

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
MARCH 2, 2006**

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

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

Also present were: Planning Director Judith Frances, Public Information Officer Chris S. Coulson, Fire Marshal Rocky Hyder, Finance Director J. Carey McLelland, and Development and Enforcement Director Toby Linville.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Chuck McGrady led the Pledge of Allegiance to the American Flag.

INVOCATION

Commissioner Shannon Baldwin gave the invocation.

Chairman – Announcement

Partner of the Year Award

Chairman Moyer stated that the Henderson County Partnership for Economic Development held their annual meeting and Industry Recognition Reception a few days ago. At that meeting they had a speaker on Crime Control and Public Safety, and issued some awards.

Rob Cranford, President Elect of the Partnership for Economic Development, Division of the Henderson County Chamber of Commerce, was present. He introduced Gus Campano, current Chair of the Partnership and Scott Hamilton, Executive Vice-President who were also in attendance. Mr. Cranford stated that at the annual meeting this past Tuesday night he had the pleasure to announce the recipients of the Partner of the Year Award. As their name implies, they are a Partnership and the relationship that the organization has had with this Board of Directors over the year has been stellar. He praised the Board, especially this year, for the cooperation, support, help and everything the Board of Commissioners did in the assistance with the "Project Cardinal" project. "As a token of our appreciation to you all and a thanks, it was again my pleasure to announce that along with the Henderson County Board of Education, that the Henderson County Board of Commissioners received our Partner of the Year Award." Chairman Moyer accepted the award on behalf of the Board, amid applause.

INFORMAL PUBLIC COMMENTS

1. Bob Jones – Mr. Jones spoke to the issue of the Animal Ordinance. He lives at 116 Drexel Road in Etowah, since 1981. When he purchased the property there were no houses near him and he was at the end of a dirt road. Since that time many homes have been built. He was one of the people, with the Etowah Lions, who were instrumental in putting the Etowah Park on the other side of the creek which is contiguous to his property. Mr. Jones stated that he has always had dogs. At one time he had as many as three German Shepherds. He has 10 acres and he thinks that the animal ordinance will limit his ability to have his dogs on his property, running free. This is one reason he bought

DATE APPROVED _____

property where he did. His property is partially fenced but one of his dogs can clear eight feet so it would be difficult to fence his entire property and keep him contained. He stated that he had only had one complaint in all these years.

He felt that the Board should consider somewhere in the ordinance people who have pieces of property three acres or larger who want to have animals and loosen up the leash part of the ordinance as it pertains to larger pieces of property.

2. Stan Rhodes – Mr. Rhodes spoke to uphold the farmers, realizing that we have to have development also. Some consideration should be given to the farmers to try to keep some farming/agriculture in our county. We need to preserve farmland.
3. Dorothy Freeman – Ms. Freeman spoke in opposition of the Animal Control Ordinance. She didn't feel it was right for the Commissioners to restrict what she has in the dogs that accompany her. She won't leash or chain them. She stated that she had had only one incident with one of her dogs. Her dogs are for her protection and companionship.
4. Carl Popanz – Mr. Popanz addressed the Animal Control Ordinance. He just moved to Hendersonville about eight months ago, originally from Wisconsin. He stated that under his bedroom window, less than 100 yards from his house, are two chained dogs. The dogs bark and howl night after night. He feels that we need an ordinance covering nuisances, barking, and howling, especially in residential areas. In residential areas there need to be some controls on dogs, nuisances as well as treatment (neglect and abuse) of dogs. These two dogs are on chains, outside, in all kinds of weather. It's understandable that the dogs howl.
5. Debra Stierwalt – Ms. Stierwalt thanked Mr. Young and Mr. Moyer for running again for Commissioners, stating that there are a lot of unresolved issues. She also congratulated Mr. Baldwin for his decision to run for NC State Senate.

She stated that the Tuxedo group are still concerned and are staying together to be supportive for the Commissioners. There have been volunteer offers in the grading, plowing, and sowing areas and possibly some construction workers that have volunteered to help out either with the park and/or the library situation in Tuxedo. They are also inquiring about some grants for the park.

6. Jack Reed – Mr. Reed spoke in favor of the animal control ordinance but expressed the need for it to pertain to cats as well as dogs.
7. Douglas Coggins – Mr. Coggins stated that he knows from personal experience that dogs can be trained not to bark and pretty much to stay in the yard. Sometimes you have to help them learn by way of a shock collar or a buried fence.

He also offered his thanks to the Board for revisiting the issue of what is good for Tuxedo and continuing to work toward the Library project and the Park project for the Tuxedo community. He also asked that the Board keep in touch with someone in the community so that the citizens will have some ownership in the park.

8. Babs Newton – Ms. Newton stated that she walks around town and out in the county a good bit with her dog on a leash. She has to walk with a stick, her protection against dogs that come out from yards onto the public roads and try to attack her or her dog. She lives on Fifth Avenue. She stated that the leash law in the City seems to be working and she would like to see a similar law in the county.
9. Joann Turner – Ms. Turner spoke in opposition to the animal control ordinance, stating that it will hurt the poor section of the counties. People with larger tracts of land can afford to fence whereas

others may not be able to. She stated that her dogs are for protection, in case someone comes onto her land.

She mentioned that Mose Highsmith, attorney for the Sheriff's Department, is working on a new system of monitoring barking dogs as the decibel system doesn't work for barking dogs. She wondered why the citizens had not been made aware of this new system.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer wished to add a couple of additions to "A-Voting Equipment Financing", including Resolution for Sale of Voting Equipment.

Under Update on Pending Issues – "3 – National Flood Insurance Program Update" was request to be added as well as "4 – Land Development Code".

There were no other adjustments requested.

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

CONSENT AGENDA

Commissioner McGrady noted that he will continue to need to be recused with respect to item "G –Order Granting Special Use Permit Amendment – Hospice" because he actually signed that application.

Commissioner McGrady made the motion to adopt the consent agenda, items A through F. All voted in favor and the motion carried.

Chairman Moyer asked for a motion with respect to item G, including recusing Commissioner McGrady. *Commissioner Messer so moved. All voted in favor and the motion carried four to zero.*

Minutes

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

- January 3, 2006, regular meeting
- January 18, 2006, regular meeting
- February 10, 2006, continuation of February 6, 2006 regular meeting
- February 15, 2006, regular meeting

Tax Collector's Report

Terry F. Lyda, Tax Collector, presented the Tax Collector's Report dated February 22, 2006 for the Board's consent approval.

Financial Report – January 2006

Cash Balance Report – January 2006

These two reports were presented for Board information and consent approval.

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

The YTD deficit in the Emergency 911 Communications Fund is due to FY2006 approved appropriations for the purchase of new generators for the mountaintop communication sites and a GIS software application update that links GIS data with the Computer Aided Dispatch (CAD) system in the 911 Center.

The YTD deficit in the Mills River Watershed Protection Project, the Mud Creek Watershed Restoration Fund and the Mills River Sewer Capital Projects are all temporary due to timing differences in the

expenditure of funds and the subsequent requisition of Federal and State grant funds or Cane Creek Water & Sewer District funds for the Mills River Sewer Project to reimburse³ 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 – January 2006

The January report was present for Board information and consent approval.

Petition for addition to State Road System

Staff had received road petitions to add the following roads to the State Road System:

Pine Bark Lane, Pine Cone Hill, Pine Knot Trail (all in Tall Pines Subdivision)

Staff recommended approval of the above mentioned road petitions. It has been the practice of this Board to accept road petitions and forward them to NC DOT 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.

Water Line Extension

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

A City of Hendersonville Project Summary sheet, with backup documents and a County review sheet with staff comments were included for Board review and action.

Order Granting Special Use Permit Amendment – Hospice

Presented for the Board's review and possible adoption was the proposed order from the Board's February 6, 2006 hearing on the proposed special use permit amendment.

NOMINATIONS

Notification of Vacancies

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

1. **Cemetery Advisory Committee – 1 vac.**
2. **Juvenile Crime Prevention Council – 1 vac.**
3. **Solid Waste Advisory Committee – 1 vac.**
4. **WCCA Board of Directors – 1 vac.**

Nominations

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

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

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

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

Commissioner McGrady nominated Terri Wallace. Ms. Wallace has submitted an application. She comes recommended by John Antrim who is the member that is stepping down. Her particular interests are in the bicycle and greenway area. She is also executive director of the Partnership for Health. There were no other nominations. *Chairman Moyer moved the appointment of Ms. Wallace by acclamation. All voted in favor and the motion carried.*

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

There had previously been two nominees: Joe Cox and James Phelps. Following some discussion, Commissioner Young withdrew Joe Cox's nomination. *Chairman Moyer made the motion to accept Mr. Phelps 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. Historic Courthouse Corporation – 1 vac.

Chairman Moyer nominated Stuart Stepp. Commissioner Baldwin nominated Ken Gaylord. Following discussion, Commissioner Baldwin removed Mr. Gaylord's name from nomination. There were no other nominations. *Chairman Moyer made the motion to accept Mr. Stepp 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. Mountain Area Workforce Development Board – 1 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. Solid Waste Advisory Committee – 3 vac.

Commissioner McGrady nominated Katie Breckheimer and Terry Lee Maybin. He stated that there had been a request that another waste hauler be added to this committee. No one has been found and he asked that this slot remain open. *Chairman Moyer made the motion to accept both Breckheimer and Maybin by acclamation. All voted in favor and the motion carried.*

Commissioner McGrady nominated Katie Breckheimer as Chair of the committee effective April 1, 2006. *Chairman Moyer made the motion to accept Ms. Breckheimer by acclamation. All voted in favor and the motion carried.*

VOTING EQUIPMENT FINANCING

Carey McLelland reminded the Board that at a previous meeting of the Board of Commissioners, Staff had presented the results of proposals from financial institutions to do an installment contract purchase financing for new voting equipment not to exceed \$625,000. The Board of Elections Director had determined that the total County cost for the new voting equipment would be \$560,000 after Federal and State grant funds of \$524,882 are utilized.

Bank of America has been certified as the lowest responsive proposal to finance the new voting equipment for a 5-year term at a bank-qualified interest rate of 3.70 percent. The total annual debt service payments required would be \$123,204.84. The first quarterly payment of \$30,801.21 would be due in June 2006. Included for the Board's review were draft copies of the Installment Purchase Contract and Acquisition Fund and Account Control Agreement.

Staff recommended that the Board consider approving the prepared resolution accepting and approving the Bank of America financing proposal and authorizing the Chairman and staff to execute the required financing documents. No formal approval by the Local Government Commission or a public hearing is required to enter into this installment purchase contract financing.

The Interim County Manager informed the Board it would be appropriate for the Board to adopt the prepared resolution at this meeting approving the Bank of America financing proposal for new voting equipment and authorizing the Chairman and staff to execute the required documents to close this transaction.

Commissioner McGrady made the motion to adopt the presented Resolution approving the Bank of America financing proposal for new voting equipment and authorizing the Chairman and Staff to execute the required documents to close this transaction. All voted in favor and the motion carried.

Resolution Authorizing the Disposition of Personal Property by Private Sale to a Local Governmental Unit

Beverly Cunningham had researched to find folks who might be interested in purchasing our old voting equipment and was successful.

Henderson County had received a request from the County of Dauphin in Harrisburg, PA to purchase one hundred thirty (130) 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 \$100 per machine for a total of \$13,000 for the 130 machines with the Director of Elections in Dauphin County.

This sale would complete the disposal of the County's remaining de-certified, surplus electronic voting machines and would alleviate maintenance staff having to move them to make room for the new voting equipment.

Included for the Board's consideration and approval was a draft resolution authorizing the private sale of these voting machines to another local governmental unit as allowed under NCGS 160A-274.

Commissioner Young made the motion to accept the bid from Dauphin County to purchase our old voting equipment as presented, including the prepared resolution. All voted in favor and the motion carried.

CHALLENGES TO DEPARTMENT OF SOCIAL SERVICES ACHIEVING POSITIVE OUTCOMES FOR CHILDREN IN COUNTY'S CARE

Liston Smith explained that Methamphetamine (Meth) is a growing problem in Henderson County. Law enforcement investigated one hundred twenty (120) cases of meth abuse and children were found in more than one-third of the homes investigated.

An alarming number of children are entering the county's care and many of these children come from homes not safe due to parent methamphetamine abuse. Meth is a major reason the juvenile court system is backlogged. Children are not being served timely. Successful abuse treatment for parents is low (6%) and parents are often involved with the criminal court system. Their goal is to unite children back with family in their homes but Meth is making this very hard, making homes unsafe for children.

Mr. Smith stated that the community is starting to confront this problem. There has been some good coverage of Meth in the Times-News recently.

The Department of Social Services had requested this time to present information to the County Manager and Board of Commissioners on how methamphetamine and the court backlog is affecting some of Henderson County's children. No action was requested at this time.

After listening to the information that was presented, along with some discussion, it was decided to invite the Sheriff or one of his representatives to come to a future Commissioners' meeting to discuss the many problems of Meth and its impact in Henderson County.

ANIMAL ORDINANCE AMENDMENT

Rocky Hyder explained that pursuant to the Board of Commissioners' discussion on February 15, the Animal Services Committee had amended the proposed Restraint/Confinement section of the Animal Ordinance. The amendment now includes the establishment of a hunting animal registration database with 24-hour access and a clarified definition of domestic animals.

Staff requested the Board set a Public Hearing for Monday, April 3, at 7:00 p.m.

There was much discussion about the new definition of domestic animals as well as the establishment of a hunting animal registration database.

Chairman Moyer made the motion to remove paragraph D from the amendment of Section 66A which reads: "All dogs used for hunting must be registered with Henderson County Animal Services. Registration can be handled 24 hours a day by phone (828-697-4723) or link on the animal services website www.hendersoncountync.org/animals/. Please provide the following information when registering.

1. Name of Owner
2. Address of Owner
3. Telephone Number of Owner
4. Rabies Vaccination Tag Number and expiration date for each dog and the administering Veterinarian.
5. Brief description of each dog including breed, color, and age and if the dog has been spayed or neutered."

making E the new D and to then take the amendment to public hearing at a special called meeting to be set under Important Dates.

Following continued discussion, a vote was taken and the motion carried four to one with Commissioner Baldwin voting nay.

UPDATE ON PENDING ISSUES

Bell Property Appraisal

Russ Burrell reminded the Board that during the February 15, 2006 regular meeting, the Board of Commissioners inquired as to the status of the Bell property in the Tuxedo area. This property is the potential location of a community park. In order to begin the process of evaluating the feasibility of such a project on this property, the Board requested that a property appraisal be done. County staff has been in touch with the appraiser, Ben Beasley. Mr. Beasley submitted a report concerning the appraisal yesterday, March 1, 2006. The Commissioners were provided copies of that report today.

Mr. Burrell stated that Mr. Beasley is the MAI appraiser that the County has used in the past for other appraisals. The report does not have a final appraisal figure in it. Mr. Beasley did note that he puts a range of similar tracts without exactly calling them comparables. There will be a final report following this one some time down the road, hopefully within a fairly short period of time. He had listed a per acre range of what he finds to be similar tracts, from \$14,118 to \$28,125 per acre. Mr. Burrell stated that there are 6.93 acres so doing the math you can come up with a rough range where he right now is placing the property although we will find that in his final report which we should get in the next week or so.

County Manager's Date of Employment

Chairman Moyer stated that it appears that the new County Manager, Steven Wyatt, will be able to start work here on Monday, March 20. The County Attorney will prepare a revised document with respect to dates. He has already been in touch with some staff via e-mail.

National Flood Insurance Program

Chairman Moyer stated that there has been activity in this area. Rocky Hyder stated that after going through a long application process which included a survey of our entire county with the State Flood Plain Administrator as well as a thorough review from the Federal Emergency Management Agency of our Flood Damage Prevention Ordinance and our enforcement capability, they have now accepted Henderson County as a participating county in the National Flood Insurance Program. That means that if you live in an unincorporated area of the county, you can now purchase flood insurance for your property through your local insurance agent. The effective date was February 28, 2006.

Land Development Code

Commissioner McGrady, as liaison to the Planning Board, has continued to monitor the work on the Land Development Code. Last night brought to an end the informal process used to have people drop in and give us opinions on the Draft Land Development Code that is presently available. Last night's session was unique in that there was a large turnout and a group of people agitated in terms of concerns and questions.

Commissioner McGrady offered the following motion, in the term of a resolution – "Following the completion of the initial public input process on the first draft of a Land Development Code, the county commission recognizes that there will need to be changes made to the current draft of the Land Development Code. The county commission establishes the following process and timetable for consideration of a draft Land Development Code:

- 1. That the Planning Board recommend changes in May 2006, to the 2020 Comprehensive Plan, including specifically the maps in that plan, consistent with more recent demographic and geographic information and public input on land uses,*
- 2. That the Planning Board and Planning Staff develop a draft Land Development Code during the summer of 2006, and*
- 3. That the Board of Commissioners will undertake public input and formal public comments after the Planning Board provides its draft Land Development Code.*

Break

Chairman Moyer called a five minute technical recess, for the purpose of changing videotapes.

Discussion continued.

Chairman Moyer addressed a motion from the last meeting, that the Board wait until the new County Manager come, ask him to take a look at everything that's been put together so far and come back to the Board with a recommended timetable/schedule on how he and the staff and the Planning Board would like to proceed. *He offered a friendly amendment to Commissioner McGrady's motion, that the Board simply take the draft and send it back to the Planning Board and the Planning Staff for their consideration and that when the new County Manager comes he work with them to come up with a new timetable and schedule as to how to proceed.*

Justin Hembree had talked with the new County Manager and he offered a timetable for key events for the Board's review, March 2006 through September 2006.

Commissioner McGrady withdrew his above motion.

Chairman Moyer made the motion to take all the information that has been accumulated and send the current draft of the Land Development Code back to the Planning Board and Planning Staff and request that they come back to the Board of Commissioners with a specific time table with respect to the development of the Land Development Code. The Board will undertake to have public input throughout the county and that the Board's goal is to accomplish the adoption of the Land Development Code by December 1, 2006. The vote was unanimous to approve the motion.

IMPORTANT DATES

Chairman Moyer made the motion to set a special called meeting for Monday, March 20 at 9:00 a.m. for the purpose of economic development for Project Cardinal. Commissioner Messer stated that he had a conflict and could not make the meeting. All voted in favor and the motion carried.

Chairman Moyer stated that he had received a letter from The Mill Center wanted the Board of Commissioners to attend a meeting with them and the architect. He did not feel it would be appropriate to call a special called meeting for this purpose. Commissioners were in agreement so no date was set.

Commissioners McGrady made the motion to set the date for a special called meeting for a public hearing on the Animal Control Ordinance on Thursday, March 30, here, at 7:00 p.m. All voted in favor and the motion carried.

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION – none

ADJOURN

Commissioner Messer made the motion to adjourn the meeting @ 8:02 p.m. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman

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