

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
JUNE 5, 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, County Manager Steve Wyatt, Assistant County Manager Justin Hembree, Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Fire Marshal Rocky Hyder, Finance Director J. Carey McLelland, Assessor Stan Duncan, and Deputy Clerk to the Board Amy Brantley.

### 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 had a legal question about an appeal he made in September 2005. It wasn't served until October 19, 2005. The motion for extension of time was served by the County Attorney, and reason given was "Smith needs additional time to prepare answer or otherwise respond to the judicial appeal or demand for a jury trial." Mr. Ames kept discussing state law. It appears he has a gripe with the state, not us.
  
2. Martha Sachs – Ms. Sachs commented on the fact that the Land Development Code has been sent back to the Planning Board for further study. She felt that after four years of public hearings that were held all over the county that we should know the citizen's wants/needs. At every single meeting, people overwhelmingly wanted to retain the beauty and the rural nature of this county. "At this time because a group of developers, builders, and real estate people were not happy with this, to send it back to be reworked again is a betrayal of all the people who've attended these things for four years. I don't think it should have happened this way."

She also mentioned a landscaping ordinance, which she thought would be part of the plan when it finally comes together. She spoke in opposition to clear cutting.

### DISCUSSION/ADJUSTMENT OF AGENDA

There were no changes. *Commissioner Messer made the motion to approve the agenda. All voted in favor and the motion carried.*

### CONSENT AGENDA

*Commissioner McGrady made the motion to approve the consent agenda. All voted in favor and the motion carried.* The Consent Agenda consisted of the following:

#### **Minutes**

Draft minutes were presented of the following meetings for the Boards review/approval:

DATE APPROVED \_\_\_\_\_

May 19, 2006, regularly scheduled meeting  
May 22, 2006, special called meeting

**Tax Collector's Report**

Terry F. Lyda, Tax Collector, had provided the Tax Collector's Report dated June 1, 2006, for the Board's review and consent approval.

**Financial Report – April 2006**

**Cash Balance Report – April 2006**

The YTD deficit in the Emergency 911 Communications Fund is due to FY 2006 approved appropriations for the purchase of new generators for the mountaintop communications sites, a GIS software application update that links GIS data with the Computer Aided Dispatch (CAD) system and complete replacement of the UPS-battery backup system in the 911 Center.

The YTD deficit in the Mills River Watershed Protection Project is temporary due to timing differences in the expenditure of funds and the subsequent requisition of Federal and State grant funds.

The YTD deficit in the Historic Courthouse, New Sugarloaf Elementary School, Mills River Elementary School and the New BRCC Technology Education Building Capital Projects will be reimbursed by financing proceeds from the anticipated sale of Certificates of Participation (COPs) in June 2006.

**Henderson County Public Schools Financial Report – April 2006**

This report was provided for the Board's information and consent approval.

**Renewal of lease with McCallister (Sheriff's Investigations Division building)**

The lease agreement would renew the existing lease on the property located at 201 North King Street for a period of six months, through the end of 2006. The monthly rate increased from \$2,500.00 to \$2,600.00 under this draft, which has been requested by the landlord.

If the Board is so inclined, the following motion was suggested:

*I move that the Board approve the lease with McCallister for the parcel located at 201 North King Street as attached to the Board's agenda items for this matter.*

**Improvement Guarantee for the Fox Glen Major Subdivision (Phases I, 2 and 3)**

Mr. Gaston Campano on behalf of Chestnut Land Fund, L.L.C., owner, submitted a request for an improvement guarantee for the Fox Glen major subdivision. Fox Glen is located on approximately 45 acres of land off Howard Gap Road across from Fletcher Elementary School. On December 6, 2004 the Henderson County Board of Commissioners granted vested rights approval for the Fox Glen major subdivision. Further, the Henderson County Planning Board and Planning Department have granted conditional subdivision approval for all three phases of the proposed development in accordance with the conditions outlined by the vested rights order. The improvement guarantee is proposed to cover the earthwork, construction of roads, drainage and erosion control, as well as public water and sanitary sewer service 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 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 \$1,439,087.00 to cover the cost of the improvements (\$1,151,269.60) as well as the required twenty-five percent contingency (\$287,817.00). February 28, 2007 is the proposed completion date for the improvements.

A draft Performance Guarantee Agreement was included in the agenda packet 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 the Board approve the improvement guarantee application for Fox Glen, 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 River Stone**

Mr. Drew Norwood submitted on behalf of Windsor Aughtry Company Inc., an improvement guarantee application for Sections 4-A, 5A, and 6A (approximately 60 lots) of River Stone. River Stone is a 524-lot Planned Unit Development located on approximately 175 acres of land off Butler Bridge Road and North Rugby Road. River Stone was approved by the Board of Commissioners under Special Use Permit #SP-05-01 on November 30, 2005. The improvement guarantee is proposed to cover the onsite water and sewer distribution systems and construction of the roads which includes paving, a valley gutter system and drainage for the above mentioned sections in River Stone. The improvement guarantee will also cover a portion of the offsite water line extension.

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 \$1,159,512.50 to cover the cost of the improvements (\$135,975.75 for offsite improvements and \$989,543.75 for onsite improvements) as well as the required twenty-five percent contingency (\$33,993.75 for offsite improvements and \$197,908.75 for onsite improvements). The proposed completion date for the improvements is December 15, 2006.

A draft Performance Guarantee Agreement was included in the agenda packet 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 River Stone, subject to the developer submitting to Henderson County an irrevocable letter of credit in accordance with the terms of the draft Performance Guarantee Agreement.

### **Extension Request for the Leoni's Mountain Lake Homes Improvement Guarantee**

On July 20, 2005, the Board of Commissioners approved an application for an improvement guarantee for Leoni's Mountain Lake Homes, Planned Unit Development. As required by the performance guarantee agreement for the improvement guarantee, the developer posted with Henderson County an irrevocable letter of credit in the amount of \$82,219.00. The improvement guarantee covered grading, road construction, installation of sidewalks, water system construction and road shoulder stabilization. The original agreement required that the improvements be completed by June 30, 2006.

The Planning Department recently received a letter from Todd Leoni, owner and developer, requesting to extend the completion date to June 30, 2007. Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners 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 included for the Board's consideration, a draft performance guarantee agreement. This agreement reflects a new completion date of June 30, 2007 and

requires submittal of an amendment to the original irrevocable letter of credit showing an expiration date not earlier than 60 days after the new improvements completion date.

The County Manager stated that the extension, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. Therefore, he recommended that the Board approve the request to extend the completion date of the improvement guarantee for Leoni's Mountain Lake Homes to June 30, 2007.

#### **Extension Request for the Mountain Meadows Improvement Guarantee**

On September 6, 2005, the Board of Commissioners approved an application for an improvement guarantee for the Mountain Meadows 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 \$62,740.00. The improvement guarantee covered the remaining cost of road construction and shoulder stabilization for the project. The original agreement required that the improvements be completed by April 15, 2006.

On May 16, 2006, the Planning Department received a letter from Mr. Donaldson requesting to extend the completion date for 90 days making a new completion date of July 15, 2006. Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners 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 included in the packet for the Board's consideration, a draft performance guarantee agreement. This agreement reflects a new completion date of July 15, 2006 and requires submittal of an amendment to the original irrevocable letter of credit showing an expiration date not earlier than 60 days after the new improvements completion date.

The County Manager stated that the extension, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. Therefore, he recommended that the Board approve the request to extend the completion date of the improvement guarantee for Mountain Meadows to July 15, 2006.

#### **Solid Waste Transfer Station Construction Agreement between Henderson County and Construction Logic, Inc.**

As directed by the Board of Commissioners, staff had negotiated the agreement for the construction of a new solid waste transfer station with Construction Logic, Inc. The County Attorney had reviewed these documents and found them to be in order. The Finance Director had also reviewed the contract for compliance with fiscal requirements.

The County Manager recommended approval of the agreement between the County and Construction Logic Inc. and authorization for staff to execute the agreement.

#### **Resolution recognizing anniversaries of Downtown Hendersonville, Inc., and Hendersonville Magazine**

Downtown Hendersonville, Inc., and Fischer Publications, Inc. have requested that the Board adopt a resolution honoring anniversaries for these organizations. It is also requested that the Board of Commissioners participate in a celebration that will be held on June 22.

The County Manager recommended adoption of the resolution as presented.

#### **Valley Hill Fire and Rescue Insurance District**

The North Carolina Department of Insurance has completed a rating survey for Valley Hill Fire and Rescue as one district. They were previously rated as district one and district two. In order to validate the new insurance rating as one district a resolution by the County Commissioners is required.

The County Manager recommended adoption of the resolution as presented.

**ECO/VWIN Report**

The Environmental & Conservation Organization (ECO) had provided their annual report on the Volunteer Water Information Network (VWIN) for the Board's review. This report was provided for the Board's information only. No action was necessary.

**Home and Community Care Block Grant for Older Adults County Funding Plan**

Each year the Board of Commissioners is required to adopt a funding plan for the Home and Community Care Block Grant for Older Adults and identify the lead office or agency responsible for coordinating the County funding plan. The funding plan for Fiscal Year 2006-2007 totaled \$622,672 which reflects a 4% cut from the State Division of Aging. This is a State/Federal program administered at the local level. This is the third year of a three-year planning cycle for this grant program. The proposed funding plan supports the service priorities identified for the current planning cycle.

The County Manager recommended designation of the County Manager's Office as the lead agency or office and approval of the proposed Fiscal Year 2006-2007 funding plan.

**Grant of easement by Henderson County Hospital Corporation to BellSouth**

BellSouth requested that Henderson County grant it an additional easement over property occupied by Pardee Home Health Services located near the intersection of Asheville Highway and Stoney Mountain Road.

The lot upon which the easement is proposed is actually adjacent to neither Asheville Highway or Stoney Mountain Road, but rather at the corner of Kingsbury Road and Arlington Place (the solid shaded small triangular lot across Kingsbury Road from the outlined remainder of the Henderson County property located along Asheville Highway and Stoney Mountain Road). The extent of the easement is shown on the documents supplied by hospital officials.

If the Board is so inclined, the following motion is suggested:

*I move that the Board grant the easement illustrated in the materials accompanying this Agenda item, and authorize the Chairman and Secretary to execute such documents as are necessary to carry out this grant.*

**Council on Aging Report**

The Council on Aging had put together a report for informational purposes, copies of which were included in the agenda packet. No action was required.

**Water Line Extension – Eagle Pointe**

The City of Hendersonville had requested comments on a proposed water line extension project to serve Eagle Pointe.

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 on amendment of Carriage Park special use permit**

This item requested the Board's approval of the draft order, from the Board's recent hearing on amending the special use permit regarding the Carriage Park planned unit development.

If the Board is so inclined, the following motion is suggested:

*I move the Board approve the order drafted by staff, the findings of fact contained therein,*

*the conclusions contained therein, and the decree therein, as correctly reflecting this Board's previous action.*

## **NOMINATIONS**

### **Notification of Vacancies**

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

1. Nursing/Adult Care Home Community Advisory Committee – 1 vac.

### **Nominations**

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

1. **Alliance for Human Services – 1 vac.**

Chairman Moyer stated that Selena Coffey had been the Board's excellent representative for a number of years and has indicated a willingness to continue to serve there.

Commissioner McGrady nominated Selena Coffey to represent the Board here. *Chairman Moyer made the motion to appoint Ms. Coffey by acclamation. All voted in favor and the motion carried.*

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

Ms. Brantley explained that the Child Fatality Prevention Team has a couple of specific positions. The one we are seeking someone for currently is position #3 which has to be the parent of a child who died before their 18<sup>th</sup> birthday. As of now, we don't have any applications on file that qualify. There were no nominations at this time so this item was rolled to the next meeting.

3. **Environmental Advisory Committee – 5 vac.**

Three of our current members have indicated that they would like to be reappointed, position #1 Bill Hyatt, #3 David Lowles, and #5 Jay Rogers. Ms. Brantley has not heard back from Anthony Campano yet (position #7). John Thornton (position #9) is unable to serve another term as he is currently out of state. There are a few qualifying applications on file.

*Commissioner Baldwin made the motion to appoint Hyatt, Lowles, and Rogers to positions 1,3, 5 respectively by acclamation. All voted in favor and the motion carried.*

Commissioner Baldwin nominated Collette Summitt for position #9. Commissioner McGrady nominated Anthony Campano for reappointment to position #7. There were no other nominees at this time but the Board wished for these two vacancies to be rolled to the next meeting for action.

4. **Henderson County Board of Health – 3 vac.**

Jeannie Hernandez is currently serving and is willing to continue to serve as their Veterinarian. Commissioner McGrady nominated Ms. Hernandez to position # 4. *Chairman Moyer made the motion to appoint Ms. Hernandez by acclamation. All voted in favor and the motion carried.*

Commissioner Baldwin nominated Terry Hicks to position #10. *Chairman Moyer made the motion to accept Mr. Hicks by acclamation. All voted in favor and the motion carried.*

Commissioner Young nominated Jack Romer for the Pharmacist position, #6. *Chairman Moyer made the motion to accept Mr. Romer to position #6 by acclamation. All voted in favor and the motion carried.*

5. **Henderson County Historic Courthouse Corporation – 2 vac.**

Chairman Moyer explained that there are two vacancies and have been but they are coming up with some changes to their structure which will affect how people are put on their board. The Board will be discussing a couple of alternatives, probably at the next meeting.

This item was rolled for the time being.

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

Nominated at the May 19 meeting were Steven Orr and Hunter Marks. The Clerk polled the Board with the results being:

Commissioner Young	Orr
Commissioner Messer	Marks
Chairman Moyer	Marks
Commissioner McGrady	Marks
Commissioner Baldwin	Marks

Hunter Marks was the appointee.

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

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

**8. Juvenile Crime Prevention Council – 10 vac.**

Three of the current members are willing to continue to serve: position #10 Anthony Craver, position #15 Arnold Shelton, and position #26 Amanda Kichton. Commissioner McGrady nominated Craver, Shelton, and Kichton for reappointment. *Chairman Moyer made the motion to appoint these three by acclamation. All voted in favor and the motion carried.*

Position #25 is an at large position and we have two applications on file for that position. Commissioner McGrady nominated Angie Alley to position #25. There were no other nominees. *Chairman Moyer made the motion to appoint Ms. Alley by acclamation. All voted in favor and the motion carried.*

**9. Mountain Area Workforce Development Board – 3 vac.**

Commissioner McGrady nominated Paul Keating to position #1, Phil Webb to position #3, and Barry Brown to position #6, all as reappointments. *Chairman Moyer made the motion to accept these nominees by acclamation. All voted in favor and the motion carried.*

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

Ms. Brantley informed the Board that both Dr. Eve Hoover, position #17 and Phyllis Brown, position #22, terms become vacant at the end of July and they are both willing to be reappointed. Commissioner McGrady nominated both ladies for reappointment. *Chairman Moyer made the motion to accept Hoover and Brown by acclamation. All voted in favor and the motion carried.*

**11. SmartStart – 1 vac.**

Commissioner McGrady nominated David White. Commissioner Young nominated Marcie Burlett. There were no other nominations. There were no other nominations at this time. The Clerk will poll the board at the next meeting.

**12. Solid Waste Advisory Committee – 1 vac.**

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

**HCTV-11 AUDIO BROADCAST**

Chairman Moyer stated that the Board would address the issue of WHKP and Channel 11 and the issue they've had with respect to that. A number of things have been tried, to try to resolve this issue but have not been successful.

**Public Input**

1. Harry Widener – Mr. Widener asked a couple of questions regarding Channel 11 – “While the programming has been changed, what reasoning behind it? And also what are we going to have in it's place, what will be given to the public to give the information that we've been able to receive through channel 11?”

Chairman Moyer – “I think you’re referring to the WHKP portion of Channel 11, right?”

Mr. Widener – “Yes, WHKP, right.”

Chairman Moyer – “Why it was changed is your first question.”

Mr. Widener – “Right”

Chairman Moyer – “The issue came up several meetings back. We were trying to resolve this and it was a matter of concern and certainly I only want to speak for myself, to me with respect to the political content of some of it, particularly political advertisements to be very honest. And on the government channel it was always embarrassing to me to hear my own ads running on the government channel. We tried ways to try to cleanse the political portion of it. We got through Russ Limbaugh and then the radio station said they were unable to cleanse the rest of it so that piece came to a halt. And I think that, Art correct me if I’m wrong, I think that’s the only programming change that was made in response to, Richard is that – isn’t that correct, the only programming change that was made with respect to our objection?”

Richard Rhodes – “Quite possibly the pastor may be speaking about your programming over-riding some Sunday morning religious programming that it hadn’t been in the past.”

Mr. Widener – “That’s right. That’s one of them, yes sir.”

Chairman Moyer – “Steve or Justin?”

Justin Hembree – “There were, and Russ may be able to speak better to this, there were some programming changes that were made, it’s been several months ago. I don’t recall the exact month. It was changed, the times of some certain meeting times that we’re running for the Board of Commissioners that I think did coincide with some Sunday morning audio programming that may have been on WHKP those mornings.”

Chuck McGrady – “Mr. Chairman, I believe, Mr. Nicholson, if you remember, briefed us back when this was occurring that we were going to be changing some of the content that we were putting on in a way such as to block the flow of content that you know was a concern whether on political, religious, or commercial basis and the Sunday morning slots were specifically mentioned. That’s my memory. But it’s been, you know, late last year when we were briefed on that.”

Mr. Widener – “That was a question I had also concerning that. If it was mainly political, religious, or what was the background behind it, why we had the change. And the over-riding of the program on Sunday morning.”

Chairman Moyer – “OK,”

Mr. Widener – “Thank you sir.”

2. Mickey Marvin – Mr. Marvin thanked the Board for allowing him to address them. He told the Board that he appreciates what they do but he doesn’t agree with every decision they make. He addressed the Christian programming that’s on WHKP/Channel 11 from about 6 to 6:30 in the morning on Sunday until about noon. He spoke of some of the pastors/groups who appear on Sundays on WHKP. He stated “Specifically our programs on Sunday morning reach out to parts of the county where WHKP can’t reach out to... the people in the parts of the county that can’t pick up WHKP on the radio and then there are the people that, on the opposite side of this issue, that would like to see perhaps the religious programming removed. They have three choices: they can either mute it, they can turn it off, or they can change the channel. Whereas the people who are invalids, who are permanently or temporarily disabled, they only have one



choice. I think in fairness that one far outweighs the other. The group that's opposed has three choices but then the group that has no choice, what are they left with."

3. Neil Greer – Mr. Greer is a native of Henderson County and a registered Democrat. He strongly supports WHKP and Channel 11. He stated that Henderson County is one of the fastest growing counties west of Charlotte. He felt that there is a small group of people that comes in here and tries to take over the Democrat Party and it gets to him.

4. Art Cooley – Mr. Cooley is President and General Manager of WHKP Radio. In 1999 Henderson County allowed WHKP to program the background sound on Channel 11. WHKP started the public access channel in 1969 as Cable Vision of Hendersonville. In 1999 the Commissioners distinctly told WHKP by letter how important it was to have WHKP on the government access channel for community awareness and particularly for emergency broadcasting. In 1999 the County Commissioners were not using a public access channel as we know it today, not until WHKP researched public access channels in Buncombe County. After their extensive research showing county government how they could really do a service for the citizens of Henderson County by implementing some of the same devices, county government, through then County Manager David Nicholson, asked WHKP to operate the channel and asked them to purchase specialized equipment to make the local government channel look as good as those in our neighboring county of Buncombe. After studying the county invitation WHKP elected not to purchase a variety of technical equipment for use on this channel. They told the Commissioners that they felt it would be better if the county programmed the channel and used WHKP in the background. All was fine with this arrangement and it served the county government and the Cable subscribers well and it still does to this day. In spite of all the dialogue and threatened lawsuits by the Democratic Party, they feel that WHKP should remain the primary audio portion of the government channel. Mr. Cooley stated that they feel that after 60 years of public service and radio broadcasting in Henderson County, having brought cable television to Henderson County in 1969, and being on a cable channel every year for the past 37 years, that they have earned the right to be the background radio station on the government channel. He stated that there is not a broadcaster anywhere that is better qualified. WHKP stands second to none in this regard and they will gladly put the WHKP record up against any and all comers. Just because another radio broadcaster comes to town and demands that the County Commissioners take WHKP off channel 11 because of supposed unfair commercial advantage and in its place proposes nothing more than a digital music-like service on channel 11 is no reason to deny this very important community service now being provided on the government channel that has been managed so adequately by WHKP. "Let them earn the right to do so as we have for the past 60 years."

"We at WHKP are confused, we're confused that we would be asked to be the radio station of record for the government channel for the past seven years, then asked to make a proposal to remain on the channel and after doing so to hear nothing in over three months except a comment by a Commissioner that our extensive exercise in putting this proposal together for the County Commission was basically a waste of time because it wouldn't be fair to the other radio station. Folks that was the purpose of the proposal, to select the best qualified radio station. Ladies and gentlemen, Henderson County Commissioners, the residents of Henderson County and WHKP deserve better than this. Since the leading communications law firm in the southeast has told WHKP and the Henderson County Commissioners that we are in no violation of Federal or State law by running religious, political, and commercial content on the government channel and even in the event of a lawsuit, they feel confident the county would win, it seems to me that all that would be necessary to keep WHKP on channel 11 is for the County Commissioners to make minor changes in the policy surrounding the government channel. Yet, on the other hand, many times the simplest solution to a problem is overlooked."

5. Sharon Alexander - Ms. Alexander stated, on behalf of her client Radio Hendersonville Inc. which does own and operate WHKP, that there is not any legal problem with any of the programming carried on WHKP being broadcast on channel 11. She read some of the recent opinions that have been filed by the United States Supreme Court in the area of the first amendment and what she found was that the United States Supreme Court has looked at the issues of the establishment of religion and other first amendment

issues very practically. The Supreme Court has said that they cannot ignore the strong role that has been played by religion and by the religious traditions throughout our nation's history. She also read a quote that summarizes a lot of the other comments that have been made and their opinions – "It is true that religion has been closely identified with our history and government. The fact that the founding fathers believed devoutly that there was a God and that the inalienable rights of man were rooted in him is clearly evidenced in their writings from the Mayflower Compact to the Constitution itself. It can truly be said therefore that today as in the beginning our national life reflects a religious people who in the words of Madison are earnestly praying as in duty bound that the supreme law giver of the universe guide them into every measure which may be worthy of His blessing. So the Supreme Court in finding that for example the ten commandments can stay on government buildings or that prayer can be said, as we did tonight at the beginning of this meeting, in governmental meetings the Supreme Court has consistently acknowledged that we cannot ignore our religious heritage and that the fact that the government may seem to foster in some respect some religion, that is not a constitutional problem. Your role is to avoid unnecessary governmental intrusion into the religious matters and I would suggest to you that if you were to make a decision, a policy decision to remove WHKP from your governmental channel because of the concern about religion that you are intruding into religion. You are making a decision about what is going to be available and taking away choices that people have had for many many years in this respect. I also would suggest to you that what you do need to make is not a legal decision, it is a political decision, it is a policy decision and in doing so the Supreme Court has said that you are required neither to abdicate your responsibility to maintain a division between Church and State nor to evidence a hostility toward any religion. And again, I would say that if the decision were to be driven by the concern about the religious content of some of these broadcasts, that that's what you would be doing. I would also ask that you have some security because the FCC very closely regulates all the broadcasts at WHKP and as Chairman Moyer has pointed out, his concern is about the political advertising that is carried on WHKP and I guess the appearance, or in this case the sound of that on the government channel. The FCC, as you know, they don't closely regulate any kind of freedom of choice or equal access except in the political area but in the political area they are very very involved and I would suggest to you that if the FCC has allowed WHKP and in fact required WHKP to carry political advertising, it is not a constitutional problem and it is not a legal problem if that same broadcast is carried on your government channel. The FCC is aware that that is occurring. . . . It occurred to me as I was preparing to come here tonight that the people who could be here tonight and who are able to address you are not really those from whom you need to hear because there are many many people in the far reaches of the county who cannot get an AM Radio signal who rely upon the cable channel to get local news, to be involved not just to hear the Sunday morning broadcast or the other regular religious broadcasts but on a daily basis. If they're confined to a wheelchair, if they are confined to their bed, their contact with their community is contained in the radio signal that they are able to get through channel 11 and you would take away that very important contact with the community from a tremendous number of people. And I will say, Chairman Moyer you suggested that there was not a way to take the political ads, I think you used the word wash those. In fact, there is a way to do that and the proposal presented by WHKP explains that they would need to invest in some equipment but once they purchase that equipment then they would be able to respond to your concerns and to take out, wash out or bland out certain audio. Their concern was to invest in that equipment without any certainty as to how long they would actually need that equipment. I just want to end ... I was sitting here and looking at your mission statement and part of it is to provide efficient, innovative and quality public services and certainly that's what you have done over the course of the last seven years by allowing your constituents to have contact with local news, local community affairs, High School football games, University of North Carolina sporting events, High School basketball games, all sorts of community activities that people could hear, listen to even though they were outside the range of the radio signal. And I would just ask that you continue that public service from here on into the future."

### **Overview**

Justin Hembree reminded the Board that at some point, when this issue first came up, the Board sought proposals from radio stations to provide services for audio broadcast on channel 11 that met specific criteria, that went out in a formal request for proposals. Parts of those criteria related to not allowing broadcast of commercial advertisements. There were issues that dealt with political advertisements and political type

broadcasts and also broadcasts that were religious in nature. The initial RFP was responded to by WHKP saying that they could, in fact, meet the requirements of that request, that it would take the purchase of a software system and some re-engineering by their station engineer to be able to do that. Several weeks transpired and we received word from WHKP that they would not be able to do that with the software that they thought they could because of some technical issues dealing with the software. The issue came back to the Board again, another, more formal RFP was drafted at this point and went back out a second time to request proposals. At that point one proposal was received and that was from WHKP. It essentially provided the same proposal that software equipment and hardware equipment could be purchased that would allow the washing of commercial, religious and political broadcasting but it would require a substantial investment by WHKP and at that time WHKP was asking for a fairly extended period of time that their broadcast was to continue on channel 11. It was about February when the responses to that last RFP came in.

The Board is currently in violation of their own broadcast policy but it is the Board's policy and they could revise their policy.

Russell Burrell reviewed a memorandum with the Board that he had placed in their mailboxes today. The Supreme Court test for dealing with first amendment issues, particularly involving establishment of religion is called the lemon test, not the lemon law but the lemon test. Basically it comes with three different tests. When you evaluate the broadcast of WHKP audio over your channel much of the tests come out very favorably to Henderson County in continuing that process. The fact that it is a commercial radio station is a non event since the Board has expressly asked that it be there to provide the County with certain services. As long as the reason the Board wants it there is not the fact that it has commercial content but rather that it provides local news, local sports, what have you. As long as it's providing a service to you, the fact that it is a commercial provider is not a constitutional issue. As far as the establishment clause in religious cases, the first issue is - is that your primary reason for having it. Is religion a primary reason for it to be on there, clearly not. Is political speech a primary reason for it to be on there, clearly not. You have expressed your policy over and over again, that the reason that that station is there is for local news, local sports, emergency broadcasting, that sort of thing.

Mr. Burrell then addressed the second part of the test which is a little more problematic. "The question is whether the Board's action in having that program on there serves to advance any particular groups' religious interests or not. Clearly I would presume that some of those groups would not be paying the money to be on the radio or not going through the effort to be on the radio, if it did not to some extent in their view advance their cause. That said, the Supreme Court has also said that merely because something has an incidental effect of advancing religion, if what your real purpose is is to have local weather, local sports, local emergency access, if that's your real purpose as long as a court can find that is just a mere incidental benefit to some religious group, they won't invalidate that action as a result. That's a question that there's no clear cut answer for that has clearly never been addressed by a court at this point, that issue. I think the Board has a reasonably good chance of success on that issue but that question has never squarely been addressed in this context.

The final question under the lemon test is whether or not the arrangement of broadcasting results in an excessive entanglement between government and religion. I tend to doubt that that's going to be the outcome that a court would find because you have some insulator in between you that keeps your involvement and the religious content to be nil. You don't change which programs are on that station. You don't have any role on that regard.

Finally the practice is examined to see whether it unconstitutionally endorses any religion by conveying a message that religion is preferred, favored, or promoted over other beliefs. Again there's no case on point in the context of broadcasting over a government operated cable channel. I think that the Board probably has better than a 50/50 chance of prevailing in such litigation though if you have that litigation there's going to be significant cost and cost of defense of those cases. From a legal only perspective, understand that I'm not addressing a policy that the court would interpret as something that you have the ability to change so you're

not bound by that policy. Neither am I addressing any of the other issues outside the legal perspective. I know there are other political and other issues that I'm really not trying to give you advice on. The legal issues alone – I think that you can reasonably support whichever action you take. If you choose to change the current status, I think that there's no kind of contract that binds you to the status in which you are currently. You can take whatever action you choose in that regard. If you should be inclined to maintain the status quo, while I think the litigation, the risk of loss is relatively reasonable, it's not an insignificant risk. You could mitigate that risk a number of ways. I think first of all having a contract with a radio broadcaster that, while it has a time duration, that could be specifically limited to some time that you choose. As for example whenever the operation of a new head-in facility in the historical courthouse comes on line or some other period of time or extendable at your will that has an early termination provision should any new franchise agreement, should one be reached at any point, require the same or should an unfavorable court ruling come down that should be in a contract with them that probably should be a disclaimer broadcast over a radio station that any broadcast of opinion content is not the content of Henderson County but rather of the radio station or its broadcasting partners. And finally a requirement that there be some sort of indemnification for litigation costs and for any defense costs in any liability that arises out of any litigation. I think if you do that, if you choose to maintain the status quo that would effectively shift any legal risk away from you. Whatever actions and what other considerations you'd have, at least from the legal prospective those risks would be shifted away from the county."

Discussion followed.

It was discovered that one of our problems is the policy we have in place so the Board needs to revise their policy to more match what we are actually doing. There was also discussion regarding getting emergency information out to the public.

Commissioner McGrady stated that he believes that WHKP has significant value, particularly with respect to community awareness and has some value on the emergency broadcasting side. He agreed that WHKP has earned its position there. Of the broadcasters in our community, it's the one that provides that community content and has consistently been there to provide emergency broadcasting. He sees a real need in amending our broadcast policy.

Discussion continued.

*Commissioner McGrady made the motion to direct the County Manager to enter into negotiations with WHKP pursuant to the earlier RFP to provide audio services on Channel #11 which would be of some specific duration related to the purchase of equipment and software needed to block any programming which we might find objectionable for whatever reason, that could be religious, commercial, or political, that would require certain disclaimers as suggested by Counsel, and finally providing for the indemnification that has been discussed. All voted in favor and the motion carried.*

*Commissioner McGrady made the motion to rescind section 7-A,D,E,F, of our current policy till August 16 to allow us time to redraft it and direct the County Manager to propose language consistent with Board discussion today back to the Board by the mid-month meeting in July. All voted in favor and the motion carried.*

### **Recess**

Chairman Moyer called a brief recess, to change videotapes.

### **PUBLIC HEARING – FY 2006-2007 Budget**

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

Chairman Moyer explained that this public hearing was to receive citizen input on the proposed FY 2006-2007 budget as prepared by the County Manager. He asked those wishing to speak to limit their remarks to three minutes each.

### **Public Input**

1. David Sink – Mr. Sink distributed a hand-out regarding the proposed budget for Blue Ridge Community College for 2006-2007. He shared good news – the bids for the technology center came in within budget on their June 1 bid opening. They had six bids, five qualified. The local budget for FY 2005-2006 was not enough to meet their needs so they will carry forward \$80,000 worth of bills that they will have to pay out of this next year's budget. Their proposed county budget for 2006-2007 falls short of their maintenance and repair requirements. He distributed a hand-out showing that shortfall with line items as to how that money needs to be spent. He mentioned three quick examples: a boiler replacement, front door repairs and replacements including automatic openers for the handicapped, and a fire alarm system for one of their buildings. He also stated that the proposed budget does not include any funds for their educational channel. The Dean and he had made presentations to the Board of Commissioners as well as the municipalities within Henderson County. He also distributed a one page summary re: value added for having an educational channel in the county. On behalf of himself and the Board of Trustees, he invited each of the Commissioners to come to the campus and walk around with them to see the proposal and the line items as presented that need attention. The current Managers' recommendation for \$2,019,000 falls short by \$1,178,427 for their needs for repair and renovations. The \$92,000 increase represents a 4.8% increase and covers only the projected 5% salary increase for their county employees at the college, leaving them only \$40,000 to cover almost \$1,000,000 worth of renovation and repair needs.

2. Noland Ramsey – Mr. Ramsey thanked the Board for the new construction at Dana School, stating they hope to move into that new building next month and be ready for school to start. He stated that kids continue to move into Henderson County asking about programs and services they had in schools where they came from and why we don't have them. Programs like foreign language in elementary schools, assistant principals, nurses, social workers, and computer assistants. We are trying to compete for teachers with surrounding counties who pay a much greater supplement than we do in Henderson County. They also indicate that they are willing to pay for these programs and services. "Some how it does not seem right to brag about having one of the lowest tax rates in the state when there are needs in the schools that need to be addressed. We'll never get ahead unless we catch up first." He encouraged the Board to fund the entire budget as presented by the Henderson County Public School Board.

3. Fielding G. Lucas – Mr. Lucas applauded and supports 100% the establishment of an internal audit function. He feels very strongly that the Board must also take exceptional measures to insure the position's security by providing an audit committee or board as it's functional reporting one. He or she would report to the County Manager for work direction but audit reports themselves would go directly to the audit committee. He felt the committee should be made up of two Commissioners, the Director of Finance, and four outsiders chosen for their relevant business experience. Perceived independence is crucial.

He addressed the School Board budget, stating it seems that this is all about micromanagement of a financially dependent elected board. He feels that the County Manager has it right. He would make one change and that would be to remove an apparent restriction in the capital outlay budget, \$775,000 earmarked for equipment and furniture. They are adult managers, they should set their own priorities. In other words, they would receive just the two numbers – an operating budget and a total capital outlay budget, without qualifying comment. He stated that it seems the sale of surplus assets, and there are more than just Tuxedo, that could be in the pipeline would provide them a capital fund balance appropriate for their contingency purposes.

Mr. Lucas felt it is a bad idea to start with a new County Manager's first budget balanced by the use of a fund balance appropriation. Recognizing that this is the beginning of a new era of budgeting philosophy for Henderson County, he was willing to compromise his political ideology by recommending adding one penny

to the rate and setting up the excess as a contingency fund. There have been enough seemingly legitimate squawks to make him believe the County Manager will draw down even more fund balance later. "So squeeze the taxpayers a bit more now and save that hard earned fund balance."

4. Marian Lowry – Ms. Lowry, from the League of Women Voters, stated that since 1989 they have supported recycling and she thanked the Board for what they have done with it and hope that in the future the Board will find other ways to encourage the community to do so.

On behalf of Grace Poli and Lee Luebbe, she supported the dollar request of the DSS Board to provide local funds for child care subsidy to partner with the state and federal governments and their allocations to Henderson County. Child care is an economic factor that must be considered when businesses want to locate in Henderson County and seek to find employees. The bottom line is pay now or pay later.

5. Katie Breckheimer – Ms. Breckheimer was present as a private citizen. She thanked the Board for the improvement to our one recycling convenience center at the transfer station. She also thanked the County Manager for proposing county office building recycling and electronics and household hazardous waste collection event and some funds for recycling education in this year's budget. She stated that she feels we have started down the right path to more and better recycling in Henderson County's future but it won't happen unless the County Commissioners direct the County Manager, the Solid Waste Department, and the Solid Waste Advisory Committee to pursue this goal. Improvements are needed to get us in line with other progressive North Carolina counties. Waste reduction should be the focus and recycling is one of the best ways to reduce the huge amount of natural resources that we are wasting now.

6. Frances Fairey – Ms. Fairey, Alliance for Human Services, thanked the Board because last year the Board raised the amount they gave to the Human Services in Henderson County. She thanked the Board for being the successor to the Commissioners who years ago decided that it was right to give money to non-profit human service agencies but that there needed to be accountability. The Board set up a pot of money for the non-profits and set up accountability which is what the function of the Alliance is, to provide that accountability. She stated that she hoped the Board would increase their budget but more than that she hoped they would increase the budget of the non-profits because they spend money a lot smarter than you know. She spoke about the amount of money some of them can leverage for the money they get from the county.

7. Martha Sachs – Ms. Sachs, League of Women Voters, spoke about the child care voucher need in the county. There are currently 400 children on the waiting list, last month. Two working parents in Henderson County would require \$920 month if they had an infant and a preschooler, just for child care. 23% of Henderson County households pay more than 50% of their income just to cover housing costs. The \$405,288 line item cut from the budget could reduce the waiting list by 78 children. If our county were to receive its fair share of the \$20,000,000 proposed in the state budget the \$200,000 would allow us to serve approximately 30 children leaving 370 still on the waiting list. Proper care of these children might reduce reports of abuse and neglect which are now almost twice as high in Henderson County as the state average. "How can we meet the additional costs that the county has a moral obligation to incur without having to raise property taxes?" She stated we must plan for both expenditures and income looking ahead 10-20 years instead of responding to the crisis of the moment. Her suggestion was impact fees that would cover increased needs for county services and schools. She also suggested requiring all county construction to be energy efficient.

8. Eva Ritchey – Ms. Ritchey stated that she does not support the manner in which we are financing our capital needs. For 15 years we have put the entire burden on the shoulders of property owners. Almost a third of our community make less than \$25,000 a year and many are on fixed incomes. Providing a quality education will continue to be a legitimate need for more monies. In order to provide money for education and other needed services, it is past-time to consider new ways to raise money such as development impact fees. New developments result in the need for expensive school expansions and upgrades to roads, water, sewer, and gas lines. Without impact fees, the cost of these things will continue to be born by property owners.

Increasing property taxes has become the easy solution to cover our lack of long-range planning. Additionally a failure to create an energy management plan is depriving our government and our schools from much needed savings. As the price of energy climbs ever higher, an energy management plan is essential. Until such time as we begin a comprehensive and multi funding approach, she opposes the proposed increase in property taxes.

9. Dick Baird – Mr. Baird passed. He did not speak.

10. Ed Lewis – Mr. Lewis congratulated the Board on being a forward moving board, stating there has been more movement on public facilities from the current Commissioners' efforts on this Board that has been seen in many years, according to Mr. Lewis. He stated that it is good to drive around Henderson County and see those positive things happening. He urged the Board to pay particular attention to the capital needs request from the Board of Public Education. It stated that it is critical that the Board fully fund the requests for capital needs, maintenance, and building needs.

11. Linda Soble – Ms. Soble is President of the Henderson County Association of Educators. She stated that the county's educators appreciate the Board's past funding efforts. She stated that this year the Board had been presented a bare bones request for funding. Our neediest children, those with special needs and those where English is a second language require personnel to help them to be productive citizens. The Junior ROTC Program for North Henderson High School will produce students with leadership qualities and promote the armed services at a time when our country's security is threatened. Our school system is presently accredited by the Southern Association of Colleges and Schools. Funding for the requested positions is required to keep that accreditation. She also mentioned the need for repairs and maintenance to our schools. She asked that the Board fully fund the School Board budget request.

12. Ashley Oliver – Ms. Oliver is a teacher at Edneyville Elementary School. She thanked the Board for their past, present, and future support of the Henderson County Public Schools. But as an educator she is highly concerned for this year's budget. Henderson County Public Schools is one of the largest employers in Henderson County, employing almost 1,800 people. Our school system serves 12,650 students that are the future of this county and this country. She expressed concern that this Board is only concerned about the present time in our county when actually the decisions this Board makes today will have a direct impact on our county and country's future. The children in our school system today are our future Commissioners, Lawyers, and even possibly a President of the United States. She stated that the current proposal for the capital outlay fund is inadequate and unacceptable to maintain safe and healthy facilities for our children. Putting the maintenance issues off year after year only increases the costs in the long run.

13. Sarah Smith – Ms. Smith is a mother of children that have attended the Henderson County Schools and is a 7 year employee of Henderson County Schools. She has been a librarian at the Bruce Drysdale Elementary School for the past five years. When she arrived at Bruce Drysdale she found a very poor book collection and only three barely working computers in the library. Because Bruce Drysdale students do not have resources commiserate with other county schools, she wrote grants, secured some very large donations, and have paid extra funds from her principal for a total of \$39,000 to add twenty-five hundred plus books to their collection. These acquisitions have revived a beleaguered and poorly developed library collection. Although books will always be important for fostering reading, we all know that the future of our students lie in technology. Because of the foresight of our technology division and with the support of our School Board and the County's budget support, she and the entire staff at Bruce Drysdale have had at their disposal a wireless laptop computer set for the past three years. She has had it out every week with the older students helping them practice finding and evaluating and reading for information in support of their classroom studies. These laptops have significantly improved her chances of meeting the information skills goals she is charged by the state of North Carolina to teach. If this proposed budget is not supported by the Commissioners, she will have to ratchet back her instruction and try to teach her students computer skills without them having the opportunity for hands-on practice.

14. Mary Singleton – Ms. Singleton is a retired educator from the Henderson County Public Schools and a children's advocate. She also served on the Historic Courthouse Committee. She stated that the debt service this year is on \$51,000,000 in building projects. The historic courthouse is one of those projects that needs to be restored but as of this time there are no bids. She mentioned several building projects. She stated that in this budget is \$28,000,000 to the public schools which includes \$8,000,000 in debt service. She reminded the Board that in January of 2005 they saw a slide presentation of the schools and the Board has just heard the need regarding repairs that need to be made as well as seeing slides about Hillandale Elementary School. In January 2005 the Board was taken out to Hillandale Elementary School and shown that the school was sinking. The school needs to be replaced. They also have a sewer problem. Ms. Singleton stated that we now have our population where our birth rate equals our death rate, according to the 2005 census minus 197 people. This year we had a total of 778 seniors graduating. She stated that we need to do something besides property taxes because it's not fair to the property owners. She mentioned impact fees.

Ms. Singleton stated that we should not pay one penny to Blue Ridge Community College for their technical building. The technical building will cost \$16,500,000 and \$2,000,000 of the total of that is budgeted for debt service. \$1,600,000 of that debt service is for this new technology center. She stated that BRCC is still being investigated for what took place over there with their baseball team. There are only three community colleges in the state of North Carolina who have a baseball team.

She stated that now that the hurricane season is here, maybe we can get a hurricane evacuation plan for our county.

15. Kevin Weis – Mr. Weis is the Principal of Hillandale Elementary School. He thanked the Board for their continued support. The children of Henderson County are fortunate to have a Board that values the education of every child. He stated that two items in this year's budget request are of special interest to the Hillandale community. The personnel request is essential to meet the needs of an ever-growing exceptional children and latino population in the school system. Currently Hillandale's Hispanic population is over 40%. ESL (English as a second language) teacher's are in every classroom, kindergarten through fifth grade team teaching with regular classroom teachers. When they are not in the classroom, they are serving the newcomers, those kids new to the United States with very little English skills in a pull-out setting. The rest of their day is spent translating letters to and from parents, taking and returning phone calls, or facilitating parent/teacher conferences. This budget request includes a teacher assistant position that may relieve some of those non-instructional duties. He asked the Board to consider this proposal so all these teachers can spend their time, all of their time, with children. He referenced the pictures that the Commissioners saw at the last budget workshop. This year's capital budget includes repairing Hillandale's roof, something that clearly should have been done years ago. He stated that it is not fair to ask the children to wait any longer. He asked the Board to please support the proposed budget as presented.

16. Charles Thomas – Mr. Thomas stated that he hoped the proposed budget is for the welfare of all citizens of Henderson County. Other county leaders and taxpayers scrutinize what goes on in our county. They justify their means by what we do. He spoke about how we need to do right by our children and fund education. He asked the Board to give the taxpayers a break on the 2007 re-evaluation notices that come in the mail.

17. Carrie Anne Blocker & Toni Wooten – Ms. Wooten is the media coordinator at Fletcher School. One of the important things she does in her job is bring technology to the schools for the teachers and to implement the technology with them, to empower them to be able to use it for higher learning with their students. One concern she has is the possibility of eliminating our elementary technology facilitator position. She has worked closely with this person through staff development, key teaching. She has come into Fletcher School and modeled technology skills for the teachers so that they are teaching to the students and motivating the students to be better learners. She is also concerned about the possibility of not being able to keep the wireless laptops which are on a cart. The lease is going to be ending in September. If we don't keep that, there goes another option for technology use for teaching with the students. If we lose the laptops,



that's a class set of laptops which the teachers can use in their classroom. Our county is getting so large that our student population is growing and there's a possibility we will lose our desktop lab which means that the only option for a full class lab would be a wireless laptop cart that could be moved from room to room. Teachers are instructed to teach North Carolina standard course of study in computer skills so this is one thing that would be very detrimental to them. Our computers in our high schools and middle schools also need refurbishing and improving, replacing.

Ms. Blocker is one of the elementary gifted education teachers in the county. She teaches at Fletcher and Marlowe Elementary Schools. There are many ways that these computers help her, three that she would like to share. They help her deliver the standard course of study that North Carolina sets for teachers each year. They help her individualize instruction. If a student has mastered, particularly in the gifted classes, a lesson quickly they allow her a place to send them for an extension of the lesson, not necessarily extra practice but a way to extend it so they can move above and beyond. If she has a student that is struggling then she can set the computers to a level so that they may go back and practice the lesson again. So they help her individualize instruction. Computers allow us a way to address learning styles. Students learn auditorally, visually, tacitly and the computer is just one more way to address various learning styles. There are some students that learn best at a computer. The computers also allow them to communicate with parents. Each teacher has a web page on the school website so that they can communicate with parents on a daily basis.

18. Clark Smith – Mr. Smith works at Balfour Education Center as a counselor. He discussed C-Stop which is a program for kids who are suspended from middle and high schools in the county. It is a program that gives kids a second chance who make a mistake. It's a program that is needed in our education system. Mr. Smith is married to a teacher of eight years. He stated that research shows that attendance trouble is a key factor in why kids drop out. In other words, if we have a student who can only miss five days in a semester of high school and they miss six or seven days, they feel a sense that they are in hot water and they can't get out of it and some of those kids drop out. What is done at C-STOP is give those kids a second chance. Instead of being sent home, on the street, or sleeping late, or playing Nintendo, they come to the program at Balfour. He said they don't give these kids attendance credit, they have to earn it. They have behavior contracts and they set high expectations for the kids from the moment they arrive at Balfour until they leave. This is the second year of C-Stop in Henderson County and they are one of eight C-Stop programs in the state. He and three teachers started C-Stop with no guide book, no handbook. In the school year 2004-2005 they saved 2,268 days that kids could be on the street, breaking into your car, your house, or whatever but rather they were in a structured learning educational environment. It's not simply ISS (in school suspension). They do Novanet which is computer based learning, a selection of 44,000 internet interactive classrooms that kids can engage in while in C-Stop. This year, 2005-2006, as of today they have saved 2,505 days that kids have been in school. Henderson County Juvenile Crime Prevention Council has supported the program to the tune of funding the majority of his position, the counseling position of C-Stop. He requested that the Board support the C-Stop Program and continue to fund it.

19. Wayne Nock – Mr. Nock is a student at North Henderson High School. He said he feels blessed to have grown up in Henderson County. He attended county public schools all the way from elementary school until now. He aims to return to Henderson County. He will be a teaching fellow at Elon University and he would like to come back and teach in our county because he realizes what a fine place it is. We have a great reputation throughout the state as a fine school system and much of that is in thanks to the money the Board of Commissioners has appropriated year after year. He stated that we do have room for improvement though as a school system. If we would like to continue to attract new teachers and well qualified teachers, we must have funds that reflect that. It is necessary that we have the proper facilities and the necessary technology for us to give our students the best education possible. The population of our county is growing and he feels that the money appropriated should reflect that. He pointed out that this proposed budget asks for the bare necessities to give our students the best education possible.

20. Charles Snead – Mr. Snead stated that he couldn't argue with anything that had been said tonight. To much of it he could only add "please listen, please listen to us." He thanked the Board for their support.

21. Linda Flynn – Ms. Flynn is a staff member of the Glenn C. Marlowe Elementary School and a 30+ year veteran teacher. “History teaches us that a nation that does not value it’s youth, falls.” She asked the Board to help her value our youth in our county by addressing their needs. The budget has been computed not to be extravagant but to fill the needs of our youth and the growth of our school system. Their needs are in buildings, personnel, basic instructional and program needs. This county is one of the wealthier 100 counties of this state and has the resources to value our youth. She asked that they make our children a priority. She thanked the Board for the support to the schools they have shown in the past and will give in the future.

22. Jennifer Shelton – Ms. Shelton is a teacher at East Henderson High School. She stated that we are looking at an investment in our future. We need to make that investment today, let’s not put it off. These students in our high schools today are the people who will come back to Henderson County and become prosperous citizens in the future and continue to support this county and make it the great place that it is today to live. However, if we don’t show we’re willing to pay now and put into our education system what we need, they will not want to return because there will be better educational opportunities for their children in other places. She addressed the issue of technology, stating that as a high school teacher she sees students that are about to finish their time in the public education system and the teachers here are at the end of their time of shaping their lives. Are we preparing them for the world they will face when they leave our schools? One of our problems is technology. We have wonderful access, we have lots of resources, however, we only have six technicians for approximately 5,000 machines in the Henderson County Public School system. They are run ragged trying to address the needs of the teachers and the students. This is just basic repairs and maintenance, without getting to the upgrades that they work hard all summer long to do. As a result, the burden falls on many of our media specialists, who rather than being able to focus on library collections, have to spend their time repairing printers and running to teachers whose computers have frozen up and while that is very important, we need to recognize that they need help in these areas. She stated that it would be very embarrassing for Henderson County to lose our SACS accreditation at our high school level simply because we’re not willing to fund positions and media specialists that we desperately need. As a teacher, a parent and a taxpayer she begged the Board to help her prove that the person who told her it wouldn’t help to come here tonight, to help prove that person was wrong.

*Commissioner McGrady made the motion that the Board go out of public hearing. All voted in favor and the motion carried.*

### **The Process**

The Board had a budget workshop on May 25 and a continuation of that meeting on June 1 and this public hearing. Chairman Mayer felt that the Board needed to set an additional special called meeting for another budget workshop. Some issues that Commissioners felt needed to be discussed at the up-coming workshop were impact fees, alternate sources of revenue/funding, maintenance issues for schools, rescue squad funding, purchasing agent, recreation, and an eastern EMS substation. It was the consensus of the Board to invite BRCC representatives and representatives from the public school system to the next workshop to address their issues.

Following discussion, *Chairman Moyer made the motion to set a special called meeting to deal with budget issues (budget workshop) for Tuesday, June 13 at 5:00 p.m. All voted in favor and the motion carried.* He asked any Commissioners who had special issues they would like to be addressed at that workshop to get them to staff no later than Thursday, June 8<sup>th</sup>, no later than 5 p.m. for inclusion in that agenda.

### **UPDATE ON PENDING ISSUES**

#### **Land Development Code Update/Professional Services Agreement**

Justin Hembree updated the Board regarding the Land Development Code. He stated that they have completed the recruitment process for the Planning Director position. Anthony Starr, the new Planning Director, will begin work on Monday, June 26<sup>th</sup>. During the interim, work has continued with development

of the Land Development Code. Staff has been going through the issues brought up with the first draft as circulated. Staff has spent a lot of time going through those comments and working some of those comments into possible revisions that were made to sections. The Planning Board is still working with the subcommittee process. They had a subcommittee meeting this afternoon. During the meeting, staff presented a timeframe they are working with to get certain sections of that code back into their hands so it can go through the subcommittee and then on to the full Planning Board. At the meeting, they met with Mr. Richard Smith who is with CMR BenchMark Corporation. A copy of a contract was included in the agenda packet with BenchMark for professional services to assist with the Land Development Code process. He referenced the scope of work that's proposed through the contract, BenchMark will be working on the zoning section which is the largest section of the Land Development Code but will also work to help the whole document gel together in terms of ensuring that it flows together, give it a cursory overview to make sure that all the definitions in the code match up consistently through each section of the ordinance. Staff requested in the contract that BenchMark include a timeframe in terms of what they are looking at as to how long it will take this process to be completed. Their target date is around September 1<sup>st</sup>. That's dependent on how the public input process goes at the Planning Board level. As part of the scope, BenchMark is going to be facilitating some public input sessions with the Planning Board to gather more input as it goes through a development process but they feel pretty confident that the early September timeframe is going to be good in terms of having something turned around, worked through the Planning Board and then at that point will come back as a recommendation from the Planning Board to the Board of Commissioners. Through this interim period, particularly the Director's position, the work hasn't completely stopped on this. Staff has moved forward along with other day to day activities. The Land Development Code process is continuing and what they are working towards is a document that will be coming from the Planning Board as a recommendation to the Board of Commissioners with a target date of around Labor Day.

Justin Hembree requested that the Board authorize the approval of the professional services contract with BenchMark. The County Attorney has reviewed the contract and staff has reviewed the contract as well as the Planning Board Chair. He is comfortable with what the company is offering and it will allow us to move this process forward in a manner that it should move but more importantly it will give us the resources to be able to meet that September 1<sup>st</sup> timeframe.

Much discussion followed with the Commissioners not supportive of the Planning Board taking the document out to the public for input. The Commissioners feel that process should be done by the Board of Commissioners. They are the ones accountable and they are the elected officials.

*Commissioner McGrady made the motion to table the agreement for services at this time and request that the County Manager propose an amended scope of services which reflects the public input process largely being handled by the Board of Commissioners while the Planning Board, with the support of BenchMark, provides us with a draft by around September 1<sup>st</sup>. Much discussion followed.*

*Commissioner McGrady made the motion to approve the agreement for services with the amendment to strike paragraphs 7 and 8 of the scope of services and amending paragraph 9 to make it a Planning Board presentation to the Board of Commissioners by around September 1<sup>st</sup>/Labor Day. All voted in favor and the motion carried.*

#### **COUNTY ATTORNEY'S REPORT**

There was none.

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

There was none.

#### **IMPORTANT DATES**

Chairman Moyer had provided a recommendation under Important Dates, based on upcoming events, to make some changes in the following meeting dates/times:

- Reschedule the Wednesday, June 21 meeting at 9 a.m. to Friday, June 23 at 9 a.m.
- Cancel the Monday, July 3 meeting at 5:30 p.m.
- Reschedule the Monday, August 7 meeting at 5:30 p.m. to Wednesday, August 2 at 5:30.
- The NACo Conference is scheduled for August 4 – 8 and we have Commissioners going.
- Cancel the Tuesday, September 5 meeting at 5:30 p.m.

Discussion followed with everyone checking their respective calendars.

Friday, June 23 was not good for some Commissioners. *Commissioner McGrady made the motion to move that June 21 meeting to Tuesday, June 27 at 9:00 a.m. All voted in favor and the motion carried.*

*Chairman Moyer made the motion to cancel the July 3 meeting. All voted in favor and the motion carried.*

*Chairman Moyer made the motion to move the August 7 meeting to August 2 at 5:30 p.m. All voted in favor and the motion carried.*

*Chairman Moyer made the motion to cancel the September 5 meeting. All voted in favor and the motion carried.*

#### **Set Public Hearing on Rezoning Application #R-2006-01**

Rezoning Application #R-2006-01, which was submitted on May 17, 2006, requests that the County rezone approximately 107.07 acres of land, located between Interstate 26 and Norfolk Southern Railroad in the Naples community, from an R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district to an R-10 (High-Density Residential) zoning district. The Subject Area appears to be parcels 9661-02-2982 and 9651-92-1626 which are owned by the respective applicants, the Layman Foundation of North Carolina (parcel 9661-02-2982) and B.L. Hyder (parcel 9651-92-1626).

The Henderson County Planning Board will first consider rezoning application #R-2006-01 at its regularly scheduled meeting on June 20, 2006.

Before taking action on the rezoning application, the Board of Commissioners must hold a public hearing. Staff proposed that the hearing be scheduled for Monday, July 3, 2006, at 7:00 p.m.

The Board had just canceled the July 3 meeting.

*Commissioner McGrady made the motion to set this public hearing for July 19 at 11:00 a.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 at 9:38 p.m. All voted in favor and the motion carried.*

DRAFT