

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
FEBRUARY 6, 2006

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

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Shannon Baldwin, Commissioner Chuck McGrady, Interim County Manager Justin Hembree, 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, Finance Director J. Carey McLelland, EMS Director Terry Layne, Fire Marshal/Emergency Services Director Rocky Hyder, Tax Collector Terry Lyda, Deputy Tax Collector Darlene Burgess, Deputy Clerk to the Board Amy Brantley, Planning Director Judy Francis, Development and Enforcement Services Director Toby Linville, Library Director Bill Snyder, Planner Autumn Radcliff, and DSS Human Services Planner/Evaluator Peggy Gray.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

Commissioner Baldwin gave the invocation.

INFORMAL PUBLIC COMMENTS

1. Dan Ames – Mr. Ames stated that in September, 2005, he had submitted legal action against DSS for withholding what he believed was deserved compensation. On October 24, 2005, Mr. Burrell had submitted a request for an extension of 30 days. Statutes required that his case be heard in 15 days. He recently received a letter from Mr. Burrell, forwarding a copy of a determination from the court case which had been heard on January 17th. Mr. Ames had not been advised that the court case was scheduled. He asked how the County was going to handle the situation. Chairman Moyer stated that the Board could not answer that, but someone would be in touch with him within five days.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer added three items under Notification of Vacancies: Transportation Advisory Committee, Hospital Corporation and Mountain Area Workforce Development Board. He also added Discussion Item G-4: Strategic Plan, and Closed Session to discuss personnel and approval of minutes.

Commissioner Messer requested that Discussion Item G-2: EMS Billing, be moved to directly after Discussion Item D, as it dealt with the Arc' Angel request.

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

CONSENT AGENDA

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

The Consent Agenda consisted of the following:

DATE APPROVED: _____

Minutes

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

- January 12, 2006 – Special Called Meeting
- January 19, 2006 – Special Called Meeting
- January 25, 2006 – Special Called Meeting

Financial Report – December 2005**Cash Balance Report – December 2005**

These reports were presented for information and consent approval.

Non-departmental expenses were for Property/Liability and Workman's Compensation insurance coverage that had been or would be allocated out to each department during the fiscal year.

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

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

The YTD deficit in the Historic Courthouse Capital Project will be reimbursed by proceeds from the anticipated sale of Certificates of Participation (COPS) in June 2006.

Henderson County Public Schools Financial Report – December 2005

The Schools Report was presented for information and consent approval.

Petition for Addition to State Road System

The following petitions for addition to the State Road system were presented to the Board:

- Lewis Creek Drive
- S Sourwood Lane
- Pine Top Court
- Dallas Drive
- Mountain Valley Drive

It has been the practice of this Board to accept road petitions and forward them to the NC Department of Transportation for their review. It has also been the practice of the Board not to ask NCDOT to change the priority for roads on the paving priority list.

LEPC Annual Report

Pursuant to Article VIII, Section I of the Henderson County Emergency Planning Committee by-laws, the annual report of activities conducted in the 2005 calendar year was submitted.

The County Manager suggested the Board approve the 2005 Annual Report from the LEPC.

NCDOT Secondary Road Program Resolution

NCDOT and the Board of Commissioners held a Public Hearing on the North Carolina Department of Transportation Fiscal Year 2006 Secondary Road Improvement Program on January 25, 2006. The Board was requested to approve a resolution recommending a program of total needs for secondary road improvements in Henderson County for Fiscal Year 2006.

Dana Fire and Rescue Lease Purchase Agreement

At the February 8, 2005 Fire and Rescue Advisory Committee meeting, Jimmy Womack Chief of Dana Fire and Rescue presented a proposal to order a new, Emergency-One, Lynx series mini-pumper. The total price of the new mini-pumper was \$179,978.00. Dana would make a down payment of \$20,000, financing the remaining \$159,978 through United Financial at a rate of 4.5% with a yearly payment of \$30,000 for 7 years.

A motion to approve the purchase of the E-One mini-pumper was made by Rick Livingston and seconded by Richard Barnwell. It passed with unanimous approval. Dana Fire and Rescue respectfully request the Chairman sign the prepared letter to United Financial.

Improvement Guarantee for Hickory Run

A.L.D. Investors, Inc., owner and developer of the project, submitted an application for an improvement guarantee for a subdivision titled Hickory Run. Hickory Run is a 38-lot major subdivision on 85.35 acres of land off of Old Mount Olivet Road. The Master Plan and Phase I Development Plan for Hickory Run was conditionally approved by the Planning Board on January 17, 2006. The improvement guarantee is proposed to cover the construction of the road (including paving), road shoulder stabilization and erosion control for Phase I of the subdivision.

According to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance, where the required improvements have not been completed or in lieu of completing all of the required improvements, in order to submit a Final Plat and also prior to Final Plat approval, the developer may post a performance guarantee for the improvements. Section 170-38 of the Henderson County Subdivision Ordinance also states that the installation of the improvements must be completed within two years of the date of approval of the improvement guarantee. The developer intends to post with the County an irrevocable letter of credit in the amount of at least \$62,822.00 to cover the cost of the improvements (\$50,257.00) as well as the required twenty-five percent (25%) contingency (\$12,565.00). The proposed completion date for the improvements is October 6, 2006.

A draft Performance Guarantee Agreement was presented for the Board's consideration. If the application is approved, the developer must submit an irrevocable letter of credit in accordance with the terms of the Agreement. Once the County receives a letter of credit in proper form, the relevant parties must execute the Agreement. The County Manager recommended that the Board approve the improvement guarantee application for Hickory Run, subject to the developer submitting to Henderson County an irrevocable letter of credit in accordance with the terms of the draft Performance Guarantee Agreement.

Improvement Guarantee for Freeman Place

Wayne Nix and Sons Investments, LLC, owner, submitted an application for an improvement guarantee for a major subdivision named Freeman Place. Freeman Place is located on 22 acres of land off Pilot Mountain Road. The applicant has proposed a total of 35 lots with 21 lots in Phase I. The Master Plan and Development Plan for Freeman Place was conditionally approved by the Planning Board on November 15, 2005. The improvement guarantee is proposed to cover the paving of all roads in Phase I of the subdivision.

According to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance, where the required improvements have not been completed or in lieu of completing all of the required improvements, in order to submit a Final Plat and also prior to Final Plat approval, the developer may post a performance guarantee for the improvements. Section 170-38 of the Henderson County Subdivision Ordinance also states that the installation of the improvements must be completed within two years of the date of approval of the improvement guarantee. The developer intends to deposit with the County a certified check in the amount of at least \$42,500.00 to cover the cost of the improvements (\$34,000.00) as well as the required twenty-five percent (25%) contingency (\$8,500.00). The proposed completion date for the improvements is February 1, 2007.

A draft Performance Guarantee Agreement was presented for the Board's consideration. If the application is approved, the developer must deposit with the County the certified check in accordance with the terms of the Agreement. Once the funds are submitted for deposit, the County Attorney must certify the Agreement as to form

prior to its execution by the Chairman and the developer. The County Manager recommended that the Board approve the improvement guarantee application for Hickory Run, subject to the developer submitting to Henderson County an irrevocable letter of credit in accordance with the terms of the draft Performance Guarantee Agreement.

Surplus Property Request

Benjamin Pace retired from the Sheriff's Department on January 1, 2006. Mr. Pace had served with the Sheriff's Department since May 19, 1977. The Sheriff had requested that action be taken to surplus Mr. Pace's duty weapon in order for Mr. Pace to be able to obtain the weapon. It was noted that this is common practice for retiring law enforcement officers and has been a common practice in Henderson County.

Surplus Property

Presented for the Board's consideration was a resolution declaring some vehicles and equipment no longer used by the County as surplus property. The resolution also authorized Staff to advertise for sale and dispose of the surplus property by electronic public auction at www.govdeals.com after the required advertisement of the sale.

Resolution Recognizing Pardee Hospital's Clinical Performance

Presented for the Board's consideration was a resolution recognizing Pardee Hospital's clinical performance. Specifically, the resolution spoke to Pardee's recent recognition through HealthGrades.

Henderson County Hospital Corporation – City of Hendersonville street closing and grant of easement

Henderson County Hospital Corporation had negotiated with the City of Hendersonville for the closing of a portion of Seventh Avenue. The approximate extent of Seventh Avenue to be closed was shown on a map. Since the City of Hendersonville would be closing the street, without the deed of easement, the City would be losing its right to use the street right-of-way for utility and other purposes. The proposed deed of easement would insure that the City could make certain uses of the former street right of way.

Order on Feldman addressing appeal

Presented for the Board's consideration was a draft order pertaining to the Board's January 18, 2006 hearing on Clement Feldman's addressing appeal. At that meeting, the Board voted unanimously to deny Mr. Feldman's request for a property address change.

Water and Sewer Line Extensions

The City of Hendersonville had requested that the County comment on the proposed water line and sewer line extensions for the following project:

1. Orchards at Flat Rock, Offsite & Phase 1 – Water Line Extension
2. Orchards at Flat Rock, Offsite & Phase 1 - Sewer Line Extension

The City of Hendersonville's Project Summary sheet and a County review sheet with staff comments for the projects were included for Board review and action. The County Manager recommended approval of the water and sewer line extensions.

Water Line Extension

The City of Hendersonville had requested County comments on a proposed water line extension project to serve the Solomon's Cove development.

The City of Hendersonville's Project Summary sheet and a County review sheet with staff comments for the projects were included for Board review and action. The County Manager recommended approval of the water line extension.

NOMINATIONS

Notification of Vacancies

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

1. **Fire and Rescue Advisory Committee – 1 vac.**
2. **Henderson County Transportation Advisory Committee – 1 vac.**

3. **Henderson County Zoning Board of Adjustment – 1 vac.**
4. **Hospital Corporation Board of Directors – 1 vac.**
5. **Mountain Area Workforce Development Board - 1 vac.**
6. **Solid Waste Advisory Committee – 2 vac.**

Nominations

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

1. Agriculture Advisory Board – 1 vac.

Chairman Moyer nominated Ken Allison for reappointment to Position #1. *Chairman Moyer made the motion to appoint Mr. Ken Allison by acclamation for Position #1. All voted in favor and the motion carried.*

2. Animal Services Committee – 1 vac.

Ms. Brantley stated that since the last meeting she had spoken with Walter Kidd, who was currently serving, had been nominated at the last meeting, and did wish to be reappointed. She reminded the Board that Kimberly Osborne had also been nominated, but her application had not yet been received by the office. There being no additional nominations, the Board was polled with the following votes:

Commissioner Baldwin – Walter Kidd
Commissioner McGrady – Walter Kidd
Chairman Moyer - Walter Kidd
Commissioner Messer – Walter Kidd
Commissioner Young – Kimberly Osborne

Walter Kidd was reappointed to the Animal Services Committee.

3. Child Fatality Prevention Team – 1 vac.

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

4. Equalization and Review Board – 6 vac.

Ms. Brantley stated that the members who wished to be reappointed to the Board were: #4 – Charles Porter, #7 – Vollie Good and #8 – Phillip Stanley. Ray LeStrange had moved out of Henderson County, and was therefore not eligible to be reappointed. Jon Laughter did not wish to be reappointed, and Franklin Carland had not yet responded. Commissioner McGrady nominated Charles Porter, Vollie Good and Phillip Stanley for reappointment to positions. 4, 7 and 8 respectively. *Chairman Moyer made the motion to accept those nominations by acclamation. All voted in favor and the motion carried.*

Commissioner McGrady nominated Franklin Carland, but asked that the appointment be held until the next meeting to ensure that he did wish to be reappointed. Commissioner McGrady then nominated Kenneth Martin to Position #1 and Richard Sheldrick to Position #2. Commissioner Messer nominated Dutch Burdette to Position #2. *Chairman Moyer made the motion to accept Kenneth Martin to Position #1 by acclamation. All voted in favor and the motion carried.*

5. Henderson County Transportation Advisory Committee – 1 vac.

At the last meeting, Terry Hicks and Bruce Benton were nominated to the Committee. However, Mr. Benton's name had been withdrawn as he had previously served on the Committee. There being no additional nominations, *Chairman Moyer made the motion to accept Terry Hicks by acclamation. All voted in favor and the motion carried.*

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. Juvenile Crime Prevention Council – 3 vac.

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

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

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

9. Recreation Advisory Board – 3 vac.

Commissioner Messer nominated for reappointment #2 – James Schweitzer, #8 – Wally Sneed and #9 – Virgle McClure. There being no additional nominations, *Chairman Moyer made the motion to accept those three by acclamation. All voted in favor and the motion carried.*

TAX COLLECTOR'S ANNUAL PRESENTATION

Mr. Lyda – “In accordance with N.C.G.S. 105-369, Advertisements of Tax Liens on Real Property for Failure to Pay Taxes, I respectfully submit the following report:

Annual Bills (not including Motor Vehicle)	
2005 Total Collector's Charge:	\$43,573,244.32
Payments:	\$40,563,451.80
Unpaid Taxes:	\$ 3,009,793.14

Percentage Collected through 2/2/2005: 93.09%

Advertisement of Tax Liens:

Effective January 1, 1985, Ch. 1013 (H1676) amends N.C.G.S. 105-369 to provide that tax liens need to be advertised only once. A taxing unit may choose to advertise the tax liens more than one time, but it is not required to do so. The list must still be posted at the Courthouse or City Hall door and it must be advertised in one or more newspapers having a general circulation in the taxing unit. The advertising may be done at any time from March 1 through June 30.

Effective January 1, 2001, N.C.G.S. 105-369 has been modified and will require us to provide notice to and advertise liens under the name of the current owners of real property as well as the listing owners.

It is my recommendation to the Board of Commissioners that unpaid tax liens be advertised once: on May 15, 2006 (the third Monday in May). The reasons for my recommendation are as follows: (1) our tax statements sent to the taxpayers tell them that as long as their taxes are paid by April 30, their lien will not be advertised; (2) the *Times-News* states that they must have ample time for preparation of the advertisement; and (3) with the implementation of the new rules regarding advertisement, our costs per parcel will essentially double even without allowing for any per-inch increase the newspaper may add. Since many people rely upon income tax refunds to pay their property taxes, I feel we should remain on the same schedule we have used to reduce as far as possible the costs incurred by advertising. Giving taxpayers until the end of April to pay ensures that anyone who is planning to use income tax refunds to pay county property taxes has an opportunity to do so. Respectfully submitted, Terry F. Lyda Tax Collector.”

Mr. Lyda explained that last year as of this time 92.82% had been collected. He also presented the Tax Collector's Report (monthly) dated February 2, 2006.

Commissioner McGrady made the motion to accept Mr. Lyda's recommendation regarding the advertising of delinquent taxes. All voted in favor and the motion carried.

Darlene Burgess then updated the Board on delinquent tax collections. They were preparing to send certified mail notices on real property parcels that were unpaid. Currently there were 67 delinquent real estate parcels from 2003 backwards. Ms. Burgess stated that she was particularly proud of that number, because when she came to work for the County, there were between 800 and 1,200 delinquent parcels. They were also beginning the title searches on 2004 unpaid taxes. They had an overall collection percentage of 99.64% on all regular tax bills. That figure included ten years of bills, some bills that were considered outside the statute of limitations, bills determined to be uncollectible and bills that were under bankruptcy. There was about \$1.1 million outstanding in regular tax bills, which included real estate parcels and individual bills. To date they had collected 96.94% of all delinquent DMV tax since 1993.

ETOWAH LIBRARY REAL ESTATE PURCHASE CONTRACT AND FINANCING RESOLUTION

Presented for the Board's consideration was a draft reimbursement resolution for the construction of the Etowah library branch. The resolution would allow the reimbursement of certain expenses. The amount listed on the resolution was intended to be the maximum amount which could be financed, and was not intended to be an accurate project cost estimate. Justin Hembree reminded the Board that this item was included in the Strategic Plan, with the planning stage expected to go through May, 2006.

Bill Snyder stated that the project was to replace a 4,000 square foot building currently serving as the Etowah library. It had served as the library for about 22 years, and was on a one acre site that was prone to flooding. This purchase would provide a final library site which drains well and was of adequate size for any future expansions. The budget was based on a projected cost of \$160 per square foot.

Commissioner McGrady made the motion that the Board approve the draft financing reimbursement resolution as presented. All voted in favor and the motion carried.

REQUESTING REVISION OF THE BY-LAWS FOR THE HENDERSON COUNTY JUVENILE CRIME PREVENTION COUNCIL

The Henderson County Juvenile Crime Prevention Council (JCPC) members had revised the Council's current By-Laws, and requested that they be modified to better meet the needs of the Juvenile Crime Prevention Council. Ms. Brantley had reviewed the bylaws proposed, and compared them with the statutory requirements for the Council. One of the revisions proposed to change the membership requirement for Position #2 from "Chief of Police" to "Chief of Police, or designee". Ms. Brantley pointed out that while the statute allowed for a designee for many of the positions, this position did not allow for a designee.

There was also discussion about issues of attendance, and the wording that would require the Board of Commissioners to remove members due to non-attendance. Chairman Moyer stated that he would prefer that the Board have the same rule for all Committees. It was the consensus of the Board that the rules should be the same, with Commissioner McGrady preferring that rule be self-executing as opposed to needing to come before the Board of Commissioners. It was further the consensus of the Board to have Staff address this issue as review of bylaws commences as part of the Strategic Plan.

Commissioner McGrady made the motion to adopt the amendments as presented, striking the page 3 reference to the Chief of Police and striking the page 7 provision relating to attendance. All voted in favor and the motion carried.

ANIMAL ORDINANCE AMENDMENT

Rocky Hyder noted that domestic animals that were not confined to the owner's property were the source of many complaints to the Animal Services Department. The Animal Services Committee carefully considered the effect of a restraint/confinement amendment in addressing this issue for the community. The Committee determined that an amendment requiring restraint or confinement of domestic animals, enforced on a complaint driven basis, would be a logical approach to resolving this problem. Such an amendment had been drafted and was presented to the Board for their consideration.

There was some discussion of the definition of Domestic Animals, and the penalties involved if animals were not properly confined. Commissioner McGrady stated that he would be in favor of scheduling an opportunity for public input. He also asked that Staff make a concerted effort to circulate the proposed amendment to the various dog and cat related organizations for their comments.

Commissioner Baldwin asked what the definition of a legal hunt was. Rocky Hyder answered that was hunting an animal in season. A pack of beagles running rabbits in March would not be a legal hunt. Similarly, a single beagle hunting on its own during rabbit season when the owner was not present would also not be a legal hunt. Commissioner Messer requested staff consider circumstances such as hunting without a weapon, and hunt clubs that run dogs. Mr. Hyder stated that Staff would address training and field trials, and bring that back to the Board.

Commissioner McGrady made the motion to adopt recommendation #1, schedule an opportunity for public input at the February 15, 2006 meeting, provide direction to staff following public input and adopt the amendment on second reading at a subsequent meeting. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

EMS Billing

Carey McLelland reminded that Board that at the previous meeting, they had requested he develop an action plan for the EMS billing function. Some serious problems with the billing process had been discovered in November, 2005. Some of the immediate actions taken to address the problem were:

- Contacted Medicare to make them aware of the filing issues, and requested assistance to get claims filed.
- Contracted additional personnel experienced in the software package to help file claims and meet immediate deadlines.
- Finance Department assumed full responsibility for the billing function
- Staff had worked extended hours to meet filing deadlines

Current and future plans included:

- The vacant EMS billing position had been filed.
- Insurance filing procedures were being reviewed and refined.
- Records and report monitoring were being reviewed.
- Billing duties were being examined to ensure future billings were filed.
- Pardee Hospital had provided a report of all transports that had gone to their hospital over the past six months.
- Working with Park Ridge and Mission Hospitals to receive transport information.
- Several grants had been applied for, for equipment and software which would be used in the field, uploading information directly into the billing system.
- Request that during the next financial audit, the external auditors look at the EMS billing and filing procedures to make sure they feel the County is where it needs to be to move forward.

The Board clarified that while the billing clerks were still physically located in the EMS offices, they were reporting directly to Mr. McLelland. Mr. McLelland also stated that he wished to give the process a chance to work internally before any decision to contract that service out was made. Commissioner Baldwin stated that he would like to see a memo from Mr. Hembree, and an amended organizational chart showing the Board exactly what is taking place. He also requested that a time period be designated for the trial billing run, with a final decision being made at the end of that period. *Commissioner Baldwin made the motion to have Mr. Hembree prepare an organizational chart showing the arrangement going forward, that it be recognized that it is a trial for a period of six months and will be reexamined at the end of six months, and that Mr. Hembree or Mr. McLelland would report back to the Board with the results of that evaluation with any recommendations they might have with respect to keeping that organization or making changes as necessary. All voted in favor and the motion carried.*

Commissioner Young questioned whether Mr. McLelland could yet provide the Board with an accounting report showing how much was not billed or collected, how much had been collected, the remaining collectable balance, and the balance that would have to be written off. Mr. McLelland felt he would be able to bring such a report to the Board at their mid-month March meeting. Commissioner Young stated that he felt that once accounts had been settled, a letter should be sent informing the customer of what been collected, and thanking them for their cooperation. There followed much additional discussion about the overall picture of accountability with respect to billing in a variety of county departments.

REQUEST FROM ARC'ANGEL TRANS'SUPPORT SERVICES CONCERNING ALLOWED PER MILE TRANSPORT RATE

At the Board's last meeting, the decision had been made to have the County's current EMS charge of \$8.94 remain at that rate, despite recent approval from Medicare that would allow an increase to \$9.17 per mile. Arc'Angel Trans'Support Services (Arc'Angel) had requested that the County make an exception to the

agency's franchise agreement. Under the current franchise, Arc'Angel cannot charge any rates higher than that of Henderson County EMS. Via this request Arc'Angel was requesting to be allowed to charge the full amount of mileage fees as set forth by the 2006 Medicare Ambulance Fee Schedule (\$9.17 per mile). Mr. Hembree recommended that the franchise agreement with Arc'Angel not be changed, but that the Henderson County EMS fee schedule be adjusted to allow for the full amount of mileage fees as set forth by the 2006 Medicare Ambulance Fee Schedule. Such a change would allow all other franchising agencies to charge the full amount allowed by Medicare.

Commissioner McGrady made the motion that the Henderson County EMS fee schedule be adjusted to allow for the full amount of mileage fees as set forth in the 2006 Medicare Ambulance Fee Schedule. Chairman Moyer stated that per the rules of procedure, neither himself nor Commissioner McGrady could not make that motion since they had previously voted to raise the fee. Russ Burrell stated that Chairman Moyer was correct, but that if the motion were made by another Commissioner it could be voted on at this meeting.

Commissioner Young then made the motion that the Henderson County EMS fee schedule be adjusted to allow for the full amount of mileage fees to be charged, which would also allow any franchisees to raise their rate. All voted in favor and the motion carried.

PROPOSED HENDERSON COUNTY COMMENTS TO FCC ON CABLE RULEMAKING

Russ Burrell informed the Board that the Federal Communication Commission (FCC) had proposed a rule that would do away with local franchising of cable and other video services. Mr. Burrell believed the Board would view that to be an unfavorable development, especially in light of the current renewal negotiations with Mediacom. The National Association of Telecommunications Officers and Advisors (NATOA) had proposed that all local governments in favor of retaining franchising authority make comments, as the federal rulemaking procedure allows, to the FCC expressing that they were not in favor of a rule that would do away with local franchising authority. Mr. Burrell provided the Board a draft proposed comment from Henderson County for consideration.

Chairman Moyer stated that the only problem he had with the proposed draft, was that it implied the Board was comfortable with the present authority it had to control cable companies. He stated that he was not comfortable with that because he did not feel the present authority went far enough. He felt that the County should have more rights with respect to programming and rates. Mr. Burrell stated that he would be happy to strengthen that language to say something like local franchises provide a means, though while a somewhat ineffective means, and the County would actually prefer a stronger means.

Chairman Moyer made the motion to send the comment as submitted in the draft, but that the tone be changed to reflect that we believe local government should have the ability to control cable companies and we would prefer that the ability to control be strengthened, not lessened. All voted in favor and the motion carried.

Russ Burrell stated that a similar issue was arising in front of the State Legislature. It would have the same effect of granting a statewide franchise. At some point in the future he would likely suggest that the Board write a letter to the legislators expressing their opinion on that proposed legislation.

UPDATE ON PENDING ISSUES - continued

Human Services Building Furniture

David Nicholson reminded the Board that at the January 18, 2006 meeting, the Board requested staff to provide information concerning the purchase of office furniture for the new Human Services Building. There are two basic methods of purchasing furniture where there is a requirement for formal bids. The County can choose to develop our own set of bid specifications or we can choose to 'piggy-back' upon furniture that has already been bid. This idea can be done by using other local governments, North Carolina's State Contract, or US Communities. Staff believed that US Communities, which is a nationwide governmental purchasing program, was the best choice for the majority of the purchase. It was formed by several organizations including NACo to provide high quality furniture, greater price breaks, and service by bidding furniture on a nationwide basis. Under North Carolina law, we were authorized to purchase through US Communities without seeking additional competitive bids - since it had already been placed out to bid for

all governments across the nation. Besides the competitive nature of the bids, all furniture purchases had a built-in future price guarantee for the same or similar furniture. For example should DSS need to expand into the future space in five years, Henderson County was guaranteed the same price as today. Also, there were already negotiated price breaks for large orders and the local vendor's already have a set commission.

The two major departments who would occupy the building had been working on furniture needs for nearly a year. The preference was to use a company that could provide both local service and already competitively bid prices. A local vendor, Professional Business Interiors (PBI), who can sell through US Communities, had been working with the Department of Social Services since spring of 2005 and with the Public Health Department since late summer to assist them in the design, layout and possible furniture solutions. PBI had worked with the City of Hendersonville on its City Hall renovation and the Henderson County Public School System. They had assisted several county governments including Buncombe, Haywood, Watauga, Macon, Caldwell and Polk with new furnishings. They also had knowledge in the specialized needs of a medical office building.

A complete walk-through of both departments including a needs assessment for DSS had been done. Every office was analyzed and all current furniture was ranked to its condition and possible future uses. Inventories were taken of all filing needs at both the office level and for larger areas such as medical records and DSS overall filing system. Other major issues, such as the open office/panel systems were reviewed. Based on this information and a set of the architectural plans, discussions were held which reviewed every new office to determine its use and needs. Several draft furniture plans were developed and reviewed by county staff and finally signed off on. A draft cost proposal was developed to be used for budgetary purposes.

Staff recommended that Henderson County proceed with using PBI to provide the majority of the furniture for the Human Services Building. They have shown the initiative to work with these staffs in the development of a furniture plan for almost a year. They believe that by using this company and approach, they could get the order placed soon and therefore be in position to have the furniture in place by the time the building is occupied. However, realizing that other companies could sell furniture utilizing US Communities and that the Board may have the desire to seek proposals from other companies, Mr. Nicholson offered several alternative methods for seeking bids. Peggy Gray also addressed the Board regarding the relationship she'd had with PBI over the past 16 years, and the assistance they had provided already with decisions for the new building. Terri Arrington also discussed her recent experiences with PBI, stating that she was very much in favor of proceeding with them.

Following some discussion about the budget for all furniture, fixtures and equipment, *Commissioner McGrady made the motion to accept the recommendation to purchase the furniture through U.S. Communities, more specifically from local vendor Professional Business Interiors, PBI, for furniture in the Human Services Building. All voted in favor and the motion carried.*

PUBLIC HEARING – Rezoning Application #R-2005-05 (O&I to I-2)

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

Matt Cable informed the Board that on November 15, 2005, the Henderson County Board of Public Education submitted an application to rezone approximately 27.03 acres of land off Mill Street from an O&I zoning district to an I-2 zoning district. Notices of the public hearing regarding the rezoning application were published in the Hendersonville Times-News on January 18 and 25, 2006. On January 26, 2006, signs advertising the public hearing were posted and notices were sent to the applicant and owners of properties adjacent to the subject area. Patsy Brison was serving as the applicant's agent.

The subject area was located on the old county fairgrounds within a ¼ mile of the intersection of Spartanburg Highway and Highland Lake Road/Upward Road. The subject area was currently zoned O&I, which was applied on October 1, 1990 as part of the East Flat Rock Phase I Land Use Plan. The area was surrounded on the north by an O&I zoning district, on the south by an I-2 zoning district, to the east by a C-4 zoning district, and to the west by a T-15 zoning district. The subject area was currently undeveloped, and had access to the City of Hendersonville's public water and sewer lines.

Staff supported the rezoning of the property to be rezoned for industrial uses, based on the 2020 CCP and contiguous zoning classification. The Planning Board had considered the application at its meeting on December 20, 2005, and had voted 5-1 to send the Board of Commissioners a favorable recommendation on the rezoning.

Public Input

There was none.

Chairman Moyer made the motion to approve the rezoning application as submitted. All voted in favor and the motion carried.

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

QUASI-JUDICIAL PUBLIC HEARING – Application for an Amendment to a Special Use Permit for an Expansion to the Four Seasons Hospice Building

Commissioner McGrady disclosed to the Board that he was the President of the Applicant in this case, and requested the permission of the Board to recuse himself from the proceedings. *Chairman Moyer made the motion to recuse Commissioner McGrady from the proceeding because of the conflict. All voted in favor and the motion carried.*

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

Chairman Moyer – “Um, this is a, has to be conducted as a quasi-judicial proceeding. It’s a, in, with respect to the petition in re: application of Partners in Health Condominium Assoc, Association, LLC. where Partners in Health Condominium Association LLC is the Petitioner. This uh, I think as most of you know is a quasi-judicial proceeding is very much like a court proceeding, it’s much more formal than our, the last proceeding that we had where one’s individual rights are being determined under a specific set of rules. One of the things we normally do at the beginning of such a hearing is identify whether there’s any person who feels they’ll be affected by this decision who would like to be made a party to this proceeding. Is there anyone in attendance that would like to be a party to this proceeding and participate in the proceeding? Mr. Lapsley would you approach the uh, microphone? I ask you on behalf, behalf of the Board and the Planning Department whether you would agree to waive, since there’s no other parties, the quasi-judicial and we can proceed on a much more informal basis.”

Bill Lapsley – “Yes sir, we would agree.”

Chairman Moyer – “Planning Department have any objection?”

Autumn Radcliff – “No.”

Chairman Moyer – “Alright then, we will proceed um, to hear this application. We will begin with uh, Ms. Uh, Autumn Radcliff will uh, present the um, the Staff’s background.”

Autumn Radcliff stated that on November 3, 2005, William G. Lapsley & Associates, on behalf of Partners in Health Condominium Association, LLC., submitted a development plan and applied for an amendment to their Special Use Permit (SP-46-96) to expand the existing building owned by Four Seasons Hospice and Palliative Care. The proposed expansion would provide administrative space for their clinical staff and six additional patient care rooms. Notices of the public hearing were published in the Times-News on January 13, 2006 and on January 19, 2006. On January 19, 2006 the Planning Department posted notices at the project site to advertise the hearing. On January 20, 2006 the Planning Department sent notices of the public hearing via certified mail to the applicant and adjacent property owners.

On December 20, 2005, the Planning Board reviewed the application for the Special Use Permit, and voted 6-1 to send a favorable recommendation to the Board of Commissioners with the following conditions:

- Pathway designation for the bicycle and pedestrian path between Four Seasons Hospice and the Blue Ridge Community College. This had been noted in the original special use permit, but was never installed.
- Landscape buffering along College Drive and South Allen Road. This had also been noted in the original special use permit, but was never installed.
- Time frame - the Planning Board specified that these be installed prior to the CO being issued.

Planning Staff had reviewed the application, and found it to be in general compliance with the CCP. Staff recommended approval of the application subject to the recommendations of the zoning administrator and Planning Board, with the exception of the time frame for the landscaping buffer. Staff felt that the landscaping condition was in the original special use permit, and should be installed prior to the zoning permit being issued for the expansion.

Natalie Berry, Zoning Administrator, reviewed a map of the site, showing where the addition would be placed on the site. She noted that the following conditions included in the original SP-46-96 had not been completed as of January 12, 2006:

- Item 7 – pedestrian crossing, bike paths, etc to Blue Ridge Community College. This was to be placed during the first SP-46-96 approval process. The intent was to give a safe path for students enrolled at Blue Ridge Community College to safely arrive at the site for training related to their major in the health care program.
- Item 10e – stated the need for Landscaping along the west side of South Allen Drive and also College Drive. This item did not make it into the actual order as an item.

Ms. Berry recommended the special use permit amendment be approved with those conditions.

Bill Lapsley stated that he had no objections to the conditions discussed. He did not know how those conditions were missed seven years ago, but they should have been done and they will be done. The landscaping could be done immediately, and they were currently working with the college to make sure the sidewalk was put in the right place.

Russ Burrell noted that the Board would need to make findings consistent with the general and special conditions for the special use. If the Board was able to make those findings from the materials presented, they could make the findings from that written material alone, and the other necessary finding would be made in the order which would be presented at the next meeting. Ms. Radcliff had presented the necessary findings in her written exhibits to the Board, and briefly reviewed those. Mr. Burrell reminded the Board that if they found all the necessary findings had been adequately met, then they should move to grant the permit.

Chairman Moyer made the motion that all the findings required for granting the special use permit had been met, and that the Board issue an order approving the special use permit subject to the conditions that had been laid out by staff and the Zoning Officer with respect to the conditions that need to be in the order. The motion carried 4-0, Commissioner McGrady having been recused from the proceeding.

Commissioner Messer made the motion go out of public hearing. All voted in favor and the motion carried.

Edneyville PARTF Grant Project

Justin Hembree reminded the Board that several months ago the Strategic plan had been amended to reflect a priority for seeking Parks and Recreation Trust Fund (PARTF) money to work with the Edneyville Community in development of a multi-purpose facility in that community. The PARTF grant had been drafted and sent to the Parks and Recreation Trust Fund. That was being reviewed, and Mr. Hembree expected to hear something back from them between mid-March and early April. Granting of funds from that trust would be the key to the planning of the facilities details. The Edneyville community continued to work with Habitat for Humanity to possibly identify more property to expand the project to include a wider range of community facilities, specifically recreation facilities.

2006 STRATEGIC PLAN

A special called meeting had recently been held on the 2006 Strategic Plan. At that meeting, the Board had suggested some changes and revisions to the draft prepared by Staff, and asked Selena Coffey to implement those changes and bring the Plan back. Ms. Coffey distributed the Plan, stating that the changes were highlighted in red. She reviewed those changes with the Board.

Chairman Moyer discussed Strategy 1.8: Protect Water Quality, Action Step 3 which read “Amend CCP schedule to create and implement a local Sedimentation and Erosion Control Program in FY 06-07”. He thought the Board had agreed to amend the CCP to study whether the County wished to create and implement a local plan, or change and improve local enforcement of the existing state plan. He felt the Board should study both the plan and the enforcement, but did not believe they had come to the conclusion to definitely create a local plan. Commissioner Baldwin noted that if the county were to enforce the regulations, the Board would have to adopt a local plan. The County would have to adopt the state model, which could be tweaked to match particular needs, and would then establish a program and enforce it. If the County were to establish a program, it would preclude future enforcement by the state. There followed much discussion about how the County should proceed. *Chairman Moyer made the motion to approve Action Step #3 with the deletion of the words “create and”. All voted in favor and the motion carried.*

With respect to Strategy 2.5: Examine the roles of County advisory boards and committees, Chairman Moyer questioned whether Action Step 4, “Determine whether boards and committees meet the County’s current and future objectives” was broad enough to cover a thorough review of whether the current boards and committees were appropriate, should be merged, de-activated, etc. Ms. Coffey stated Staff could certainly modify that language. Commissioner Baldwin stated that the Committees should be placed within the context of the larger framework of looking at where the County is going and whether the Committees help the County get to that end.

Commissioner Baldwin updated the Board on the most recent events surrounding an Excursion Train. He had spoken with individuals associated with the economic development arms of Polk County and the City of Spartanburg. There was a group who planned to look at the possibility of having a study commissioned from Spartanburg that would cover the area from Spartanburg to Asheville with respect to economic development. He requested that he be allowed to address the Board on this topic when he had additional information.

With respect to Strategy 5.4, Action Step 1 “Evaluate Sheriff’s Department facility utilization”, Chairman Moyer felt that the evaluation should be of the use and potential uses of the land currently containing the Sheriff’s Department, Courthouse, and former water department building. He suggested changing that language to cover an evaluation of the land in that area.

Commissioner McGrady made the motion to approve the Strategic Plan as presented with the three revisions noted by the Chairman. All voted in favor and the motion carried.

IMPORTANT DATES**Vision Henderson County**

Chairman Moyer informed the Board that on Thursday, March 9, 2006, Vision Henderson County would have their exposure to general Henderson County government operations. Justin Hembree would be meeting with them around 1:00, and reviewing the County Manager’s role and general government. At about 3:00, the group wished to ask Commissioners some questions about government operations. Chairman Moyer questioned whether the Board wished him to handle that, or schedule this as a special called meeting. It was the consensus of the Board to have Chairman Moyer handle the meeting.

Land Development Code (LDC) Workshop #2

Chairman Moyer reminded the Board of the need to schedule the second Land Development Code workshop. Chairman Moyer made the motion to schedule a special called meeting on Thursday, March 16th at 4:00 to continue discussion of the Land Development Code. *All voted in favor and the motion carried.*

CLOSED SESSION

Commissioner McGrady made the motion to go into closed session pursuant to NCGS 143-318.11(a)(1) to prevent disclosure of information which is not a public record and pursuant to NCGS 143-318.11(a)(5)(ii) to discuss and give instruction on the County's negotiating position concerning an employment contract. All voted in favor and the motion carried.

Action taken after Closed Session

Commissioner McGrady made the motion to continue the meeting until Friday, February 10, 2006 at 9:00 am. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman

DRAFT