

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
JANUARY 17, 2007**

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 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: Planning Director Anthony Starr, Finance Director J. Carey McLelland, Deputy Clerk to the Board Terry Wilson, Research/Grant Coordinator Amy Brantley, County Engineer Gary Tweed, Associate County Attorney Sara Zambon, County Auditor Darlene Burgess, Sheriff Rick Davis, and Enforcement Director Toby Linville.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

County Manager Steve Wyatt gave the invocation.

INFORMAL PUBLIC COMMENTS

Chairman Moyer asked each person who had signed up for informal public comments to please limit their time to about 3 minutes.

1. Fred R. Dorsey – Mr. Dorsey lives in Edneyville. He stated that he has nothing against baseball in Henderson County. He played and pitched for a number of years. Mr. Dorsey has a vested interest in Blue Ridge Community College. Every person in Henderson County has a vested interest in BRCC. Every taxpayer has a vested interest in our technical college. The original charter said that it would be a technical college where they would provide people an education to get good jobs in Henderson County. It did not call for a liberal arts college. Mr. Dorsey encourages everyone to read Reverend Billy Graham's column from the paper today where he talks about cheating in school and cheating in business. At the last board meeting Mr. Dorsey was taken aback by statements from the two trustees, Ms. Ingle and Ms. Mulligan, whereas they accused the County Commissioners of misinterpreting language. This is an old ploy when you are caught. The Commissioners were absolutely right. Mr. Dorsey also heard a statement to the effect that the next thing that the Community College Board would attempt was to dictate what Blue Ridge taught. Mr. Dorsey read from Statute 115D-89; The State Board of Community Colleges, acting by and through the President Community College System, shall have authority to administer and enforce this Article and to grant and issue licenses to proprietary trade school, proprietary technical schools, and correspondence schools, whose sustained curriculum is of a grade equal to the prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices. While attending the tutor literacy classes Mr. Dorsey was appalled at the fall political agenda posted on bulletin boards in the halls and in the classrooms. If equal divergent views were posted the practice could probably be understood, but no opposing papers were found. In Mr. Dorsey's opinion irreparable harm has been done to the school. The stigma of possible misappropriation of state and county funds shall be

DATE APPROVED _____

difficult to overcome. Many times when we blame others for our problems, as was done in Sunday's paper, we need to consult a mirror. Mr. Dorsey reminded Mr. Sink and the trustees that the Community College Board acting by and through their president can also withhold state funds if some of the previous rules allocated here were not used properly.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer noted that a closed session was no longer necessary.

Commissioner McGrady made the motion to approve the agenda as revised above. All voted in favor and the motion carried.

CONSENT AGENDA

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

Minutes

Draft minutes were presented for the Board's review and approval for the following meetings:

- November 6, 2006
- November 8, 2006
- December 28, 2006
- January 5, 2007

Tax Refunds

A list of 3 tax refund requests was presented for the Board's review and consent approval.

Tax Releases

A list of 28 release requests was presented for the Board's review and consent approval.

2006 Strategic Plan and Capital Projects Update

This January report was presented for the Board's review and consent approval.

Petition for addition to State Road system

The petition for addition of State Roads Falcon Wood Way and Dunroy Drive was presented for the Board's review and consent approval. It has been the practice of the Board to accept road petitions and forward them to the 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 was suggested:

I move that the Board approve the petitions and forward them to the NCDOT for action.

Request for Public Hearing on New Road Names

A public hearing was requested to be set for new roads Vintage Barn Lane and Glad Wind Drive.

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

I move for the Board to set the public hearing for February 5, 2007 at 7pm.

Request for Public Hearing for abandonment of a portion of State Road 1102

A public hearing was requested to be set for the abandonment of a portion of SR 1102.

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

I move for the Board to set the public hearing for February 5, 2007 at 7pm.

Modification of Setoff Debt Collection Act

In December of 2002 this Board amended Henderson County's procedures for participation in the Setoff Debt Collection Act pursuant to N.C. Gen. Stat. §105A-5 as a way of collecting debts owed the County. Henderson County has participated in this program since 2002, with (as noted in the December 2002 resolution) "great success".

Certain amendments are now needed to allow continued participation in this program, and to make the County's participation less cumbersome for staff. These changes are also intended to allow future participation in this program to occur automatically, without the need for regular action by this Board (although it would be subject to review by this Board at any time).

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

I move that the Board adopt the draft resolution amending this Board's December, 2002, resolution regarding the Setoff Debt Collection Act program in Henderson County.

Approval to create Interim Engineer Position

The County Manager is requesting authorization to create a position titled Director of Engineering and Facility Services. This position will replace the County Engineer position upon the impending retirement of the current Engineer. Overlapping these two positions for the period between now and the County Engineer's retirement is vital to facilitate the effective transition of the County's capital projects and facility services.

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

I move that the Board authorize the County Manager to take the steps necessary to create this position.

Approval to Transfer Maintenance Positions from Detention Center Budget to Central Services

Per the Budget Ordinance, "The Manager may transfer amounts up to \$50,000 between departments within the same fund with an official report on such transfers provided to the Board of Commissioners." Currently, there are two maintenance positions within the Detention Center budget. Sheriff Davis has proposed that these positions be transferred from the Detention Center budget to the Central Services budget.

This will save the County money in the long term because these positions previously were classified as sworn officers and, as such, these officers received additional retirement benefits matched by the County, as well mandated law enforcement training expenses. By transferring these positions and removing the "sworn officer" designation, the County will no longer be required to match these benefits or provide this training.

This action will require a budget amendment to remove the two "sworn officer" maintenance positions from the Detention Center and create two benefit-eligible positions within the Central Services budget, but will involve NO increase in the overall budget.

This agenda item will serve as the "official report" required within the Budget Ordinance.

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

I move that the Board approve this action and authorize staff to execute the necessary budget amendment.

Quarterly Schools Maintenance Report

This January report was presented for the Board's review and consent approval.

Surplus Property

A list of vehicles, furniture and equipment, no longer used by the County, was presented as a resolution for the Board's review and consent approval declaring them as surplus property. The resolution also authorized staff to advertise for sale and dispose of the surplus property by electronic public action at www.govdeals.com after the required advertisement of the sale.

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

I move that the Board approve the resolution declaring the property presented as surplus and authorize staff to sell the surplus property via electronic public auction using GovDeals auction services.

NOMINATIONS**Notification of Vacancies**

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

1. Agriculture Advisory Board – 3 vac.
2. Animal Services Committee – 3 vac.
3. Environmental Advisory Committee – 1 vac.
4. Equalization and Review, Henderson County Board of – 2 vac.
5. Fire and Rescue Advisory Committee -1 vac.
6. Henderson County Transportation Advisory Committee – 9 vac.
7. Juvenile Crime Prevention Council – 1 vac.
8. Mud Creek District Ad. Council/Water and Sewer Ad. Council – 3 vac.
9. Nursing/Adult Care Home Community Advisory Committee – 9 vac.
10. Recreation Advisory Board – 3 vac.
11. Commissioner McGrady made notice of an additional vacancy on Blue Ridge Community College Board of Trustees – 1 vac. (Richard Todd)

Nominations

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

1. Blue Ribbon Committee on Illegal Immigration – 11 vac.

Commissioner Young nominated Glenn Scruggs, Sandra Crisp, and Benny Corn. No application is on file for Glenn Scruggs or Sandra Crisp. Chairman Moyer nominated Larry Ford. There were no other nominations. No vote was taken and therefore this item was rolled to the next meeting.

2. Child Fatality Prevention Team – 1 vac.

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

3. Community Child Protection Team – 1 vac.

Commissioner McGrady nominated Alice Arrowood for position #2. There were no other nominations. *Chairman Moyer made the motion to accept Ms. Arrowood by acclamation. All voted in favor and the motion carried.*

4. EMS Quality Management Committee – 1 vac.

There was a recommendation by Sheriff Davis for the EMD-Dispatch position #11 of Lisha Corn. Commissioner McGrady nominated Lisha Corn for position #11. There were no other nominations. *Chairman Moyer made the motion to accept Ms. Corn by acclamation. All voted in favor and the motion carried.*

5. Henderson County Planning Board – 1 vac.

Commissioner McGrady nominated Mitchell Gaither. Commissioner Williams explained that Mitchell Gaither is one of the owners of the company he is employed with; however, he does not work directly for

Mr. Gaither. Chairman Moyer noted that the disclosure was made and he felt there was no reason to exclude Commissioner Williams from voting unless the Board felt otherwise. The Board was in agreement with the Chairman. *Chairman Moyer made the motion to accept Mitchell Gaither by acclamation. All voted in favor and the motion carried.*

6. Henderson County Zoning Board of Adjustment – 2 vac.

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

7. Hendersonville City Board of Adjustment – 1 vac.

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

8. Hospital Corporation Board of Adjustment – 1 vac.

Commissioner Young nominated Jeff Egolf. Chairman Moyer nominated Bob Eklund. There were no other nominations at this time and this item was rolled to the next meeting.

9. Juvenile Crime Prevention Council – 4 vac.

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

10. Planning for Older Adults Block Grant Advisory Committee – 3 vac.

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

11. Senior Volunteer Services Advisory Council – 1 vac.

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

DISCUSSION ITEMS

Blue Ridge Community College Issues

Chairman Moyer noted that there was extensive discussion during the last board meeting with representatives of the Community College Board with respect to the county monies that were spent on the athletic programs, supplements to the president's salary, and other issues concerning board involvement. Since the last meeting there have been numerous discussions with various Blue Ridge Community College Board members and most recently discussions between Joe Spearman, Chairman of the Blue Ridge Community College Board of Trustees, and Chairman Moyer.

Joe Spearman, after discussions, has authorized the Chairman to advise the Board of Commissioners as follows:

The Blue Ridge Community College Board will have a meeting on January 24, 2007. At that meeting Chairman Spearman will recommend to the BRCC Board that all county monies spent on BRCC Athletic Programs be returned to the county, that the county and the community college work out an agreed upon repayment schedule that does not negatively impact the excellent educational programs nor the students at Blue Ridge Community College. At the same meeting Chairman Spearman will recommend to the BRCC Board that it work with the county and provide the county with the level of detailed budgeting data and information the county determines is necessary and appropriate including but not limited to information concerning the president and any and all other salary supplements paid and that the president's salary and compensation package be fully disclosed to the county. At the meeting the BRCC Board will discuss the other issues that have arisen, communication between the two boards, whether the BRCC Board has fulfilled its trustee obligation to the Board of Commissioners and to the public, the necessity to immediately resolve the ongoing controversy between the BRCC Board and the State Board of Community College to remove the cloud that is hanging over our community college. The Board of Commissioners recognizes the outstanding community college we are fortunate to have serving Henderson County and Transylvania County. The Board of Commissioners and the BRCC Board of Trustees are committed to working together and taking whatever steps are necessary to make sure BRCC continues to be an outstanding community college and

continues to provide the programs and educational opportunities that are essential to the citizens of Henderson and Transylvania County and to their futures.

No other action was appropriate at this time.

2007 HOME applications

Chairman Moyer called Anthony Starr to the podium.

Anthony Starr explained that each year there is a home grant application that the Board must approve for Henderson County Habitat for Humanity and the Housing Assistance Cooperation (HAC). They are requesting funding application submission approval for HOME funds. HOME funds are administered through the Asheville Regional Housing Consortium. HAC is requesting \$65,000 for their Down Payment Assistance Program to assist 6 low-income families. Habitat for Humanity is requesting \$182,200 for road construction, engineering fees, lot clearing, septic systems and building permits for 18 homes in the Shuey Knolls development in the Edneyville community, which will be completed in the next 30 months if approved.

At the time of this writing the Asheville Regional Housing Consortium is awaiting a firm commitment from HUD for the entitlement amount for its members for 2007. Henderson County's planning level will be 18.5% for the net entitlement for the region. The amount for 2006 was \$174,968.

Staff recommends approval of the submission of these HOME funding applications to the Asheville Regional Housing Consortium at their full amount. Board approval is required to proceed with the applications.

Commissioner McGrady made the motion to approve the Home applications for the Housing Assistance Cooperation and the Henderson County Habitat for Humanity. All voted in favor and the motion carried.

Charter for Adequate Public Facilities Ordinance Task Force

Anthony Starr stated that at the previous meeting the Board approved the Request for Proposals (RFP) to develop an Adequate Public Facilities Ordinance (APFO). The process identified in the RFP involved the forming of a Task Force to provide direction in the development of the APFO. A draft charter for the Henderson County Adequate Public Facilities Ordinance was included in the agenda and will be an attachment to these minutes.

Staff recommends approving the charter and that the Board begin consideration of appointing Task Force members.

Commissioner McGrady made the motion that the Board approve the Adequate Public Facilities Ordinance Task Force Charter with a modification that the Board make the appointment of the Chairman of the APFO. All voted in favor and the motion carried.

Mud Creek Sewer Service Area

Anthony Starr stated that at the last meeting the Board of Commissioners directed staff to meet with representatives from the City of Hendersonville regarding the Mud Creek Sewer Service Area. After some discussion it was determined that the proposed extension to the Kenmure site was within the boundary of the Mud Creek Sewer Service Area defined in the interlocal agreement. If the Board of Commissioners approves the line extension, Hendersonville is obligated to accept the extension under the terms of the agreement.

While the Kenmure site is within the service area it is not within the Mud Creek drainage basin. This circumstance was created by the use of US Geological Monuments to create the service area boundary which

provided a legal description of the service area. The current boundary includes most of the Mud Creek drainage basin and in a few instances, such as Kenmure, it extends beyond the drainage basin.

Through the meeting with the City it was determined that no modification of the agreement or service area boundary is needed at this point. If Kenmure agents desire to extend the sewer line to the new site, then they may approach the City. The City will then submit the line extension request to the County Planning Department for consideration by the Board of Commissioners.

Chairman Moyer expressed that the Mud Creek District Advisory Council/Water and Sewer Advisory Council should reconvene to determine if there were issues.

CAUSE Unit Relocation

Assistant County Manager Selena Coffey informed the Board that Sheriff Rick Davis and Social Services Director Liston Smith would be addressing the Board in regards to the relocation of the CAUSE Unit. She reminded the Board that when the Building at 1200 Spartanburg Highway was constructed a good amount of unfinished space was left for future growth and for organizational issues as they arose. One of the things that has been discussed lately is the completion of approximately 4600 square feet in that building to house the CAUSE Unit which is currently being housed in the Toms/Nuckolls Building on Main Street. The CAUSE Unit accommodates the CAUSE Unit (12 employees) including two associated detectives.

Sheriff Rick Davis stated that the CAUSE Unit needed to stay intact.

Social Services Director Liston Smith explained that CAUSE is a collaboration that was designed in Henderson County by the Sheriff's Department and Department of Social Services dealing with child abuse, physical abuse, and sexual abuse. There were 458 children served by this program last year. The most important responsibility and duty Mr. Smith has to Henderson County is to do what is possible for an abused or neglected child. The most effective way this can be done is with law enforcement. When someone abuses or neglects their child they are also breaking the law. Some of the benefits of having a detective and a social worker working beside each other is that they can do joint planning, joint investigations and joint interviews. From the District Attorneys' perspective the quality of the information he gets is greatly enhanced when the child must be removed from the home and he is preparing a case for the court. He supports the relocation.

Discussion Followed.

Commissioner McGrady made the motion that the Board approve this project and authorize the Assistant County Manager to accept the Calloway Johnson Moore & West proposal for architectural and engineering services for the project. All voted in favor and the motion carried.

Security – Historic Courthouse

Chairman Moyer called County Engineer Gary Tweed to the podium.

Gary Tweed stated that a few weeks earlier the County Attorney had contacted him in reference to security at the historic courthouse. In the original design of the structure discussions were held in regards to what security systems would be installed. Decisions were made that none would be part of the contract. The engineer had a meeting with the architect and questioned what could be done with the layout of the building and in keeping with the décor the way it was. The architect suggested use of card readers such as used in the Human Services Building. In addition to the card readers the architect suggested a manned reception area in the lobby either by paid staff or volunteers to direct people as they entered the facility. The estimate for 12 doors in the system and the reception area would require about \$60,000 in the budget.

Chairman Moyer requested a more detailed recommendation as to how security would be handled. It needs to be taken into consideration that there will be heavy use of the conference room. Chairman Moyer asked

County Engineer Gary Tweed to get with the architect and the historic courthouse board and bring additional information back to the board with a recommendation.

Possible sale of (former) Land Development Building, 101 E. Allen Street, Hendersonville, NC

County Attorney Russell Burrell stated that the Board had a cover letter of the appraisal that the County had obtained for the Land Development Building. The appraised value is \$1,338,000. If the Board chooses to look at the disposal of real estate there are four ways in North Carolina in which real estate may be disposed of by the Board of Commissioners.

1. Advertisement for sealed bids;
2. Negotiated offer, advertisement, and upset bid;
3. Public auction; or
4. Exchange

The most common method for disposition of real estate by North Carolina counties is the “negotiated offer, advertisement, and upset bid”. This gives the Board a chance to negotiate a deal, that deal is then put up to the public and if somebody wants to bid that deal they can. At anytime the Board can change their mind and there is no obligation until the final vote; after all upset bids have been obtained.

A...(county) may receive, solicit, or negotiate an offer to purchase property and advertise it for upset bids. When an offer is made and the ...(Board of Commissioners) proposes to accept it, the ...(Board) shall require the offeror to deposit five percent (5%) of his bid with the...(county), and shall publish a notice of the offer. The notice shall contain a general description of the property, the amount and terms of the offer, and a notice that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. When a bid is raised, the bidder shall deposit with the...(county) five percent (5%) of the increased bid, and the ...(county) shall re-advertise the offer at the increased bid. This procedure shall be repeated until no further qualifying upset bids are received, at which time the...(Board) may accept the offer and sell the property to the highest bidder. The...(Board) may at any time reject any and all offers. (The quoted statute is N.C. General Statute §160A-269, which is made applicable to counties by N.C. General Statute §153A-176.)

Breaking down the procedure:

1. An offer to purchase is negotiated, The County’s initial bargaining position should likely be to receive at least the appraised value for the property.
2. The offer is brought to the Board of Commissioners for conditional approval.
3. If conditionally approved, the potential purchaser deposits 5% of the bid amount with the County, and the bid is advertised in The Times-News for upset bid. If upset bid (with the required deposit) is received by the County, a new advertisement is made.
4. When all time for further upset bids has expired, the final, highest bid is brought back before the Board for final decision.

Discussion Followed.

Chairman Moyer made the motion that the Board authorize staff to initiate the process to solicit bids on the former Land Development Building, subject to the advertisement and upset bid process set out by law, and also subject to the rejection of all bids by this Board at any time and that all people be treated fairly and impartially in the negotiation process. He further moved that the initial bid sought by staff should be at least in the amount of the appraised value of the real estate. All voted in favor and the motion carried.

Update of Pending Issues

Mental Health update

County Manager Steve Wyatt stated that the 6th Avenue Clubhouse had a board meeting the previous day and that he had communicated to them that Henderson County had completed the real estate transaction. They were pleased with this information. Henderson County is still in the process of working with the state on funding.

County Finance Director Carey McLelland responded that the funds have to flow through Western Highlands; so they are in the process of putting together a package for the state to get reimbursed for the cost that was incurred for the purchase as well as the renovation costs for the facility. Mr. McLelland stated that the information he has is two-fold. There is \$200,000 available for start up costs for 6th Avenue psychiatric services and on the capital side funds are equal to one half the purchase price of a new building to replace it so the purchase plus the renovations costs, up to \$300,000. If the cost incurred is over \$600,000 then they will look at loaning additional funds to the County which will have to be paid back over a period of time.

Steve Wyatt had additional input that connected to Legislative Goals. He stated that there was a lot of behind the scenes talk regarding mental health. Henderson County is not alone in the mental health system breakdown. There is considerable concern and problems around the state with the new service delivery model. This being recognized is a good thing. He feels that the danger here is that it may be that the county is in for "round two" of mental health reform and when this happens you never can be to sure how it is going to come out on the other end. Various representatives, some of which are local, are very involved and he thinks some attention will come up about structural issues and funding. It has been widely reported about the funding shortfalls statewide in the range of 2 billion to 4 billion dollars in system needs. The state does not have that kind of funds in their budget for the coming year.

Legislative Goals Update

Commissioner Messer stated that the conference was very intense. The commissioners were trying to set 3 primary goals. They were able to meet this objective with the goals as follows:

1. Medicaid Relief
2. School Construction
3. Alternative Revenues

Commissioner Messer advised the people that if they spoke with their legislators to ask them about the 3 primary goals and other goals put forth such as the Land for Tomorrow Goal.

Commissioner McGrady thanked Commissioner Messer for supporting the Land for Tomorrow Goal. He feels that the western commissioners are more in attendance and more active at all levels which is good for Henderson County.

IMPORTANT DATES

Chairman Moyer reminded the Board of the Employees Service Awards luncheon on January 24 for those who could attend.

Commissioner Williams reminded everyone of the retirement party for Noland Ramsey on January 29 between 4 and 6 pm at the Barber Christian Life Center at First Methodist Church.

Steve Wyatt reminded the Board of the retreat on January 31 and February 1, 2007 which would be important to the future of County Government and how the board operates and makes decisions. The first morning would begin at 9:00 am to discuss finances, current obligations, trends they see, and growth impact. The second session will be strategic planning and a wrap up of the day before.

CANE CREEK WATER & SEWER DISTRICT – no business

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

CLOSED SESSION – none

Attest:

Terry Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman