

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

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

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

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

Commissioner Shannon Baldwin gave the invocation.

INFORMAL PUBLIC COMMENTS

1. Dan Ames – Mr. Ames complained that he had spoken at an earlier Commissioners' meeting describing problems he was having with the Department of Social Services and that it had not been resolved. He explained "In October of 1904 (2004) I took a person as a roomer at my apartment. At that time I notified DSS that he would be there for a specific period of three months. At the end of the three month period they did not reinstate my benefits. I wasn't aware of this until approximately three months later. They said that I had not notified them and this is absolutely untrue. Now my benefits keep me from having to go into a degree of care by the county that would be much more expensive than it is now and the people at the Department of Social services don't seem to understand this. At the time that I had my initial problem I was told that I would have a hearing by disinterested parties. The hearing ended up – the initial hearing ended up being with the immediate supervisor of the person that was handling my case and the overall supervisor of the food service department. At that time I asked that my comments be made a part of the record as theirs were. They refused to do it now this is not a disinterested hearing. It went out through the system up to the state and they simply confirmed that they were going to go along with the – with what the local agency said. Now since this considered timeliness of actions I would like to go over the sequence here. My appeal was entered on the 22nd of September 05. My appeal papers were not served until the 19th of October. I'd like to point out that the regulation of the North Carolina itself state that an appeal of this type is supposed to be heard in 15 days. On 24th of October your Attorney entered a motion for a 30 day extension. And then on the 5th of December offered a motion to dismiss. And the court hearing did not come up until the 17th of January. Now the law says that a case of this nature is suppose to be heard in 15 days. To me that makes sense cause some people at my age might not live until the time these court cases come up. There seems to be a couple of misstatements of fact. At one point, your Attorney, when he requested an extension of time stated that the purpose was to see if the state was served and would take over ... (at defense). In the actual motion for extension of time he stated that they needed additional time to prepare answer but otherwise respond to the judicial demand – judicial appeal and demand for a jury trial. At that point he had already contacted the Attorney General and he must have realized that my – my ability to appeal further had a time limit on it and by going through these actions I was no longer eligible for those appeals. This is disingenuous

DATE APPROVED _____

and I'm just wondering how much supervision by the Board does this lawyer of yours have. Another few things that might interest you: your Clerk of Court in Civil Court at the Courthouse cannot tell you when a case will be heard. I made numerous attempts to... (contact him) to find out when the case would be heard and I was referred to a – a man in Rutherfordton County where apparently he does his scheduling. And when I contacted that gentleman he told me the case would be heard in – in – by January 20. The case was heard on the 17th of January. I was never notified and therefore the case was dismissed. When these problems first came up I contacted the office that you have – the lawyer that you have, I think it's Pisgah Legal Service and asked for some not direct representation but some advice on how to go about this. I was told at that time you cannot win a case against the City or the County. Now this is apparent but I think somebody has to look into this. It's absolutely ridiculous that a person cannot call the local court clerk and find out when a case is going to be heard. I would like to have some direct answers on some of these items that I've brought up."

Chairman Moyer – "Sir, you're asking us to get involved in a legal proceeding that's in the courts. We don't – we can't interfere with that. I as a lawyer, I can't tell you when a case is going to be heard cause they won't tell me. That's the way our system works."

Dan Ames – "My point is your lawyer has misrepresented the county in a just manner and apparently he's a loose wheel. If you want to go along with it I think you should be held responsible for it."

Russ Burrell – "I sent Mr. Ames a letter dated 15th February trying to set all this out. His appeal is actually to the State. The food stamp program is administered by - locally at the county level but they fall in state guidelines. The county does not have the ability to overturn the state's guidelines that they're following in this case. His appeal has to be to the state. He filed an appeal in the court system and he served the local Department of Social Services. Under North Carolina's Administrative Hearings Act that's not proper service on the State of North Carolina. I filed a motion in this case that said 'if this is construed as a case against Henderson County we ask that it be dismissed. If it's construed as a case against the State, you don't have proper service'. That's what the judge ruled on it. The judge said we don't have a case against Henderson County. To the extent that there is one against Henderson County, it is dismissed. The case needs to proceed against the State of North Carolina."

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer asked that regarding Discussion Item C – Tuxedo Recreation Property, instead of Tuxedo Recreation Property, he'd like to get an update on the Library Expansion. The Recreation Property will be on the agenda in April.

Chairman Moyer stated that under closed session there was a need for an item with respect to property acquisition.

There were no further changes.

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

CONSENT AGENDA

Chairman Moyer pulled item "K – Criminal Justice Partnership Program Grant" for some discussion.

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

K – Criminal Justice Partnership Program Grant

Staff had received a copy of the Criminal Justice Partnership Program (CJPP) grant application for Fiscal Year 2006-07. This year's application is for the same amount as approved for Fiscal Year 2005-06 and there is no County match required for this program.

Staff has been informed that pre-trial release programs may no longer be funded through this grant. Therefore, this application provides continued funding for satellite substance abuse treatment services, as well as for Partnership Manager position expenses and operational expenses, but no funding for the County's pre-trial release program.

Staff recommended Board approval and submission of the CJPP grant application.

Chairman Moyer had sent each of the Commissioners a copy of a letter received from Carolyn Justus indicating that the State was eliminating funding for the PreTrial Release Program but she and others thought this was a very worthwhile program and the county should take this over. The Board will consider that at budget deliberation time. Now we get this grant application for the CJPP and this flags this issue again.

Selena Coffey explained that SB #622 which was the Bill that authorized the approval of the budget in August of last year, the State Budget, Section 17.2 contains a number of new provisions for the CJPP Program. Last year at budget time staff informed the Board that the State had limited us to 25% of our overall grant which is \$84,260 with 25% of that going to PreTrial Release with the recognition that in the future (2006-2007 budget) that all of that should be eliminated for PreTrial Release; therefore, the entire grant for \$84,260 this year should go to sentenced offenders programs which in Henderson County is a satellite substance abuse program for sentenced offenders. It is possible that local boards fund PreTrial Release to whatever degree you'd like to but that was not to be included in this grant because this grant is just for statement. Whatever the county chooses to put in there, if the county chooses to put in any additional, we would include at budget time. If the Board decides at budget time to include some PreTrial Release funding, Selena Coffey stated that in the current budget we have \$21,000 as part of the grant. It would be staff's recommendation to look at that first at budget time.

Chairman Moyer moved approval of item K of the Consent Agenda. All voted in favor and the motion carried.

The rest of the consent agenda items were as follows:

Minutes

Draft minutes were presented for the Board's review and approval of the following meeting(s):
February 6, 2006, regularly scheduled meeting
March 2, 2006, regularly scheduled meeting

Tax Collector's Report

Terry F. Lyda, County Tax Collector, submitted the Tax Collector's Report dated March 13, 2006 for the Board's review and consent approval.

Tax Releases

Stan Duncan, Assessor, had submitted a list of 44 tax release requests for consent approval by the Board.

Tax Refunds

Stan Duncan, Assessor, had submitted a list of 4 tax refund requests for consent approval by the Board.

Pending Tax Discoveries

Twenty (20) Notices of Discovery had been prepared and mailed to property owners. Eleven (11) are presently within the statutory challenge period for appeal and are not detailed within the report. The discovery information was not submitted for approval by the Henderson County Board of Commissioners at this time, but was for their information only.

Request for an Extension of Crab Creek Valley's Improvement Guarantee

On May 2, 2005, the Board of Commissioners approved an application submitted by Bob Scheierich with Southern Pride of WNC, Inc., for an improvement guarantee for the Crab Creek Valley subdivision. As

required by the performance guarantee agreement for the improvement guarantee, the developer posted with Henderson County an irrevocable letter of credit for an amount of \$379,300.00. The improvement guarantee covered the road construction, shoulder stabilization and water system installation as required by the Henderson County Subdivision Ordinance. The original agreement required that the improvements be completed by July 30, 2005. On October 18, 2005, at the request of the developer, the Board of Commissioners approved extending the completion date to April 3, 2006.

The Planning Department received another letter from Bob Scheiderich on March 1, 2006 requesting to extend the completion date to June 30, 2006. Mr. Scheiderich's letter states that the extension is needed because of delays due to weather and approval of a community well site from the State. He also requested a release of a portion of the improvement guarantee. According to the performance agreement, the County Manager has the authority to release portions of the improvement guarantee. This request will be done separate from the request to extend the completion date and will not need approval from the Board of Commissioners.

Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners, upon proof of difficulty, to grant extensions to completion dates for a maximum of one additional year, provided that the time between initiation and completion of the improvements does not exceed two years. If the Board of Commissioners agrees to grant the requested extension, staff had attached for the Board's consideration, a draft performance guarantee agreement. This agreement reflects a new completion date of June 30, 2006 and requires submittal of an amendment to the irrevocable letter of credit showing an expiration date not earlier than 60 days after the new improvements completion date.

The extension, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. Therefore, the county manager recommended that the Board approve the request to extend the completion date for the improvement guarantee for Crab Creek Valley to June 30, 2006.

Improvement Guarantee for Blue Moon on Pinnacle Peak

Mr. Alan Rieger, on behalf of Sahalee, LLC, owner, submitted a request for an improvement guarantee for the Blue Moon on Pinnacle Peak subdivision. Blue Moon on Pinnacle Peak is located on 130 acres of land off Pinnacle Mountain Road. The Henderson County Planning Board granted conditional approval of the Combined Master Plan and Development Plan for Blue Moon on Pinnacle Peak on November 21, 2005. The improvement guarantee is proposed to cover the earthwork, construction of the roads, drainage and erosion control for the entire 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 and for 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 improvement guarantee approval date. The developer intends to post with the County an irrevocable letter of credit in the amount of at least \$1,1430,551.00 to cover the cost of the improvements (\$912,441.28) as well as the required twenty-five percent (25%) contingency (\$228,110.00). December 30, 2006 is the proposed completion date for the improvements.

A draft Performance Guarantee Agreement was included for the Board's consideration. If the application is approved, the developers 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 Blue Moon on Pinnacle Peak, subject to the developer submitting to Henderson County an irrevocable letter of credit in accordance with the terms of the draft Performance Guarantee Agreement.

Western Carolina Community Action Community Services Block Grant Program FY 2006-2007 Application for Funding

Staff had received an application from Western Carolina Community Action (WCCA) FY 2006-2007 for Funding from the State’s Community Services Block Grant Program. WCCA requested the Board endorse the funding application and authorize the Chairman to sign all associated forms. This funding application is for year three of a three year contract with the North Carolina Department of Health and Human Services. The funds received through this grant program support a self-sufficiency project and WCCA’s intake function. The article from the Times-News explains the self-sufficiency program. It should be noted that no County funds are provided or requested to fund these programs.

The County Manager recommended that the Board endorse Western Carolina Community Action’s FY 2006-2007 Application for Funding from the State’s Community Services Block Grant Program and authorize the Chairman to sign all associated forms.

Refer Special Use Application to Planning Board – Blue Ridge Community College Expansion

Blue Ridge Community College has submitted a development plan and an application for a special use permit. This related to a planned expansion of the college.

Pursuant to Section 200-26.B(3) of the Henderson County Code, before the Board of Commissioners may act on such a request, this matter requires “the advice and recommendation” of the Henderson County Planning Board. Under Section 200-56-A “The application shall be transmitted immediately to the Board of Commissioners, which shall refer it to the Planning Board for review and recommendation prior to a public hearing.”

The County Manager recommended, pursuant to Section 200-56.A of the Henderson County Code, that the application for a special use permit be forwarded to the Henderson County Planning Board for consideration during the Planning Board’s April 18, 2006 meeting.

Addendum to County Manager Contract

This addendum sets a definite starting date for County Manager Steven Wyatt, as March 20, 2006.

Proposed Motion: I move that the Board approve of the draft Addendum to the Board’s contract with Steven Wyatt as County Manger.

NOMINATIONS

Notification of Vacancies

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

1. Apple Country Greenway Commission – 1 vac.
2. Henderson County Planning Board – 3 vac.

Nominations

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

1. Cemetery Advisory Committee – 1 vac.

Ms. Brantley informed the Board of a recommendation from the committee – Leon Pace. We have an application on file for Mr. Pace. Commissioner Baldwin nominated Mr. Pace to fill the vacancy. There were no other nominations. *Chairman Moyer made the motion to accept Mr. Pace by acclamation. All voted in favor and the motion carried.*

2. Child Fatality Prevention Team – 1 vac.

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

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

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

4. Juvenile Crime Prevention Council – 4 vac.

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

5. Mountain Area Workforce Development Board – 1 vac.

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

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

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

7. Solid Waste Advisory Committee – 2 vac.

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

8. WCCA Board of Directors – 1 vac.

Chairman Moyer nominated Madeline Royes for reappointment. There were no other nominees.

Chairman Moyer made the motion to accept Ms. Royes by acclamation. All voted in favor and the motion carried.

**LAW ENFORCEMENT PRESENTATION CONCERNING
IMPACT OF METHAMPHETAMINE USE**

As was requested during the March 2, 2006 meeting of the Board of Commissioners, arrangements were made for law enforcement representatives to present information to the Board concerning the impact of methamphetamine use on our community.

Sheriff George Erwin addressed the Board and gave a brief history of Meth. He also identified two other members of his staff: Lt. Steve Carter, Drug Unit Commander, and Captain Rick Davis who will review the Domestic Violence and the DSS side of the drug abuse.

Sheriff Erwin thanked the Board for providing two more drug agents in last year's budget. They have had a tremendous impact in helping continue the ongoing battle against drugs. The drug problem has been around for decades and Sheriff Erwin stated that it is not going anywhere. What we can do is attack, educate, and treat.

The Methamphetamine trafficking started on the west coast in the mid 80s and was mainly trafficked by outlaw motorcycle gangs, The Outlaws, The Pegans, and The Hell's Angels. They were actively involved in methamphetamine trafficking. During that time they were seeing another form of meth. in southeast Asia, called ice. Where there was meth. or ice you start seeing hospital's occupancy increase, you start seeing violent crimes increase, you start seeing extensive child pornography, and pornography.

Captain Charles McDonald, Captain James Edney and Sheriff Erwin approached Representative Larry Justus in the mid 80s because they were tracking the trends. Whatever starts on the west coast will move to the east coast. They went to Representative Justus and told him of their concern, how ice and meth were coming our way. They had seen how crack cocaine had come into the community and had an impact on the community but meth was a storm that was coming that would be 10-20 times worse than crack cocaine. They requested to have legislation proposed by Representative Justus before the General Assembly to have trafficking and methamphetamine statutes in North Carolina. Representative Justus met a lot of resistance in Raleigh with others saying that the problem was not here yet, why address it now, we don't have this problem in the State. The contention was why wait till you have the problem. They were trying to be proactive. Through the efforts of Representative Justus and a few other legislators, we were one of the first States in the United States to have trafficking of methamphetamine laws. Five years ago meth was affecting Kansas, Missouri, and Mississippi. They were all experiencing a rise in violent crime, a rise in domestic violence, children

being exposed to the toxic fumes of meth labs, the overwhelming stress on Social Services, the overwhelming stress and demand on law enforcement and the criminal justice system. Due to much hard work, we now have a DEA office in Asheville. One of our drug agents is assigned full time as a DEA agent, assigned to the Task Force in Asheville. Sheriff Erwin stated that meth affects each and every person present in this room. When 80-85% of your crime is drug related then we are all affected by it. Taxpayers are affected by it when DSS needs more money, law enforcement needs more money, the fire departments have to have specialized training and equipment. We have been fortunate in Henderson County, in that we have not seen the clandestine laboratories that other areas are having. Clandestine laboratories in North Carolina have skyrocketed but they are mainly in rural counties. Our meth is coming in from super labs out of Mexico. Meth is everyone's problem and everyone's issue. It is devastating. It will continue to put a horrendous demand on DSS, law enforcement, EMS, fire departments and a devastating effect on families.

Lt. Steve Carter also thanked the Board for approving two drug agents in last year's budget. He mentioned that they educate the high schools who request them to come and educate their staff and students. They have been to West Henderson and North Henderson High Schools. They educate various staff members of Fire Departments, EMS, and local law enforcement. They have held many sessions over the past two or three years for basic concepts of methamphetamine awareness and will continue with in-service training and law enforcement. They are part of the meth task force that the community has put together. It is composed of two groups, a protocol group and an education group. The protocol group goes out with DSS workers and come up with concepts and ways to battle incidences with meth labs, etc. What happens when they find a lab: they seize it, they deal with it, what happens to the kids, what happens to their toys, what happens to the neighborhood, the house? Protocols have to be established and followed. They educate other community members that request education on meth and it's devastation on our community. They are part of a DEA Task Force. They have two certified clandestine laboratory investigators who go out and dismantle clandestine labs. They have seized approx. \$55,000 in meth just January and February of this year. Lt. Carter stated that each day he gets a call about methamphetamine, each day he gets a call from a user asking how to get off the stuff, each day he gets a call from a parent, every single day, not just one call but multiples. They combat meth on a daily basis.

Captain Rick Davis explained that there are three basic areas where he has seen methamphetamine in the support services. First is with the deputies that are contracted to the Department of Social Services. He stated that the users of methamphetamine become compulsively paranoid which compounds the problem. There is a real threat to social workers.

Second is with the deputies assigned to Hendersonville Housing Authority. We have two deputies contracted out to the Housing Authority. They work almost exclusively within the City of Hendersonville. In 2005 there wasn't one single crystal meth case worked in the Housing Authority. Within the last six months however they have seen an increase in the complaints of crystal meth. The choice of drug within the City of Hendersonville seems to be crack cocaine and in the county it is absolutely crystal methamphetamine.

The third place he has deputies assigned who encounter meth are in the domestic violence unit. The domestic violence unit was started with a grant about 1.5 years ago. There were 1,077 reported incidences of domestic violence in Henderson County from July 1, 2004. They've had 845 arrests resulting in the domestic violence incidences and there were 907 children present during these domestic violence incidences. The weapons seized in the domestic violence unit were 143 weapons as of March 1, 2006. They've seized thousands of rounds of ammunition and illegally converted weapons, converted to automatic. They've seized illegally modified weapons. He showed a picture of a cage that was built just for domestic violence weapons seized. The cage was paid for through the weapons seizures.

Cpt. Davis gave a PowerPoint presentation which follows:



- ### Support Services Division Involvement
1. Deputies Contracted to Department of Social Services
 2. Deputies Contracted to Hendersonville Housing Authority (Drug Suppression)
 3. Deputies Assigned to Domestic Violence Unit

Domestic Violence Unit




- 1077 Reported Domestic Violence Incidents
- 845 Arrests Arising from Domestic Violence Incidents
- 907 Children Present During Domestic Incidents

March 1, 2006 July 1, 2004 to

Domestic Violence Unit Weapons Seized




- 143 weapons have been seized since 1 September 2004, including:
 - Thousands of rounds of ammunition
 - Illegally converted automatic weapons
 - Illegally modified weapons

- ### Domestic Violence Unit
- 25.6% Alcohol & Drugs
 - 20.3 % Alcohol
 - 3% Marijuana
 - 6% Methamphetamine
 - 3% Prescription Drugs
 - 6% Polyo substances
 - Virtually all cases investigated by DVU involved weapons or the allegation of weapons

- ### Domestic Violence Unit
- Working closely with CAUSE Unit
 - Categories added relating to possible & known methamphetamine cases
 - Trend for Domestic Violence:
 - Arrests/Charges up
 - Reports down

No action was requested. This was for information purposes.

Sheriff Erwin thanked Lt. Carter and Captain Davis for their presentations. He stated that he had planned on sending a couple of officers to a National Summit on the Methamphetamine epidemic but he proposed that the Board of Commissioners pay for his Task Force to attend the Summit on the Meth epidemic. It will be held in May in Memphis, Tennessee. It is sponsored by the Performance Institute and the Law Enforcement Development Center. It is also open to elected officials.

Sheriff Erwin then answered numerous questions from the Board.

Recess

Chairman Moyer called a short break.

MUD CREEK SANITARY SEWER INTERCEPTOR PHASE II

Gary Tweed informed the Board that in the past few weeks staff was approached by Fletcher Academy inquiring about the availability of sanitary sewer service to a portion of their property located on the east side of Interstate 26. Fletcher Academy is planning a residential development for this area. Staff has been in discussions with Fletcher Academy on the continuation of the Mud Creek Sanitary Sewer Interceptor Project Phase II that would allow this area to be connected to the public sewer system by gravity and not use pump stations. Fletcher Academy has come forward with an offer to assist the County with the construction of Phase II of the Mud Creek Interceptor Project. A copy of the letter from Fletcher Academy was reviewed. Fletcher Academy is offering to contribute up to \$400,000, provide all necessary easements on their property through to Howard Gap Road, provide all on site sewers including the Byers Creek outfall as part of the development project, and within 10 years connect to public sewer the existing wastewater treatment facility serving the Fletcher Academy and Park Ridge Hospital. Having this offer from Fletcher Academy makes it an attractive time to move forward with the Mud Creek Sanitary Sewer Interceptor Project Phase II.

In order for the development to occur on this property it appears that the property will need to be rezoned. Current zoning of R-20 and RC would not allow high-density development. Fletcher Academy is in discussions with the Planning Departments about making application for rezoning. Gary Tweed distributed a hand-out to the Board which was a map (figure 3-2) of the proposed Mud Creek Interceptor Alignment. He reviewed the same with the Board.

Should the Board wish to proceed with Phase II of the Mud Creek Interceptor Project then it is recommended that the current engineering contract for Phase I of the Mud Creek Interceptor Project be modified to include Phase II and that a formal agreement be developed with Fletcher Academy on providing public sewer service. This sewer agreement should not be finalized until final decisions have been made concerning rezoning of the property.

Gary Tweed requested feedback from the Board in terms of how the County should proceed with Phase II of the Mud Creek Sewer Project and, specifically, how staff should respond to the Fletcher Academy's offer/request.

Curt Watkins addressed the Board regarding the Hallmark development, stating that it is a high density development. It is a modestly priced, affordable type development which is very attractive to those just starting out in life, young marrieds, generally no family, no children and those who are on the back side of professional careers who are looking to downsize. Their experience is that these developments have a minimal impact to schools from an infrastructure prospective. The price range is \$140,000 to \$180,000, making it affordable housing in Henderson County.

Following much discussion, the Board requested hard numbers on how Mud Creek can pay for this project. Gary Tweed will bring that information to the Board at the next meeting (April 3, 2006). Chairman Moyer requested a Sewer Master Plan for the Cane Creek Water and Sewer District, what the dollars would be and how it would be funded.

TUXEDO LIBRARY EXPANSION PROJECT

Justin Hembree explained that he had met with Bill Snyder, Library Director, concerning the branch library in the Tuxedo community, the Green River branch. Staff is continuing to work on this project. There are flags on the ground around the Green River branch library, it is staked out. Staff is analyzing the feasibility of expanding the current structure. The current branch has a septic drain field in the area adjacent to the library. Environmental Health staff, Bill Snyder, and others have been working to see if that drain field or the septic system can be relocated and if so, how can the expansion take place.

Justin Hembree explained that staff is trying to determine the appropriate size for a branch library. Some additional needs have been coupled in with the library needs, such as community space that could be used for voting, community meetings, etc. This might better be met as part of the park project.

Justin Hembree explained that staff will bring data to the Board at the April 3 meeting regarding circulation, population, etc.

SALE OF REAL ESTATE (Mills River office used by Henderson County Hospital Corporation)

This is a piece of property owned by the county but used by the Hospital. Jim Sawyer was present from the hospital to answer any questions.

Russ Burrell explained that Dr. Bob Webb (Webb Real Estate Investments, LLC) has offered to purchase certain real estate titled in the name of Henderson County and currently used by Henderson County Hospital Corporation (to rent as office space to Dr. Webb).

Property description: 9 Cross Roads Drive, Horse Shoe, NC, currently Dr. Webb's office, plus surrounding land.

Proposed purchase price: \$649,000.00.

Other terms: The County retains a right of first refusal should the purchaser ever attempt to convey any interest in the property within fifteen years of the sale. Also, the property is restricted to use as a medical office for ten years after the sale.

Board action requested: The trustees of Henderson County Hospital Corporation recommend this conveyance as disposing of property better held in private hands, while adequately protecting the corporation's and the County's interest.

Process: Russ Burrell explained that in terms of process, under GS 168-269 the way this works is the Board can receive a bid for such a property. When an offer is made and the Board proposes to accept it, you must go through a process of allowing for upset bids, take a deposit on the land and publish notice in a newspaper that you have received an offer and obtain upset bids. At any point during the process, the Board can decide that they don't want to take any bids, or say 'no sale'. In the meantime there is a process of upset bids that goes forward if the Board sets it in motion by vote today.

Any approval today would be preliminary only, and be subject to an upset bid procedure (allowing the public, after published notice to bid within a specified time a higher amount for the property if they wish to do so).

Commissioner Shannon Baldwin made the motion that the Board preliminarily approve the contract for the sale of the property as shown in the materials accompanying this agenda item, subject to the provisions of North Carolina law for upset bid in the sale of public property. A vote was taken and the motion passed unanimously.

FACILITY PLANNING – Board of Elections, County Warehouse/Storage Space

Justin Hembree stated that based on several conversations with the Director of the Board of Elections, staff feels it is appropriate for the Board to consider several issues relating to the location of the Board of Elections' offices and, in turn, County warehouse/storage space. The County's lease of the building that currently houses the Board of Elections expires at midnight on June 30, 2006. After June 30, 2006, provisions call for the lease to continue on a month-to-month basis at a cost of \$3,500 per month (\$42,000 annually) and state that the lease can be terminated by either party. For information purposes, the current cost of the lease is \$3,250 per month (\$39,000 annually). There is obviously a need to secure a long-term home for the offices of the Board of Elections.

The County's facility plans call for the sale of the Land Development Building and the movement of offices currently located in that building to the current Health Department. The top floor of the Land Development building is currently used as a warehouse/storage area. This brings forward a need to locate new warehouse/storage space for future use.

Staff has been approached by Mr. Billy Pace in regards to a building he has available for lease that could meet the County's needs in terms of Board of Elections offices and warehouse/storage space. The building in question is approximately 10,000 square feet and would be entirely climate controlled. The Director of Elections feels that the location of the building and available parking at the building will more than meet the needs of the Board of Elections. Mr. Pace has offered the building to the County via a long-term (8 year) lease at a cost of \$6 per square foot (\$72,000 annual). This would allow for 5,000 square feet for use by the Board of Elections and 5,000 square feet for use as storage/warehouse space. Based on information provided by the Partnership for Economic Development, the average cost for controlled warehouse space is \$7.13 per square foot.

Commissioner McGrady made the motion to direct county staff to develop a lease and provide costs for development of the three acre tract of property on Old Spartanburg Road and provide information as to the possible extension of our current lease where the Elections Office is currently. All voted in favor and the motion carried.

Justin Hembree stated that staff would get this information to the Board at the next meeting (April 3, 2006).

Recess

Chairman Moyer called a brief recess.

CABLE FRANCHISE RENEWAL

Justin Hembree reminded the Board that it was determined during the March 9, 2006 meeting that a Cable Franchise Renewal Workshop be included as part of this meeting agenda. Several pieces of information were included for the Board's review: a matrix outlining municipal responses to issues/questions related to the franchise renewal, a copy of the February 1, 2006 document outlining issues, questions to be addressed by the municipalities and the County, and County staff's "laundry list of issues that should be considered during the renewal process. Mr. John Howell has prepared a document that outlines the County's information network (i-net), including future plans. This documentation was distributed to the Board. Dean Hutto has also provided documentation detailing Blue Ridge Community College's plan/cost estimates for the operation of a proposed educational channel.

Staff recommended that the Board of Commissioners respond to issues/questions outlined in the February 1, 2006 document, including a question as to support of a dedicated public access channel. If appropriate, the Board should also appoint a lead negotiator(s) to represent the County through the franchise renewal process.

Justin Hembree explained that the most important document for review is the Matrix Outlining Municipal Responses to Issues/Questions. There also were a couple of hand-outs. The first was a memo from John Howell that details the i-net and provisions that are included in the draft franchise agreement. The last page of that is a color chart which shows a visual picture of what is included in the i-net. The second was hand-delivered today and was a letter from the Public School System that says that the Henderson County Public Schools support asking Mediacom for a \$335,000 grant to establish an educational channel studio on the campus of Blue Ridge Community College. The letter goes on to say how the School System would partner with the Community College in programming and other items.

Chairman Moyer explained that the LGCCA has a meeting scheduled for March 21 to discuss the Cable Franchise Renewal Process and how to proceed. Commissioner McGrady and Chairman Moyer attend the

LGCCA meetings on behalf of the Board and they would like to have direction from the Board on the questions that have been submitted.

Questions reviewed:

#1. Do you support funding your share to fulfill the monitoring and compliance function previously identified? Or the alternative of each municipality receiving complaints and handling them with Mediacom?

Justin Hembree explained that the initial proposal was to make this a function of government with staff and at an estimated cost of \$30,000 to \$40,000/year. An alternative was put on the table that would have a total cost of about \$5,000 per performance audit that would be conducted by an outside firm and that cost would be shared between the county and the municipalities. Most of the municipalities supported the alternative proposal with the exception of Mills River who did not support funding this at the municipal level but wanted the county to handle all the compliance issues.

Henderson County's consensus was favorable to the alternative.

#2. Do you support the reservation of five local access channels in the agreement? If not, please state the number you do support.

All municipalities were in agreement except for Mills River who supported reserving three, including the current government channel.

Chairman Moyer felt it prudent to reserve five channels so that if we need them over the term, they will be there.

Henderson County's consensus was favorable.

Chairman Moyer stated that the municipalities are opposed to a public access channel and asked the Board for their opinions. The consensus of the Board was no, we cannot go alone on that one.

#3. Do you support the request for a \$335,000 non-pass through grant by Mediacom for capital funding support of Education and Government channel studios and master server operations at BRCC?

All the municipalities were in agreement except for Mills River.

Henderson County's consensus was favorable.

4. Will you assign some or all of your share of the grant to BRCC?

Hendersonville, Flat Rock, and Laurel Park voted yes, Fletcher and Mills River voted no.

Henderson County will initially support this, hoping that Fletcher and Mills River will also agree. No decision will be made on the county's behalf without bringing it back to the Board for approval.

There was discussion of combining three and four, supporting the request for a \$335,000 grant but assigning the money back to BRCC for capital expenses for this reason.

10. Do you support funding the \$125,000 BRCC operating costs from municipal general funds.

None of the municipalities agreed with this.

Henderson County said yes, from franchise fees.

Chairman Moyer and Commissioner McGrady will take the Board's responses to the LGCCA meeting scheduled for April 21 and report back to the Board.

Assuming that the Franchise Renewal group stays together and works as a whole, the Board supported Bill Moyer to represent the Board as negotiator with the municipalities adding additional persons. John Crook suggested having Bill Moyer and John Howell as negotiators backed up by Doug Jarvis and Russ Burrell. This item should be discussed at the next LGCCA meeting and resolved. Commissioner McGrady felt that there should be a couple of elected officials as negotiators and then the resource people to back them up, feeling that the responsibility should sit with elected official(s).

NATIONAL LEGISLATIVE UPDATE

Several Commissioners had recently returned from the National Association of Counties' (NACo) Annual Legislative Conference in Washington, D.C. This was a chance for the Commissioners to update the Board on legislative issues that were discussed during the NACo conference.

There had already been some discussion about a methamphetamine session at the NACo Conference and the importance of that information.

Commissioner McGrady stated that there are efforts being made, both in Raleigh and in Washington, to take control of the franchising of cable television either at the national level or at the state level. Putting aside the financial issues that are clearly evident, he felt that the key issue for us is how to get your complaints addressed if it is a national franchise.

Our commissioners met with staff of representatives and representatives personally. Commissioner McGrady stated that other counties are on record as not wanting a national franchise or a state franchise. He stated that Mediacom doesn't want a national franchise either.

Commissioner McGrady added that he serves on two of the NACo committees, one public lands and one sustainable communities. He attended both sets of meetings while in Washington. When you have federal lands in your county you receive monies from the federal government in lieu of taxes which are designated to go directly into education. These are pretty big numbers for some of the counties. Transylvania County gets well in excess of \$200,000 in payments back because of the federal lands there. There have been a number of federal legislative proposals put forward and a push being made by the counties to make sure that the commitment made by Congress to continue to fund payments in lieu of taxes does get funded at the authorized level.

Commissioner Messer attended sessions on meth and on federal financing. Medicare funding was a topic as was Homeland Security. He also attended a session on voting machines.

Chairman Moyer stated that one of the speakers was Secretary Michael Chertoff who talked about emergency preparations. A number of people talked about the bird flu and the possible pandemic. The State is developing a plan regarding a possible pandemic. Chairman Moyer asked Rocky Hyder to update the Board at the next meeting (April 3, 2006). There was discussion about the eminent domain situation. Many counties are experiencing unbelievable growth, trying to wrestle with it and deal with it. There is a Center for Sustainable Communities.

Chairman Moyer stated that with respect to the historic courthouse and the meeting with Elizabeth Dole's staff, they met with her grant writer, viewed the courthouse from the standpoint of preservation of our history and having live exhibits there. They reviewed the application again. The application is in but we have no definite answers at this time.

COUNTY MANAGER'S MONTHLY REPORT

Selena Coffey distributed a copy of the Manager's Report for Board review.

Justin Hembree called the Board's attention to several items:

Pg. 5 - under strategy 1.21 is to direct growth into areas where essential services and infrastructure are present and to protect sensitive natural areas, key historic cultural resources from extensive development. Under 2B is the step to incorporate principles from the growth management strategy into the new land development code but there is also a note that says quality of life standards such as programs, reducing the number of vehicles, manufactured homes. Tomorrow night is the public hearing and workshop on the draft nuisance ordinance. Even though some of these are listed under goals and strategies to be carried out through the comprehensive plan or specifically in the land development code, there are some other things in areas that are moving forward with that.

Pg. 6 - the Planning Department hosted the first county planner's forum last month, the end of February. This was a group of the Planners who work for the respective jurisdictions in the county. They got together for lunch and some discussion. This was to continue our coordination with the municipalities and other units of local governments.

Pg. 9 - under strategy 5.2 is the renovation of the historic courthouse. This will be on the agenda for the next meeting (April 3). The plans for the courthouse will be finished and presented at that meeting.

Pg. 10 - the construction of the second bay at the transfer station at the landfill. That project is out to bid and bids are due in by March 30. That project is moving forward. Bid documents are on the street.

He told the Board if they had questions or needed updates about specific items in the report, to contact him.

Commissioner McGrady had a question concerning the Compensation and Classification Study. Justin Hembree will discuss this item with the new County Manager, Steve Wyatt, soon after Steve arrives on March 20 and will come back to the Board with a recommendation for the steps for full implementation.

UPDATE ON PENDING ISSUES

EMS Billing Report/Update

Carey McLelland distributed a status report (as of today) of the EMS billing situation. It includes information of why Finance took this problem over and was made responsible for it.

He referred to page 3 of the report, stating that the outstanding balance at the end of last fiscal year was a little over \$5 million. He reviewed numbers with the Board, explaining that the amount that has currently been written off is \$1.2 million. They are collecting on current bills and still receiving payments from the old bills. They continue to file old and new claims.

Concerning the old bills, *Commissioner Baldwin made the motion that the County not pursue bills less than \$100 that are older than prior to this fiscal year. All voted in favor and the motion carried.*

The Board requested this information be presented as a monthly report provided by the Finance Director and included in the Board's Consent Agenda.

Public Transit Transition Update

Justin Hembree informed the Board that staff is moving forward with this. Within the next month the Board will see several items on the agenda that deal with the transition of our system into a direct recipient from the Federal Government for Public Transit Funds. As of today an RFP requesting proposals to provide transportation services for Henderson County is on the street. Those proposals are coming in as was required by The State to go through the procurement procedure.

IMPORTANT DATES

Chairman Moyer announced that yesterday was Commissioner Young's birthday.

There were no requests for meetings to be set.

Chairman Moyer reminded the Board of the Public Hearing and workshop set for tomorrow night on the Nuisance Ordinance.

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION

Commissioner McGrady made the motion as allowed pursuant to NCGS 143-318.11 for the Board to go into closed session to consult with an attorney and to discuss issues of property acquisition cost, both as outlined in the Request for Board Action regarding a closed session for today's meeting. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman