

MINUTES

DRAFT

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
AUGUST 28, 2007

The Henderson County Board of Commissioners met for a special called meeting at 6:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

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

Also present were: Deputy Clerk to the Board Terry Wilson, Research/Budget Analyst Coordinator Amy Brantley, Associate County Attorney Sarah Zambon, Finance Director Carey McLelland, Communications Specialist Pam Brice, Senior Planner Autumn Radcliff, and Planning Director Anthony Starr.

CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance. He explained that several conflicts had arisen so this meeting would only be an hour in length, starting with the discussion on future revenue options because it may be necessary to take action prior to September 4. Then the Board will pick up a few of the land development code workshop items for discussion.

ALTERNATIVE REVENUE SOURCES

Carey McLelland began by reviewing a Power Point presentation with the Board, as follows:

Power Point Presentation is included as pages 2 & 3

DATE APPROVED _____

Final call
8/28/07

STATE APPROVED ALTERNATIVE REVENUE SOURCES



Alternative Revenue Sources (cont'd)

- Both options may be on the ballot. If both pass, Commissioners may then choose one, but not both, to levy.
- If a November referendum passes and Board adopts resolution, earliest effective date for new .25% sales tax would be April 1, 2008.
- Earliest land transfer tax effective date would be January 1, 2008.

Alternative Revenue Sources

- General Assembly authorized the levy of a .25% local option sales tax or a maximum .4% land transfer tax - but not both.
- Both options require approval in a non-binding voter referendum.
- November 2007 is the earliest date for a referendum. Must notify State Board of Elections of intent by September 4th.

Local Option Sales Tax (.25%)

- Tax is not restricted or earmarked.
- If levied, total local option sales tax rate increases to 2.75%.
- Combined state and local sales tax rate would increase to 7.0%.
- Experience has been 4% to 5% growth in local option sales tax annually.

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Local Option Sales Tax (.25%) (cont'd)

- New local option sales tax estimated to generate between \$2.3 and \$2.5 million annually.
- 1 cent on the current fiscal year ad valorem property tax rate produces \$1,192,576.
- New sales tax equates to an ad valorem tax rate equivalent (TRE) of 1.9 to 2.1 cents.

Impact from Local Option Sales Tax Increase of .25%

Example:

Current rate: \$1,000 sale x 2.50% = \$25.00 tax

Alternative rate: \$1,000 sale x 2.75% = \$27.50 tax

Local Option Sales Tax (.25%) (cont'd)

- In terms of property tax levy, equal to 4.1% to 4.5% of current ad valorem tax proceeds.
- If levied and effective April 1, 2008, estimated proceeds between \$575,000 - \$625,000 for FY2008.

Land Transfer Tax (.4%)

- Tax is expressly authorized to be used for any lawful public purpose and can be set at a rate up to a maximum of .4%.
- Land transfer tax (LTT) is voluntary. If you don't sell your real estate, you don't pay it as opposed to property tax.

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Land Transfer Tax (.4%) (cont'd)

- New local option land transfer tax estimated to generate between \$3.9 and \$4.1 million annually.
- Equates to an ad valorem TRE of 3.2 to 3.5 cents.
- In terms of property tax levy, a 6.9% to 7.6% of current ad valorem tax proceeds.

Impact from Land Transfer Tax Increase of .4%

Example:

Current: \$100,000 transfer x \$2/\$1,000 (0.2%)
= \$200.00 in tax

Alternative: \$100,000 transfer x \$6/\$1,000 (0.6%)
= \$600.00 in tax

Land Transfer Tax (.4%) (cont'd)

- Depending upon land transfer activity, the new tax may generate an estimated \$2.0 million in FY2008, if levied and effective January 1, 2008.

Why Do We Need a New Revenue Source?

| | FY2009 Projected Estimates |
|--|-------------------------------|
| Revenue needed for approved capital projects | \$2,653,374 |
| Future year School Capital Projects Needs | \$ (?) |
| Parks and Recreation Capital Facility Needs | \$ (?) |
| Other County capital needs | \$ (?) |

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Public Schools

- New revenue source needed to fund debt financing for new elementary schools.
- Future classroom additions at several schools within the next four years of the County's Capital Plan.



Questions?

Parks & Recreation

- Parks and Recreation Master Plan planning process currently underway.
- Revenue needed to fund new facility and existing facility improvement needs.



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Steve Wyatt then explained to the Board that the following counties have already taken action regarding this current legislation. These counties are putting one or both of the local revenue option revenues on the November ballot:

Land Transfer Tax

- Brunswick
- Chatham
- Davie *
- Gates
- Harnett *
- Hoke
- Johnston *
- Macon
- Moore
- Pamlico
- Pender
- Polk
- Union
- Washington

Sales Tax

- Davie *
- Greene
- Harnett *
- Johnston *
- Lenoir
- Martin
- Pitt
- Sampson
- Surry

* = Counties who will place both options on the November ballot.

Mr. Wyatt explained that two counties have made the decision to have a May sales tax referendum. He explained that most folks are looking at the numbers and deciding to go with the source that would generate the most funding for them. It appears that the Land Transfer Tax would be most advantageous for Henderson County, creating more revenue.

Commissioner Charlie Messer serves as a director on the Board of the North Carolina Association of County Commissioners. He explained that this all got started about three years ago with County Commissioners seeking additional revenue options for infrastructure, capital projects, etc. due to growth. The Association started lobbying a couple of years ago trying to get more revenue sources. The lottery came on but isn't doing as well as the State hoped that it would. The General Assembly passed this just recently. It is basically a tax.

Chairman Moyer stated that the Commissioners had worked hand in hand with the Legislature to work for some alternative revenue sources and Medicaid relief for several years. Up until this year it was without success. This year we achieved partial success. We received Medicaid relief but not to the extent of our full Medicaid cost. They removed some of that relief when they took away the sales tax. Our net gain will probably be in the range of \$500,000 from Medicaid, no where near the full cost of Medicaid. Chairman Moyer stated that the Board had such a concern that they appointed an Alternative Revenue Task Force last year to take a look at alternative revenue sources and see what a broad spectrum of representatives of the community might recommend to the Board. They recommended as option 1 a full 1 cent sales tax increase. Option 2 was a half percent land transfer tax to be charged on real estate transactions. The Commissioners immediately went to work on both those options. The legislature gave us both of those but changed the percentages to such an extent that in our County's case the land transfer tax they will allow us to apply will produce almost twice as much money as the sales tax. They did not give us the full one cent and that takes a lot of the money out of that option that the Board was looking for.

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Following discussion, *Commissioner Young made the motion to put the land transfer tax on the ballot in November and let the citizens decide and to earmark the money for capital projects.*

Ervin Bazzle was asked about the referendum and he stated that the Board of Education fully supports the Board of Commissioners' intent and will help mount a campaign.

A vote was taken on the motion and passed unanimously.

LAND DEVELOPMENT CODE

Chairman Moyer stated that a couple of issues had come up since the last meeting on this issue.

Self Storage Units

Chairman Moyer stated that the Board needed to address the issue of self storage units, where they will be allowed and where they will not.

Anthony Starr distributed a memo dated August 28 – subject: self-storage warehouse issue and the LDC. That memo will be attached as part of these minutes. Anthony reviewed the timeline with the Board concerning an application for a conditional use permit for construction of a self-storage warehouse at the intersection of Hwy. #191 and Mountain Road.

The application was submitted for a conditional use permit in May 2006. In July 2006 the Sedgewood property owners submitted a text amendment to remove self-storage warehouses and light industrial uses from the Neighborhood Commercial Zoning District which abuts their neighborhood. In August 2006 the Planning Board considered the application and voted 7 to 2 in favor of the application with staff's suggested modifications. In September 2006 the Board of Adjustment approved the self-storage warehouse at Hwy. #191 and Mountain Road, based on the existing rules. Three days later a Judge overturned that decision of the Board of Adjustment citing a technicality with the name of the applicant in the case. It was remanded back to the Board of Adjustment. On October 2, Mr. Dorn reapplied under the existing rules. On October 19, the Board of Commissioners held a public hearing on the text amendment to remove self-storage units from the Neighborhood Commercial District. The Board voted 5 to 0 at that time to remove that use and light industrial uses from the Neighborhood Commercial District. Later in October the Board of Adjustment again had the hearing on Mr. Dorn's new application for the self-storage unit. It was recognized that since he had applied prior to the new rules coming into effect, there was some court law that may provide that he was entitled to have his case heard under the old rules at that point. The Board of Adjustment tabled that application at the applicant's request until February 2007. During that time frame the Planning Board was finalizing the draft of the Land Development Code. The change that the Board voted on in October did not get included in the text of the Local Commercial District because things had not been mapped out yet. In February Mr. Dorn withdrew his application for a self-storage warehouse at Hwy. #191 and Mountain Road, citing other plans for the property. In March 2007 Mr. Nabor from the Sedgewood neighborhood contacted planning staff about the self-storage warehouse issue at the intersection and a change to the land development code was prepared for the Board to designate the area as Local Commercial which did not allow self-storage warehouses. March through August public input sessions and workshops were held to discuss the LDC. Last week the Board of Commissioners held a workshop to continue the discussions of the LDC. The Board tentatively approved the change of that area from Community Commercial to Local Commercial which addressed the issue and put it back in line with what the Board's previous decision was but then later in the meeting there were some changes to the Table of Uses and in the process of that self-storage warehousing was added as a special use in the R-2MH, R-3, Office-Institutional, Mixed Use, and Local Commercial Districts as a special use. It was also changed from a special use to a permitted use by right in the Community

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Commercial District. Mr. Starr stated that the Board may not have intended to have that collateral effect on this particular instance but we are back to the point where that intersection could have self-storage units now.

Chairman Moyer asked Anthony to prepare the timeline so the Board could have a discussion on this issue. The Board changed it to Local Commercial which did not allow self-storage warehouses and then by changing the chart the Board put it back in under Local Commercial. Chairman Moyer stated that was not his intent.

Discussion followed with the other Commissioners in agreement. Commissioner McGrady felt that the Board should take action today to correct a mistake the Board made at the last meeting. The Board was looking at a broad county-wide decision when they put it back and they were looking at one particular case when they changed the text amendment, a much narrower issue. If the Board changes it back, it will affect the whole county.

Following additional discussion, *Chairman Moyer made the motion to delete self-storage warehouses from the Local Commercial District. A vote was taken and the motion passed three to two with Commissioners Williams and Young voting nay.*

ADJOURN

Commissioner McGrady made the motion to adjourn the meeting at 7:00 p.m. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman

HENDERSON COUNTY
Planning Department

213 1st Avenue East • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

MEMORANDUM

TO: Henderson County Board of Commissioners
Steve Wyatt, County Manager
Selena Coffey, Assistant County Manager
Russ Burrell, County Attorney

FROM: Anthony Starr, Planning Director

DATE: August 28, 2007

SUBJECT: Self-storage warehouse issue and the LDC

Planning Staff was asked to prepare a brief outline of how the self-storage warehouse issue has come about.

- 5/1/2006 Dennis Dorn submits an application for a conditional use permit for construction of a self-storage warehouse at the intersection of Hwy 191 and Mountain Road.
- 5/31/2006 Board of Adjustment receives the application and tables the matter at the request of the applicant.
- 7/14/2006 Angie Beeker representing the Sedgewood Neighborhood submits a text amendment to remove self-storage warehouses and light industrial uses from the Neighborhood Commercial Zoning District which abuts his neighborhood. This was in response to Mr. Dorn's application for a self-storage warehouse at the intersection of Hwy 191 and Mountain Road.
- 8/15/2006 Planning Board considers the application and votes 7 to 2 in favor of the application with staff's suggested modifications (M. Williams and G. Griffin opposed).
- 9/15/2006 Board of Adjustment approves the self-storage warehouse at Hwy 191 and Mountain Road.
- 9/18/2006 Superior Court Judge Guice overturns the Board of Adjustment decision because the application to the Board of Adjustment was in the wrong name.
- 10/2/2006 Mr. Dorn re-applies with proper name on the application to the Board of Adjustment.
- 10/19/2006 Board of Commissioners holds the public hearing on the text amendment. The Board votes 5-0 to approve the text amendment with the modifications suggested by staff and Planning Board. It was however discussed that the text amendment may not affect Mr. Dorn's application since he had applied with the Board of Adjustment prior to the effective date of the text amendment.
- 10/25/06 Board of Adjustment receives Mr. Dorn's new application and the matter was tabled at the request of the applicant until the February 2007 Board of Adjustment meeting.
- Oct./Nov. 2006 Planning Board finalizes draft language for Land Development Code. The area at Hwy 191 is recommended for Community Commercial Zoning which allows self-storage warehousing as a special use permit. It is believed that this was an oversight since the Planning Board was finalizing the draft LDC while the Board of Commissioners considered the text amendment.
- 2/27/2007 Mr. Dorn withdraws his application for a self-storage warehouse at Hwy 191 and Mountain Road. He cited other plans for the property.

March 2007 Mr. Jeff Nabor contacts Planning Staff about the self-storage warehousing issue at the Hwy 191 and Mountain Road area. A change to the LDC is prepared for the Board to designate the area as Local Commercial which did not allow self-storage warehouses.

March-August 2007 Public input sessions and workshops held to discuss the LDC.

8/23/07 Board of Commissioners held a workshop to continue discussions regarding the LDC. The Board approves the change of the area at Hwy 191 and Mountain Road to Local Commercial from Community Commercial. This change would have addressed the concern of the residents in the Sedgewood neighborhood. Later during the workshop the Board tentatively decides to add self-storage warehousing as a special use in the R-2MH, R-3, Office-Institutional, Mixed Use, and Local Commercial districts. It is also changed from a special use to a permitted use by right in the Community Commercial district.