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MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
MARCH 12, 2007

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 Mark Williams, 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, Finance Director J. Carey McLelland, Deputy Clerk to the Board Terry Wilson, Research/Grant Coordinator Amy Brantley, County Engineer Gary Tweed, Fire Marshal Rocky Hyder, Sheriff Rick Davis, County Assessor Stan Duncan, Director of Public Affairs Joe Johnson, Recreation Director Pat Lance, Interim Engineer Markus Jones and Enforcement Director Toby Linville.

Absent were: Commissioner Chuck McGrady, County Manager Steve Wyatt

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

Commissioner Williams 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. Dr. Barbara Barnett – Dr. Barnett lives at 602 Water Oak Lane in Hendersonville and was representing the Four Seasons Sierra Activity Center. They are a committee of the Pisgah group of the North Carolina Sierra Club. The club was founded in 1892 to promote the responsible use of the Earth's ecological systems and resources, and to protect and restore the quality of the environment. Communities all over American are responding to the threat of global warming with smart energy solutions. To reduce heat trapping emissions from vehicles, homes, and power plants, to lower energy bills and save taxpayer dollars, they recommend the commission adopt a 21st century architectural design that includes energy efficiency and renewable energy; known as "green schools". Dr. Barnett requests that the Board adopt the policy of "green schools" for the proposed Mills River and Hillandale Elementary Schools. A new report released in November by the American Institute of Architects has found that implementing green building techniques in schools has benefits beyond the environment. Test scores and good student health has increased. Between 2001 and 2006 thirty green schools have been built in ten states including North Carolina. The study found the total financial benefits of green schools are twenty times greater than the initial cost. A sustainable development would create the greatest good or least harm by allowing the inhabitants and their offspring to exist in a world where the air is breathable, the water drinkable, the soil fertile and renewable resources thrive.
2. Buford Adcock – Mr. Adcock lives at 350 Frankie Lane in Flat Rock. He was present to reiterate the barking dog problem in his neighborhood. Mr. Adcock has a neighbor that is not responsible

DATE APPROVED _____

with the care and keeping of his dog. He allows it to come out and bark and bother other neighbors. He realized that the Board has not had a chance to follow through yet. He was asking that the Board please do something so the problem may be corrected.

3. Kenny Adcock – Mr. Adcock lives at 340 Frankie Lane in Flat Rock. He lives on the same property as Buford Adcock but has different circumstances. His family operates a non-profit Christian camp where they may have several hundred young people coming through each summer, as well as, during the spring and fall weekends. The camp places a big emphasize on missions where they partner with Habitat, the local Rescue Mission, and local nursing home to take the students out and learn to give back to the community. They are concerned with the on-going barking of dogs waking the campers up earlier than they need to be awoken. Mr. Adcock was asking the Board for their consideration in the matter. He reminded the Board of the revenue that came in from the campers to the county.
4. Dennis Crawford – Mr. Crawford lives at 224 Stonebrook Drive in Hendersonville. Mr. Crawford was addressing the barking dog situation also. He has worked with both of the Animal Control Directors during the last 4 years and the local Sheriff's Department with regards to the barking dog problem. His biggest concern was that in 4 years nothing had been done. He asked the Board if they would study the issue and try to get the problem resolved.
5. Susan Stewart – Ms. Stewart lives at 80 Bay Willow Court in Hendersonville. She is a member of the Henderson County Global Warming Task Force Government Branch. Ms. Stewart was present on behalf of the Task Force to address the building of the two Elementary Schools; Mills River and Hillandale that the Commissioners approved several weeks earlier at a total cost of \$27,800,000. The Board chose Mosley Architectural Firm out of Charlotte but rejected the architect recommendation to build the schools "green" at an additional cost of \$1 million to \$1.2 million. She is requesting that the Board give the Task Force time to do a feasibility study of the cost and benefits of "green" schools. A study entitled "The incremental cost and benefits of green schools" in Massachusetts, documenting eight "green" schools showed that the incremental cost averaged 3.19% and sometimes as low as 1.83%. The Mosley Architectural estimate was 4.3%, which seems more than adequate. The most important result of the study was that the benefits of building "green" far outweigh the cost by about ten times over the twenty year bonding period that is typical for school construction in Massachusetts. The energy and water savings alone make it an excellent investment. These people believe that the second round of "green" schools in Massachusetts will be even more cost effective as they have learned to focus on the technologies that offer the best life cycle cost ratio. Another study showed that "green" schools attribute to health and learning. This study focused on research areas where there was conclusive scientific proof of benefits of "green" schools. They confirmed significant health benefits in creating an indoor environment that is non-toxic, provides an area of reduced asthma, reduced absenteeism, as well as, improved learning environments due to better acoustics, lighting, and comfort for students and teachers. The increasing popularity of energy saving construction comes amid growing concerns about climate change and dependence on foreign oil. More schools, businesses, and home owners are seeking alternative energy sources and building designs that don't add green house gases to the atmosphere.
6. Linda Soble – Ms. Soble lives at 308 Comet Drive in Hendersonville. She is the president of the Henderson County Association of Educators. At the February Commissioner meeting she gave a history of the local supplement for educators over the past twenty-five plus years. In the spring of 2006, the Henderson County Association of Educators conducted a survey of the county teachers. The survey targeted areas where educators go above and beyond to meet the needs of the students. 82% of the surveyed work 5 or more hours a week outside the normal 7:45 to 3:45 p.m. day. 51% spend 5 or more hours at home during the week grading papers or preparing lessons. 74% work at school over the weekends. 85% spend, out of pocket, \$50 or more per year on supplies for their classroom, and over 50% of the surveyed spent more than \$100.00 per year. These figures are

above the teacher allotment funds given by the school board last year which was cut for the current year. 61% are involved in 3 or more extra curricular activities for which they are not compensated. 33% of those responding are employed by someone other than the Henderson County Public Schools to supplement their income. These are several reasons they are requesting an increase in the supplement.

7. Dick Baird – Dick Baird lives at 511 Hidden Lake Road in Hendersonville. In reviewing the consent agenda, one item popped out at him, Sheriff Rick Davis's request that the Board acknowledge his plans to hire his brother as an investigator. Mr. Baird requested that the Board look into this further to verify if other candidates were interviewed and who made the final decision.

Mr. Baird congratulated County Manager Steve Wyatt with directing the new auditor to complete the initial audit of the Recreation Department and correcting a big problem. Any activity such as funds that deal with cash should always be suspected. Huge construction projects should also be watched carefully.

Mr. Baird was concerned with the fact that the County had underestimated in the budgeting process the tax revenues by \$1.8 million dollars. This information was derived from rumors but was confirmed by the County Manager. This is two cents worth of property tax. The Board approved a budget which charged the citizens two cents that should not have been charged. In the five cent increase there was one cent for Mills River School which was not built and the cent was not spent for what it was intended for. He hopes that when the fiscal year is finished the 2.7 million dollars will be found in the fund balance.

8. Randy Neal – Randy Neal lives at 3033 Tabor Trails in Hendersonville. Mr. Neal discussed the two schools that were soon to be built. He feels that the County should be more concerned about energy use. He read from the New York Times the following: The harmful affects of global warming on daily life are already showing up, and within a couple of decades, hundreds of millions of people will not have enough water, top scientists are likely to say next month at a meeting in Belgium. At the same time tens of millions of others will be flooded out of their homes each year as the earth reels from rising temperatures and sea levels, according to draft portions of an international scientific report by the authoritative inter-governmental panel on climate change. The draft says that tropical diseases like Malaria will spread, and by the year 2050 polar bears will mostly be found in zoos. The changes are happening a lot faster than they expected just a few years ago. He is very concerned that whatever building is put up should be "green" in light of what is being done. He encouraged the Board that priority should be given to impact on the climate when building anything and more should be brought into sight than just the cost.
9. Margaret Davidson – Margaret Davidson resides at 3548 Chimney Rock Road in Hendersonville. Ms. Davidson is the President of the Edneyville Community Center Association and expressed the Associations praise and appreciation to the Board for the fine work they are doing to help them in their endeavor to establish the Edneyville Community Center and Park. They understood from the agenda that the architects are being hired and they are ready to begin.
10. Robert Armstrong – Robert Armstrong lives at 160 Mountain Valley Drive in Hendersonville. He was also speaking in regards to the schools. He feels that the Board should build at least one "green" school, as they have done in Guilford County, so that the Board could see first hand exactly what the benefits of "green" schools and "green" construction are.

DISCUSSION/ADJUSTMENT OF AGENDA

Assistant County Manager Selena Coffey introduced new employee Markus Jones, who joined Henderson County as the Director of Engineering and Facility Services. Mr. Jones was previously employed by the

Department of Transportation and Moore County. His office is located at 213 1st Avenue East in the Planning Department. Next Ms. Coffey introduced Patrick Lance as the new Recreation Director for Henderson County. Mr. Lance was previously employed by the City of Asheville in Buncombe County.

Chairman Moyer explained that the County Manager Steve Wyatt was absent due to a neck injury and that Commissioner McGrady had the flu and was unable to attend.

Chairman Moyer stated that the public hearing scheduled to consider economic development incentives had been canceled. He called Scott Hamilton and Sherwood Packaging Manager David Norwood to the podium.

Scott Hamilton introduced David Norwood and informed the Board that Sherwood Packaging was located in Flat Rock across from General Electric. He explained that the public hearing was previously scheduled for this meeting in order to discuss consideration of incentives for Sherwood Packaging. Mr. Hamilton introduced David Norwood.

David Norwood explained that Sherwood Packaging was a business of International Paper. The packaging facility on Tabor Road has been in operation for the last 45 years. They employ 170 people and have an annual payroll of \$8 million plus dollars. The plant will have sales of approximately \$44 million dollars in the year 2007 to customers such as Proctor and Gamble, Johnson and Johnson, Sony Music, and Universal Pictures. The East Flat Rock location has been approved for a \$4.2 million dollar capital project. This project includes a complete facility makeover and a new state of the art Akola Press that will allow the East Flat Rock location to grow by over \$20 million dollars over the next three years. It will add approximately 50-60 positions over the next three years which is an additional \$1.5 million dollars in payroll. The Plant has decided to move ahead without the incentive.

Chairman Moyer congratulated the company in regards to moving ahead without the incentive.

Chairman Moyer requested that Consent Agenda Item K, Personnel Action Request, be removed for further consideration and that Discussion Item D, Construction Management Services Henderson County Schools be removed for further review and consideration. Chairman Moyer also requested an addition of Discussion Item H, Update on the Legislative Conference in Washington.

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

CONSENT AGENDA

Commissioner Williams made the motion to approve the consent agenda as amended above. All voted in favor and the motion carried.

Minutes

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

October 18, 2006

October 19, 2006

January 31, 2007

February 8, 2007 #1

February 8, 2007 #2

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collector's Report dated March 12, 2007, for the Board's review and consent approval.

County Financial Report/Cash Balance Report – January, 2007

These two reports were presented for the Board's review and consent approval.

Non-Departmental costs include insurance premiums paid to date for Property and Liability insurance coverage and Worker's Compensation costs. These costs are being allocated out to all departments on a pro rata basis during the fiscal year.

The current YTD deficit in the Emergency 911 Communications Fund is due to the purchase of new technology and equipment during the first quarter that was budgeted in the current fiscal year and paid for from unreserved fund balance appropriated in this fund.

The YTD deficit in the CDBG-Scattered Site Housing Project and the Mills River Watershed Protection Project is temporary due to timing differences in the expenditures of funds and the subsequent requisition of Federal and State grant funds to reimburse project expenditures. Reimbursement requests are normally done on a quarterly basis.

The YTD deficit in the Mills River Elementary School Project included architectural fees that have been paid on the project to date that will be reimbursed from the issuance of debt in the future.

The YTD deficit in the Solid Waste Landfill Fund is due to construction expenditures incurred on the new transfer station project. The total cost of this project is being paid from \$1.8 million of unreserved fund balance appropriated in this Fund.

Henderson County Public Schools Financial Report – January, 2007

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

State ADM Fund Application

The current fiscal year budget included a revenue source from the Public School Building Capital Fund ("ADM Fund") which the County has programmed to pay debt service on the financing for the Clear Creek and Etowah Elementary School Projects that were completed in 2003. Staff requested that the Board consider approving the ADM Fund application for \$640,000 to pay this debt service. The Board of Public Education had previously approved the application to use these funds.

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

I move that the Board of Commissioners approve the attached ADM Fund Application as presented.

