

Terry Wilson

From: Elizabeth Corn
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To: Terry Wilson
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MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
AUGUST 16, 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, 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: Planning Director Anthony Starr, Finance Director J. Carey McLelland, Enforcement and Development Director Toby Linville, Research/Grants Coordinator Amy Brantley, County Engineer Gary Tweed, Building Services Director Sam Laughter, and Planner Anthony Prinz.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

County Manager Steve Wyatt gave the invocation.

INFORMAL PUBLIC COMMENTS

1. Frank Blazey – Mr. Blazey reminded the Board that two years ago he stood before them to talk about Work First. He is currently Chair of the Water Quality Committee of the Environmental and Conservation Organization, better known as ECO. On the Board's agenda today is a discussion item on Soil Erosion and Sedimentation Control Ordinance and Program, he was glad about that. He stated that ECO has supported the idea of a Soil Erosion Control Ordinance for some 10 years with local enforcement. He stated that an ordinance would go a long way to providing preventative education for developers and land owners, hoping with the education to lessen the amount of silt that now goes into our water sources. He looks forward to working with the Board on this project.

2. Dick Baird – Mr. Baird addressed the issue of soccer fields. He stated that adequate soccer playing facilities is an immediate strategic need, stating that it should have and could have been foreseen several years ago. Mr. Baird stated that this county has habitually put recreation at the bottom of the funding priority list. The County's budget ordinance for FY 2007 shows we spend just 1% of our budget for recreational purposes, that's \$1,000,000 out of \$104,000,000. The library system, which exercises the mind, gets nearly \$3,000,000. This youngest generation plays soccer and we are not doing right by them. He stated that the need for soccer fields is at the top of the list and is immediate. Henderson County received a windfall of nearly \$500,000 in Medicaid funding. He proposed that the Board immediately task

Rick Harris and the Recreation Advisory Board with coming up with a plan to utilize this money to have soccer facilities available to our youth during this fiscal year. Representatives from the various soccer associations and leagues should be included. Since the Board treats these remarks as informal, he formalized them by official letter.

3. Eva Ritchey – Ms. Ritchey spoke to the issue of sedimentation and erosion control. She stated that we don't need just a bare minimum ordinance. Most States craft one-size-fits-all ordinances for certain categories, i.e. secondary roads. She stated that the same is true with sedimentation and erosion. We're in the mountains, not at the coast or the piedmont so to take just the bare minimum won't address some of the serious problems that we have here in the west. As long as there is not a set a rules that is effective and address the problem effectively, then developers are not going to be in a position to have to do the things that need to be done. Ms. Ritchey stated that we need an erosion and sedimentation control ordinance that does the job here.
4. Thomas Key – Mr. Key also addressed sedimentation and erosion control. He is the Vice-President of the Lake Rugby Homeowners Association. He spoke in favor of a sedimentation and erosion control ordinance. Two years ago, the Homeowners Association paid for a study of how much mud is in Lake Rugby. It was estimated that there are 2,000 truck loads of mud in Lake Rugby. At a conservative estimate of \$100 a load, that's \$200,000 to remove that mud. The mud comes down from Carriage Park through Haywood Knolls. There is also a considerable amount of mud in the Marstin Creek between Haywood Knolls and Lake Rugby, estimated at about 500 truck loads. He spoke to the issue of dead fish. When you have too much silt and mud in a lake it causes lack of oxidation and fish die. He stated that three rather large Carp, about 35 lbs. each, die. This is a strong issue for him. He feels that the ordinance under consideration is a good thing. The state ordinance addressed flat land. Flat land in Henderson County has already been addressed, now mountain land will be developed. There is a charge for the developers for enforcement of this ordinance which lets developers foot the bill. Of course, they will pass that amount along to the consumer. The new ordinance needs to incorporate a right to issue a stop order for those developers that don't follow the rules or ignore the rules. The future growth of Henderson County is dependent on what the Board does regarding this pending ordinance.
5. Daniel Theron – Mr. Theron is a resident of Haywood Knolls and owns property adjacent to Carriage Park. He stated that there is a window of opportunity for developers until January of 2007 before some action will be taken. In the meantime, he has noticed that once that became known that there were four huge power shovels at work digging down a mountain and many, many tons of dirt were dumped down a mountain, about a 45 degree angle and he considered that a disaster. We sometimes get a lot of rain here. In August of 1992 we had 10 inches of rain in Henderson County where he lives. He cannot understand why the Planning Board and the Board of Commissioners have not taken action to put a stop to such disasters. Mr. Theron stated that Lake Rugby has been turned into a mud pond. The fish are dying and fish will not spawn. Some developers have been in violation constantly and without impunity. He hopes that in the new resolution there will be a provision that developers who have three strikes against them are out, out of the county of Henderson, to develop forever. Past violations should count.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer requested moving Discussion Item "H-2 Local Government and Illegal Immigrants" up as the next order of business, before the Consent Agenda. Congressman Taylor is present and will address that item. There were no other changes suggested.

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

Local Government and Illegal Immigrants

Congressman Charles Taylor addressed the issue, stating that North Carolina has the eighth largest alien

population in the country. The state has experienced a 58% increase in the last five years of foreign born population. This is one of the largest percentage increases in the country for that time period. He stated that they are trying to undertake a regional program that's available on a city by city basis with the INS. They have met with a number of officers. They want the whole district to be available. They may be able to do it with half the counties at one time and then the other half later. They are asking for eight pilot programs to include Henderson, Buncombe, Polk, Rutherford, Madison, McDowell, Transylvania, and Yancey. These counties are the most closely located to the resources in Charlotte where the training will take place. They have also put in their Commerce Justice State Subcommittee over \$8,000,000 for three additional courts, one of which will be in North Carolina, in Charlotte and will be an immigration court.

According to INS, Atlanta is the closest court we have here and with all the states that have to report there it is terribly overworked. It takes a year or more for the court date and 95% do not even show up. He stated that they are trying to get serious about the subject. Congress passed a "secure the border bill" and it is in conference right now. The Senate passed one, the House passed one and we're conference. Until that is passed, they are still working on the question of securing the borders. The President has put a number of rules in getting INS to be more active in the area of immigration. He would like to see us take advantage. What it would entail is at least one officer being trained, could have one in the Sheriff's Department and one in the Police Department to be trained in the area of making the arrests, making sure the rights are appropriately applied, setting the court date in Charlotte, and it would also give that officer other training. Right now, if an officer arrests an alien who commits a crime in Henderson County, INS has to be notified and the INS agent may or may not be able to get there in a given period of time. The county would have to jail that person or else turn them loose and until INS could come and set a date for the court, that person would have to be incarcerated and wait at the county's expense. They are wanting to streamline the process so it is a minimum cost to the county and a minimum damage to the community, especially for serious crimes that might be committed. The training would be taken care of on a Federal basis. They'd try to reimburse the counties for any incidental expenses or other expenses in this program. It's hard to say what those costs would be but they would be taken care of.

Congressman Taylor answered some questions from the Commissioners. He stated that we know that many of the people who come into this country illegally, are coming here to work. That does not excuse the fact that they come in illegally and there is often contraband involved. Almost all have illegal documentation, which usually is a felony. We do not know out of the approx. 1.5 million who came in this year the ones that are here just for work and those that are here for some other evil intent. The nation has to get serious about securing its borders. In addition to that, Congress is trying to put together a rapid visa which would give those people who want to come and work an ability to get a visa if the job is available to come into this country and work under a legal process where all documentation would be available, all taxes, all labor regulations, etc. would be followed. He stated that on a community by community basis we have to be concerned about the crime that is committed. About 25% of the Federal Prisons right now have illegal immigrants who are not there because they came in illegally, they have committed a crime serious enough for them to be sentenced to a Federal Prison. He did not have the statistics on the State Court but he knows that it is significant.

Congressman Taylor stated that currently there are statutes that apply to employers who hire aliens. Social Security and other documents are falsified almost immediately and it causes severe damage to many people. If there records are copied or stolen, anything that goes on outside their knowledge then goes to their record and causes many different problems. They are trying to have a visa card, much like North Carolina's drivers license in the sense that there is a hologram. He showed an example of such a card. The hologram is almost impossible to falsify. It can contain a thumbprint, a DNA sample, or whatever. He stated that right now it takes the Federal Government as much as a year to issue a visa. They are trying to see if they can't get the private sector to be involved. In about two weeks you can get a credit card or be denied in about the same time. There is no reason why it should take a year to issue a visa.

Congressman Taylor addressed illegal immigrants versus legal immigrants, stating the big difference is the criminal check and the health check. A person who has a criminal record in the country he came from is probably going to continue his criminal record here. If you find that in the legal process of immigration you can keep that person out. There are many immigrants who want to come, who will obey the laws and will come in legally and get a visa for a period of time, and perform that work.

Congressman Taylor stated that 100% of Meth. that is coming into the United States is coming in from Mexico.

Russell Burrell added that from a state level, the General Assembly had two bills pending this past year that would have given express authority and encouragement to local governments to enforce federal immigration law. Both those bills died in committee and neither contained any provision for any funding for local government to enforce those things. It was just an encouragement from the state level.

CONSENT AGENDA

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

Minutes

Draft minutes were presented for Board review/approval of the following meeting(s):
July 19, 2006, regular meeting.

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had submitted the Tax Collector's Report dated August 15 for the Board's review and consent approval.

Tax Releases

A list of 29 tax release requests was submitted for approval by the Board of Commissioners.

Tax Refunds

A list of 12 tax refund requests was submitted for approval by the Board of Commissioners.

Strategic Plan Monthly Report

The Strategic Plan Monthly Report was included as part of the agenda packet. The purpose of this monthly report is to examine the extent to which the issues within the Strategic Plan have been addressed and the goals have been achieved.

Nuisance Ordinance Amendment

The Henderson County Board of Commissioners recently approved a Public Nuisance Ordinance. This ordinance was approved to be effective in the Henderson County Zoning Jurisdiction which does not allow enforcement in Hendersonville's Extraterritorial Jurisdiction (ETJ). This amendment will allow Henderson County to enforce the Public Nuisance Ordinance in the ETJ.

Non-Profit Performance Agreements

Subsequent to the approval of the FY 2006-07 Budget, staff had distributed the funding agreements to the non-profit agencies receiving County allocations. Staff included signed funding agreements in the Board's consent agenda for the Board's review/approval.

Staff recommended that the Board authorize the Chairman to execute the funding agreements and, in doing so, authorize the release of the first of the aforementioned agencies' quarterly allotments.

Water Line Extension – Fox Glen, Phase 3

Sewer Line Extension – Carriage Park, Section 15

The City of Hendersonville had requested County comments on proposed water line extension for Fox Glen, Phase 3 and sewer line extension for Carriage Park, Section 15.

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

2006 Fall Litter Sweep Resolution

NCDOT's 2006 Fall Litter Sweep will take place September 16-30, 2006. The prepared resolution encourages Henderson County citizens to participate in this event.

Henderson County Hospital Corporation rezoning

Henderson County Hospital Corporation seeks rezoning of six (6) lots owned by Henderson County which are a part of the Pardee Hospital main campus. These lie generally along the western portion of the campus. The rezoning sought is from the City of Hendersonville's R-6 zoning district classification to its MIC zoning classification.

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

I move that the Board authorize the Chairman and staff to apply for the rezoning sought by Henderson County Hospital Corporation, and further authorize Hospital Corporation staff to represent the County in hearings concerning the application.

NOMINATIONS

Notification of Vacancies

There were none.

Nominations

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

1. Asheville Regional Housing Consortium – 1 vac.

Commissioner McGrady moved the appointment of Ken Perkins. There were no other nominations. *Chairman Moyer made the motion to accept Mr. Perkins 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. Historic Preservation Commission – 1 vac.

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

5. Juvenile Crime Prevention Council – 4 vac.

Ms. Brantley will draft letters for the Chairman's signature asking for their cooperation in helping to fill three of the four vacancies.

On the United Way position, Ms. Brantley has been in contact with them and they have asked that we hold off on that until they get their new Board seated which she thought was in early October.

6. Nursing/Adult Care Home Community Advisory Committee – 3 vac.

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

7. WCCA Board of Directors – 1 vac.

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

CONSTRUCTION CONTROL CORPORATION HISTORIC COURTHOUSE CONSTRUCTION ADMINISTRATION PROPOSAL

Chairman Moyer reminded the Board that they had discussed the importance of the Historic Courthouse Construction project at the last meeting as well as discussion of getting some help in managing that project and asked the County Manager to put together a proposal in that regard.

Steve Wyatt informed the Board that in their agenda packets was a proposed agreement between Henderson County and Construction Control Corporation (CCC) providing for construction administration for the Historic Courthouse Project. Specifically, CCC is proposing that Mr. Albert "Bott" Vestal serve as the County's representative on the project. Mr. Albert Vestal was in attendance.

The not to exceed cost for the agreement is \$8,298.27 per month. This equates to an annual cost not to exceed \$99,579.24 (12 months) and a total project cost not to exceed \$132,772.32 (16 months). The agreement can be cancelled by the County at any time.

Mr. Vestal's resume was also included in the packet for the Board's consideration as was the "Contract for providing the Services of Skilled Individual(s)"

John McClure, of Construction Control Corporation, came forward and introduced Bott Vestal to the Board. Bott has been with the company since the late 1980s

It was the Board's desire that the reports be monthly regarding any change orders, any delays, or any other thing that would be unusual. It was decided it would be a written monthly report with periodic verbal reports from Mr. Vestal. Mr. Vestal stated that he will write up a daily report every day of what activity has gone on.

Commissioner McGrady made the motion to approve the agreement with the changes suggested by the Chairman. All voted in favor and the motion carried.

TAX COLLECTOR'S SETTLEMENT

Terry Lyda and Darlene Burgess both came forward to address the Board.

Terry Lyda read his Tax Settlement for FY 05-06 as follows:

"Dear Henderson County Commissioners:

Attached please find the Preliminary Report for FY 05-06 along with the Settlement for Current-Year taxes and Delinquent Taxes. A list of all unpaid tax liens is available for your review in the Office of the Clerk to the Board.

I am happy to report that as of the close of FY 05-06, our office collected 98.16% of the annual tax bills and we have collected 87.03% of the motor vehicle tax bills. Our collection percentages remain well above the last reported state average of 97.04%.

Thank you for the opportunity to be of service to you.

Respectfully submitted, Terry F. Lyda, Tax Collector."

Darlene Burgess, Deputy Tax Collector, presented the Deputy Tax Collector's FY 05-06 Progress Report regarding Delinquent Property Tax Collections and Report on Efforts to Collect Delinquent Taxes, stating that in this past fiscal year they've collected \$1.2 million in delinquent tax bringing the overall total to over \$9 million since October 1999. The cumulative collection percentage on annual delinquent bills is 99.70% and on motor vehicles it is 97.30%.

Ms. Burgess stated that on real estate tax collections they use the in rem foreclosure and filed 45 judgements on unpaid real estate this past May. Three years ago they filed 282 judgements at the same point in time. Presently there are 38 parcels scheduled to be sold some time this fall. Three years ago there were 130 parcels that were scheduled to be sold. Currently there are 121 parcels that are just entering the foreclosure process. No title searches have been done on them yet and pre-foreclosure letters have not gone out. They have researched all the outstanding real estate tax bills for 1994 – 2004 and have determined there is approximately \$75,000 worth that is collectable. They have issued 248 garnishments this year, totaling \$145,000 although \$18,000 was received from garnishments issued to the State Treasurer's S-Cheat fund. They have collected a little over \$3,000 through the use of debt set off which is State Income Tax garnishment (that is usually reserved for motor vehicle bills but they hope to expand it to maybe mobile home tax and other personal property taxes). They have written 133 payment arrangements totaling \$126,000. The payment arrangements they are writing now have decreased substantially as well. Ms. Burgess thinks that is because they are getting the money up front. They reserve payment arrangements for people who actually are not able to pay the bill up front. They have a little over \$1200 bankruptcy bills

amounting to over \$145,000 that are involved in an active bankruptcy case. They have increased the current collectibles on the motor vehicle tax. In May their final percentage on the 2005 DMVs was 76.53%. They sent out final notices in June and that increased their percentage to over 87%. They hope to continue to send out final notices on a monthly basis. House Bill #1779 which was to have changed the way they bill and collect for motor vehicle tax is in jeopardy. There was a new bill introduced that would invalidate HB #1779.

Ms. Burgess answered some questions from the Board.

HENDERSON COUNTY PUBLIC TRANSIT

Anthony Prinz informed the Board that included within the agenda packet is a brief memorandum from Planning Staff to update the Board of Commissioners on the current status of the process to establish a Federal urbanized area public transit grant (U.S.C. 5307) compliant fixed-route transit and complementary paratransit system for Henderson County. A lot of progress has been made on this project in the past couple of months; however, there is still work to be done to finish implementing the new transit system. No action was necessary on this item.

The Public Transit Service Provider Contract has been drafted by Brian Piascik (Henderson County's transit consultant), with assistance from County staff, to establish Western Carolina Community Action (WCCA) as the service provider for Federal urbanized area public transit grant (U.S.C. 5307) compliant fixed-route and paratransit services in Henderson County. The contract has been reviewed and approved by Dr. David White (Executive Director) of WCCA, and is now ready for review and possible approval by the Board of Commissioners.

Once adopted, the attached resolution will confirm Henderson County's willingness to participate in the Federal urbanized area transit grant program and will establish the Planning Director as the principal contract for the Federal Transit Administration (FTA). Adoption of this resolution is required by the FTA and must be completed prior to the establishment of a grant management account with FTA.

Anthony Prinz stated that payment for the contracted services will be made on a cost per revenue hour rather than a reimbursement for total operation cost and that is different than how we operate the system today. As soon as feasibly possible the county will be responsible for purchasing three new vehicles for the fixed route transit service. The County will only be responsible for approximately 9% of the cost of those vehicles. Once they are purchased, the County will retain ownership of the vehicles but WCCA will be responsible for all the maintenance as well as the insurance for operation. Once the contract is enacted, WCCA will begin fueling their vehicles at the central services fueling station.

Mr. Prinz outlined the specific County duties and responsibilities as follows:

The COUNTY has the following responsibilities and performs the following duties with respect to Henderson County Transit. To the extent reasonable and feasible, SERVICE PROVIDER shall assist the COUNTY in this regard.

System Planning and Administration

The COUNTY is responsible for all planning activities relative to Henderson County Transit vehicle routes, schedules, days and hours of operations, vehicle stop locations, location of vehicle stop improvements, preparation of planning documents, budgets, grant applications and related documentation, and other such activities relative to overall system administration.

Advertising, Media Inquiries, and Promotion

The COUNTY prepares, distributes, schedules, and pays for all advertising and promotional materials designed to inform Henderson County Transit vehicle service patrons of the COUNTY operations and to promote ridership. The COUNTY will respond to all media inquiries.

Revenue Vehicles

The COUNTY provides to SERVICE PROVIDER the revenue vehicles set forth on page 35. These vehicles shall be used only for activity directly related to the transit system covered by this CONTRACT,

unless otherwise authorized, in writing, by the COUNTY.

Schedules, Passes, Tickets

The COUNTY shall prepare, print, and provide to SERVICE PROVIDER all schedules, passes, tickets and like materials required for Henderson County Transit operations. SERVICE PROVIDER shall distribute and disseminate such materials in accordance with the provisions of this CONTRACT and any directions supplemental thereto provided by the COUNTY.

Fareboxes

The COUNTY will provide the electronic farebox system for the Henderson County Transit system, including the software and hardware.

Electronic Destination Signs

The COUNTY will provide the electronic destination signs for the new vehicles.

Vehicle Stop Improvements

The COUNTY shall purchase all signs, posts, benches, shelters and trash receptacles for Henderson County Transit vehicle stops. In addition, a vehicle shelter Contractor will be responsible for installing and maintaining vehicle shelters, benches, and trash receptacles at select COUNTY stops. This will be managed by the COUNTY.

Notification – Potential Interference with Henderson County Transit Operations

The COUNTY shall make a reasonable effort to notify SERVICE PROVIDER in advance of any road closures, detours, parades, or other such events which may interfere with Henderson County Transit operations or require deviations from established routes or schedules.

Mr. Prinz also reviewed the responsibilities of WCCA with the Board. He stated that staff had reviewed the contract and feels that it is an appropriate agreement for the county to enter into with WCCA for the transit service provision.

Mr. Prinz stated that the purpose of the Resolution was to establish the Henderson County Planning Director as the primary contact for the FTA for grant administration purposes and for correspondence with that agency. Staff recommended approval of the Resolution as drafted.

The County Manager recommended that the Board of Commissioners take action to approve the proposed Public Transit Service Provider Contract and adopt the proposed Authorization resolution as drafted.

Commissioner McGrady made the motion to approve the proposed Public Transit Service Provider Contract and adopt the proposed Authorization Resolution as drafted. All voted in favor and the motion carried.

CONTINUATION OF TAX COLLECTOR'S SETTLEMENT

Russell Burrell distributed two documents to the Commissioners; one to allow them to set the bond amount for the Tax Collector and Deputy Tax Collector for the year and the other was the "Order of Collection".

Commissioner McGrady made the motion to approve the "Resolution Setting the Bond Amounts for the Tax Collector and Deputy Tax Collector" and the "Order of Collection". All voted in favor and the motion carried.

As in the past the bond amount for the Tax Collector was set at \$1,000,000 through August of 2007 and the bond amount for the Deputy Tax Collector was set at \$250,000 through August of 2007.

MODIFICATION OF ARTICLES OF INCORPORATION OF HENDERSON COUNTY HOSPITAL CORPORATION

Russell Burrell informed the Board that the Board of Directors of Henderson County Hospital Corporation d/b/a Margaret R. Pardee Memorial Hospital seeks modification of its Articles of Incorporation to allow it to invest in certain types of pooled investments allowed for public hospital in North Carolina but not allowed for the Hospital Corporation by its current Articles of Incorporation. They have requested that their Charter be changed to allow

them to invest in more types of investments than they are currently allowed to invest in.

Carey McLelland stated that he had spoken with the State Treasurer's Office and the Investment Division of the State Treasurer's Office. They provided him with some prospectus and performance data on the funds that will be available to the hospital under the new statute. There are three funds that would be available for Pardee to invest in. The first two are fixed income investments that are managed by the State Treasurer's Office, low risk, low return. One is a short-term fixed income investment program which is twelve months in on fixed income type vehicles and the other one is a long-term investment program which is twelve months or out. Both of these, based on performance data that Mr. McLelland has seen, are very low risk and low return. He stated a three year return on the short-term was around 3.5% and the long-term vehicle was about 6.5%. The third option for the hospital is a global equity fund that is actually managed by an outside company called global investors which is more like the mutual fund that Russ spoke to. It invests in equities or stocks of companies and any money put into this fund is invested 75% domestic companies and the other 25% is international. These funds must have a high credit rating, based on any of the four major credit rating agencies.

Chairman Moyer stated that Carey had accurately evaluated the risk involved. He felt that the hospital needs a little more flexibility. He stated that he supports the request.

Commissioner McGrady moved the approval of the modification of the Articles of Incorporation of Henderson County Hospital Corporation as proposed, and authorization of the Chairman and staff to take such step as are necessary to bring about such modification. All voted in favor and the motion carried.

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CONSTRUCTION BIDS FOR MUD CREEK SEWER PROJECT – Phase I

Gary Tweed informed the Board that Henderson County has successfully completed the bidding phase of the Mud Creek Sewer Project, Phase I. He distributed a summary report from our engineer, Bill Lapsley. Mr. Tweed stated that the project was actually bid twice. On the first round we only received two bids and had to re-advertise the project. Buckeye Construction Company was the low bidder at \$1,466,668.00.

Mr. Tweed showed the Board the project on a large map, stating that we need to proceed with the first section of phase I which involves the big pump station, force main, and a portion of the interceptor. He explained that funding will be done through a loan. Carey McLelland is getting that set up, to borrow the funds to do this. Windsor Aughtry Company will also be making a \$300,000 contribution at the completion of this project.

Mr. Tweed recommended approval of the bid.

Commissioner Messer made the motion to approve the award of the bid to Buckeye Construction Company in the amount of \$1,466,668.00. All voted in favor and the motion carried.

Recess

The Board took a short break to change videotapes.

PUBLIC HEARING – Rezoning Application #R-2006-01

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

Chairman Moyer recognized the Council for the applicant, Jack Tate. Mr. Tate referenced a letter to the Board, stating that his clients had decided to request the withdrawal of their application to rezone the property to R-10. After consideration of the issues, the property, and the future development, they have determined that they will pursue less dense development. They are not far enough along in the plans of that to give anything concrete. They will submit a subsequent application later on.

Anthony Starr, Planning Director, stated that legally this is permissible and up to the Board. Staff and the Planning Board had recommended against the zoning.

Commissioner Baldwin moved to accept the request to withdraw the application. All voted in favor and the motion carried.

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

SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE AND PROGRAM

Steve Wyatt stated that this had been an issue of interest for the Board and the County for some time. It is part of the Strategic Plan and part of the budget proposal that the Board adopted. Now we are working through the implementation phase.

Anthony Starr stated that the 2020 Comprehensive Plan recommends the creation and implementation of a Soil Erosion and Sedimentation Control Ordinance. The Strategic Plan also recommends the creation and implementation of such an ordinance beginning this fiscal year. With the 2006-07 budget, the Board of Commissioners also authorized two new positions beginning January 1, 2007 to administer the program. Currently if you are engaging in a land disturbing activity you have to get a soil erosion permit from the State Department of Environment and Natural Resources, specifically the Land Resources Division. Sometimes those waiting periods to get plan approval can be up to 6 – 8 weeks at this point, as a result of their understaffing. On site oversight is also very limited as a result of being understaffed. This results in some developers not taking the necessary steps and maintaining measures to prevent soil erosion and sedimentation damage to adjoining property owners. Staff worked together across several departments to draft an ordinance for the Board's consideration. It closely follows the model ordinance that the state provides in that they really want us to follow that format pretty closely. We have to adopt as a minimum the standards that the state enforces already which means everyone should be taking measures to control sedimentation on their property regardless of the size of the project. If you disturb more than an acre, under current state rules, then you have to create and submit an erosion control plan for their approval. The draft ordinance is the very same requirements with one exception. Folks would come to the county for approval and every project would still have to control sedimentation. If you disturb more than one acre, you would have to have a plan, just as the state requires. Additionally what the draft ordinance has is that if you are disturbing more than half an acre on a lot or parcel and your average slope of that property is 16 – 25% then you would also have to submit a plan. If you are disturbing more than a quarter acre and your average slope is greater than 25% you would have to submit a plan. Theoretically, regardless of size, they are suppose to be taking measures anyway to control sediment. The only difference is that we are requiring them to submit a plan up front for review and approval by staff. These standards represent the same requirements that Buncombe County has implemented. They do exceed the state requirements slightly. Regarding initiation of the program, staff recommends a four month period between the time the ordinance is adopted and when staff would actually begin administering the program and part of that is because we are starting a program from scratch which requires hiring personnel, educating the public, getting state approval in place. Any ordinance that we would adopt would have to be reviewed by the State Sedimentation Control Commission and this process takes up to 90 days. We could begin our program in February 2007 if we were to have something in place and ready to move forward and submit to the state, later this year, about October or November at the latest.

Mr. Starr stated that there is a grant available for start-up costs. The State will pay for 40% of the first twelve months of all of our start-up costs. We could be reimbursed for vehicles, personnel costs, equipment, computers, furniture and the like. We would first spend the money and then they would reimburse us. However, any expenditures that would occur before July 1, 2007 would not be reimbursed because that's when the next cycle of that grant program begins. We would have to have that application in later this year for that program. July 1 or whenever the state budget is adopted, any expenditures past that point would be reimbursed at 40% for the first twelve months. If we decide to move ahead and do the program before then, we certainly could do that but we wouldn't be reimbursed the 40% of any costs such as purchasing vehicles or any personnel costs for that first twelve months.

Sam Laughter, Director of Building Services, addressed the Board stating that the first estimated expenditures to get the program started are \$172,000 but that will take the program through one budget cycle. This amount includes personnel as well as vehicles which will be four-wheel drive type vehicles because the areas where these inspectors will be going will be undeveloped areas. Afterwards they will be going into developed areas but will have plenty of opportunities to get stuck. Costs should run somewhere around \$122,000 a year after the first year,

to maintain the program. These fees would be subject to change after the first year.

RESOLUTION RECOGNIZING THE 2006 HENDERSON COUNTY YOUTH ALL STAR SOFTBALL TEAM 8U Division

Commissioner Young had asked that this item be placed on the agenda to acknowledge these eight and under all star champions of fast pitch softball. They won the Southeastern Regional Tournament in Glen Allen, Virginia, the most prestigious tournament a team in the 8U Division can win. They completed their season with 13 wins and no losses and finished first place in the following tournaments: Fairview International, WNC District II, and WNC State. A draft resolution had been prepared.

Commissioner Young made the motion that the Board pass the resolution to acknowledge these all stars and send a copy of the resolution to each of the girls who participated, recognizing them. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

Land Development Code

Tedd Pearce, Chairman of the Henderson County Planning Board, informed the Board that the Planning Board had met and gone over a timetable. He felt that the Planning Board will complete the work they can do on or before October 10 and the staff can have a final document and map amendment with CCP amendments to the Board of Commissioners by the first meeting in November.

Anthony Starr was comfortable with Mr. Pearce's comments about the timetable.

Local Government and Illegal Immigrants

This item was discussed earlier in the meeting (see above).

STAFF REPORTS

County Attorney's Report

Russell Burrell informed the Board he had nothing else to report.

County Manager's Report

Steve Wyatt reminded the Board that at the previous meeting the Board established the Alternative Revenue Task Force. Letters have gone out and staff will have an orientation and organizational meeting of that group next week on Wednesday. He will report back to the Board on the progress of that group regularly.

The Board had previously proposed four people as possible Chair of the Task Force. Mr. Wyatt will poll the members for volunteers for Chair.

County Recycling Program

There was some brief discussion regarding Henderson County Government's recent start of recycling of paper, plastic, glass, and cardboard. Mr. Wyatt committed to supply the Commissioners with numbers after the first quarter of this county recycling program.

Justin Hembree mentioned that we will also be doing an educational program to increase the awareness of the need to recycle. He mentioned that staff is working on scheduling an electronics and household hazardous waste recycling event. The Solid Waste Staff has been in conversations with the Land of Sky Council of Governments, partnering with them to be able to have this event. Land of Sky has two staff members that deal primarily with solid waste issues and in particularly recycling issues. Mr. Hembree stated that the educational component is a little more complicated. Land of Sky has already been doing an educational program for some time. We will initially target the schools. The idea is that if you get the kids interested in recycling, they will take their excitement home and hassle their parents to recycle. We also plan to use HCTV-11, Henderson Highlights, and Press Releases.

IMPORTANT DATES

Chairman Moyer made the motion to set a special called meeting for Tuesday, September 5 @ 6:00 as a workshop on Soil Erosion and Sedimentation Control. All voted in favor and the motion carried.

Chairman Moyer reminded the Board of the up-coming Mayor's Cup Raft Race scheduled for Sunday, August 20. Henderson County's team is made up of Chairman Moyer, Commissioner Charlie Messer, Commissioner Shannon Baldwin, Assistant County Manager Selena Coffey, Research/Grants Coordinator Amy Brantley, and Captain Rick Davis of the Sheriff's Department.

Chairman Moyer also reminded everyone of the 2:00 Grand Opening of the Human Services Building (Ribbon Cutting) on Wednesday, October 18, 2006.

- **CANE CREEK WATER & SEWER DISTRICT – no business**

- **CLOSED SESSION – none**

- **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