

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
DECEMBER 18, 2006**

The Henderson County Board of Commissioners met for a special called meeting at 5:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Chuck McGrady, Commissioner Mark Williams, County Manager Steve Wyatt, Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Public Information Officer Chris S. Coulson, Planning Director Anthony Starr, Assessor Stan Duncan, Research/Grants Coordinator Amy Brantley, and Planners Matt Card and Matt Cable.

CALL TO ORDER/WELCOME

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

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer reminded those in attendance that a public hearing was scheduled for 5:30 p.m. and the Board would stop and do the public hearing as close to 5:30 as possible.

There were no adjustments to the agenda. *Commissioner McGrady made the motion to approve the agenda as presented. All voted in favor and the motion carried.*

CLOSED SESSION

Commissioner McGrady made the motion for the Board to go into closed session as allowed pursuant to NCGS 143-318.11 for the following reasons:

- 1.(a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.*
- 2.(a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease.*

All voted in favor and the motion carried.

Chairman Moyer informed those in attendance that the Board is going into closed session as the first item of business and then will come out and take action on some closed session items.

APPROVAL OF CLOSED SESSION ITEMS

Chairman Moyer called the meeting back to order and stated that there were a couple of items the Board acted on in closed session that they need to report on at this time:

Sheriff's Salary

DATE APPROVED _____

Commissioner Young made the motion that the Board set Sheriff Rick Davis' salary for the coming year at \$73,495, effective December 4, 2006. All voted in favor and the motion carried.

Sixth Avenue Clubhouse

Chairman Moyer stated that he was very pleased that the Board was finally able to take some action with respect to the Sixth Avenue Clubhouse.

Commissioner McGrady made the motion that the Board approve an agreement for the purchase of the so-called Sixth Avenue West Clubhouse which would involve our purchase of that property for a price of \$333,200 and authorize entering into an agreement to that effect and such other collateral agreements as necessary to facilitate the transaction. All voted in favor and the motion carried.

Chairman Moyer – “You can tell from the tenor of the motion that we have been working with the people at Sixth Avenue Clubhouse. We’ve been working with the people at Mountain Laurel and I think we’ve come up with an arrangement that’s favorable to everyone to be able to keep the clubhouse in it’s place. It’s been a very important part of the community. It’s been of vital interest to the Commissioners and we obviously are pleased that we’ll be able to continue that clubhouse at that site. I do want to mention that it will involve some funding from the State. Carolyn Justus has been a tremendous help, working with the Board, getting us and staff in connection with the right people to help with some funding for this and making sure that the state is in agreement with what we’re doing. I was hopeful she could be here tonight but she did have a conflict with some other things she was doing and said she was sorry she couldn’t be here but she’s been a tremendous help and that money will be of big assistance to enable us to move forward, both in the capital side and in the operating side so it’s a, it looks like a very favorable arrangement and we’ll be looking to close this by the end of the year.”

PUBLIC HEARING – Market Value and Present-Use Value Tax Schedules

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

Chairman Moyer stated that the purpose of the public hearing is to discuss the market value and present-use value tax schedules. He called on our Assessor, Stan Duncan.

Stan Duncan had presented the two tax schedules to the Board earlier.

Stan Duncan thanked the Board for arranging this hearing time on a short notice, back on December 4 so that we could have the public hearing on the schedules that were presented at that meeting.

There are two sets of schedules that have been presented, for which this public hearing was called. One is the Market Value Schedule which is a thicker document and allows staff to appraise each parcel of real property at it’s market value as of January 1, 2007. The second document and set of schedules is thinner but very much just as important, the Present Use Value Schedule for the appraisal of certain properties classified as agricultural, horticultural, or forest land and these have to meet very stringent statutory requirements with regards to size, income, use and sound management. But they are the two schedules that the statutes call for to be presented and to be considered in public hearing.

Stan Duncan explained that notice was published of this public hearing in the *Times-News* on December 8, stating that it would be today at the 5:00 meeting with the public hearing to be called at 5:30. That was advertised in the front part of the newspaper in the Local/State section. He stated that they took it away

from hiding it in the back in the legal classified action. They plan to do the same thing once the schedules are adopted.

Stan Duncan explained that the adoption of the schedules is scheduled for next week, December 28. A special called meeting has been set for 4:00 p.m.

Public Input

1. Theron Maybin – Mr. Maybin thanked Stan Duncan on his hard work and on trying to protect farmland within Henderson County. He stated that farming is Henderson County’s oldest occupation. He stated that we need to continue to take care to protect farmland, as best possible. He stated that he would like to see the present-use schedule incorporated into the Planning Board’s program of zoning within the county so that agriculture would stay open use and not come under any strict zoning ordinance regulations. He feels that agriculture district signs should be posted on farms and that the public should be educated as to what an agriculture districting sign means. He spoke, representing farmers in the county.

Chairman Moyer asked Mr. Maybin to state his name and the various groups he is associated with so that people know.

Theron Maybin – “I’m Theron Maybin, Chairman of the Agriculture Advisory Board, Vice-Chairman of the Soil & Water Conservation Board, member of the Historical Courthouse Board, on the Board of Directors for Farm/City Day, Vice-Chairman of the Board of Deacons at Cedar Springs Baptist Church. Thank you.”

There were no other speakers.

No action was required at this time.

Commissioner McGrady made the motion for the Board to go out of public hearing.

JOINT SCHOOL TOURS WITH THE BOARD OF EDUCATION

Chairman Moyer had distributed a copy of a letter he had received from Chairman Ervin Bazzle (Chairman of the Board of Education) setting forth a schedule for touring some elementary schools in North Carolina. The Board of Education is touring schools on January 5 and January 10 and the Commissioners and county officials are invited to join them.

Following some discussion by the Board, it appeared that three or more Commissioners might tour schools on each date; there, it was necessary to set those dates as special called meetings.

Chairman Moyer made the motion to set a special called meeting for Friday, January 5 at 7:30 a.m. and Wednesday January 10 at 7:30 a.m. All voted in favor and the motion carried.

Chairman Moyer asked the Commissioners to let the County Manager know who can attend when, also whether they would ride with the Board of Education or drive independently.

BLUE RIDGE COMMUNITY COLLEGE AUDIT

There has been a lot of information in the newspaper lately regarding Blue Ridge Community College, the ball team, and the audit of BRCC. Chairman Moyer asked Commissioner Young to address this issue.

Commissioner Young stated that the first thing was in the newspaper and Richard Sullins had told Mr. Young last Thursday that he was sending him a copy of a report where the State had done an audit at Blue Ridge Community College. The *Times News* stated there was \$61,800 of county money misused. Mr. Young just received the report this afternoon and didn't have time to read prior to coming to this meeting. He felt that this issue should be placed on the next meeting agenda. He will provide a copy of the audit report for each Commissioner so that they will have the information for discussion at the next meeting.

Mr. Young had been informed that there was an article in the *Asheville Citizen* that the Henderson County Commissioners were subsidizing Dr. Sink's salary to the tune of \$32,000 plus a year. If BRCC is doing that, that is not how our money is suppose to be spent. He felt that the Board should find out about these two things and have discussion because that's about \$100,000 of county tax monies that need to be accounted for.

Chairman Moyer said that it would be added, with the Board's agreement, to the January 2 meeting and representatives from Blue Ridge Community College will be invited to attend and participate in the meeting.

BUDGET AMENDMENTS

Stan Duncan explained that a budget amendment is necessary to complete the Reappraisal. He stated that there are three pages of line-item transfer requests. They have been broken down into two different budgets. One is the Assessor's budget, which is in two parts. The first part is for professional services of \$247,280.00, with some data processing supplies of \$1,075.00, and that is summarized in detail on the page immediately following the part 1 Assessor's line-item transfer. Part 2 is for the overtime request for the data base administrator and the FICA and Local Government Employee Retirement System contributions. It does not address the actual movement of the salary that is in the current year budget ('06-'07) from the IT (Information Technology) Department for this individual over to the Assessors' Office. He feels that should be addressed as well. The Overtime amount is \$92,000 for a grand total of \$378,205.

Budget Analyst Selena Coffey explained that it is not an increase in the budget, it's simply moving it from the IT Dept. budget to the Assessor's budget. That function and cost would not be duplicated.

Following much discussion, *Commissioner McGrady made the motion to approve the budget amendment as submitted. All voted in favor and the motion carried.*

Commissioner McGrady made the motion to approve the transfer of funds from the IT Department to the Assessor's Department for thirteen pay periods for the position referred to above and the associated benefits. All voted in favor and the motion carried.

PARTF GRANT MATCHING FUNDS – EDNEYVILLE COMMUNITY CENTER PROJECT

Carey McLelland informed the Board that the N.C. Parks and Recreation Trust Fund (PARTF) Grant in the amount of \$500,000 awarded for the Edneyville Community Center Project requires a dollar-for-dollar local government match. Staff estimates that if the project were to start January 1, a projected maximum of \$400,000 could be spent on the project during the current fiscal year. Therefore, Staff is recommending a prepared budget amendment (included in the agenda packet) to appropriate \$200,000 in matching funds required to pull down PARTF grant funds for the project in the current fiscal year.

Commissioner Messer made the motion that the proposed budget amendment to appropriate \$200,000 in projected matching funds required for the PARTF grant be approved for the Edneyville Community Center Project in the current fiscal year. All voted in favor and the motion carried.

TREND FY2003 SETTLEMENT REPORT

Carey McLelland presented the final Trend Mental Health Area Authority Settlement Report for fiscal year 2003 as calculated by the Regional Accountant for the N.C. Department of Health and Human Services Controller's Office. The State provided annual funding on a monthly basis to Trend during this fiscal year and this settlement report represents funding provided to Trend during FY2003 that services were not provided for as calculated by the Regional Accountant.

The final overpayment of State funds to Trend during FY2003 has been calculated to be \$257,480 with 86.5% of this amount or \$222,720 belonging to Henderson County. The remaining 13.5% or \$34,760 is the responsibility of neighboring Transylvania County.

The Trend Dissolution Resolution, adopted by the Board of Commissioners on April 4, 2005, states that Henderson County is responsible for its pro rata share (86.5%) in satisfying the indebtedness for Trend if un-obligated funds in trust with Western Highlands are not sufficient to pay expenses. Western Highlands has approximately \$30,000 remaining in Contingency Reserve for Trend available after paying recent unemployment claims of \$21,000 for past Trend employees. This remaining balance will be used by Western Highlands to pay future unemployment claims and other Trend related expenses that arise.

Staff has reviewed the settlement calculation with the Chief Financial Officer for Western Highlands and has concluded that the \$222,720 liability is the County's responsibility. Interest began accruing on the County's \$222,720 share as of August 28, 2006. The Chief Financial Officer for Western Highlands has stated that she will cover the accrued interest to date from Trend's available Contingency Reserve. An initial penalty was assessed by the State if the County's share was not paid by a certain date, but has since been waived.

Staff has provided a draft budget amendment for the Board's consideration and approval appropriating Undesignated General Fund Balance to pay this unbudgeted liability. Undesignated General Fund Balance is the County's contingency or emergency fund that may be used for paying these types of unknown, unbudgeted expenditures that arise during the fiscal year. The County has enough available in this fund to pay the \$222,720 and not fall below the Board's required 12% minimum.

Commissioner McGrady made the motion to approve the attached budget amendment appropriating Undesignated General Fund Balance to pay for and satisfy Henderson County's share (86.5%) of the calculated liability from the FY2003 Trend Settlement Report in the amount of \$222,720.

Much discussion followed the motion.

A vote was taken and the motion carried four to one with Commissioner Messer voting nay.

PRESENTATION OF LAND DEVELOPMENT CODE

Anthony Starr explained that staff had already presented to the Board the draft Land Development Code and zoning map. He introduced the Chairman of the Planning Board, Tedd Pearce, to give some opening remarks.

Tedd Pearce informed the Board that the Planning Board had voted unanimously, 9 to 0, on the adoption of the language of the Land Development Code and 7 to 0 on the mapping. Renee Kumor was on vacation at the time of the vote and she has since indicated her approval of the mapping. Mr. Pearce was very pleased that the Planning Board was willing to plow through the number of meetings. He stated that they had about 16 meetings. They vowed to make this something that everyone on the Planning Board

could stand behind and were able to meet that. Mr. Pearce offered himself if any of the Commissioners wished to meet and go over things. He also explained that Anthony Starr is so committed to the project also and willing to meet and discuss any sections of the Land Development Code with Commissioners. Mr. Pearce hopes that in time all five Commissioners will be able to agree that this Land Development Code is something that will be good for Henderson County and is worthy of adoption.

Chairman Moyer expressed the Board's thanks to the Planning Board for the tremendous effort they had put into this document.

Anthony Starr also thanked the Planning Board for the amount of time spent on this document and commended them on their efforts. Mr. Starr expressed that this is a user friendly document.

The Land Development Code (LDC) as an ordinance is not designed or intended to be complicated or complex; however, a substantial effort has been made to make it as easy to read as possible. The new LDC draft is 42 pages less than the current ordinances. It is not intended to be read cover to cover. It is written so that someone can go to the areas that apply to their project. It is a document that is not intended to be used by citizens free of staff assistance.

Mr. Starr explained that the LDC combines eleven existing ordinances into one document, to make it easier to use:

- Zoning Ordinance
- Subdivision Ordinance
- Mountain Ridge Protection Ordinance
- Soil Erosion & Sedimentation Control Ordinance
- Vested Rights Ordinance
- Manufactured Home Park Ordinance
- Communication Tower Ordinance
- Entry Gates Ordinance
- Flood Damage Prevention Ordinance
- Signs Ordinance
- Water Supply Watershed Protection Ordinance

Mr. Starr stated that the LDC is user-friendly and contains:

- Simplified Text
- Cross-referencing
- Defined Terms in italics
- Logical flow of information
- Comprehensive Articles, Subparts and Sections
- Indication of reviewing Staff and Boards

He stated that the LDC contains 14 Articles designed to establish and provide:

- Legal Standing
- Land Use Regulations
- Review Processes and Procedures

The Legal Standing involves the jurisdiction, farm exemption, violations and appeals, the official zoning map, and nonconforming uses and structures. All these are found in Articles I, XII, and XIII.

Agriculture is exempt. We don't have the authority to regulate that with zoning provisions and that will remain the same as it is now. If you operate one of the agriculture uses, including agritourism, you are exempt under state law from zoning rules from a county and that will not change.

With the new LDC the open use zoning district will no longer exist. There will be a zoning map amendment needed because with the new LDC all the districts change.

Zoning and subdivision land use regulations contain information regarding zoning district requirements, permitted and special uses, use-specific development standards, conservation subdivision option, and subdivision of land and can be found in Article II or III. In the new LDC there are ten general use zoning districts: four residential, four commercial, one industrial, and one office/institutional. Currently we have 22 base zoning districts. This is a key area where the regulations have been simplified. There are three residential districts: R1: 4 units per acre
R2 & R2MH: 1 unit per acre
R3: 1 unit per 1.5 acre

There are no lot size requirements but rather average densities. There is a permitted use table with references to supplemental requirements. The table is easy to use.

There are four commercial districts: local, community, regional, and general. There is also mixed use districts (MU). This is a new option that will allow a mixture of commercial, non-residential, and residential uses and allow some innovation in those areas. MU districts shall be approved as a conditional zoning district and would not be a quasi-judicial proceeding but rather a regular rezoning type process.

There is a Planning Board recommended zoning map and it illustrates the various districts mentioned above. Anthony's discussion regarding the zoning map elicited numerous questions from the Commissioners and created much discussion.

Chairman Moyer explained that even though there were additional slides left in the PowerPoint presentation, he felt that Anthony Starr had given the Board a good overview of the LDC and some review of the map. He felt that more detail on the document needed to be handled in a workshop setting.

Steve Wyatt stated that this will be placed on the January 2 agenda for the Board to set a workshop date.

ADJOURN

Commissioner McGrady made the motion to adjourn the meeting at 7:50 p.m. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman