

MINUTES

DRAFT

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
MARCH 21, 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: 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, Interim Engineer Marcus Jones and Associate County Attorney Sarah Zambon.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner McGrady 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. Dick Baird – Mr. Baird lives at 511 Hidden Lake in Hendersonville. He stated it was the time of year to put budgets together and he did not know what had happened to the concept of zero based budgeting. He had attended the schools proposed budget presentation this week and it still had the inflated baseline. The building amounts to 10.5% increase for this year as proposed. At an earlier date Blue Ridge Community College presented their budget to the trustees and it called for an 8.35% increase. These kinds of increases do not leave much room for the County Staff and for the Sheriff's Department. A 3-5% increase would seem fair based on inflation and growth within this county. In regards to teachers pay Mr. Baird reminded the Board that at the last couple of meetings a representative for the teachers was telling the Board that the local supplement had not been increased for some time. It stands at 5% and has been for a long time. With the presentation of the budget earlier this week there was an opportunity to see what an average teacher is paid. It turns out that the teacher; when you include his salary, retirement, and hospitalization benefits receives \$54,303 for a ten month year. If it is calculated for a twelve month year the annual salary would be \$63,609. Mr. Baird doesn't believe that there are many citizens outside of the school system that make this kind of money in Henderson County. He doesn't think that there is a shortage of teachers. The reason for the supplement, as he sees it, is to attract quality teachers to Henderson County. By the laws of supply and demand we seem to have an adequate supply. Mr. Baird is against increasing the teacher supplement.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer suggested that they strike Consent Agenda Item G, Personnel Action Request.

DATE APPROVED _____

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 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:

November 15, 2006

January 17, 2007

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collector's Report dated March 9, 2007, for the Board's review and consent approval.

Tax Refunds

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

Tax Releases

A list of 31 release requests was presented for the Board's review and consent approval.

2006 Strategic Plan and Capital Projects Update

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

Unsealing Certain Closed Session General Accounts

The general accounts of certain closed sessions of the Board were recommended for unsealing, pursuant to policy for April 19, 2006 (session 1), May 1, 2006 (session 1 and 3), and October 26, 2006 (session 1).

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

I move that the Board unseal the general accounts of the closed sessions of April 19, 2006 (session 1), May 1, 2006 (session 1 and 3), and October 26, 2006 (session 1).

Personnel Action Request

This item was removed from the Consent Agenda.

NOMINATIONS

Notification of Vacancies

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

- 1. Henderson County Planning Board – 3 vac.**

Nominations

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

- 1. Adequate Public Facilities Task Force Charter –2 vac.**

Commissioner McGrady nominated Tedd Pearce and recommended that the Board waive the two committee limit rule recognizing that Tedd Pearce serves on the Planning Board and could be implemented as a liaison on the Adequate Public Facilities Task Force Charter. *Chairman Moyer made the motion to accept Tedd Pearce by acclamation. All voted in favor and the motion carried.*

- 2. Blue Ribbon Committee on Illegal Immigration – 4 vac.**

Chairman Moyer nominated Juan Unda to position #9. Commissioner Young nominated Robert Heltman to position #10. Commissioner McGrady nominated Marion Delorenzo to position #11. Commissioner McGrady nominated Betsy Alexander to position #10. *Commissioner McGrady made the motion to accept Juan Unda to position #9 and Marion Delorenzo to position #11 by acclamation. All voted in favor and the motion carried.* The Board considered rolling position #10 to the next meeting but decided to continue by polling the Board with the following results:

Larry Young	Charlie Messer	Bill Moyer	Mark Williams	Chuck McGrady
1. Robert Heltman	1. Robert Heltman	1. Betsy Alexander	1. Robert Heltman	1. Betsy Alexander

The Clerk tallied the votes with Robert Heltman being appointed to position #10.

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

There were five nominees including Grady Hawkins, Candler Willis, David Arnold, Chip Gould and Garrett Mynatt. Board members were allowed 2 votes each with the following results:

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

The Clerk tallied the votes with Chip Gould being appointed to position #3 and Candler Willis being appointed to position #4.

4. Child Fatality Prevention Team – 1 vac.

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

5. Fletcher Zoning Board of Adjustment – 1 vac.

Commissioner McGrady nominated Edward Doyle. *Chairman Moyer made the motion to accept Edward Doyle by acclamation. All voted in favor and the motion carried.*

6. Henderson County Transportation Advisory Committee – 2 vac.

Commissioner McGrady nominated David Jones and Steven Orr. *Chairman Moyer made the motion to accept David Jones and Steven Orr by acclamation. All voted in favor and the motion carried.*

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

Chairman Moyer nominated Jim Crafton for position #8. *Commissioner McGrady made the motion to accept Jim Crafton by acclamation. All voted in favor and the motion carried.*

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 – 6 vac.

The Committee recommended Rob Curtis for position #1. *Commissioner McGrady made the motion to accept Rob Curtis by acclamation. All voted in favor and the motion carried.*

10. Library Board of Trustees – 1 vac.

Commissioner Young nominated Margaret Smith. Commissioner McGrady nominated Karyn Joyner. Chairman Moyer stated that an application was needed from Margaret Smith. This item was rolled to the next meeting.

11. Nursing/Adult Care Home Community Advisory Committee – 4vac.

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

12. Senior Volunteer Services Advisory Council – 1 vac.

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

13. Solid Waste Advisory Council – 3 vac.

Commissioner McGrady recommended reappointment of Richard Stewart to position #1 and Stan Kumor to position #3. He stated that Finis Cavender, position # 6 is unable to serve again. *Chairman Moyer made the motion to reappoint Richard Stewart and Stan Kumor by acclamation. All voted in favor and the motion carried.*

DISCUSSION ITEMS

Pardee Annual Report

A hard copy (notebook) of the annual report had been presented to the Board with their agenda materials.

Interim C.E.O. Sally Davenport shared the results of the audit of their financial performance for fiscal year 2006. Some of the significant achievements beginning with the fiscal year 2007 were as follows:

- Completion of strategic plan for 2007
- Completion of expansion of Medical Records and Education Department
- Completion of move of the Cardiac Rehab and Diabetes Education to Four Seasons Rehab Center
- Continue implementation, purchase and software build of their Meditech Clinical Information System
- Response to the closure of New Vista's Mountain Laurel

Ms. Davenport explained that Meditech is a company that provides software to approximately 40% of the hospitals across the country and is well established. The reason for electronic documentation is to improve efficiency as well as patient safety. Ms. Davenport introduced Chief Financial Officer Allen House.

Allen House walked through the annual report for fiscal year ending 9/30/06. Mr. House reported a \$6 million turn-around in 2006.

Ms. Davenport and Mr. House were available and answered questions from the Board.

Offer to purchase former Land Development Building

On February 21, 2007 the Board gave preliminary approval to the offer of W. Harley Stepp, Jr., to purchase the former Land Development Building, located at 101 East Allen Street, for the sum of \$1,338,000.00. The Board further authorized the "upset bid" procedure of Section 160A-269 of the General Statutes.

Publication was made in The Times-News on March 3, 2007. No upset bids were received by the close of business on March 13, 2007.

Chairman Moyer supported the offer and recommended going forward and that the proceeds from the sale of the building go into a capital reserve account to be spent pursuant to the Board's approved capital budget.

Chairman Moyer made the motion that the Board give final approval of the offer to purchase the former Land Development building made by W. Harley Stepp, Jr., for a price of \$1,338,000.00, and authorize the Chairman and staff to take action necessary to close the transaction and direct that the proceeds go into a capital reserve account to be spend pursuant to the approved capital budget of the County. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

FY 2008 Budget Process

Assistant County Manager Selena Coffey presented the Board with a budget calendar. She emphasized a couple of dates as follows:

- March 28, 2007 – Final budget due for Fire Districts, Rescue Squad, Public Schools, and Community College
- May 7, 2007 – County Manager will present his recommended budget to the Board and the Board would need to schedule work sessions.

Considerations need to be made at this meeting for pre-budget work sessions to discuss operational issues such as compensation packages, health benefits, and debt service numbers. The big issues that will need to be discussed are Blue Ridge Community College, Public Schools, Parks and Recreation, as well as, CIP and Strategic Plan Initiatives.

Prior to May 7, 2007, Chairman Moyer suggested a session where they deal with all revenue issues and collection rate for this year.

BREAK

Chairman Moyer called a five minute break, to change video tapes.

PUBLIC HEARING – Permanent Closing of Easement on John Rymer Property

Chairman Moyer called the meeting back to order.

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

Property Addressing Coordinator Curtis Griffin stated that on February 5, 2007 the Board adopted a resolution of intent to consider closing the easements located on the John F. Rymer property, parcel identification number 9568095949. Legal notices were advertised and certified letters were sent to all adjacent property owners in accordance with General Statutes.

Public Input - none

County Attorney Russell Burrell informed the Board that all necessary legal procedures had been completed including adopting the resolution of intent to hold a public hearing, notified the public of the public hearing by advertisement, and had held this meeting today. This road was never in existence except on a map.

Commissioner McGrady made the motion for the Board to approve closure of the easements and certify Order of Closure. All voted in favor and the motion carried.

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

CONTINUATION OF DISCUSSION ITEMS

Construction Management Services

County Engineer Gary Tweed informed the Board that Staff had received a draft agreement for Construction Management Services for proposed school projects from M.B. Kahn Construction, Co. Inc. Mr. William Cram, Executive Vice President with Kahn was present at this meeting.

County Attorney Russell Burrell stated that there was an issue in regards to dividing this contract in between the pre-construction phases or design stage, and the construction stage. Essentially this is for budget purposes.

County Manager Steve Wyatt explained that he had concerns with the contract, and there was no question it is a comprehensive scope of services, both for pre-bid and then for construction phase, but on page 8 it reads; the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not

vary from the Project budget proposed, established or approved by the Owner, or from any cost estimate or evaluation prepared by the Construction Manager. One of the things that the Board and staff had discussed was the fact that there was a budget and it is approximately \$28,000,000. In working with the Architect and the Construction Manager, part of the reason to get Construction Management on board was to basically assure to the utmost that these projects come within the project budget. Looking further into the contract it mentions again the limits of the project budget but doesn't address efforts or any assurances. The issue raised by County Attorney Russell Burrell is a concern that was raised earlier in regards to Article 9.1, Termination, Suspension or Abandonment, which reads; this agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this agreement through no fault of the party initiating the termination. In Article 9.3, it reads; this agreement may be terminated by the Owner upon not less than seven days' written notice to the Construction Manager in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than 90 consecutive days, the Construction Manager may terminate this agreement by giving written notice.

Bo Caldwell stated that Chris Campbell, the School Board Attorney, has been working with a contract with M.B. Kahn and basically the newest contract reads as County Manager Steve Wyatt had requested.

Chairman Moyer suggested taking this discussion up again at the Monday, March 26, 2007 meeting.

Commissioner McGrady made the motion to table this item to the next meeting of the Board, which is Monday, March 26, 2007 at 7:00 pm as part of the agenda. All voted in favor and the motion carried. Commissioner McGrady also reminded the Board that he wanted to continue to keep the idea of "green schools" as a consideration.

LAND DEVELOPMENT CODE

Planning Director Anthony Starr explained that at the Planning Board's meeting, March 15, 2007, the Planning Board made two recommendations to the Board of Commissioners for their consideration with the current draft Land Development Code. First, the Planning Board recommended that some commercial uses be allowed in the zoning and industrial district in the Land Development Code. As it is written now some uses are allowed but not all. Staff's position is that there are some commercial uses that are appropriate for industrial districts, but not all commercial uses are appropriate for industrial zoning districts because it can become an economic development issue if they're not compatible and some industries may not locate in a certain area if they have commercial uses that are not compatible. Staff will develop some alternate changes as they go through the process and bring them before the Board at a later date. Second, the Planning Board recommended that, due to some recent development activity, an additional residential zoning district, and R4 district in the most rural areas of the County that would have an average single family density of 1 dwelling unit per 5 acres. This should be applied to areas within and near public lands such as the Pisgah National Forest, Dupont State Forest, Green River game land and other areas with extremely steep slope and key water shed areas. The Planning Board did not prescribe the exact boundaries of these areas. They recommend that staff develop them and provide them to the Board. There is an issue of how to proceed with this in terms of process. The Board needs to decide whether they should go ahead and develop changes and incorporate them through this process or address from the backend after the public input stage.

Chairman Moyer summarized that in respect to the two items proposed by the Planning Board the Board of Commissioners gave direction to the Planning Board to study the proposals further and present it at a later date. The public will receive information including the Planning Board comments and the information collected from each LDC meeting along with zoning tables. There will be a public hearing session at the end of the Public Input Meetings to present all information received and studied.

STAFF REPORTS

County Attorney's Report

There was nothing further at this time.

County Manager’s Report

County Manager Steve Wyatt thanked the Board and the County Attorney Russell Burrell for their action with the sell of the Land Development Building. It is now time to start the process with the next building. Copies of the appraisal for the Public Health Building have been distributed and there are meetings scheduled with interested or perspective bidders.

IMPORTANT DATES

Chairman Moyer made the motion to set a meeting for Thursday, April 5, 2007, at 6:00 PM to deal with budget items, revenue matters, and the salary portion of the compensation package. All voted in favor and the motion carried.

Set Public Hearing on Vested Rights Application (VR-2007-03) for the development known as “Biltmore Farms Hammond Tract”.

Planning Director Anthony Starr stated that an application was received for vested rights in the Etowah area. It is currently open use zoning. The Board had received a copy of the letter and application in their agenda packet. The legal range to set meetings was between Monday, April 23, and Friday, May 4 to meet the required window of 45 days of this meeting and acceptance of the application. Given the size of the project, Mr. Starr felt that the turnout would be large and recommended setting a special meeting.

Chairman Moyer made the motion to set a public hearing on Vested Rights Application (VR-2007-03) for the development known as “Biltmore Farms Hammond Tract” for Tuesday, May 1, at 7:00 PM. All voted in favor and the motion carried.

NCACC District Meetings

Discussion was made in regards to the possibility of County Manager and Commissioners attending some of these meetings.

CANE CREEK WATER & SEWER DISTRICT – no business

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

CLOSED SESSION

1. (a)(3) To consult with an attorney employed or retained by the public body to preserve the attorney-client privilege between the attorney and the public body.
2. (a)(5) To establish, or to instruct the public body’s staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease.
3. (a)(6) To consider the performance and conditions of appointment of individual public officers or employees.

Attest:

Terry Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman