

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
OCTOBER 2, 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 Chuck McGrady, Commissioner Shannon Baldwin, 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, Fire Marshal Rocky Hyder, Finance Director J. Carey McLelland, Deputy Clerk to the Board Terry Wilson, and Research/Grants Coordinator Amy Brantley.

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

Commissioner Baldwin gave the invocation.

INFORMAL PUBLIC COMMENTS

1. Joe Gernoske - Mr. Gernoske is the visiting pastor for Trinity Presbyterian Church. He is largely responsible for the churches care giving efforts. He is also an Advisory Board Member for Sixth Avenue Clubhouse West. He is a potential board member for the Paul's New Mental Health Provider. He wishes to address the issue of the mentally ill in the County by urging the Counties Financial support for the newly formed Sixth Avenue Psychiatric Rehabilitation Partners. He feels the right thing to do is to care for the mentally ill in our community. He sees the provider as an answer to do all that has apparently evaporated as a result of the bankruptcy they are all familiar with. The Provider would be able to replace despair with hope, provide a sense of belonging where there may not be any place to belong, and give the mentally ill in our community the same objective that we all want; a purposeful life with the tools to do it. Mr. Gernoske is a successful business man. He has a MBA degree. He doesn't want his taxes to be increased any more than anyone else. He sincerely feels, with what he knows in regard to this proposed organization, they have it together, taxes won't be increased, and it is the right thing to do.
2. Jim Phelps – Mr. Phelps comes before the board to express grave concern about the voting process. His information is based on observations during the last primary. The thing he observed was lack of control. He understands that there are a lot of important issues before the board. He feels nothing is more important than the sanctity of our voting process. Mr. Phelps would like to suggest the following controls be implemented immediately.
 - The voting machines should be turned to face the walls. This would keep the poll workers and anyone walking in from monitoring or intimidating voters. It needs to be verified that all machines, before the election, have the same version of software and the most current version, and they are placed in dual control until such time they are opened up for the voting process.

DATE APPROVED _____

- The cartridges that activate the machines need to be controlled at all times. In the primary election Mr. Phelps observed in more than one precinct where the cartridges were left lying on tables or in chairs accessible to anyone walking in, or any poll worker.
- Paper tapes should also be controlled. Not only the ones that have been printed but the blanks ones also. At the end of the day if you have a missing roll of tape you have no idea if it is one with votes on it, or blank.
- It should be required at the end of the each day that two people extract the votes from the machines. It should be two different cartridges which would give better control until they are taken to the Board of Election and tallied.
- After the election, to ensure the integrity of the election Mr. Phelps suggests that a sample of the paper tapes be verified. Count and compare them to the actual machines totals and to the voter sign in books.

Mr. Phelps would not suggest implementation of additional early voting sites without these controls being in place. Instead encourage all residents to get an absentee ballot. He would also suggest that there be absentee ballots at the polls to be used as paper ballots for those that do not wish to use the machines.

3. Eva Ritchey – Ms. Ritchey is a candidate for County Commissioner and was present to speak on behalf of mental health services in our community. Ms. Ritchey expressed that it is important to acknowledge the mental health crisis we face as its origins have failed in national policy. For the last six years, current administration has cut back and reduced federal dollars for social programs including Medicare and mental health. The conservative philosophy of “starving the beast” to deflate so called “big government” has led to hardship and crisis on the state and local level. States such as North Carolina have scrambled to make up those federal dollars for workers whose wages have steadily declined. In fact if there is anything the last six years have taught us, it is the dishonesty of the statement that big government is the problem and small government is our salvation. The aftermath of Katrina was proof that small government can’t solve big problems. Big government is not the problem, unaccountable big government is. We need to turn mental health from failed policies of privatization and back to government oversight. Social Security is an excellent example of a federal program that has low administration costs and is efficiently managed.

Mental illness is not an exclusive clue. One in every five North Carolinians suffers from a mental disorder or has a family member who does. The need for mental health support services is in every community and every neighborhood. We cannot turn our backs on our neighbors and we cannot leave mental health services to our law enforcement officers. People with mental illnesses need a waiting room not a jail cell. I would like to offer this suggestion for providing services in our community in the most cost effective and available manner. Since the brain is a body part and since Pardee Hospital treats body parts, let’s make our mental health services a part of our established Healthcare system. By incorporating our public mental health services within Pardee, we could get economies of scale through combining billing services and maintenance costs. Further, we could help remove the stigma that often affects these types of illnesses by placing mental health within the body of the county health care system. Pardee Hospital is a publicly funded hospital and would be an excellent home for our publicly funded mental health services. This arrangement might serve as a model for the rest of the state. Why create a second layer of free standing facilities when we can combine them effectively with one that already exists?

Whatever the solution, there is one thing for sure, no caring responsible society will leave any of its citizens out on the streets or in jails for a physical illness that can be aided. If we can walk for hunger, run for heart disease, lunch for breast cancer, then we can leap the distance for mental health.

4. Mary Singleton – Ms. Singleton is a retired educator and children’s advocate and has four things that she wants to bring to the attention of the Board of Commissioners.
 - She would like to commend Commissioner Baldwin for voting for the twenty-five (25) year storm water runoff versus the ten (10) year.
 - It is important that the citizens of Henderson County know who the appointed Board/Committee members are and their occupations since these are the people that advise in policy making decisions. The Planning Board list of members only has their names and telephone numbers. The Times News did reference that the Planning Board could use wider scope. It listed the Planning Board members and their occupations. It also included that the membership included a homebuilder, a general contractor, a surveyor, an instructor, a retiree, an attorney, a former county commissioner, a commercial developer, a farm credit manager (now elected to the Board of Commissioners), and a Commissioner that serves as a liaison.
 - In September, 2005, the Commissioners used over \$900,000 of County money to purchase patrol cars to patrol our county. However, our county is not being patrolled. In a trip to Asheville today on interstate 26, Ms. Singleton was doing 60 miles per hour and people were passing her breaking the speed limit. There was no Highway Patrol because they are investigating every wreck in Henderson County. At the last meeting, the Commissioners discussed buying more patrol cars. Citizens are reading everyday in Henderson County about wrecks in Henderson County; people being hurt, people being killed. Ms. Singleton expressed her concern that not enough patrolling was done by the sheriffs department.
 - The Commissioners told the citizens they did not have \$14,000,000 to build a new Mills River School then apparently money (over \$9,000) was spent to help the school board find savings they couldn’t find before. The School Board then said they were going to spend \$15,000,000 on the new school. We don’t know where that money is coming from.
4. Doug Bosworth – Mr. Bosworth addressed the issue of Mountain Laurel. He stated that a good Samaritan place is to help. We need to provide transportation, psychological health, and Christian counselors. Mr. Bosworth is a former bi-polar patient. This town has lots of organizations put together. Time needs to be taken to help as much as possible.

DISCUSSION/ADJUSTMENT OF AGENDA

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

CONSENT AGENDA

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

Tax Collector’s Report

Terry F. Lyda, Henderson County Tax Collector, provided the Tax Collector’s Report dated October 2, 2006 for the Board’s review.

2007 Holiday Schedule

The 2007 Holiday Schedule was presented for the Board’s review.

Non-profit Performance Agreements

Subsequent to the approval of the FY 2006-2007 Budget, staff has distributed the funding agreements to the non-profit agencies receiving County allocations. Staff will be including signed funding agreements on the Board’s consent agendas as we receive them from the agencies.

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

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

Articles of Amendment for Henderson County Hospital

The Board of Trustees of Henderson County Hospital have adopted a proposed by-law amendment that would end the terms of all board trustees (on a rotating basis) as of 31 October of each year (3 of 10 rotating trustees in the first year, 3 more the second, and the other 4 the third year). Text of the by-law change, with new text underline and strikeouts highlighted, was attached.

The proposed amendment clarifies that the proposed amendments are allowed under the corporate charter, and gives full effect to the action of the Board of Trustees.

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

I move that the Board, on behalf of Henderson County, the sole member of the Henderson County Hospital Corporation, waive further notice of this meeting and of the adoption of the proposed Amendment, and further move that the Board approve the Articles of Amendment proposed, and direct the Chairman and staff to take such action as is necessary to file the same with the Secretary of State of North Carolina.

Cable Franchise extension, second reading

Included in the agenda packet for the Board's review is a proposed extension of the existing franchise agreement with Mediacom Southeast, L.L.C. This proposal, which maintains the status quo, was adopted by the Board on first reading at the last meeting.

A franchise agreement must be twice adopted by this Board to be effective. Proposed is final adoption, subject to another vote at this Board meeting.

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

I move that the Board give final approval to the extension of the County's franchise agreement with Mediacom Southeast L.L.C.

Location approval for McMiller Investments, LLC/Dover Foods, Inc. Industrial Bonds

Bond counsel for McMiller Investments, LLC and Dover Foods, Inc., d/b/a American Quality Foods, has requested Board approval, pursuant to N.C. Gen. Stat. §159D-10, of the location of a food processing plant in Henderson County. This Board's approval is required to allow for the issuance by the company of Industrial Revenue Bonds pursuant to Chapter 159D.

No Pledge by Henderson County, or impairment of Henderson County credit, is associated with the issuance of these bonds. §159d-10 states as follows:

Any project of the [the North Carolina Capital Facilities] agency shall be located within the boundaries of the State. Bonds may not be issued to finance any project or group of projects in any county of the State unless the board of commissioners for the county in which the project is located has consented to the location of the project within the county.

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

I move that the Board adopt the resolution attached to the agenda materials accompanying this item.

Commissioner McGrady introduced the following resolution, the title of which was read:

APPROVAL IN PRINCIPLE OF INDUSTRIAL PROJECT FOR
DOVER FOODS, INC. d/b/a AMERICAN QUALITY FOODS
AND THE FINANCING THEREOF WITH INDUSTRIAL
DEVELOPMENT REVENUE BONDS IN THE PRINCIPAL
AMOUNT OF UP TO \$2,500,000

WHEREAS, The North Carolina Capital Facilities Finance Agency (the "Agency") has Agreed to assist in the financing under The North Carolina Industrial and Pollution Control Facilities Financing Act, Chapter 159D, Article 1 of the North Carolina General Statutes (the "Act") of an industrial project owned by McMil Investments, LLC, a North Carolina limited liability company, or a related or affiliated entity, and operated by Dover Foods, Inc. d/b/a American Quality Foods, a North Carolina corporation, or a related or affiliated entity (collectively, the "Company"), which plans to acquire, construct and equip a 17,000 square foot facility for the manufacture of calorie controlled dessert mixes (the "Project") in the Town of Mills River, Henderson County, North Carolina and has indicated that agreement by the execution of an Inducement Letter dated March 22, 2006; and

WHEREAS, the Agency intends to issue its Industrial Development Revenue Bonds, Series 2006A-2 for the benefit of the Company (the "Bonds") in the principal amount of up to \$2,500,000 which will be secured by a letter of credit issued by RBC Centura Bank; and

WHEREAS, under Section 159D-10 of the Act a project financed by the Agency under the Act must be approved by the governing body of the county in which the project is to be located;

NOW, THEREFORE, the Board of Commissioners of Henderson County, meeting in regular session at Hendersonville, North Carolina, on October 2, 2006, do the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR HENDERSON COUNTY:

1. The proposed "industrial project" consisting of the acquisition, construction and equipping of a 17,000 square foot facility for the manufacture of calorie controlled dessert mixes for the benefit of the Company (the "project") in the Town of Mills River, Henderson County, North Carolina and the issuance of bonds by the the Agency in an amount not to exceed \$2,500,000 therefor is hereby approved in principle.

2. The issuance of the Bonds in the principal amount of \$2,500,000 is hereby approved for purposes of Section 159D-10 of the Act.

Commissioner McGrady moved the passage of the foregoing resolution, and the resolution was passed, all members voting "Aye".

Etowah Horse-Shoe Fire and Rescue Lease Purchase

At the May 11, 2006 Fire and Rescue Advisory Committee meeting, Roger Freeman Chief of Etowah Horse-Shoe Fire and Rescue presented a refinancing/purchase proposal for two new apparatus at the main station. The total price of the package is \$1,816,418 utilizing United Financial Services at an annual interest rate of 4.75% with a yearly payment of \$232,387 for 10 years.

A motion to approve the refinancing package was made by David Johnson and seconded by Joe Swain. Approval was unanimous.

Etowah Horse-Shoe Fire and Rescue respectfully requests the Chairman sign the prepared letter to United Financial Services.

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

The Board should authorize the Chairman to sign the prepared letter to United Financial of North Carolina.

Improvement Guarantee for Eagle Pointe

Eagle Rock Properties, Inc., owner of the project, submitted an application for an improvement guarantee for Eagle Pointe major subdivision which was approved by the Board of Commissioners on September 20, 2006. The applicant has now submitted a new improvement guarantee application which reflects additional improvements that were originally anticipated to be completed by final plat approval. The applicant is now requesting to bond these improvements. The new improvement guarantee is proposed to cover the cost of road construction, public water system improvements and sewer system improvements (including pump station) for the 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 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 developers intend to deposit with the County a certified check in the amount of at least \$306,186.25 to cover the cost of the improvements (\$244,949.00) as well as the required twenty-five percent (25%) contingency (\$61,237.25). The proposed completion date for the improvements is August 28, 2007.

A draft performance Guarantee Agreement was attached for the Board's consideration. If the application is approved, the developers must submit cash on deposit (certified check) in accordance with the terms of the Agreement. Once the County receives cash on deposit (certified check) the relevant parties must execute the Agreement.

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

I recommend that the Board approve the new improvement guarantee application for Eagle Pointe subject to the developers submitting to Henderson County cash on deposit (certified check) in accordance with the terms of the 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 3-A and 4-B of River Stone. River Stone is a 524-lot Planned Unit Development located on approximately 175 acres of land off of 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 construction of the road, including paving and a valley gutter system for the above mentioned sections in River Stone. River Stone currently has an improvement guarantee in place with the County for Sections 4-A, 5A, and 6A, approved by the Board of Commissioners on June 5, 2006.

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 \$122,125.00 to cover the cost of the improvements (\$97,700.00) as well as the required twenty-five percent (25%) contingency (\$24,425.00). The proposed completion date for the improvements is November 30, 2006.

A draft Performance Guarantee Agreement was attached 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.

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

I recommend 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 Agreement. Once the County receives a letter of credit in proper form, the relevant parties must execute the Agreement.

Petition for addition to State Road system

It has been the practice of this Board to accept road petitions and forward them to NC Department of Transportation for their review. It has also been the practice of the Board not to ask NCDOT to change the priority for roads on the paving priority list.

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

Recommend approval of the attached petitions.

NOMINATIONS

Notification of Vacancies

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

- 1. Environmental Advisory Committee**
- 2. Juvenile Crime Prevention Council**
- 3. Transportation Advisory Committee**

Nominations

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

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

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

- 2. Community Child Protection Team – 1 vac.**

Commissioner McGrady moved the reappointment of positions 1-5, Nancy Mitchell, Nancy Glowacki, Patricia Jones, Paula DeLorenzo and Robert Danos. Chairman Moyer moved that positions 1-5 be accepted by acclamation. All voted in favor and the motion carried.

Commissioner McGrady stated that Eric Summey had resigned from the Sheriff's Department and was no longer eligible for position 6.

- 3. Downtown Hendersonville, Inc. – 2 vac.**

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

- 4. Henderson County Zoning Board of Adjustment – 1 vac.**

Commissioner Baldwin nominated Joe Cox. There were no other nominations at this time. Chairman Moyer moved that the nomination be accepted by acclamation. All voted in favor and the motion carried.

- 5. Hendersonville City Board of Adjustment – 1 vac.**

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

6. Historic Preservation Commission – 1 vac.

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

7. Hospital Corporation – 4 vac.

Commissioners Messer nominated Bill Lapsley. Chuck McGrady nominated Jeff Miller. Commissioner Baldwin nominated Marcia Caserio. Commissioner Young nominated Fielding Lucas. Chuck McGrady nominated Larry Freeman. Chairman Moyer nominated Jack Swanson.

Commissioner McGrady made the motion to suspend the rule of holding nominations to the next meeting so an immediate vote on the Hospital Corporation Board members could be made. Chairman Moyer stated that the motion on the floor was to suspend the rules and proceed to vote at this meeting. There was no discussion. All voted in favor and the motion carried.

The Clerk was asked to poll the Board. The results were as follows with each Commissioner getting four votes:

Commissioner Shannon Baldwin - Bill Lapsley, Jeff Miller, Fielding Lucas and Marcia Caserio.

Commissioner McGrady - Bill Lapsley, Jeff Miller, Marcia Caserio and Larry Freeman.

Chairman Moyer - Bill Lapsley, Jeff Miller, Larry Freeman and Jack Swanson.

Commissioner Messer - Bill Lapsley, Jeff Miller, Marcia Caserio and Larry Freeman.

Commissioner Young - Jeff Miller, Marcia Caserio, Fielding Lucas and Jack Swanson.

The Clerk tallied the votes with the following results: Bill Lapsley, Jeff Miller, Marcia Caserio and Larry Freeman.

8. Juvenile Crime Prevention Council – 3 vac.

Commissioner Messer nominated Langdon Raymond, Fletcher Chief of Police. *Chairman Moyer moved that the nomination be accepted by acclamation. All voted in favor and the motion carried.*

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

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

MENTAL HEALTH UPDATE

Assistant County Manager Justin Hembree stated that several things had transpired since the Board's last meeting. He made the Board aware that the County Manager's office had received proposals from the mental health service providers making proposals as how they would use the maintenance of effort funds that were budgeted in this fiscal year. The proposals were due today. Six proposals have been received and are being reviewed and will be coming back to the Board in terms of recommendations of funding in the near term. The Board may wish to consider making recommendations to schedule a special meeting based on things that may transpire later in the week. There is a special meeting of the LME on Thursday morning. Mr. Arthur Carder will be bringing the Board up-to-date on what has been going on based on his prospective, both on a regional prospective and more specifically with Henderson County.

Chairman Moyer questioned whether it would be necessary to deal with the maintenance of effort monies prior to the October 18 meeting.

Mr. Hembree answered that it was possible depending on how quickly the proposals could be reviewed and development of staff recommendations. It would also depend on how the other provider network is falling into place.

Mr. Arthur Carder has been the CEO for Western Highlands Local Management Entity for one year. Mr. Carder explained that the LEM serves in an eight (8) county area. New Vista's was given a challenge to provide a full array of services for all eight (8) counties to function as a safety net. New Vista has very limited resources and a limited IS and billing system. The goal is to deal with the immediate crisis. The first thing that LME did was to authorize the availability of funds, up to \$1,000,000, of the LMEs' budget that exists in their operating budget through October 31, 2006. LME wanted to try to secure those assets so that if they advance money they would get something back for it. LME looked next at the most critical issue they were facing. LME felt that it was emergency services after hours. The contract was entered into in the prior week to an agency called Alpha Omega who will be serving the three (3) counties in the north; Madison, Mitchell and Yancey. Phoenix Behavioral Health will be handling emergencies for the other five (5) counties. New Vistas was at a point where they were not going to be able to respond by providing capacity for that issue beyond October 1, 2006. These two agencies are making sure they have drop in centers available on a regular basis through their operation so that people can get support services through-out the day as the transition continues.

LME is also trying to make sure that there are providers in the area. This again affects eight (8) counties. Mr. Carder and LME both believe it needs to be multiple providers not just one so the counties are not put into this situation again. They are trying to build on the strengths of existing providers. The Pharmacy is also a critical concern. PSC is going to be providing pharmacy reimbursement services. LME is asking all providers to make sure they have good strong clinic staff available, top notch billing and IS information system, and a good balance in the services they are providing. The LME Board voted to bring the Doctors and Psychiatrists into the management of the LME. Mr. Carder did want this to happen. He doesn't believe that LME should be in the business of delivering services. They should be providing oversight with management and coordinators to make sure the services are happening. They have, due to the crisis, taken charge and hired Doctors to keep them in our communities. LME will make the Doctors available at a fee on an hourly basis to the providers.

LME has received a commitment from Universal, an agency which will be taking on the primary responsibility for the Child Community Support Services. Appalachian Counseling is offering more Community Support. The Mobile Crisis Grant that New Vista's was using in Buncombe and Henderson County has been awarded to Families Together. Other agencies that we are working with are RHA, Providence, The Mental Health Association, Horizon Recovery, and 6th Avenue Clubhouse. Many people provided resources to make the 6th Avenue Clubhouse successful. We need to do everything possible to help support this project.

Mr. Carder distributed a sheet containing the core services offered by the Providers along with staff numbers and consumers being served.

Discussion Followed.

HOME BUILDERS ASSOCIATION REQUEST FOR WAIVER OF TIPPING FEES

Assistant County Manager Selena Coffey informed the Board that before them was a letter requesting the County 1) waive their tipping fees at the landfill and 2) allow volunteers to by-pass the waiting line at the landfill from October 2 – 7, 2006 to facilitate their "Community Team Day." The goal for this event was to improve the living conditions of less fortunate citizens by doing home repairs and the subsequent removal of debris.

Mr. Sam Creech, Home Builders Association representative, was in attendance to present this request to the Board of Commissioners.

Commissioner Young made a motion to accept the request from the Homebuilder's Association to 1) waive their tipping fees at the landfill and 2) allow volunteers to by-pass the waiting line at the landfill from October 2-7, 2006 to facilitate their "Community Team Day."

Chairman Moyer stated without change of policy this would not allow everyone to be recognized and treated equally. Discussion followed.

Commissioner Young moved to amend his motion to direct staff to come back with criteria necessary to accept the request from the Homebuilder's Association. A vote was taken and passed 3-2 with Chairman Moyer and Commissioner McGrady voting nay.

ENTRY GATE ORDINANCE

Fire Marshal Rocky Hyder explained that the Fire and Rescue Association had requested consideration of an ordinance to regulate construction and emergency vehicle access for entry gates. Association members are concerned about the number of gated communities within their respective communities without a standard for access by emergency vehicles. The Association has also requested this ordinance be retroactive.

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

The Board may choose to schedule a public hearing on the proposed ordinance at the November 6, 2006 meeting.

Commissioner McGrady questioned section 5 in regards to retrofitting and approximately how many communities Mr. Hyder felt would be affected.

Mr. Hyder responded about seven (7) communities would be affected and he had contacted a gate company that had worked for the association developing a gate for the fire training center. They have a device that can be retrofitted into a gate and is siren activated. It cost approximately \$400.00 plus installation of \$300.00 which is a \$700.00 retrofit. These devices would not open at the sound of a car horn but would activate at the high and low decimal combination pitch of a siren. It is not likely to be replicated.

Commissioner Messer made the motion that the Board set a public hearing on the proposed ordinance for November 6, 2006 at 7:00 p.m. All voted in favor and the motion carried.

PUBLIC HEARING – Community Development Block Grant (CDBG) 2006 Housing Development Program

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

Chairman Moyer stated this is a public hearing with respect to the Community Development Block Grant. He called Planning Director Anthony Starr to the podium.

Anthony Starr explained Henderson County is eligible to receive funds for a Housing Development program in 2006 through a Community Development Block Grant (CDBG) from the Division of Community Assistance. In order to begin this process, and in keeping with the Citizen Participation Plan, two public hearings are required. Henderson County will be considering an application for infrastructure for Habitat for Humanity's Shuey Knolls subdivision which offers affordable housing for low-income families.

The purpose of this hearing is to allow citizens an opportunity to express views and proposals prior to the formulation of a Community Block Grant (CDBG) Housing Development application.

There was no discussion

Chairman Moyer made the motion to go out of public hearing. All voted in favor and the motion carried.

PUBLIC HEARING – New Road Names

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

Chairman Moyer stated this is a public hearing with respect to New Road Names. He called Building Services Director Sam Laughter and Property Addressing Coordinator Curtis Griffin to the podium.

Curtis Griffin stated the two new road names were Green Hills Farm Drive and Paris Farm Drive.

There was no discussion

Commissioner McGrady made the motion to approve the road names. All voted in favor and the motion carried.

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

CHILD PROTECTION ORDINANCE

Chairman Moyer opened discussion by reminding the Board at the last meeting additional changes had been requested.

Russ Burrell informed the Board they had copies of the proposed amended ordinance along with a copy showing the exact changes. This proposal should address the concerns the Board expressed at the last meeting. One Commissioner had raised the issue of the definition of “camp.” The definition used is from the dictionary; means a site where care and activities are provided for children.

Discussion was made in regards to changing the definition of “camp.” It was the consensus of the Board to place this item on the consent agenda for the next meeting.

SMOKING POLICY IN COUNTY BUILDINGS

Russ Burrell informed the Board that attached to the agenda was a copy of Board minutes from September 7, 1993. These minutes include the Smoking Ordinance that gives discretion to the County Manager.

Following Discussion, *Chairman Moyer made the motion that the County Manager be directed to adopt a policy that would ban smoking in the new courthouse. Chairman Moyer withdrew his motion.*

Commissioner Baldwin made the motion that the County Manager be asked to revisit the structures in which smoking takes place and ban smoking from as many County Buildings as possible. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

Land Development Code

Anthony Starr informed the Board since the last meeting they had not received a lot of new information. The Planning Department is in the process of doing final edits on the consultant level. They expect to deliver the full draft to the Planning Board soon. The Planning Board will start their final consideration of the draft and hopefully be back to the Board of Commissioners by November, 2006 with a draft.

STAFF REPORTS

County Attorney's Report

There was nothing further at this time.

County's Manager's Report

There was nothing further at this time.

IMPORTANT DATES

Set Public Hearing on Special Use Permit Application (SP-06-01) for the Planned Unit Development known as "Vistas at Champion Hills"

Anthony Starr informed the Board on July 14, 2006 Chris Day, P.E. with Civil Design Concepts, P.A. for the applicant, Kasey-Phillips Development, LLC (David Phillips) submitted an application for a Special Use Permit (SP-06-01) for the Planned Unit Development known as "Vistas at Champion Hills".

The Board of Commissioners, on August 2, 2006, referred special use permit application SP-06-01 to the Planning Board for review and recommendation as required by Sections 200-56 and 200-70 of the Henderson County Zoning Ordinance (HCZO). The Henderson County Planning Board first considered special use permit application SP-06-01 at its regularly scheduled meeting on August 15, 2006 and tabled the application until its meeting on September 19, 2006. The Planning Board's recommendations as well as staff comments will be presented at the public hearing.

Before taking action on the special use permit application, the Board of Commissioners must hold a quasi-judicial public hearing. Staff proposes the hearing be scheduled for Monday, November 6, 2006, at 7:00 PM.

Chairman Moyer made the motion to set a quasi-judicial public hearing with respect to application #SP-06-01 for Monday, November 6, 2006 at 7:00 PM. All voted in favor and the motion carried.

Set Public Hearing for Mental Health Workshop for Thursday, October 12, 2006 at 6:00 PM

Commissioner McGrady made the motion to hold a public hearing, Mental Health Workshop on October 12, 2006 at 6:00 PM. All voted in favor and the motion carried.

CANE CREEK WATER & SEWER DISTRICT

Chairman Moyer made the motion that the Board adjourn as the Henderson County Board of Commissioners and convene as the Cane Creek Water & Sewer District. All voted in favor and the motion carried.

Finance Director Carey McLeland informed the Board that included in the current fiscal year budget are funds to pay debt service for financing the Phase I construction of the Mud Creek Sanitary Sewer Line Project in the Cane Creek Water and Sewer District. Staff has requested proposals from financial institutions to finance this project and to also refinance the District's Rural Development loan. Attached, with the agenda, was a summary of the proposal received and a copy of the lowest responsive proposal from Bank of America Public Capital Corporation.

Staff presented a resolution to the Board of Commissioners for consideration concerning the proposed installment purchase contract financing for the Project and the refinancing. First, the resolution authorizes Staff to begin the negotiation of an installment purchase financing contract with Bank of America to finance \$3,178,000 over a 10-year term at a 3.73 annual interest rate to fund the design and construction of the Phase I Project at a total cost of \$2 million and to refinance the outstanding Rural Development loan principal balance of \$1,178,000. Refinancing this loan will save the District \$549,434 in interest expense. There is no prepayment penalty for paying the loan off in full at any time.

Second, the resolution makes the necessary findings to undertake and finance the Project and authorizes Staff to submit an application to the Local Government Commissioner for its required approval of the installment purchase contract financing.

And third, the resolution calls for a required public hearing on the financing documents to be held on the Board of Commissioner's October 18, 2006 meeting date at 11:00 a.m. and directs the Clerk to the Board to cause a notice of the public hearing to be published in a local newspaper with general circulation.

Commissioner McGrady made the motion to approve the resolution which will authorize the necessary actions to be taken to carry out the financing and set the required public hearing for the Board's October 18, 2006 meeting at 11:00 a.m. All voted in favor and the motion carried.

ADJOURN

Commissioner McGrady made the motion that the Board adjourn as the Cane Creek Water and Sewer District and reconvene as the Henderson County Board of Commissioners. All voted in favor and the motion carried.

CLOSED SESSION - None

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

Terry Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman