

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
SEPTEMBER 4, 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, Commissioner Chuck McGrady, County Manager Steve Wyatt, Assistant County Manager Selena Coffey, Associate County Attorney Sarah Zambon, and Clerk to the Board Elizabeth W. Corn.

Also present were: Planning Director Anthony Starr, Finance Director J. Carey McLelland, County Engineer Marcus Jones, Communications Specialist Pam Brice, Research/Budget Analyst Amy Brantley, Planners Matt Card and Matt Cable, Captain Steve Carter, Deputy Jason Cordell, Public Information Officer for the Sheriff's Department Joe Johnson, Sheriff Rick Davis and Deputy Clerk to the Board Terry Wilson.

Absent was: County Attorney Russ Burrell

### 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 sign up for informal public comments to please limit their time to about 3 minutes.

1. Rosalind Ledford - Ms. Ledford resides in Mills River. She is the volunteer coordinator for the Mills River Library branch and its dedicated staff of volunteers. Ms. Ledford was speaking on behalf of a contingent of advocates also in audience in support of the Mills River branch. She stated that based on information provided at the Mills River Town Council meeting on July 26, they were expecting the Mills River Branch Library to be a discussion item on the agenda at this meeting. Since opening in April, 2005 the Mills River Branch has experienced continuous increases in its circulation, computer use and patron visits. County residents in Mills River and the surrounding area appreciate the facility and its location and consider it to be an asset to the county library system. In the two years and four months that this branch has been operating, solely with a volunteer staff, Mills River has met and exceeded the circulation goal of 16,500 items set by the county and they are open only twenty-eight (28) hours per week. Their circulation was 17,571 in FY2005-06, which was their first full year of operation, and 19,664 in FY2006-07, with no paid staff. These statistics were compiled by their branch supervisor who works out of the Fletcher branch. The volunteers that work at the Mills River branch feel they are serving a segment of county taxpayers that might not otherwise be served. Many of the residents in this area are elderly and are not able to travel to the main branch downtown, Fletcher or Etowah branches. Their patrons express a desire for additional hours at the Mills River branch each week. Parking is a concern at the downtown office and not at the Mills River branch, therefore making the branch more convenient for citizens. The volunteer staff was

DATE APPROVED:

extremely disappointed and very discouraged to learn that neither their February 2007 request for a paid part-time staff person, nor the request submitted by the Town of Mills River for a paid full-time staff person, had been included in FY2007-08 budget for the Henderson County Public Library. The Mills River staff of volunteers feel that they need, at the very minimum, a paid part-time staff person who could provide the needed continuity and on-site structured guidance to the branch and the volunteer staff. With this part-time staff person on-site, along with the volunteer staff, Mills River would be able to maintain the hours provided by the other county branches. The Mills River voluntary staff has set a goal to address community needs of their location by increasing their hours from the current twenty-eight (28) hours per week to forty (40) hours per week to include Saturday mornings. Many of the Mills River patrons feel as they pay taxes to Henderson County, they are entitled to and are already paying for a branch library that affords them the same hours that the other branches provide. The volunteer staff has not thus far been able to meet this need. A part-time staff person working Monday, Wednesday, Friday and Saturday morning, twenty-four (24) to twenty-eight (28) hours per week would allow them to meet this open full-time goal. With no paid staff at the Mills River branch there are a number of things that they as volunteer are not permitted to do for the patrons, such as overriding blocks on patron's records. A few of the other things they cannot do include applying credits against fines a patron has incurred, overriding limited renewals on items check out, or editing remarks on a patron's record. The Henderson County Library Board of Trustees had indicated to her on August 9 that since Mills River had met and exceeded the circulation goal set by the county library, that in the next FY2008-09, which begins in July, 2008, a full-time paid staff person would be warranted along with the county library system picking up the branches utility expenses as they do for the other county branches. This is good news but does not eliminate their immediate need. It is their hope that the County Commissioners will work diligently with the Library Board of Trustees to find the funding for this very important request which will ensure that the people that live in and around the Mills River area will have access to the same outstanding library services provided to the other areas of Henderson County. The volunteers have donated, as of the end of June, 2007, a total of 7,294 hours of their personal time; the equivalent of 3.5 full-time staff working forty (40) hour weeks.

2. Sam Creech - Mr. Creech resides in Horse Shoe. He had spoken with the Board in 2006 about Community Team Day. The Home Builders Association of Hendersonville will be sponsoring another Community Team Day in 2007 and plan to continue from now on. It's a joint effort with the Housing Assistance Corp to help the low income families that are in housing that is in substantial need of repairs but are beyond Housing Assistance capacity. Mr. Creech thanked the Board for last year and requested that they consider re-evaluating the policy of Henderson County and consider waiving the tipping fees at the landfill for good-will work. He asked the Board to consider an exception with the rule of a maximum of five days for the fee waiver. The Home Builders Association and Housing Assistance Corporation were requesting that the fee waiver be good for a period of two (2) weeks which begins Saturday, September 22, (one week prior to Community Team Day) through Saturday, October 6 (one week after Community Team Day). This would include building materials only.
3. Louise Peterson – Ms. Peterson resides in Tuxedo. She had provided a letter to the Board requesting enforcement of codes and clean-up of the country side. Ms. Peterson stated that Tom McGraw had made progress of clean-up since her letter.
4. Fielding Lucas – Mr. Lucas resides in Hendersonville. Mr. Lucas stated that the Board had received several formal submissions as a result of the activities of the Blue Ribbon Committee on Illegal Immigration. In addition to the formal report signed off by a majority of the committee the Board had a formal submission by a minority of the committee; Mrs. Scruggs, Ford, Corn, and Mr. Delorenzo. He urged the Board to read the report as carefully and

thoroughly as they read the majority report. He also asked the Board to give it visibility on the website. He felt that the committee had provided good information that should be shared.

Mr. Lucas spoke in regards to the Land Development Code. He was concerned that the Board was building a document that would be as difficult to amend as it had been to create in the first place.

Mr. Lucas requested that he be considered for one of the open positions on the Hospital Corporation Board of Directors. He had been collecting data and attended almost every party finance committee meeting for more than two years. Mr. Lucas has considerable financial experience and medical industry familiarity gained over ten years employment in the industry and additional consulting experience primarily with the medical instrument industry.

**DISCUSSION/ADJUSTMENT OF AGENDA**

Chairman Moyer stated that the County Manager had requested the Land Development Code be added as Discussion Item A to the agenda. Mr. Wyatt expressed this discussion time would be used to determine what additional materials the Board may need prior to their September 11 workshop in order for the meeting to be more productive.

County Manager Steve Wyatt discussed with the Board the addition of an agenda item for the next Board meeting to follow-up on Mr. Sam Creech’s request for waiver of tipping fees for two weeks at the landfill for Community Team Day.

*Chairman Moyer made the motion that the Board grant the request for a two weeks period of exemption of tipping fees for the Community Team Day and ask staff to develop a policy which gives the County Manager the right to grant special exceptions for the circumstances that he feels are merited. All voted in favor and the motion carried.*

*Commissioner McGrady made the motion to adopt the agenda with the understanding that at the Chairman’s discretion other discussion item may be moved around to fit the time allotted. All voted in favor and the motion carried.*

**CONSENT AGENDA**

Commissioner Young requested that Consent Agenda Item E, EMS Accounts Receivable Report, be pulled for discussion.

*Commissioner Messer made the motion to approve the adoption of the consent agenda with the exception of Item E. All voted in favor and the motion carried.*

**EMS Accounts Receivable Report**

Finance Director Carey McLelland provided the following report dated August 28, 2007:

A/R Balance @ 7/1/07		\$1,241,081.65
Add: New Charges	(1)	513,033.34
Less: Payments	(2)	(347,782.15)
Insurance contractual adjustments	(3)	(85,122.33)
Uncollectible charge-offs	(4)	<u>(298,897.22)</u>
 A/R Balance @ 8/28/07		 \$1,022,313.29

- (1) – new patient charges from 7/1/07 through 8/28/07
- (2) – payments/credits received from 7/1/07 through 8/28/07

- (3) – actual Medicare, Medicaid and other insurance contractual adjustments for charges not owed by patients
- (4) – small account balances and aged outstanding accounts determined to be uncollectible after research and collection efforts. (Mr. McLelland elected not to write-off these balances until his staff had ample time, after they were caught up with the billing process, to go through them one by one and try to make contact with the people. These are the accounts that had balances from 2005 and 2006. Some have been contacted and payment plans made but unfortunately a lot of this is indigent care).

FY2008  
Ambulance Fee revenues

<u>FY2008 Budget</u>	<u>Actual To Date</u>	<u>% Budget Collected</u>
\$1,825,000	\$347,782	19.06%

A/R Aging:

<u>Current</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-150</u>	<u>151-180</u>	<u>180+</u>	<u>Total</u>
\$251,847	\$117,954	\$99,434	\$85,198	\$42,032	\$44,898	\$380,950	\$1,022,313
24.64%	11.54%	9.73%	8.33%	4.11%	4.39%	37.26%	100%

Bills Mailed: July –August = 2,472

Commissioner Young asked about the uncollectible charge-offs. He wanted to know if any of the charge-offs were the difference of what had been billed to Medicare or the insurance companies and the amount that had been collected, and if any of the write-offs were included in the charge-off figure.

Mr. McLelland responded some of it could be small balances left over after insurance has paid but the majority of it is indigent care patients that have been transported and do not have any kind of insurance or ability to pay.

Commissioner Young questioned the 180+ day figure at \$380,950 and if a lot of this amount was from when the county first got into the position they were in with EMS Bills.

Mr. McLelland responded that it was and until his staff had a chance to go through and try to collect something on it or make payment arrangements the number would remain. Four bills are sent out until it's either satisfied by insurance or the customer/patient satisfies the bill. There continue to be charges for folks who are in this indigent care category. There are some accounts that the county is not going to be able to collect anything off. They are billing within a one week period.

*Commissioner Young made the motion for the Board to approve the EMS Accounts Receivable Report as presented. All voted in favor and the motion carried.*

The rest of the consent agenda is as follows:

**Minutes**

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

- April 5, 2007 – Special Called Meeting
- July 24, 2007 – Special Called Meeting
- August 28, 2007 – Special Called Meeting

**Tax Collector's Report**

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collector's Report dated August 24, 2007, for the Board's review and consent approval. Collection information was included through August 23rd for the 2006 bills mailed out on August 18<sup>th</sup>, as well as vehicle bills.

Annual Bills G01 Only:

2006 Total Charge:	\$49,390,710.20
Payments & Releases:	48,592,780.41
Unpaid Taxes:	797,929.79
Percentage collected:	98.38%

Motor Vehicle Bills G01 Only:

2006 Total Charge:	\$4,944,851.51
Payments & Releases:	4,448,513.17
Unpaid Taxes:	496,338.34
Percentage collected:	89.96%

Fire Districts All Bills:

2006 Total Charge:	\$5,277,662.75
Payments & Releases:	5,096,294.26
Unpaid Taxes:	181,324.81
Percentage collected:	96.64%

**County Financial Report/Cash Balance Report – July, 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 YTD deficit in the CDBG Scattered Site Housing Program is temporary due to timing differences in the expenditure of funds and the subsequent requisition of Federal and State grant funds. This program should be closed out in the next 30-60 days.

The YTD deficit in the Mills River Elementary School and Hillandale Elementary School Projects include architectural fees and construction project services that have been paid on the projects to date and will be reimbursed from new school financing debt issued in FY2008. The County adopted a reimbursement resolution in the prior fiscal year to allow reimbursement from future financing proceeds for these two projects.

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

*I move that the Board of Commissioners approve the July, 2007 County Financial Report and Cash Balance Report as presented.*

**Henderson County Public Schools Financial Report –July, 2007**

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

**Surplus Property**

Included in the agenda for the Board's consideration was a resolution (Exhibit A) declaring the list of vehicles and equipment (Exhibit B) no longer used by the County as surplus property. The resolution also authorized staff to advertise for sale and dispose of this surplus property by electronic public auction at

[www.govdeals.com](http://www.govdeals.com) after the required advertisement of the sale. Exhibits A & B will be an attachment to this set of minutes.

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

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

### **Improvement Guarantee Applications**

William R. Buie with William G. Lapsley and Associates, agent, submitted an application for an improvement guarantee for a subdivision titled Cummings Cove, Valley View Section. The major subdivision includes 29 lots on 8.94 acres of land off of Cummings Cove Parkway. The Development Plan for Cummings Cove, Valley View, was conditionally approved on July 23, 2007. The improvement guarantee is proposed to cover clearing and grading, water distribution and sewer system improvements, construction of the road which includes paving, installation of concrete curbing, storm drainage, erosion control, and road shoulder stabilization. The developer intends to post with the County a surety performance bond in the amount of at least \$724,125.00 to cover the improvements (\$579,300.00) as well as the required twenty-five percent (25%) contingency (\$144,825.00). The proposed completion date for the improvements is July 31, 2008.

Henderson Home Assistance Group, LLC, owner and developer of the project, submitted an application for an improvement guarantee for a minor subdivision. The minor subdivision includes 8 lots on 4.644 acres of land off of US Hwy 64 West. The Development Plan for Henderson Home Assistance Group, LLC was conditionally approved on June 1, 2007, by the Planning Department. The improvement guarantee is proposed to cover the construction of the water system and road construction. The developer intends to post with the County an irrevocable letter of credit in the amount of at least \$49,945.00 to cover the cost of the improvements (\$39,956.00) as well as the required twenty-five percent (25%) contingency (\$9,989.00). The proposed completion date for the improvements is December 31, 2007.

Action by the Board of Commissioners is needed to either grant or deny the improvement guarantee applications for Cummings Cove and Henderson Home Assistance Group. It was recommended that the Board approve the improvement guarantee applications pursuant to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance.

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

*I move that the Board of Commissioners find and conclude that the improvement guarantees comply with the provisions of the Subdivision Ordinance and is approved.*

### **Traffic Grant Approval**

The Henderson County Sheriff's Office requests that the Henderson County Board of Commissioners approve the one law enforcement position created by the traffic grant provided by the North Carolina Governor's Highway Safety Program. This grant has received the approval of the North Carolina Governor's Highway Safety Program and is awaiting the approval of the Contract Resolution by the Henderson County Board of Commissioners.

Funding for this position's salary, benefits and equipment is provided by the North Carolina Governor's Highway Safety Program for the first year. There is a 25% local match required for the equipment which equates to \$12,985. These funds will be provided by the North Carolina State Drug Excise Tax Fund.

Continued funding will be sought through the North Carolina Governor's Highway Safety Program to fund this position in the future, beyond September 30, 2008.

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

*I move that the Board approve the contract resolution and allow Sheriff Rick Davis to proceed with the approved traffic grant.*

**2008 Holiday Schedule**

The proposed 2008 Holiday Schedule for Henderson County Local Government agencies is as follows:

<b>HOLIDAY</b>	<b>DATE (S)</b>	<b>WEEKDAY(S)</b>
New Year’s Day	January 1, 2008	Tuesday
ML King, Jr.’s Birthday	January 21, 2008	Monday
Good Friday	March 21, 2008	Friday
Memorial Day	May 26, 2008	Monday
Independence Day	July 4, 2008	Friday
Labor Day	September 1, 2008	Monday
Veteran’s Day	November 11, 2008	Tuesday
Thanksgiving	November 27 & 28, 2008	Thursday & Friday
Christmas	December 25 & 26, 2008	Thursday & Friday

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

*I move that the Board approves the 2008 Holiday schedule as presented.*

**Resolution of Appreciation**

In late July, the General Assembly adopted a state budget that provided counties with Medicaid relief, and additional revenue options. The Board was requested to adopt a Resolution of Appreciation to the General Assembly for relieving counties o the Medicaid burden. A copy of the resolution will be attached to this set of minutes.

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

*I move the Board adopt the Resolution of Appreciation to the General Assembly for relieving counties of Medicaid.*

**Quarterly Schools Maintenance Report**

This quarterly report was submitted for the Board’s review and consent.

**Modification to Vested Rights Order for Fox Glen**

The Board was requested to approve a text change to the Fox Glen Vested Rights Order. Agents for Fox Glen contacted the Planning Department and Legal Department because the Developer would like to install condominium units instead of apartment buildings. The Vested Rights Order specifies apartments. There will be 80 condominium units instead of the vested 100 apartment units. The number of condominium buildings is the same as that of apartments. The placement of the buildings is the same or substantially similar to the location vested on the 10/7/04 site plan referred to in the original order.

Because the use and the density are the same or less intensive than was originally requested, both the Planning and Legal Departments find this to be a minor text amendment and not a substantive change to the order itself or the right vested therein.

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

*I move the Board to adopt the proposed Text Amendment to the Fox Glen Vested Rights Order.*

**Revision of Agreement with Continental Teves**

Continental Teves had requested some (very minor) revisions to the economic incentives agreement approved by the Board on August 14, 2007.

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

*I move that the revised agreement with Continental Teves be approved.*

## **NOMINATIONS**

### **Notification of Vacancies**

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

- 1. Hospital Corporation Board of Directors – 4 vac.**
- 2. Nursing/Adult Care Home Community Advisory Committee – 1 vac.**

### **Nominations**

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

- 1. Animal Services Committee – 1 vac.**

Terry Wilson stated that the Assistant County Manager Selena Coffey had recommended the appointment of Gaby Johnsen to position #4.

Commissioner McGrady moved to appoint Gaby Johnsen to position #4. *Chairman Moyer made the motion to accept Gaby Johnsen to position #4 by acclamation. All voted in favor and the motion carried.*

- 2. Cemetery Advisory Committee – 7 vac.**

Terry Wilson stated that positions #3, 4, 5 & 7 had responded since the completion of the agenda and were willing to be reappointed.

Commissioner McGrady moved for reappointment James Clyde Jackson for position #3, Karen Carswell for position #4, John Boyd for position #5 and Leon Pace for position #7.

*Chairman Moyer made the motion to accept James Clyde Jackson to position # 3, Karen Carswell to position #4, John Boyd to position #5 and Leon Pace to position #7 for reappointment by acclamation. All voted in favor and the motion carried.*

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

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

- 4. Etowah-Horse Shoe Communities Planning Committee – 7 vac.**

Commissioner McGrady stated that twenty-seven (27) applications had been received. There were three issues; the geographic area had not been specifically defined, how big the planning committee should be and the fact that he would like to increase the committee to nine (9) people due to the wide variety of people who had applied. Commissioner McGrady had tried to get a mix of people from Etowah and Horse Shoe; both native and new to the community, business people, and community activists. Commissioner McGrady recommended expanding the boundaries to include the northeast boundary making it contiguous with the fire district and on the south end of Etowah expanding the boundaries to include the fire districts and Seven Falls Development. These areas were notated in green on the map. This would however cut Seven Falls Development in half in regards to being located in the small plan area.

Anthony Starr had provided maps showing the areas to be considered. He informed the Board that most of Seven Falls Development was not located within any fire district. The current boundaries were based on what was approved in 2004. Staff was amenable to changing the boundaries.



Chairman Moyer made the motion that the Board includes the property in the northern area in green. All voted in favor and the motion carried.

Commissioner Young made the motion that the Board includes Seven Falls Development into the small community planning.

Chairman Moyer further moved adding the rest of the fire district in light green which was not previously included and asked staff and the Planning Department to study the rest of the line and see what would be the appropriate southern boundary to make the area consistent. All voted in favor and the motion carried.

Commissioner McGrady made the motion that the Board amend the portion of the charter that calls for the appointment of seven (7) people to the appointment of nine (9) people to the Etowah/Horse Shoe Communities Planning Committee with the 9<sup>th</sup> position being appointed as a member of the committee not as an ex-officio member from another municipality. All voted in favor and the motion carried.

Commissioner McGrady made the motion for the appointment of Hayes Albea, Kenneth Allison, Debbie Ducote, Bruce Gosnell, Maryann K. Parish, Jeri Peterson, Richard Briggs, Jerry Merrill and John Antrim.

Chairman Moyer made the motion to accept the appointments by acclamation. All voted in favor and the motion carried.

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

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

**6. Juvenile Crime Prevention Council – 7 vac.**

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

**7. Nursing/Adult Care Home Community Advisory Committee – 3 vac.**

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

**8. Planning for Older Adults Block Grant Advisory Committee - 2 vac.**

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

**9. 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**

**Land Development Code**

County Manager Steve Wyatt stated that the Board had been through community forum, several work sessions, the public hearing and the next scheduled workshop was for September 11, 2007. This is another opportunity for the Board to shape and mold the Land Development Code that has been in process for the last several months. He requested that the Board give instructions or requests for information to be researched or to tie up loose ends to the staff so that the Board can be prepared to go into the meeting as well equipped as can be to make it a productive session.

Chairman Moyer felt that after the public hearing and all of the input they had received in regards to the R40 Zone and the Lake District the Board was creating a lot of work both now and in the future. He had requested that the County Manager ask Planning Director Anthony Starr to take a look at what it would take for these two districts to be left exactly as they are and leave the boundaries exactly as they are but to bring back the R40 and the Lake Districts.

Commissioner Williams requested to see maps.

Commissioner McGrady had discussed with Anthony Star the Lake Districts and he was fully expecting to get a recommendation that would take the zoning back to where it was. Commissioner McGrady discussed the slope issue. He and Commissioner Messer had discussed the bonus issue and whether they got the numbers right was still an issue. There would be more discussion with the Planning Director.

Commissioner Messer was concerned with the slope issue and the floodplain the way they were written at this time.

Chairman Moyer requested that Anthony Starr give direction to the Board in regards to height of roofs and definition of flea markets.

Commissioner Young was not in agreement with the bonus for density issue.

Commissioner Williams, in regards to the issue of slopes, requested mapping that would show how much of the county would be at the other degrees of slope.

Commissioner Young requested mapping which showed the amount of unbuildable land.

**County Medicaid Relief**

County Manager Steve Wyatt thanked Carey McLelland and Amy Brantley for their hard work researching this item. He stated there is promised Medicaid relief and it had been codified in law. There were tradeoffs; it was not a removal of 5.5 million roughly dollars to the county’s budget. There are issues with the County’s calculations versus the State’s calculations; he felt the state had given themselves too much credit in some areas. The states history of holding local government harmless and reimbursing local governments is not great. Mr. Wyatt cautioned that the money should not be counted until it is in the county’s hands.

Henderson County Finance Director Carey McLelland gave a powerpoint presentation including the following information:

**Medicaid Relief Components**

- The General Assembly approved a three (3) year phase-out of county Medicaid costs.
- In exchange, counties lose a half-cent local sales tax to be phased out over two (2) fiscal years beginning in October 1008.
- If sales tax revenue lost exceeds Medicaid costs, counties will be held harmless in perpetuity and receive a guaranteed benefit of \$500,000 annually from the state.
- Counties are required to hold municipalities harmless for their loss of sales tax revenue. Hold harmless payments will be taken from each county’s Article 39, 1% sales tax.

**Medicaid Relief Impact FY2008**

- State assumes 25% of county Medicaid costs beginning 10/1/07.
- County loses 60% of projected ADM funds for FY2008, only, to offset new State costs.

Medicaid savings (25%)	\$869,493
ADM Fund loss (60%)	<u>(476,790)</u>
County net savings	392,703
State hold harmless	107,297
County Net after State Hold Harmless	\$500,000

\*State estimates

Amy Brantley explained that the number that the state had used to come up with \$869,493 came from FY2005 Medicaid expenses as opposed to the numbers they provided for FY08.

Medicaid Relief Impact FY2009

- State assumes 50% of county Medicaid costs effective 7/1/08.
- County loses 50% of Article 44, .5% sales tax effective 10/1/08.
- County holds city/towns harmless from loss of sales tax including growth.
- Beginning in FY 09, the State’s calculations include “Remaining Quarterly Distributions from Sales Tax”. Since these are funds the County already receives, that figure is not included in the County’s Relief Impact estimations.

	State Estimates	County Estimates
Medicaid savings (50%)	\$2,752,622	\$2,752,622
Sales tax loss (50%)	(\$1,668,074)	(\$1,668,074)
City/towns hold harmless	(\$ 327,468)	(\$ 327,468)
■ Remaining Quarterly Sales Tax Distributions	(\$ 555,119)	\$ 0
County net savings	\$1,312,199	\$ 757,080

Mr. McLelland explained that in regards to the Remaining Quarterly Sales Tax Distributions, the state was adding in \$555,119 from the one quarter that Henderson County had already received anyway. It was reflected on the county side as \$0. The county net savings per the state is \$1.3 million and the county estimate is \$757,080. Mr. McLelland had spoken with Rebecca Troutman at the association and she reported that many finance officers had been calling. They have spoken with the Department of Revenue as well as member of the General Assembly and they realize that this is incorrect in them including the \$555,119 on their side. This will take a legislative amendment to change this calculation because this is money the county will receive anyway.

Medicaid Relief Impact FY2010

- State assumes 100% of county Medicaid costs effective 7/1/09.
- County loses 100% of Article 44, .5% sales tax effective 10/1/09.
- Article 42, .5% per capita sales tax converted to point of delivery allocation method.
- County holds city/towns harmless from loss of sales tax including growth.

	State Estimates	County Estimates
Medicaid savings (100%)	\$5,985,091	\$5,985,091
Sales tax loss (100%)	(\$4,173,808)	(\$4,173,808)
Art. 42 sales tax changes to point of delivery	(\$ 311,528)	(\$ 311,528)
City/towns hold harmless	(\$1,148,368)	(\$1,148,368)
■ Remaining Quarterly Sales Tax Distributions	\$ 581,381	\$ 0
County net savings	\$ 932,769	\$ 351,387
State hold harmless	\$ 0	\$ 148,613
County Net after State Hold Harmless	\$ 932,769	\$ 500,000

Mr. McLelland explained that Article 42, the other .5% sales tax which is 100% per capita will be converted to a point of deliver allocation method that helps some counties. The per capita method for Article 42, what happens is that all of the collections are at the state level or put into a pool and then they are allocated back out to all the counties on a population basis. Point of delivery method is where ever the goods are delivered, whatever county the goods are delivered in, you get credit for that sales tax. Generally we come out better with the point of delivery method but the state estimates indicated differently.

County Manger Steve Wyatt stated that there was a real danger in 2010 that the County might actually lose money because of the way the state did the calculations. The staff will continue to work on this and as the situation develops the staff will keep the Board updated.

**BREAK**

A five minute break was taken to change video tapes.

**PUBLIC HEARING – New Road Names**

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

Curtis Griffin explained that a public hearing for the following proposed new road names had been scheduled for this evening. The hearing date was set at the August 14, 2007 Board of Commissioners' meeting.

New Road Name

Perry McDowell Trail  
Fiddlers Green Lane

**Public Input**

There was none.

*Commissioner McGrady moved that the Board approve the new road name petitions. All voted in favor and the motion carried.*

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

**PUBLIC HEARING - Rezoning Application #R-2007-04**

*Commissioner Williams made the motion to go into public hearing. All voted in favor and the motion carried.*

Matt Card stated that Rezoning Application #R2007-04, which was submitted on June 11, 2007, requested that the County rezone approximately .72 acres of land, located off Crest Road (SR 1803) and Oak Grove Road (SR1807), from an R-15 (Medium-Density Residential) zoning district to a C-4 (Highway Commercial) zoning district. The Subject Area appears to be parcel 9587-37-8244, which is owned by the Applicant, Floyd Barry Pruitt.

The Henderson County Planning Board considered rezoning application #R-2007-04 at its regularly scheduled meeting on July 19, 2007. During that meeting, the Board voted 5 to 2 to send the Board of Commissioners an unfavorable recommendation for rezoning application #R-2007-04 to rezone the Subject Area from an existing R-15 zoning district to a C-4 zoning district.

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the September 4, 2007, public hearing regarding rezoning application #R-2007-05 were published in the Hendersonville Times-News on August 22, 2007 and August 29, 2007. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the applicant on August 22, 2007 and posted signs advertising the hearing on the Subject Area on August 22, 2007.

Staff's position under the guidelines of current plans, policies and studies, was supportive of the rezoning of the subject area from R-15 (Medium-Density Residential) to C-4 (Highway Commercial) which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

**Public Input**

Land Owner and applicant Barry Pruett stated he had owned the property for 60 years and he wanted to expand his business. In order to expand the property must be rezoned.

*Commissioner Young made the motion that the Board approve rezoning application #R-2007-04 to rezone the Subject Area from an R-15 (Medium-Density Residential) zoning district to a C-4 (Highway Commercial) zoning district as recommended by the Staff Report. He further moved that rezoning application #R-2007-04 is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. All voted in favor and the motion carried.*

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

**PUBLIC HEARING - Rezoning Application #R-2007-05**

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

Matt Cable stated that Rezoning Application #R-2007-05, which was submitted on June 19, 2007, requested that the County rezone approximately 322.46 acres of land, located off Butler Bridge Road (SR 1345) and bounded by I-26 on the east and the French Broad River on the west, from an I-2 (General Industrial) zoning district to a C-4 (Highway Commercial) zoning district. The Subject Area is comprised of three tracts of land. The Applicants are Tap Root Dairy, LLC (PIN: 9642-82-4583); Juanita Johnston and Mary Louise Corn, Co-Trustees of the Estate of S.E. Johnston, Jr. (PIN: 9652-03-1362); and Big J Small J Partnership (PIN 9642-84-6722) owners (hereafter "Tract 1", "Tract 2", and "Tract 3"). The Applicant's Agent is Angela Beeker.

The Henderson County Planning Board considered rezoning #R-2007-05 at its regularly scheduled meeting on July 19, 2007. During that meeting, the Board voted 7 to 0 to send the Board of Commissioners a favorable recommendation for rezoning application #R-2007-05 to rezone the Subject Area from existing I-2 zoning district to C-4 zoning district.

Before taking action on the application, the Board of Commissioner must hold a public hearing. In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the September 4, 2007, public hearing regarding rezoning application #R-2007-05 were published in the Hendersonville Times-News on August 22, 2007 and August 20, 2007. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the applicant on August 22, 2007 and posted signs advertising the hearing on the Subject Area on August 22, 2007.

Staff's position under the guidelines of current plans, policies and studies, is supportive of the current zoning of the Subject Area (I-2 (General Industrial) zoning) which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan and Henderson County Industrial Study.

**Public Input**

1. Bob Stultz – Mr. Stultz is building a shopping center and requested C-4 zoning.
2. Mary Louise Corn – Ms. Corn owns the property along with her two brothers and was in favor of the rezoning.

*Commissioner Young made the motion to amend the Henderson County 2020 Comprehensive Plan to reflect the appropriateness of the Subject Area Parcels for commercial development through the removal of the Industrial classification and application of a Community Service Center node and he further moved that the Board recommend approval of rezoning application #R-2007-05 to rezone the Subject Area from an I-2*

*(General Industrial) zoning district to a C-4 (Highway Commercial) based on the recommendations of the Henderson County 2020 Comprehensive Plan as amended. All voted in favor and the motion carried.*

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

**CONTINUATION OF DISCUSSION ITEMS**

**Security Plan – Historic Courthouse**

Alan Antoine, Antoine Architects, had completed the design of the security system for the Historic Courthouse. The plan consists of three basic components, a series of electronic door locks, security desk and a series of security cameras along with monitors. This plan was presented and discussed with the Historic Courthouse Committee and approved.

The security system was not a part of the original contract for the Historic Courthouse rehabilitation. The project budget does have sufficient funds available for the security system.

The Security Plan Budget is as follows:

1. Security/Receptionist Desk	\$11,000.00
2. Doors, Frames, Security Locks w/Programmable Card Readers, Electrical	\$33,000.00
3. Closed Circuit Television System (CCTV) including 16 cameras, Monitor, Recorded and UPS Backup	<u>\$27,000.00</u>
Total Budget	\$71,000.00

21 Days of Time Extension

Chairman Moyer noted that the Grand Opening, a dedication to the building, is scheduled for Friday, April 13, 2008.

*Commissioner McGrady made the motion that the Board authorize the County Manager to execute a change order to incorporate the security system into the Historic Courthouse project. All voted in favor and the motion carried.*

County Manager Steve Wyatt thanked Gary Tweed for returning after his retirement to fill in with construction control.

**County Facility Use Policy**

The purpose of this agenda item was to review the revised policy as per comments from the July 18, 2007 Board of Commissioner Meeting and provide direction to staff. The proposed document that was provided to the Board established the Board’s policy on public use of the County’s facilities and grounds. The proposed policy incorporated existing staff level policies for several County buildings into a Board Policy applicable County wide.

Discussion followed with several items being questioned by the Board. Two recommendations were made as follows:

- Individual buildings need to be looked at with the idea that separate policies may work better
- No alcohol in any county building
- Take further look at non-profit educational, civic and cultural groups to make the definition more open

Chairman Moyer stated there was still a lot of work to be done on the Draft County Facility Use Policy. He suggested that staff go back and look at what type of categories and then come up with a policy that fits those particular categories.

**Chamber of Commerce Building Lease**

County Manager Steve Wyatt stated that Henderson County owns, and leases to the Chamber of Commerce, their current facility located at 330 North King Street. The current lease expires in February of 2007, and the Chamber has requested an extension of that lease through February of 2010 under the current rent-free arrangement while the group makes ready a yet to be located or constructed facility.

Property tax records indicate that the building is comprised of 4,240 square feet, equally divided into 2120 upper and lower sections. The value of the structure is estimated to be \$315,000. Assuming a \$10 - \$12 per square foot fair market resale value, the annual value of the County's contribution to the Chamber is probably between \$42,000 and \$51,000. A two-year lease would then be somewhere between \$80,000 to \$100,000.

One of the options available to the Board would be to draft a two-year agreement that would entail the Chamber beginning to pay the fair market value, perhaps in phases. One scenario would see the Chamber begin paying 50% of fair market value beginning in February of 2008, 75% in February 2009 and then 100% beginning in February 2010 should they fail to relocate as planned.

Staff proposed the following options for the Board's consideration:

- I. Continue to provide the current space rent-free to the Chamber of Commerce until the point in time that they are ready to relocate.
- II. Renew the lease effective February 2008 through February 2010 at market rate.
- III. Renegotiate the lease effective February 2008 through February 2010 at less than market rate.
- IV. Renegotiate with a phased-in approach to begin at some amount less than the market value, graduated over time to full market value.

Discussion followed in regards to the resources made available by the Chamber of Commerce including economic benefits.

Bob Williford of Chamber of Commerce informed the Board that the agreement between the Chamber of Commerce and the Board of Commissioners was signed in 1988 for a period of twenty years and was an extension of a previous agreement with the county.

Chairman Moyer stated that discussion had come up many times before about the Chamber of Commerce finding a new home but nothing had ever been done when there was a change in leadership there. He does feel that the new leaders are committed to getting it done this time but they need some incentive to get this done. He recommends that they go into a phase like option and look at the rent figures with a two (2) year lease but with a realistic phase in rental that Steve Wyatt and Bob Williford can come up with for that space.

Bob Williford of Chamber of Commerce stated that they do have a committee that is working diligently to identify sites and have narrowed it down to three potential sites. Their time line is two years to identify the site, select and purchase the site and either build or remodel the facility. They have a solicitation going out to fund-raising agencies this month to help raise the funds necessary to make such a move. They anticipate the need to raise between \$1 – 1.5 million dollars to get this taken care of.

Chris Burns, incoming chair for the Chamber of Commerce and the facilities chair for the Chamber of Commerce, expressed that he understood the commits that the Board was making in regards to making sure the Chamber make a move and do something at this point and time. He suggested one way to accomplish this without putting more burdens on the business community was to go ahead and say something to the affect that the lease, if renewed for a period of two (2) years, is a drop-dead lease and cannot be renewed after the two year period of time.

**BREAK**

A five minute break was taken to change video tapes.

**Continuation of Chamber of Commerce Building Lease**

It was the consensus of the Board of Commissioners to authorize the County Manager Steve Wyatt and Bob Williford of the Chamber of Commerce to work together to come up with a two (2) year phase in rental of facility taking a look at what's reasonable rent or reasonable phase in amount and come back to the Board with recommendations.

**Historic Courthouse Fundraising**

Chairman Moyer stated that one of the issues which had come up about a year earlier was that the group was struggling to raise money. They had a small amount but when they looked at what it was going to take to open in January was a minimum of \$300,000 with a figure of upward two (2) million to staff and move that project forward. The committee looked at a number of options and tried a number of things; what they came up with was a naming opportunities with respect to the rooms (five rooms) and have people either in memory of someone or honor or some group such as the League of Women Voters are trying to finance a room, Champion Hills people are financing a room and other individuals. Carolina First came forward and said that they were willing to make a very large contribution if the court room would be named the Carolina First courtroom. Chairman Moyer expressed that the courtroom was a major room upstairs and was not possible and that there would not be a business entity name in the courtroom. They then discussed the community room which adjoins the courtroom. The group came up with an agreement between Carolina First and the historic courthouse group which he approved to put a plaque on the wall indicating that Carolina First had made a major contribution in this building and the community room would be referred to as the Carolina First Room. Carolina First had pledged \$150,000.00, which was by far the most significant donor and had put up most of the money that is carrying the group so far. There have been other naming opportunities that have been looked at and have been moving forward; pavers in front of the walk in the building with names of individuals or corporations, or medal plates on the back of the seats in the courtroom with names of individuals or corporations.

The issue had come up with respect to the naming opportunities and whether it was appropriate in a county building to have a business/corporation have their name put on anything associated with the building. The most significant in this case is the community room. The group has discussed whether it would be appropriate to put a plaque to be put inside the courtroom where people could put something in memory of an individual person or in honor of someone perhaps. Nothing had been done in that regard. The fundraising bulletins are out and the agreement has been entered with Carolina First in regards to the community room; pavers are being sold and two or three of the rooms have been named.

Commissioner McGrady stated that his concern was that he didn't think it was appropriate for a commercial entity to have its name on a building or room. He had no problem with the pavers but was opposed to naming a room for a commercial entity. He felt that a corporation of any type could be problematical in the future and preferred that the Board not do this and did not feel that the corporation board had the authority to sign a contract which designates the names of rooms. Individual names would be fine.

Commissioner Messer felt that it would be appropriate to name rooms after corporations.

Commissioner Williams liked the idea that the Board was not looking at additional tax dollars. He was concerned that the county would end up with plaques on everything in the historic courthouse and he did not want to see this. He recognized that monies had already been received and arrangements been made.

Commissioner Young knew about the group trying to get private donations to help fund the museum but this was the first he had heard about naming rooms. He questioned if it was in good taste to refurbish the courthouse with as much historic value as possible and then begin to commercialize it by naming rooms for commercial contributors. He did not have a problem with plaques on the walls. Travel and Tourism plans to give



the courthouse 1/2¢ room tax money as soon as the Board of Commissioners passes the room tax rate increase. This would be approximately \$150,000 that the courthouse would receive each and every year from Travel and Tourism.

Chairman Moyer stated that he would speak with J.W. Davis of Carolina First Bank and emphasize that our commitment is with Carolina First Bank and if the bank changes its name we would have to renegotiate the naming of the room at that time. Money is needed for the museum to be successful and the money from Travel and Tourism is only a small amount of what is needed.

Chairman Moyer felt that the best approach to take would be to allow plaques on the back of the seats in the courtroom, plaques in the historical rooms, a wall of major donors, and the pavers. This would be in good taste and enhance the historic courthouse exhibits.

*Chairman Moyer made the motion that the Board authorize the Chairman to authorize the committee to continue with the fundraising and work with the committee to limit the naming to prevent an over abundance of plaques.*

Vice President of the Historic Courthouse Corporation Board Judy Abrell reviewed the policy for fundraising. The language and use of the committee's fundraising brochure was approved and adopted by their Board of Directors as part of its policy and procedures and had been circulating for the last two years. The brochure reads "You can leave your legacy in the following ways; naming opportunities for individuals family businesses and organizations." It recognizes the value of each of these parts of the community and their importance to the committee. It does not discriminate against businesses by denying them the opportunity to exercise their role as corporate citizens.

Regarding the major donor that had been discussed, the agreement in question was signed in the spring of 2006 and Ms. Abrell was asked by the donor at that point to submit an invoice for their first installment of May of 2006. They have since paid two installments totaling \$60,000.00. She doesn't know how they could afford to second guess that type and level of generosity and her main concern was to disenfranchise and earnest and enthusiastic supportive segment of the courthouse fundraising campaign by breaking faith with that agreement. They have research and determined that cost for electronic and video equipment. The committee had hired an executive director. They have urgent costs that are immediate and they can't afford to discourage continued giving.

*Chairman Moyer further moved that any future naming of rooms for commercial entities, at the pleasure of the Board, would be brought back for donors contributing \$100,000 or more. The vote passed 3 to 2 with Commissioner McGrady and Commissioner Young voting nay.*

#### **County Attorney's Report**

The County Attorney was absent due to illness. There was nothing further at this time.

#### **County Manager's Report**

County Manager Steve Wyatt, placing an Appalachian State University hat upon his head, shared information in regards to Appalachian State University in the greatest upset in the history of college football. Henderson County played a vital role when the kick was made to ultimately give the deciding points of 34/32 win, by the long snapper senior, Russell Wilson, a West Henderson High School graduate.

Chairman Moyer expressed congratulations to Appalachian State University.

#### **IMPORTANT DATES**

**Set Public Hearing on an application to the North Carolina Department of Transportation (NCDOT) for Rural Operating Assistance Funds (ROAP)**

*Commissioner Messer made the motion that the Board schedule a public hearing on an application to the North Carolina Department of Transportation (NCDOT) for Rural Operating Assistance Funds (ROAP) for Wednesday, September 19, 2007 at 11:00 a.m. All voted in favor and the motion carried.*

**Set Public Hearing on Noise Ordinance Amendments**

*Chairman Moyer made the motion that the Board set a public hearing on the draft noise ordinance for Thursday, October 11, 2007 at 7:00 in the Commissioners' Conference Room. All voted in favor and the motion carried.*

**CANE CREEK WATER & SEWER DISTRICT – no business**

**CLOSED SESSION**

*Commissioner McGrady made the motion that the Board go into closed session pursuant to NCGS 143-318.11 (a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body. All voted in favor and the motion carried.*

**ADJOURN**

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

Attest:

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Terry Wilson, Deputy Clerk to the Board

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William L. Moyer, Chairman