Register of Deeds – Request to use ROD Restricted Funds for Automation, Enhancement and Document Preservation

The General Assembly enacted legislation that required counties to place 10 percent of certain revenues generated by the Register of Deeds Office into a fund to pay for automation enhancements and document preservation beginning in January 2002. This fund which is a portion of the County's Restricted General Fund Balance has in excess of \$400,000 currently. Only the Board of Commissioners may authorize the use and release of these restricted funds.

Register of Deeds Nedra Moles requested the Board's consideration to use the Register of Deeds Restricted General Fund Balance for contracted service costs and the purchase of two new computers and memory upgrades for existing computers. The budget amendment appropriates \$19,188 from the restricted general fund balance for this purpose.

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

I move that the Board of Commissioners approve the request by the Register of Deeds and the associated budget amendment to use Restricted General Fund Balance for the purposes indicated.

Western Highlands Area Authority – Quarterly Fiscal Monitoring Report (FM) for the period ended December 31, 2006

G.S. 122C-117(c) requires the staff of the local area mental health authority to provide the county finance officer with the quarterly Fiscal Monitoring Report (FMR) within 30 days of the end of the quarter. The county finance officer is then required to provide the FMR to the Board of Commissioners at the next regularly scheduled meeting of the board. The report was received by the finance officer on February 22, 2007 and provided for the Board's review and consent.

Joint Cooperation Agreement with the Asheville Regional Housing Consortium

Henderson County has been a participating member of the Asheville Regional Housing Consortium since its inception. This allows the County to receive annual planning level allocations for rehabilitation and construction of affordable housing with our County. In order to continue our designation and involvement as a participating jurisdiction and receive annual funding allocation, the Asheville Regional Housing Consortium must execute a new Joint Cooperation Agreement and submit the documentation to HUD by June 30, 2007. A resolution was attached authorizing the Chairman of the Henderson County Board of Commissioners to enter into this Joint Agreement with the Asheville Regional Housing Consortium and will be an attachment to these minutes.

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

I move that the Board adopt the Resolution and authorize the Chairman to enter into the Joint Cooperation Agreement with the Asheville Regional Housing Consortium.

WCCA Community Services Block Grant Application

The Western Carolina Community Action (WCCA) provided a FY 2007-2008 Application for Funding for the Community Services Block Grant Program. WCCA was requesting that the Board endorse the funding application and authorize the Chairman to sign all associated forms.

This is a continuing grant that supports WCCA's outreach to low-income residents as well as self-sufficiency, homeownership, and senior adult programs. This grant application represents year 1 of another 3-year cycle. No County funds are required to fund these programs.

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

I move that the Board endorse this application and authorize the Chairman to execute the required documents.

Narcotics Enforcement Team Annual Report

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

Personnel Action Request

This item was pulled from the agenda. No action was taken.

Amendment to Charter for the APFO Task Force

At the February 21, 2007 meeting the Board changed the charge of the Adequate Public Facilities Task Force to first prepare a feasibility study concerning the creation and enforcement of an Adequate Public Facilities Ordinance. Once all Task Force members are appointed the group will begin work on the feasibility study. The charter reflects the direction of the Board given at the February 21, 2007 meeting as follows:

The Task Force's purpose is to study the feasibility of implementing an Adequate Public Facilities standard into the Land Development Code for Henderson County. If it is determined that the County should proceed with the development of Adequate Public Facilities standards, then the Task Force shall work with Planning

Staff to develop and recommend those standards. The Task Force will terminate upon completion of the project.

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

I move that the Board approve the Adequate Public Facilities Ordinance Task Force Charter as amended.

Improvement Guarantee for Hillcrest Crossing (Formerly Edneyville Inn Subdivision)

Edney Inn Development Company LLC, owner and developer, submitted an application for an improvement guarantee for Hillcrest Crossing, Hillcrest Crossing is a 31-lot major subdivision located off of U.S. Hwy 64 (Chimney Rock Road). The improvement guarantee is proposed to cover road construction which includes paving, drainage, erosion control and water system improvements.

The developer intends on using a Bank Escrow Account with the amount of at least \$755,034.00 to cover the cost of the improvements (\$604,027.20) as well as the required twenty-five percent (25%) contingency (\$151,006.80). The proposed completion date for the improvements is October 1, 2008.

A draft Performance Guarantee Agreement was provided for the Board's review and consent approval. If the Board approved of the draft Performance Guarantee Agreement, then a Bank Escrow Agreement, in accordance with the Performance Agreement, will be submitted to Henderson County with an expansion date of no less than 60 days after the completion date and that covers 125% of the cost of the improvements.

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

I move that the Board of Commissioners find and conclude that the request for an improvement guarantee complies with the provisions of the Subdivision Ordinance and is approved.

Designation of plat review officers

N.C. Gen. Stat. §47-30.2 required that all persons appointed as plat review officers be so appointed by a resolution recorded in the Register of Deeds office. "Plat review officers" insure that all plats to be recorded comply with the plat requirements set out in the General Statutes.

On September 17, 1997 this Board first adopted a plat review officer resolution. This resolution also sets out certain other procedures that all plat review officers must follow. The Board has from time to time updated its appointments of plat review officers.

The Board needs to again consider updating the list of those persons appointed as plat review officers. The Planning Director recommends that Anthony Starr and Kathleen Scanlan be added to the resolution, and that Anthony Prinz be removed from the list. A proposed resolution was provided for the Board's consideration in order to accomplish this update. This proposed resolution restates all other persons currently appointed as plat review officers.

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

I move that the Board adopt the proposed resolution appointing a new list of plat review officers for Henderson County.

Text Amendment to the Flood Damage Prevention Ordinance

This text amendment was suggested to clarify the appeal procedure under the Flood Damage Prevention Ordinance to make it internally consistent. Right now as it is written, the appeals go to the Flood Damage Prevention Ordinance Appeal Board who makes an order but in the following section it requires people to obey the appeal order from the Board of Commissioners. This text amendment changes the ordinance so

both refer to the Flood Damage Prevention Ordinance Appeal Board and removes reference to the Board of Commissioners.

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

I move that the Board adopt the proposed Text Amendment to the Section 102-18 of the Henderson County Code.

Soil Erosion and Sedimentary Control Ordinance Enforcement

In November 2006, the Board of Commissioners approved the Soil Erosion & Sedimentation Control Ordinance. State approval of the Ordinance allows Henderson County to enforce the Ordinance throughout the county including within any municipalities that permit County enforcement. The Resolution provided stated that Henderson County would enforce the Ordinance in any municipality which accepts County assistance.

Acceptance is defined as any municipality which has approved a corresponding resolution permitting County enforcement. These municipal resolutions must be approved by the effective date of the County Ordinance, October 1, 2007.

By accepting County enforcement, participating municipalities permit the Ordinance Administrator to investigate, inspect, and enforce the Ordinance within municipal boundaries. The municipalities also allow the County to request any appropriate civil or criminal penalties or injunctive relief on their behalf. The County takes responsibility for plan and permit review for applicants within the municipalities.

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

I move that the Board adopt the Resolution to enforce the ordinance in any municipality which accepts County assistance.

NOMINATIONS

Notification of Vacancies

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

1. Fletcher Zoning Board of Adjustment – 1 vac.
2. Library Board of Trustees – 1 vac.
3. Solid Waste Advisory Committee – 3vac.

Nominations

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

1. Adequate Public Facilities Task Force Charter – 4 vac.

Commissioner Williams nominated Tedd Pearce. Commissioner Young nominated Bo Caldwell to position # 5 and Ron Stephens to position #6. *Chairman Moyer made the motion to accept Bo Caldwell and Ron Stephens by acclamation. All voted in favor and the motion carried.*

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

Commissioner Young withdrew the nomination of Sandra Crisp. Commissioner Williams nominated Burt Lemkus to position #2. Chairman Moyer nominated Captain Dan Summey for position #4. Previous nominations were Patrick Tapia to position #3, Daniel McConnell to position #5, Benny Corn to position #6, Larry Ford to position #7 and Mike Scruggs to position #8. *Commissioner Young made the motion to accept the seven positions by acclamation. All voted in favor and the motion carried.*

3. Blue Ridge Community College Board of Trustees – 2 vac.

Commissioner Young announced that Shannon Baldwin has withdrawn his nomination. Commissioner Young nominated Candler Willis. Chairman Moyer nominated Chip Gould. Clerk to the Board Elizabeth W. Corn polled the Board with the following results:

Mark Williams	Charlie Messer	Bill Moyer	Larry Young
1. Grady Hawkins	1. David Arnold	1. David Arnold	1. Grady Hawkins
2. Candler Willis	2. Chip Gould	2. Chip Gould	2. Candler Willis

The poll resulted in a tie so therefore this item was rolled to the next meeting.

4. Child Fatality Prevention Team – 1 vac.

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

5. Environmental Advisory Committee – 1 vac.

Ron Ehlinger was nominated at the last meeting. *Chairman Moyer made the motion to accept Mr. Ehlinger by acclamation. All voted in favor and the motion carried.*

6. Henderson County Transportation Advisory Committee – 2 vac.

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

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

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

8. Hendersonville City Board of Adjustment – 1 vac.

There were no nominations at this time so 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. Nursing/Adult Care Home Community Advisory Committee – 9 vac.

The Chair Nuala Fay recommended nomination of Sylvia Crouse to position #2, Barbara Petrie to position #7, Donalee D. Wermeister to position #12, Joan Laderach to position #13, and reappointment of Rev. Martha Sachs to position #1. *Chairman Moyer made the motion to accept the five appointments by acclamation. All voted in favor and the motion carried.*

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

Gang Grant Personnel Approval

Sheriff Rick Davis stated that the Henderson County Sheriff’s Office was requesting that the Board approve the two positions requested in the gang grant. The grant had already received the approval of the North Carolina Governor’s Crime Commission.

The Gang Enforcement Officer and the Latino Outreach Coordinator are essential to the success of the Henderson County Gang Prevention Partnership which was outlined in the grant application.

Funding for the two positions will be provided through June 30, 2008 by the grant funds from the North Carolina Governor’s Crime Commission. Beyond that date, funds will be sought through the Justice Assistance Grant Program to continue the program.

Currently in Henderson County there are two basic gangs that are being dealt with. There are organized gangs and tseudo gangs. The tseudo gangs are in the high schools and they will graduate out and go away to

some degree. Recently one member of the MS13 gang was indicted for trafficking methamphetamine. MS13 is one of the more violent gangs. An intelligence report from an FBI agent quoted: MS13 is one of the fastest growing and most violent gangs operating both nationally and internationally. MS13 is considered very active in California, Maryland, Virginia, North Carolina, Texas and Washington and continues to expand. In the past several years North Carolina has seen significant increase in Hispanic population and along with this growth an elevation in the number of individuals identifying themselves as MS13 gang members at the time of arrest and throughout other contact with law enforcement has been seen. The structure of MS13 in the state of North Carolina is wide spread and growing enormously. Criminal activities of these gangs are likely to escalate as their membership grows. The arrest of a leader can disrupt MS13 operations in recruitment of other members. MS13 continues to actively recruit new members in their communities, specifically targeting children in middle schools and high schools.

Commissioner Messer made the motion to allow Sheriff Rick Davis to hire the Gang Enforcement Officer and the Latino Outreach Coordinator as soon as possible. All voted in favor and the motion carried.

Update on 2007 Reappraisal

County Assessor Stan Duncan appeared before the Board in open session to update them as to the status of the 2007 general reappraisal. The Assessor's Office is scheduled to mail reappraisal notices on March 15, 2007.

The Tax Base is composed of Real Property; land and improvements (structures permanently attached), including some manufactured housing, motor vehicles; licensed (tagged) vehicles, personal property; business machinery and equipment, aircraft and watercraft, untagged motor vehicles, and manufactured homes not meeting the real property test, and public service companies; public utilities and other regulated companies.

For FY 2006-2007 Mr. Duncan's initial projections delivered to the County and upon which the tax rate was set was \$7,673,400,000 on Real Property (81.98% of tax base), \$829,500,000 on Registered Motor Vehicles (8.87% of tax base), \$689,270,000 on Personal Property (7.36% of tax base), and \$167,945,000 on Public Service Companies (1.79% of tax base), totaling a \$9,360,115,000 projection. Real Property data was based on valuations as of April 28, 2007. Personal Property was based on an estimated 4-5% loss over the prior year. Registered Motor Vehicles was based on 98% of projected prior fiscal year. Public Service Companies was based on trend of three prior years.

The TR-1 Report, which is a calendar based report, that is submitted to the Department of Revenue along with the finance office shows that Real Property, based on reports ran through the system at the end of the calendar year, 2006, was \$7,773,053,453 or 80.23% of the tax base, Registered Motor Vehicles was \$916,991,440 or .93% of the tax base, Personal Property was \$805,366,146 or 1.24% of the tax base, and Public Service Companies was \$193,340,879 or .27% of the tax base. The growth was attributed to discoveries and property that was not listed on the books. Registered Motor Vehicles was the largest increase. Public Utilities for the first time in four years had a \$3 million gain. When the report for Public Utilities arrives the annual bills have already been mailed, the tax projections have been made, and the tax rate has been adopted. This constitutes the total base of \$9,688,751,918.

The North Carolina General Assembly determines how property in this State should be valued for purposes of ad valorem taxation. All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used. There is no basis in State law for market value being different from appraised value for property tax purposes as of January 1 of the reappraisal year. The purpose of the statutory requirement that all property to be appraised at its true value in money is to assure, as far as

practicable, a distribution of the burden of taxation in proportion to the true values of the respective taxpayer's property holdings, whether they be rural or urban.

Personal property is appraised every year at 100%. Real property is appraised at 100% only in the year of the reappraisal.

Ad valorem tax assessments are presumed to be correct, and when such assessments are challenged, the burden of proof is on the taxpayer to show that the assessment was erroneous. The taxpayer must present evidence to show that an arbitrary method of valuation was used, or that an illegal method of valuation was used, and that the assessment substantially exceeded the true value in money of the property. To make an informal appeal the taxpayer should tear-off the appeal portion of their bill, complete it, attach any additional information, and mail it back to the Assessor's Office. Formally they would make a written application by the advertised adjournment date to the Henderson County Board of Equalization and Review. Mr. Duncan suggested that when trying to win an appeal that the taxpayers:

- NOT appeal on the percentage of increase.
- NOT appeal on the basis that value for property tax purposes should be significantly different from Market value.
- NOT appeal on the basis that the property is not for sale.

Mr. Duncan did suggest:

- Independent Fee appraisal with an effective date of valuation as of January 1, 2007.
- Sales of comparable property, prior to January 1, 2007 that sold for a significantly different amount.
- Evidence of some problem not known to the County.

Edneyville Park Architectural Services

County Engineer Gary Tweed informed the Board that Staff had advertised for architectural services, interviewed and are now recommending Calloway, Johnson, Moore and West (CJMW) for the architectural services for the Edneyville Park project. Mr. Fred Pittillo along with the Edneyville Park Community Club participated in the interviews and concurred with staff recommendations. A proposal was negotiated with CJMW. CJMW is partnering with Land Design to provide the site master plan and civil engineering/landscape plans for the project. Project budget has been set at \$1,000,000 including an architect/engineering fee of \$100,000.

Land Design has extensive experience in park planning and project design. CJMW has provided architectural services for several park multi-use centers. The combination of these two firms makes up a good team approach for the Edneyville Park Project. CJMW was the architectural services used for the Human Services Building opened in Henderson County in 2006.

Commissioner Young made the motion that the firm of Calloway, Johnson, Moore and West be approved for architectural services for the Edneyville Park Project, and that staff be authorized to prepare and execute contracts for architectural services. All voted in favor and the motion carried.

Construction Management Services Henderson County Schools

This item was removed. No action was taken.

Financing – New Etowah Branch Library

Finance Director J. Carey McLelland explained that the Etowah Branch Library project is underway. It is a \$2,050,000 project including land purchase. A resolution was presented to the Board of Commissioners for consideration concerning the proposed installment purchase contract financing for the project. The resolution authorizes Staff to begin the negotiation of an installment purchase financing contract with Bank of America to finance \$1,750,000 over a 10 year term at a 4.01% annual interest rate to fund the design and

construction of the new branch library. The annual debt service requirement for this financing is \$213,329. There is no prepayment penalty for paying the loan off in full at any time. The resolution also makes the necessary findings to undertake and finance the Project and authorizes Staff to submit an application to the Local Government Commission for its required approval of the installment purchase contract financing. Finally the resolution calls for a required public hearing on the financing documents to be held on the Board of Commissioner's April 2, 2007 meeting date at 7:00 p.m. and directs the Clerk to the Board to cause a notice of public hearing to be published in a local newspaper with general circulation.

Commissioner Williams made the motion that the Board approve the resolution accepting Bank of America as the lowest responsive proposal for the financing, making the necessary findings and authorizing Staff to make an application to the Local Government Commission and setting the required public hearing for the Board's April 2, 2007 regularly scheduled meeting. All voted in favor and the motion carried.

BREAK

A ten minute break was taken to change video tapes.

Reimbursement Resolution for Mills River Elementary and Hillandale Elementary Projects

County Attorney Russell Burrell stated that the reimbursement resolution presented to the Board for Mills River Elementary and Hillandale Elementary projects would allow the County to capitalize any costs that have to be expended, other than architectural fees, between now and when the financing becomes final on the two projects.

Commissioner Messer made the motion that the Board adopt the draft reimbursement resolution regarding the Mills River and Hillandale School Projects. All voted in favor and the motion carried.

STAFF REPORTS

County Attorney's Report

There was nothing further at this time.

County Manager's Report

There was nothing further at this time.

UPDATE ON PENDING ISSUES

Barking Dogs

Commissioner Messer stated that there have been concerns addressed in regards to barking dogs in Henderson County at the last couple of Board meetings. Mr. Messer was unsure as to what could be done, as far as, enforcement was concerned. He feels that some type of alternative has to be found. He realizes that if you live in a rural area there may not be an issue, but if you live in a high-density subdivision this would be a problem. Animal concerns are a very touchy situation not only in Henderson County but the whole United States. Mr. Messer doesn't want to penalize everyone but doesn't know how this problem can be corrected without an ordinance. Once you draw up an ordinance, it is only as good as the enforcement of the ordinance. He has spoken with the Sheriff's Department and they do not have personnel or the equipment to handle going out and reading the decimal meters during situations. It is an on-going problem that must be tackled before it gets worse. The problem is noise in depth, not just barking dogs. He understands the problem of dogs barking and waking you up from sleep. If you can't go back to sleep the next day is really long.

Chairman Moyer suggested that the Board give direction to staff to explore and see what options are there at this time. The Board needed to decide whether to make this a priority. At this time there is a Noise Ordinance but it is not effective in this area.

County Attorney Russell Burrell stated that the current Noise Ordinance says that certain types of noises qualify but then there were additional qualifications such as a dog barking for a certain period of time intermediately and at a certain level of decimeter.

Commissioner Messer reminded the Board that staff was not available to go out to someone's house and wait for a dog to bark and verify with a decimeter.

Assistant County Manager Selena Coffey stated one of the issues was back when the 2006 Strategic Plan was developed the Board did discuss this problem; however, during the most recent retreat the issue wasn't in the forefront. Staff would like the Board to give them direction to whether this is a top priority or in second phase stage. An ordinance should not be adopted and then not followed through so therefore the County needs to back the enforcement of the ordinance. The Staff will need time to development a way to enforce the ordinance.

Commissioner Young feels that the ordinance should include all loud noises. He does not feel that the decibel meter is the practical solution.

Chairman Moyer requested that Staff study the options, including enforcement, and come back to the Board with options of handling the problem. Once the Board has this information they can prioritize it based on the cost.

Commissioner Messer directed the staff to check with other surrounding County's to see what type of ordinance and enforcement were in place.

NACo Conference in Washington, DC

Commissioner Messer began by saying that it was a good conference. One of the classes he attended was in regards to Methamphetamines.

The North Carolina Association had a caucus on immigration which included approximately 30 Commissioners. Mr. Messer informed them about the Blue Ribbon Committee on Illegal Immigration that was being formed in Henderson County. At the end of the discussion the instructor directed Mr. Messer to contact the Senator and House of Representative member. They also do not have an answer. Henderson County is one of the largest growing County's in the Southeast with this problem.

The budget was discussed primarily in regards to the Medicaid burden.

IMPORTANT DATES

The Board discussed changing the Public Hearing scheduled for March 26, 2007 to another date because of a conflict.

Planning Director Anthony Starr stated that this change could not be made because the ordinance requires that an advertisement must be placed for four consecutive weeks before a public hearing and that the advertisements were already in place.

Assistant County Manager reminded the Board that the LDC sessions would begin the following week.

CANE CREEK WATER & SEWER DISTRICT – no business

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

CLOSED SESSION

1. (a)(1) To prevent disclosure of information that is privileged or confidential pursuant to the law

of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, in accordance with and pursuant to NCGS 143-318.10(e) and Article II of Chapter 11 of the Henderson County Code.

2. (a)(4)

To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

Attest:

Terry Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman