

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
MARCH 16, 2006**

The Henderson County Board of Commissioners met for a special called meeting at 7:00 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 Chuck McGrady, Commissioner Shannon Baldwin, Interim County Manager Justin Hembree, Interim Assistant County Manager Selena Coffey, County Attorney Russ Burrell, and Clerk to the Board Elizabeth Corn.

Also present were: Deputy Clerk to the Board Amy Brantley, Development and Enforcement Director Toby Linville and Zoning Administrator Natalie Berry.

CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance. The purpose of the meeting is a public hearing and workshop on the draft Public Nuisance Ordinance.

ADOPTION OF THE AGENDA

Commissioner Messer made the motion to approve the agenda. All voted in favor and the motion carried.

STAFF PRESENTATION

Toby Linville distributed a list of the legal, conforming junkyards located in the County. He also noted that the Ordinance was basically unchanged, but that he had created a matrix of items that had been discussed by the Board. It contained columns showing what was in the current Zoning Ordinance, the draft nuisance ordinance, and Mr. Linville's suggestions based on previous discussion. It was the consensus of the Board to take public input before proceeding with staff's presentation.

PUBLIC INPUT

1. **Roberta Reinert** – Ms. Reinert thanked the Board for their efforts to clean up the County. She questioned how many junked cars would be allowed per household in a residential area.

Toby Linville answered that under the current Zoning Ordinance, up to five junked vehicles were allowed on a piece of property.

Chairman Moyer stated that the Board would hold public input open, in the event that anyone wished to speak following staff's presentation.

STAFF PRESENTATION - continued

Mr. Linville clarified several aspects, and outlined suggestions to the draft ordinance. Mr. Linville first stated that the ordinance would not regulate items enclosed within a building. By definition, a building was "any structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals or chattels". That definition could be changed to be subject to North Carolina building code so that someone couldn't make a lean-to and call it a building. Following some discussion, it was the consensus of the Board to add "with enclosed walls" to the definition.

The Board then discussed permanent RV setup. The current Zoning Ordinance does not address this topic, and the draft ordinance prohibited RVs for any permanent dwelling. However, Mr. Linville suggested allowing them as long as they were built to a standard with permanent power, sewer and water. Commissioner Messer stated that he knew there were people who lived in RVs, some with permanent tie-downs, and he felt these should be allowed. There was much discussion about the difference between permanently set-up RVs versus mobile homes, and whether this should be in the nuisance ordinance, or whether there were other ways to deal with this issue. Mr.

DATE APPROVED: _____

Linville noted that the current zoning ordinance excludes RVs from junked motor vehicles. As written, the draft ordinance would include RVs as motor vehicles. There was also debate over the vagaries in the definitions of junked motor vehicles, abandoned motor vehicles, and whether RVs fit these definitions.

PUBLIC INPUT - continued

2. **Kay Caldwell** – Ms. Caldwell addressed the Board, stating that she had been looking at the definitions as the Board was discussing them. She felt the Board should reconsider the definition of an abandoned manufactured home, which might be applied to an RV. As the definition read, if someone had an RV or a manufactured home as a vacation home, it would qualify as abandoned.
3. **Sharon Drake** – Ms. Drake addressed a nuisance situation occurring in her neighborhood, located on Glover Street. She specifically spoke to travel trailers which were being lived in that didn't have power, sewer or water. The house next door to her had burned down, and had become a breeding ground for rats. In addition to the living situation, the property was used as a dumping ground. Ms. Drake stated that she was unable to use her property during particularly the summer months due to the smell and pest problems.

Commissioner McGrady confirmed that problems such as this were exactly what the Board was attempting to address with this ordinance.

STAFF PRESENTATION - continued

Mr. Linville addressed Ms. Drake's particular situation, discussing the steps staff had been able to take to this point. Commissioner Baldwin stated that the Board needed to address health and safety hazards in the community. Chairman Moyer noted that trying to use the Health Department to address such health concerns had proven entirely unsatisfactory. Commissioner Baldwin suggested the Board create whatever was necessary to remove that function from the Health Department and pull it under the Board's umbrella. Chairman Moyer agreed and questioned whether the Board was giving Mr. Linville the tools to deal with such situations.

Commissioner McGrady stated that he had no problem allowing RVs, as long as they had power, water and sewer hookups. If they didn't have those, they should be regulated under this ordinance. Following some additional discussion, it was the consensus of the Board to have Mr. Linville go back and work on this section in light of the issues such as vacant versus abandoned versus a health hazard raised during the Board's discussions.

Mr. Linville then addressed abandoned manufactured homes. The current ordinance allows up to two per lot. Mr. Linville suggested allowing no abandoned manufactured homes, and changing the definition to mean a home that had not had legal power in the last 6 months or was not properly connected to a permitted septic system or water supply. Chairman Moyer felt that the definition should also include language relating to a health or safety hazard. It was the consensus of the Board to allow no abandoned manufactured homes on property.

There was then discussion about junked cars on a piece of property. The current ordinance allows five, while the draft allowed no more than two. There followed much discussion about the number of junked cars that should be allowed on a parcel. Commissioner Young suggested the ordinance allow two vehicles without a current license plate, registration or vehicle inspection. It was the consensus of the Board to allow two junked cars per parcel.

With regard to inoperable vehicles under repair, the draft ordinance stated "This subsection shall not apply to temporarily parking inoperable or disabled vehicles on the premises of the owner of such vehicles for the purposes of maintenance and repair. Temporary parking shall not exceed seven consecutive days". Mr. Linville requested that section be stricken from the draft. It was the consensus of the Board to strike the portion dealing with vehicles in Section 3-10 from the draft.

The current ordinance allows only for civil penalties for non-compliance. The draft ordinance would allow the County to abate a nuisance by physically cleaning it up and, bill the violator as a tax lien rather than using civil penalties to clean properties. It was the consensus of the Board to allow the ability for the County to clean up the nuisance property.

Mr. Linville noted that currently, a lot of the junked motor vehicle problems stem from the fact that the ordinance was from the date of approval in 2001. Any issues prior to that were considered grandfathered. The way the draft was written, properties would lose their grandfathered status. Commissioner McGrady suggested that if the concern was that there needed to be some amount of time allowed for some people to come into compliance, the Board could set the effective date out some number of months. The County would advertise that the ordinance would become effective on that date, and then start enforcing it. Mr. Linville pointed out that the County tries already to allow a grace period of one to three months for people to come into compliance. Chairman Moyer suggested those grace periods, coupled with Commissioner McGrady's suggestion about the effective date, would allow people to deal with most situations.

Commissioner McGrady questioned whether the ordinance covered abandoned stick built homes, or only RVs and manufactured homes. Mr. Linville stated it did not cover stick built homes. Commissioner McGrady then discussed manufactured home graveyards, questioning how those would be dealt with. Natalie Berry answered that those would be covered through the zoning ordinance rather than this nuisance ordinance.

Commissioner McGrady then questioned the portion of Section 3-10 which read "Use of land for outdoor storage of items not related to property use shall not be permitted. Outdoor storage in conjunction with the business with a valid zoning permit must be screened from public right-of-way or residential property". Mr. Linville stated that section was intended to deal with junk outside of a residence. Commissioner McGrady expressed concern that if that were the purpose, it did not state that it dealt with residences.

With respect to Section 4.05 which dealt with access to premises and records, Commissioner McGrady asked if the language used was fairly standard. Russ Burrell answered that he would hesitate trying to prosecute a violation of this particular provision as a misdemeanor. He suggested that it read that property owner would have to grant access if staff had an administrative search warrant. He did not feel that staff had an automatic right to access property. Commissioner McGrady requested that staff revisit this section and change the language. Mr. Burrell believed staff could redraft the language to read that staff could request access, and if the property owner did not grant permission then staff could seek a search warrant.

Chairman Moyer requested that staff draft the changes discussed, and put it on the April 3rd agenda. The Board would be able to take action on that date if desired.

Kay Caldwell addressed the Board again with respect to the way the ordinance was structured. She believed the ordinance would be easier for citizens to read if the definitions were just placed under Section 3, the definitions section. When dealing with prohibitions, that should all be placed together under section 2.1. It was the consensus of the Board to make those changes.

ADJOURN

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

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman