers were asked to wait until discussion of the Animal Ordinance Amendment since that was the issue they wished to address – Jim Scherbarth and Mike Cervini.

#### **DISCUSSION/ADJUSTMENT OF AGENDA**

Chairman Moyer stated that since Jack Lynch and others from the DOT were present, he asked to move the US Hwy. 64 West Project up to the first item under Discussion Items. There were no other requested changes to the agenda.

*Commissioner McGrady made the motion to approve the agenda with the one requested change. All voted in favor and the motion carried.*

#### **CONSENT AGENDA**

*Commissioner McGrady made the motion to approve the consent agenda. All voted in favor and the motion carried.*

The Consent Agenda consisted of the following:

##### **Minutes**

Draft minutes of the February 2, 2006 meeting were presented for the Board's review and approval.

##### **Tax Collector's Report**

No report was received.

##### **Tax Releases**

Stan Duncan, Assessor, had provided a list of 19 tax release requests for the Board's approval.

##### **Tax Refunds**

Stan Duncan, Assessor, had provided a list of 10 tax refund requests for the Board's approval.

##### **Pending Tax Discoveries**

Stan Duncan, Assessor, had provided a list of 20 pending tax discoveries for the Board's approval.

Twenty (20) Notices of Discovery had been prepared and mailed to property owners. All are presently within the statutory challenge period. While the Notices of Discovery have been prepared following a

thorough review by the County Assessor's Office, it is likely that official challenges and possible appeals will occur. All supporting documentation was on file in the County Assessor's Office.

The current assessed value of these discoveries is \$4,449,214 resulting in a principal amount of taxes due of \$20,721.52. The Assessor's Office will provide an updated report detailing the unchallenged and challenged discoveries in the March report.

The discovery information is not being submitted for approval by the Henderson County Board of Commissioners at this time. This was for information only.

#### **Policy on newspaper notice advertising process**

County Attorney Russ Burrell had prepared and submitted the Newspaper Advertisement Process.

Current policy has notice advertisements placed in *The Times-News* by the sponsoring department of Henderson County government (notices for planning issues, including quasi-judicial hearings before this Board, by the planning department, etc.).

The proposed policy would clarify procedure, so that simultaneously with notification to *The Times-News* a notice be sent by the Department to the Clerk to the Board of Commissioners, for scheduling and other purposes.

#### **Resolution Authorizing the Disposition of Personal Property by Private Sale to a Local Government Unit**

Henderson County has received a request from the County of Dauphin in Harrisburg, PA to purchase thirty (30) Danaher 1242 electronic voting machines that have been de-certified by the State of North Carolina and declared surplus by the Board of Commissioners. The Director of the Board of Elections negotiated a price of \$250 per machine for a total of \$7,500 for the thirty machines with the Director of Elections in Dauphin County.

A draft resolution had been prepared for the Board's consideration and approval, authorizing the private sale of these voting machines to another local government unit as allowed under N.C.G.S. 160A-274.

#### **Resolution Authorizing the Disposition of Personal Property by Private Sale**

Henderson County has received a request from APGAR Ambulance L.C. in Laramie, WY to purchase a 2001 E-350 Ford Van Ambulance that has been declared surplus by the Board of Commissioners for a negotiated purchase price of \$16,000.

Included for the Board's consideration and approval was a draft resolution authorizing the private sale of this vehicle to this company as allowed under N.C.G.S. 160A-267.

### **NOMINATIONS**

#### **Notification of Vacancies**

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

1. Historic Courthouse Corporation – 1 vac.
2. Solid Waste Advisory Committee – 4 vac.

#### **Nominations**

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

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

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

**2. Equalization and Review Board – 2 vac.**

Chairman Moyer reminded the Board that there were two nominees for position #2 – Dutch Burdette and Richard Sheldrick and one nominee for position #6 – Franklin Carland.

There were no other nominations for position #6. *Chairman Moyer made the motion to appoint Mr. Carland by acclamation. All voted in favor and the motion carried.*

There were no other nominations for position # 2. The Clerk polled the Board with the following outcome:

Commissioner Young	Dutch Burdette
Commissioner Messer	Dutch Burdette
Chairman Moyer	Dutch Burdette
Commissioner McGrady	Richard Sheldrick
Commissioner Baldwin	Dutch Burdette

Dutch Burdette received four of the five votes so he is the new appointee to position #2.

**3. Fire and Rescue Advisory Committee – 1 vac.**

Chairman Moyer stated that the committee nominee for position #7 is Richard Barnwell, currently serving on the committee. *Chairman Moyer made the motion to accept the committee’s recommendation and appoint Richard Barnwell to position #7 by acclamation. All voted in favor and the motion carried.*

**4. Henderson County Transportation Advisory Committee – 1 vac.**

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

**5. Henderson County Zoning Board of Adjustment – 1 vac.**

Commissioner Young nominated Joe Cox.

Commissioner Baldwin nominated James Phelps.

Robert Danos and David Lowles’ names were removed as they were both recently appointed to other committees. There were no other nominees. The Clerk will poll the Board at the next meeting.

**6. Hendersonville City Zoning Board of Adjustment – 1 vac.**

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

**7. Hospital Corporation Board of Directors – 1 vac.**

Commissioner Young nominated Joseph Bill Smith. There were no other nominations. *Chairman Moyer made the motion to accept Mr. Smith by acclamation. All voted in favor and the motion carried.*

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

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

**9. Mountain Area Workforce Development Board – 1 vac.**

There were no nominations at this time so this item was rolled to the next meeting. Commissioner McGrady will contact those who have applied to see if they are still willing to serve.

**10. Nursing/Adult Care Home Community Advisory Committee – 8 vac.**

Chairman Moyer stated that we have one recommendation from the Chair of the committee – Barbara Nicholls. Commissioner McGrady nominated Barbara Nicholls for position # 13. *Chairman Moyer made the motion to appoint Ms. Nicholls by acclamation. All voted in favor and the motion carried.*

**11. Solid Waste Advisory Committee – 2 vac.**

Gary Tweed reminded the Board of the discussion regarding the number and make-up of this committee. He has met with the Advisory Committee and they would like to step back from 11 members to 9. The Board currently has two vacancies due to resignation. There are four positions under “notification of vacancies” that will be coming up for appointments on April 1. Two of those four have expressed an interest in continuing on the committee, two have not. If the Board fills the two vacancies today (due to resignation) and two of the four that will be open in April, then we will be at nine members.

Commissioner McGrady nominated Stan Kumor. Mr. Kumor has an engineering degree and has shown a lot of interest in the committee. *Chairman Moyer made the motion to appoint Mr. Kumor to an open slot. All voted in favor and the motion carried.*

Mr. Tweed also pointed out that Bill Ramsey, the current Chair of the committee, is one who will be rotating off in April and he has expressed that he is not interested in serving again. The Board of Commissioners will have to appoint a new Chair.

**U.S. HWY. #64 WEST PROJECT**

Chairman Moyer stated that the US Hwy. #64 West project has been of great interest to us and our Transportation Advisory Committee has been following it. Jack Lynch asked to have an opportunity to give the Board an update on where that project stands.

Jack Lynch stated that they’ve been working on the 64 West project for years, since about 2001. It’s been a combined project between the County and NCDOT with City involvement. He recognized Jamie Wilson, Division Construction Engineer for 64 West. He asked Jamie to give an update on the project.

Jamie Wilson explained that the 64 West project is a three-lane, typical section curb and gutter with a five foot sidewalk on each side with a 2.5 foot utility strip behind the sidewalk so the overall proposed right-of-way is going to be 60-70 feet. The project went to right-of-way about 2 weeks ago, authorized right-of-way. NCDOT went with the alternate of just widening the existing US #64 to three lanes from Buncombe Street to Blythe Street or the Catholic School out to Blythe Street. There will be a four-lane section at Fleming Street, there will be an extra turn lane to access the hospital as you head west. The rest of the typical section will be three lanes, even through the cemetery and that will require relocating eight to ten graves. Construction is scheduled for Spring or early Summer of 2008. There are a lot of utilities to be moved and a lot of parcels to be settled.

**ANIMAL ORDINANCE AMENDMENT – Public Input**

This item was scheduled to get public input with respect to the ordinance. The Board reviewed this ordinance at the last meeting. Staff has made some changes.

Rocky Hyder reviewed the changes with the Board. Per the Board’s instruction, staff mailed a letter to the various animal service organizations in the community advising them of the proposed amendment and encouraging comment on the same. As yet they have received no formal comments back from those organizations. It has been a short timeframe from the last meeting to this one though.

The changes were associated with Section D of the Restraint/Confinement section regarding the discussion at the last meeting concerning hunting dogs. The exception for hunting dogs has been changed to say “dogs used or trained for hunting as long as said animal is in the process of being trained by a trainer or owner, participating in a field trial or other similar competition, or on a legal hunt in the presence of the owner.”

There was some discussion regarding the complicated nature of the definition of a domestic animal and ideas regarding making a change to it. There was discussion regarding registration of hunting dogs.

**Public Input**

1. Jim Scherbarth – Mr. Scherbarth represents the RiverWind Community in Etowah, 160 homes and 90 more coming in. He stated that they have been plagued with stray dogs. They have covenants and restrictions on the dogs in their area that are far tougher than anything the Board has discussed today. The people take excellent care of their dogs. They are restricted to 6 foot leashes but they constantly have a stray dog coming in from the farming country and from the other subdivisions around them. So far none of the residents have been bitten or been attacked although they have had some of the dogs on leash being attacked by the stray dogs coming in. He asked if something like that happens, who assumes the liability? He stated that they are at a loss to understand why all dogs are not licensed. Most of the dogs they come in contact with do not have a tag, particularly no rabies tags. They had one instance with two black labs that tore up the area pretty well.

He stated that they are asking for some help. They work with the animal control folks who have been very courteous and very helpful.

2. Mike Cervini – Mr. Cervini spoke in favor of the new animal shelter and the leash law. He and his wife started a new non-profit 501-C3 low cost spay and neuter program last June. He stated that the leash law is the very first step that we need to take in this county in order to put these dogs, not behind bars, but to have some teeth in the ordinance so that people realize that their dogs cannot run wild. He feels that the ordinance should be passed as a first step. Then you can begin to expand little by little. His thought was that the end all of it would be state-wide licensing of the animals like some other states do. He and his wife would be happy to do whatever they can to help the shelter.
3. Dot McGrath – Ms. McGrath is a resident of RiverWind. She spoke in favor of the animal control amendments. She stated that the ordinance had to have some teeth in it and there should be penalties/fines enforced.
4. Joann Turner – Ms. Turner stated that people move to the county so they can have a pet. She feels that if this amendment is added, that poor folks in the county won't be able to have a pet.

Rocky Hyder explained that this is a complaint driven ordinance. It will allow some teeth in the ordinance to address problems that occur in a community but they certainly will not go out and police animals that live in harmony with the community.

It was the consensus of the Board for Rocky to make some suggested changes and come back to the Board at the mid-March meeting. The Board will likely set a public hearing on the issue at that time.

**METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA  
PLANNING COMMITTEE REPRESENTATIVE**

Justin Hembree informed the Board that in February 2001 the Board of Directors of the Metropolitan Sewerage District of Buncombe County, North Carolina (MSD) extended an invitation for Henderson County to appoint a person to serve on the MSD's Planning Committee as an ex-officio member. It was staff's understanding that a Henderson County Commissioner (Ms. Marilyn Gordon) served in this position for a period of time. However, it appears that Henderson County has not had representation on the committee for quite some time. Considering the key role that MSD plays in development activities in Henderson County, it is important that the County take an active role in the organization's planning efforts.

Following discussion, *Commissioner McGrady made the motion to appoint Commissioner Messer as the Commissioner's representative on the MSD (Metropolitan Sewerage District) Planning Committee with the understanding that if he is unable to attend any of the meetings another Commissioner may substitute for him in attendance. All voted in favor and the motion carried.*

Commissioner Young stated that he would try to make the meetings if Commissioner Messer cannot.

### **UNDERWRITING SERVICES/SENIOR MANAGER REQUEST FOR QUALIFICATIONS (RFQ)**

Carey McLelland stated that in preparation for the issuance of Certificates of Participation (COPs) before the end of the current fiscal year to finance the four major school, community college and county capital projects, staff issued a Request for Qualification (RFQ) to provide underwriting services and serve as senior manager for the County on this debt issue.

Five financial institutions responded to the County's RFQ for underwriting services by the February 10<sup>th</sup> deadline. They were Bank of America Securities, Wachovia Securities, BB&T Capital Markets, SunTrust Capital Markets and Citigroup. First Citizens Bank was also invited to submit a proposal, but indicated that they did not provide underwriting services and declined.

After reviewing all five of the proposals in detail, Staff believes that Wachovia Securities gives the County the best option to underwrite our Series 2006 COPs debt issue and to assist the County in managing the debt issuance process due to their extensive North Carolina COPs experience and their knowledge of the County. In Staff's opinion, their retail distribution network, which is the largest in North Carolina and second nationwide, along with their strong institutional sales force gives the County the best opportunity to market our Series 2006 COPs at the lowest rate possible.

Over the past five years, Wachovia has senior managed over 30 North Carolina COPs issues totaling in excess of \$1 billion. Wachovia is currently working on six North Carolina COPs issues totaling in excess of \$320 million that are primarily for school facility needs.

In working with the County on the Series 2005A COPs issue last May, Wachovia Securities was instrumental in helping the County lock in a bond insurance commitment for the County at a premium compared to recent quotes that will result in a savings of over \$70,000 on our upcoming 2006 COPs debt issue.

Based on review of the proposals submitted, it is Staff's recommendation that Wachovia Securities be chosen by Henderson County to serve as underwriter and senior manager on the County's Series 2006 COPs debt issue.

Management concurred with Staff that Wachovia Securities would be the best option to market our upcoming Series 2006 COPs debt issue. Wachovia Securities knows the County and has a great deal of experience in issuing COPs in the State. Management knows the professionals who will be handling our debt issue and the Board can be assured that the County will be getting the best service available.

*Commissioner McGrady made the motion to accept Staff/Management's recommendation that Wachovia Securities be chosen by the County to serve as the underwriter and senior manager on the County's Series 2006 COPs debt issue. All voted in favor and the motion carried.*

### **INTRODUCE DRAFT NUISANCE ORDINANCE**

Toby Linville stated that as part of the recently adopted County Strategic Plan, the Board of Commissioners made enhanced code enforcement a priority. As part of this effort, the adoption of a new

Nuisance Ordinance is proposed. A draft Nuisance Ordinance was included for the Board's review. When compared to the current Nuisance Ordinance, the proposed draft makes the following adjustments:

- Changes from prohibiting no more than 5 junked vehicles to no more than 2.
- Changes from prohibiting no more than two abandoned MH (mobile homes) to none.
- Allows for the County to clean up a property and bill property owner for associated costs.
- No vested rights. If there are multiple junked vehicles on a parcel, they must be cleaned up no matter how long they have been there unless they are part of a bona fide junk yard.
- Prohibits using Recreational Vehicles from being set up permanently or used as permanent residence except in RV Parks (not currently defined).
- This ordinance gives Zoning Enforcement Officers the ability to list solid waste and environmental issues in our violation letter instead of having separate letters from separate departments.

Staff requested feedback from the Board of Commissioners concerning the implementation of this document and recommended that public input sessions concerning the proposed ordinance be scheduled.

There was suggested language to change the first bullet to read no more than two vehicles without license and insurance on them.

Following much discussion, it was the consensus of the Board that an evening public hearing needs to be set on this issue to receive public comments. The Board gave Toby Linville some direction regarding changes. The Board will set a public hearing under "Important Dates."

#### **COUNTY MANAGER'S MONTHLY REPORT**

Selena Coffey distributed the February 2006 version of the County Manager's Report.

Justin Hembree called the Board's attention to the fact that many of the items in this report were checked off as being complete. Staff will be updating the report next month to reflect the new Strategic Plan that the Board recently adopted. It will have the new goals in it.

Justin Hembree reminded the Board that they have not had on their agenda yet the financing for the voting machines. There are on-going developments with that at the State Board of Elections. Some of the changes mean that these machines are going to cost us somewhat less money, primarily because of training that will be going on at a centralized base.

Justin Hembree stated with regards to Strategy 5.10: development and implementation of plans for the Etowah Library, the property has been purchased, the closing is scheduled for Friday. We are currently in the design and planning phase of the project. Strategy 5.11 deals with the development and implementation of plans for the Tuxedo Library & Park. In the new Strategic Plan these two issues will be separated. Staff has informed the School Board that the County is not interested in purchasing the Tuxedo School property; however, we did offer to assist in any way their efforts through Preservation North Carolina or other preservation organizations to help them with either the sale or development of that property. We are awaiting the results of the appraisal of the property that is being looked at for the park. The appraisal has been ordered and will likely be done in the next month. Currently we're conducting a site analysis of the existing Green River Branch Library to look at that facility and how expansion could happen on that property. There are some issues with the septic system there.

#### **Historic Courthouse**

Justin Hembree stated that the plans are at 80% completion in the bid stage. The architect and engineer spent nearly a week at the Historic Courthouse in January reviewing the plans. A copy of the architectural drawing of the new community room was shared with the Board. The same drawing was



shared with the members of the Historic Courthouse Corporation at their last meeting. They have also discussed the schedule and the placement of the monuments.

### **Human Services Building**

The contractor continues to make good progress on the Human Services Building. The exterior work has focused on the roof membrane, stucco system (the first coat of primer was applied last week), face brick, curtain wall, windows including glazing and the pre-cast window headers and ledge trim. From an interior perspective, work proceeds on the wall and door framing, HVAC ductwork, electrical, plumbing, fire sprinkler, gas piping and cable trays. Drywall and soundproofing installation continues on both floors.

Mr. Nicholson stated that there are a few relatively small change orders that are being considered in the areas of the guttering and roof drains. He has focused his work on the owner-provided furniture, fixtures, and equipment. He has also scheduled a joint meeting concerning network connectivity with all of the involved departments to make a decision as to the different alternative methods.

He shared some interesting facts about the building:

The Building is 97,500 square feet.

There is approximately 15,700 square feet of future space.

There are 30 restrooms.

There will be 26,100 square feet of carpet and 2,300 feet of tile in the restrooms.

The balance of the building is vinyl tile and sealed concrete in the future areas.

### **Animal Shelter**

The construction continues at the Shelter at or slightly ahead of schedule with the exception of the installation of drywall. The sub-contractor plans to work weekends to catch up on their work. There seems to be no major problems in meeting schedule and finishing the building on time on the other areas of the building. There are a couple of deduct change orders for signage and allowances that are being prepared.

Mr. Nicholson has been working with staff on the furniture, interior and exterior signage, and owner-provided appliances. They are discussing the purchase of the telephone and paging system. The building is scheduled to be completed in March. Plans will need to be developed for an open house in the weeks to come.

### **UPDATE ON PENDING ISSUES**

#### **Draft Land Development Code**

Chairman Moyer stated that several Commissioners had talked with him concerning the Land Development Code along with whether the arrival of the new County Manager would have any impact on the process.

The Board had originally planned a special called meeting to discuss the new Land Development Code on Thursday, March 16. Following much discussion, *Commissioner McGrady made the motion to: 1) postpone those discussions (that special called meeting) for 2-3 weeks so the new County Manager can be present, 2) to direct the Planning Board through it's Land Development Code Subcommittee to continue work on revisions to the current draft of the Land Development Code, and 3) to direct the Interim County Manager and the Planning Director to continue with any already scheduled meetings and presentations regarding the "Draft" Land Development Code to various groups which have an interest in this ordinance such as service organizations, i.e. Rotary. A vote was taken and the motion passed unanimously.*

There was discussion regarding holding community meetings on this Land Development Ordinance.

**IMPORTANT DATES**

*Chairman Moyer made the motion to set Thursday, March 16 @ 7:00 p.m. for a Public Hearing (special called meeting) and workshop on the draft Nuisance Ordinance. All voted in favor and the motion carried.*

**CANE CREEK WATER & SEWER DISTRICT – no business**

**CLOSED SESSION – none**

**ADJOURN**

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

Attest:

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Elizabeth W. Corn, Clerk to the Board

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William L. Moyer, Chairman