

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
SEPTEMBER 19, 2007**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

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

Also present were: Planning Director Anthony Starr, Fire Marshal Rocky Hyder, Finance Director J. Carey McLelland, Deputy Clerk to the Board Terry Wilson, Engineering and Facility Services Director Marcus Jones, Public Health Director Tom Bridges, Director of Health Education Linda Charping, Associate County Attorney Sarah Zambon, Research and Budget Analyst Amy Brantley, County Assessor Stan Duncan, Building Services Director Sam Laughter, Erosion Control Division Chief Natalie Berry, Senior Planner Autumn Radcliff, Planners Matt Cable and Matt Card, and Code Enforcement Director Toby Linville.

### 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 Mark Williams gave the invocation.

### INFORMAL PUBLIC COMMENTS

1. Drew Brannon – Mr. Brannon is a resident of Horse Shoe. He stated that he does not want to be included in the Etowah Incorporation. He stated that the citizens of the Horse Shoe community do not want to be a part of the Etowah Incorporation. They want their position recognized and shared by the Henderson County Commissioners and Etowah small area planning committee. They want the following points heard and understood:
  - 1) The community of Horse Shoe has a significant role in the history of Henderson County since the county was formed in 1838.
  - 2) It was one of the original two sites for the County Commissioners. Judge King gave land here and this is the site that was chosen.
  - 3) It would be a travesty to the Horse Shoe community and Henderson County for the name Horse Shoe and the current land area to be changed or altered.
  
2. Angela Fernandini – Ms. Fernandini responded a little bit to Mr. Brannon's concerns, stating that there is the small area planning and then there is Etowah Incorporation and Etowah is not planning on incorporating Horse Shoe at this time.

She stated that on August 30, members and residents of Henderson County spoke at the Public Hearing on the Land Development Code and asked for more protection on our natural environment in Henderson County. This includes steep slope protection. At the September 11 Land Development Code workshop the five Commissioners decided to support building on a 60% slope or less. Ms. Fernandini felt that this was in part because Mike Cooper of Cooper Construction's request at the public hearing on August 30 to allow building on a 60% minimum slope. Henderson County Environmental Advisory Committee, which she is a member of, (as well as Planning Staff)

DATE APPROVED \_\_\_\_\_

recommended building on only a 35% or less slope. She asked – if housing built on such a slope does collapse or their foundations fail due to a normal act such as rain, who then is at fault. And when a rainstorm causes public roads to give away, why should county taxpayers share the burden of road repairs that shouldn't have been built to begin with. A good example is Pinnacle Mountain Road in 2005.

In reference to the Etowah/Horse Shoe small area planning boundary, she stated that the boundary should be adjusted to include Pleasant Grove Road and Pleasant Grove Church Road. Long time residents of the Etowah community as well as the people living along these roads consider that area to be part of Etowah and themselves to be Etowah residents. This area is also serviced by the Etowah/Horse Shoe Fire Department.

3. Brigitte Warren – Ms. Warren is a 7 year resident of Crooked Creek and 18 year employee of Henderson County. She spoke concerning adding a conservation clause to an R-40 zoned parcel of land, directly abutting Crooked Creek community off Kanuga Road. This property is for sale and has an offer for purchase on the table. She stated that residents of Crooked Creek are seeing an increasing number of families with children move into Crooked Creek. The potential of increased traffic in the neighborhood would greatly decrease desirability as a family oriented community thereby decreasing property values. This property in question has a right-of-way at the end of Newport Road, directly in the Crooked Creek community. Twenty-five family homes are on or travel through Newport Road, thirty homes if you include the Crooked Creek entrance-way. A great lure of this community of Crooked Creek is its peaceful setting. The conservation clause attached to the R-40 zoning would increase homes and traffic and disrupt life in Crooked Creek. She stated that this looks like an attempt to get denser development in this area off Crooked Creek. She thanked Mr. Fortescue for calling her last night but wished that the other 161 residents of Crooked Creek also had been notified and given a chance to look at this issue. She asked the Board to put this issue on the table for now and wait till the developers buy this property within a month or so and see what their plan is before deciding what to do.
4. W.N. Fortescue – Dr. Fortescue thanked all the Commissioners for the hard work done on the Land Development Code as well as the Planning Board and the Planning Staff. He addressed his tract, stating that much of R-40 was going to be R-2. He looked at that and saw the possibility of preserving open space. Then he saw the proposed change for R-40. He would like to take the property back to some R-zone, preferably R-1. He requested that the Board consider making one small change in the draft code, deleting one word, the word not. He distributed a page with the sentence highlighted that he wished changed – “The Conservation Subdivision option shall not be available in the R-40 District.” The stated that is a mistake for his property, for the residents of Crooked Creek and for many of the people in R-40 and the county's future because it flies in the face of the Board's intent to preserve open space in two top categories. He stated that his property is for sale and if they had an offer they couldn't refuse, it could be sold as soon as next week. He stated there is nothing to prohibit a developer from cutting trees on this tract. He showed two different options of developing the land per a landscape artist with one of the options including some open space (with the conservation provision put back in). He pleaded with the Board, stating he would like to return his land to an R-zone but if that is not possible at this late date, at least strike the word not in the sentence highlighted in yellow.

#### **DISCUSSION/ADJUSTMENT OF AGENDA**

Chairman Moyer requested that a “Resolution declaring September 22 Big Sweep Day” be added as item J to the consent agenda. There were no other adjustments to the agenda.

*Commissioner McGrady made the motion to adopt the agenda with the one change requested. All voted in favor and the motion carried.*

**CONSENT AGENDA**

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

**Minutes**

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

- July 18, 2007, regular meeting
- August 14, 2007, regular meeting

**Tax Collector's Report**

Terry F. Lyda, Tax Collector, had presented the tax collector's report dated September 7, 2007 for the Board's review and consent approval.

**Tax Refunds**

Stan Duncan, County Assessor, had submitted a list of two (2) tax refund requests for the Board's review and consent approval.

**Tax Releases**

Stan Duncan, County Assessor, had submitted a list of thirty-one (31) tax release requests for the Board's review and consent approval.

**Lease Agreement – Foothills Highland Games – Scottish Clans of the South**

The Scottish Clans of the South (SCOTS) requested the use of Jackson Park as the venue for their annual Foothills Highland Games between November 1 and 4, 2007. This event was held at Jackson Park last year. In order to accommodate their need to have fires and firearms as part of the event which is not permitted in accordance with Park Rules, the County's Legal Department has prepared a Lease Agreement (included in the agenda packet). This agreement has been approved and signed by the SCOTS. With the Board's approval of the Lease, the SCOTS will have permission to utilize the designated areas of Jackson Park and the fire and firearm portions of the Park Rules will be modified accordingly.

Henderson County Parks and Recreation is fortunate to have the opportunity to host this event and it is an excellent recreational benefit to our citizens as well as an excellent enhancement to our tourism industry.

Staff requested the Board approve the prepared Lease to permit SCOTS to hold their 2007 Foothills Highland Games at Jackson Park.

Suggested motion: "I move that the Board approve the Lease Agreement with the Scottish Clans of the South for the 2007 Highland Games at Jackson Park."

**Waterline Extensions:**

- 1. Cummings Cove, Mountain Top (Phase III)**
- 2. Haywood Park Estates**
- 3. Northwoods**

The City of Hendersonville has requested that the County comment on the proposed waterline extensions. City of Hendersonville Project Summary Sheets, with vicinity maps, engineer's reports, project maps, and county review sheets, were included in the agenda packets.

Staff recommended action by the Board of Commissioners, either to grant or deny this request. If the Board decides to approve the requested extension the following motion was provided.

Suggested motion: "I move the Board approve the waterline extensions for Cummings Cove, Haywood Park Estates, and Northwoods, and direct Staff to convey the County's comments to the City of Hendersonville.

**Public Safety Interoperable Communications (PSIC) Grant Letter of Support**

The Henderson County Sheriff's Office and the Henderson County Department of Emergency Services requested that the Henderson County Board of Commissioners sign the prepared Letter of Support for the Public Safety Interoperable Communications Grant. By signing this Letter of Support the Henderson County Board of Commissioners allows Henderson County to participate in the regional grant concept and, in the event of grant approval, benefit from the grant proceeds.

Staff requested the Board approve and sign the prepared Letter of Support, allowing Henderson County to participate in the regional interoperable communications grant planning and implementation.

Suggested motion: "I move the Board approve and sign the Letter of Support."

**2007 Strategic Plan & Capital Projects Update**

Included in the agenda packet were the monthly Strategic Plan and Capital Improvements Plan updates for the Board of Commissioners review and discussion. No action was required.

Suggested motion: "I move that the Board accept this monthly update for information purposes."

**School Health Nurse Funding Initiative**

A State grant, called the School Nurse Funding Initiative, provides \$50,000 for a full time school nurse, additional to the current school nurse staffing level. The aim is to improve the school nurse to student ratio closer to the ratio of 1:750 recommended by the Centers for Disease Control & Prevention, the American Academy of Pediatrics, and the National Association of School Nurses. The General Assembly directed the Division of Public Health to select the recipients for these funds based on the current school nurse to student ratio and other factors, including health and social needs.

While these funds have been allocated in the past utilizing a funding formula for school health nurses, this is the first year that Henderson County has been made this offer. Presently our ratio of students to nurse ratio is the 4<sup>th</sup> worst in the State, or 112<sup>th</sup> out of 115 school districts. Using 2006-2007 school year student population, we have a nurse to student ratio of 1:2,189. Using that same census figure, the addition of one extra nurse would change the ratio to 1:1,876.

The Board was requested to authorize the Health Department to accept the funds offered on a continuing basis by the State for adding a new public health nurse as soon as October 1, 2007.

Suggested motion: "I make the motion that the Health Department be authorized to accept the State funding grant for the purpose of hiring a new public health nurse as soon as October 1, 2007."

**NOMINATIONS**

**Notification of Vacancies**

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

1. Apple Country Greenway Commission – 2 vac.
2. Community Child Protection Team (CCPT) – 5 vac.
3. Hendersonville Planning Board – 1 vac.
4. Nursing/Adult Care Home Community Advisory Committee – 1 vac.
5. Solid Waste Advisory Committee – 1 vac.

**Nominations**

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

1. Cemetery Advisory Committee – 3 vac.

Terry Wilson explained to the Board that positions # 1 and #6 are up for nomination, those persons are willing to serve another term, Wanda Case and Jerald Willingham. Michael Arrowood in position #2 is not able to serve another term.

Commissioner McGrady nominated Wanda Case and Jerald Willingham for reappointment. *Chairman Moyer made the motion to accept by acclamation Wanda Case and Jerald Willingham for reappointment to positions #1 and #6. All voted in favor and the motion carried.*

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

**2. Child Fatality Prevention Team – 1 vac.**

No nominations were made at this time so this item was rolled to the next meeting.

**3. Etowah/Horse Shoe Communities Planning Committee – Chair appointment**

Commissioner McGrady nominated John Antrim as Chair. Commissioner Williams nominated Kenny Allison. Commissioner Young nominated Debbie Ducote. It was the consensus of the Board to suspend the rules and vote today rather than rolling this to the next meeting.

The Clerk polled the Board with the vote as follows:

- Commissioner McGrady – John Antrim
- Commissioner Williams – Kenny Allison
- Chairman Moyer – John Antrim
- Commissioner Messer – John Antrim
- Commissioner Young – Debbie Ducote

John Antrim was appointed with three of the five votes.

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

No nominations were made at this time so this item was rolled to the next meeting.

**5. Hospital Corporation Board of Directors – 4 vac.**

Chairman Moyer stated that three of the four currently serving are willing to be reappointed and one is unable to serve another term. Commissioner Williams nominated Joseph W. Smith for reappointment to position #4. Commissioner Young nominated Dr. John Bell for position #2 and Fielding Lucas for position #11. Commissioner Messer nominated Bob Eklund for position #9. Commissioner McGrady nominated Jack Swanson for position #11.

*Chairman Moyer moved the Board accept by acclamation John Bell for position #2, Bill Smith for position #4, and Bob Eklund for position #9. All voted in favor and the motion carried.*

Chairman Moyer stated that the fourth vacancy will be rolled to the next meeting. There were two nominations for position #11, Fielding Lucas and Jack Swanson. The Board will be polled at that time.

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

No nominations were made at this time so this item was rolled to the next meeting.

**7. Nursing/Adult Care Home Community Advisory Committee – 1 vac.**

Terry Wilson informed the Board of a recommendation from the Chair of the committee. She recommends the appointment of Roanne Welsh to position #13. *Chairman Moyer moved the appointment of Roanne Welsh to position #13. There were no further nominations. All voted in favor and the motion carried.*

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

No nominations were made at this time so this item was rolled to the next meeting.

**9. Senior Volunteer Services Advisory Council – 2 vac.**

No nominations were made at this time so this item was rolled to the next meeting.

**SOIL EROSION AND SEDIMENTATION CONTROL UPDATE**

Natalie Berry introduced herself as being the Erosion Control Division Chief. She updated the Commissioners on the status of the Soil Erosion and Sedimentation Control Division.

**Staffing:** Natalie Berry is the Erosion Control Division Chief with 5 years experience in operating a Stormwater Erosion Control Division for a municipality. She is certified in erosion control, stormwater, as well as flood plain management. She plans to hire an erosion control technician. She has narrowed the search down to three applicants and plans on making a decision this week and having them on board by October 1. She has 28 applications for the Erosion Control Permit Specialist and has narrowed it down to 10 applicants. They are finishing up the interviews this Thursday and hope to have a decision by the end of the week.

**Training:** Natalie Berry explained that there is a training opportunity coming up that she will be attending, October 30 and 31 in Hickory. It is the annual Erosion Control Workshop that the State puts on every year.

**Equipment:** Ms. Berry informed the Board that the telephones are being installed today. Their offices are already outfitted with furniture. They are located in rooms B-15, 17, 19 in the basement of this building. They currently have three computers that Building Services has loaned them until the grant goes effective October 1 to allow them to purchase their own equipment.

**Vehicles:** Ms. Berry explained that they have two trucks available through Building Services as well. They will use the loaned vehicles until the grant allows them to buy their two new vehicles.

**Forms:** Ms. Berry stated that they have all the forms necessary to start up production. She chose to use the same forms the State uses so there would be a simple transition and everyone wouldn't be confused. If someone turns in a State application it can be accepted.

Ms. Berry stated that they already have a database set up. It is set up so that they can track jurisdictions since Henderson County is not the only jurisdiction we'll be taking care of. They will be able to produce reports easily. Ms. Berry explained that they will be covering all jurisdictions except Mills River.

Ms. Berry explained that they got a grant contract in the mail yesterday and she has submitted it for execution. She must submit it back to the State by September 25. Once the State executes their part of it, she will start acquiring the equipment, computers, and trucks. She already has a website developed, just doesn't have it published yet. She is waiting to publish it on October 1.

Ms. Berry has met with Janet Boyer back in August. They discussed how they plan on transferring authorization for Henderson County to do the permits instead of them. They were very welcoming. They were glad this division exists. Together they decided the best way to do it was to make a clean break. October 1 this division will take anything brand new. Anything up to October 1 the State will continue to handle. If the State has approved the plans and the construction has not started, it is still under the jurisdiction of the State. Ms. Berry has received a database from the State. She had requested a database of all the engineers the State deals with in Henderson County so she can send out a letter to them letting them know that the division exists and where they are located. She informed the Board that as soon as her phones are installed today and she has a phone number to put on the letterhead, she will send the letters out to the engineers so they should receive them before October 1.

She informed the Board that they are on track and ready to open October 1 at 8:00 a.m. and they will be a success.

**PRESENTATION OF HISTORIC COURTHOUSE ENERGY STUDY**

Marcus Jones introduced Dave Lowles who works with Waste Reduction Partners. Mr. Jones has visited a lot of the county facilities with Mr. Lowles, he's reviewed them for energy efficiency and potential improvements we might do to make them more energy efficient.

Dave Lowles reviewed with the Board the findings on the Historic Courthouse. He stated that they did a walk-through in August at which time they identified some apparent deficiencies. They were unable to confirm the intent of the plan so they met in September with the Architect, Alan Antoine, and the engineer Tom Wilson. After that meeting, many of the questions they had were cleared up resulting in the following recommendations yet to be added to this building:

1. Thermal mapping done after the insulation is added. This building will have R-30 in the ceiling. The concern is heat leakage through that area where the holes were punched for lights. If we do a thermal mapping we'll find out if the insulation is solid and complete. It is not an expensive process. That suggestion was supported by both Mr. Antoine and Mr. Wilson at the meeting in September.
2. He also recommended a second testing and balancing of the HVAC system, about 6 months to a year after the crew moves in.
3. He recommended training a bigger crew to maintain and understand this building since it will be in the public spotlight, more than three or four, to understand the controls and all the maintenance aspects.
4. He stated that there will be a tremendous number of manuals, plans, etc. for the building. He suggested that some method for keeping those organized be established, maybe in a library.

In general, Mr. Lowles thinks this will be a good energy efficient building. It will not be state of the art but it is hard to get that in a historic building.

Marcus Jones explained that some good energy efficient measures were designed into the original design of the courthouse rebuild. The items that Mr. Lowles has brought forth are certainly something that can be incorporated into the management practices and within management budget.

**ENERGY SAVINGS PERFORMANCE CONTRACT CONCEPT**

Marcus Jones reminded the Board that as part of Strategic Plan 1.1F to Develop and Implement an Energy Policy and Plan, staff is investigating the concept of a "Performance Contract." Another name for Performance Contract is "Guaranteed Energy Savings Contract." Under such contracts, the contractor identifies improvements in the areas of lighting, indoor air quality and HVAC (heating and air conditioning systems) that would be paid for by a guaranteed energy savings. The important component of the contract is that the contractor must guarantee that the improvements will pay for themselves over a defined period of time, usually ten to fifteen years. Therefore, the contractor must track the energy usage after the improvements are made. If the debt service for the improvements is not realized in the funds saved from the reduction in energy usage, the contractor must pay the difference.

A Performance Contract allows the use of future energy savings to finance facility improvements for existing buildings now. The contracts are in accordance with NC Statute 143-64.17 which requires the following:

- \* The projects be 100% self-funded including the cost of financing
- \* The contractor provide a 100% guarantee
- \* The process has Local Government Commission oversight and approval

Some other governments in North Carolina that have entered into Performance Contracts are Cumberland County with a project size of \$4.3 million and guaranteed savings of \$6.2 million. Wilkes Community College has a contract for \$720,348 with savings of \$1.2 million. Also, Rockingham County Schools has a contract for \$1.9 million with savings of \$4.2 million.

The first step in the process of developing a Performance Contract is to determine which facilities qualify for contracts. If it is determined that there are eligible facilities, a Request for Qualifications is developed. From

the responses to the RFQ and based on qualifications, a contractor is selected and recommended to the Board for approval. Upon Board approval, a contract is negotiated and brought back to the Board for approval.

Dave Lowles of Waste Reduction Partners and Richard Self from Johnson Controls, Inc. were also in attendance and available to answer questions. Mr. Lowles has been involved in the process by performing energy audits on County Facilities through Waste Reduction Partners. Also Waste Reduction Partners has helped develop the criteria for these contracts and the resulting Statutes. Mr. Self has stated that Johnson Controls would be interested in working with the County Energy Team to identify facilities that qualify for Performance Contracts at no charge. This process will involve reviewing our utility records and comparing them to benchmarks for specific building sizes and uses. Johnson Controls will likely respond to any RFQ submitted by the County.

This item was presented as information regarding specific progress being made on the County Strategic Plan. If agreeable to the Board, staff will prepare and present an implementation plan for this concept at an upcoming meeting.

Mr. Self presented the concept (by Power Point) called "Performance Contracting" which is a guaranteed energy savings. Change Orders are not allowed. He explained that NCGS 143-64.17 is the specific citation that allows this process. Any city or county in North Carolina is eligible to participate in energy conservation without taxing the budget. This has to be paid for within the existing budget. It cannot require new money. It cannot require a tax increase.

Steve Wyatt explained to the Commissioners that staff wanted this presented to the Board because they felt this was something that had potential but obviously it is something the Board has to be comfortable with. The Attorney will have to do a lot of research to make sure that we do this right, if the Board so chooses. Mr. Wyatt recommended that the Board review the additional materials that Mr. Self had provided at their convenience. Staff would like to schedule this back on the agenda in a month or so for discussion. He was just requesting the Board begin the consideration of this concept at this time.

#### **LAND DEVELOPMENT CODE**

Anthony Starr stated that the Board of Commissioners had received considerable public comment regarding the draft Land Development Code (LDC) since the public input sessions in March and April and the public hearing on August 30, 2007. The Board held a workshop on September 11, 2007 to discuss the public input received at the August 30 hearing.

The Planning Staff had delivered to the Board a new draft LDC and Zoning Map reflecting the changes directed by the Board (this past Monday).

Staff also delivered the Planning Board's recommendation directed by the Board, having met last night and voting seven to zero to approve the LDC and Zoning Map with no additional recommendations, effective midnight tonight, Wednesday, September 19, 2007. Mr. Starr stated that all the changes discussed at the September 11 workshop have been implemented in the new draft.

He stated that all legal requirements have been fulfilled to permit adoption of the LDC. Staff had prepared a resolution for adoption of the Land Development Code and Official Zoning Map.

Following discussion, *Commissioner McGrady moved that the Board of Commissioners approve the prepared resolution and adopt the Land Development Code and Zoning Map as presented. All voted in favor and the motion carried.*

Chairman Moyer explained that we all know that there will be changes that have to be made in the document and we are committed in the December/January period to look at the changes that have come up and see what has to be addressed.



There was a request that instead of just the Chairman executing the document, that all five Commissioners sign it. All the Commissioners were in agreement.

The Commissioners commended Anthony Starr and his Staff and the Planning Board on all their long hours and fine work on this document. Anthony Starr stated that with this Code we are well in front of most counties in this State.

#### **CONSIDERATION OF THE ETOWAH/HORSE SHOE COMMUNITIES PLANNING BOUNDARY**

Anthony Starr reminded the Board that on September 4, 2007, the Board of Commissioners directed staff to study the draft Etowah and Horse Shoe Communities Boundary Map. The Board recommended that staff include all land within the Etowah-Horse Shoe fire tax district and property within the Seven Falls subdivision. Staff has created a new map which reflects these changes and added properties that may be included in the communities planning process.

In response to some public comments this morning, Mr. Starr stated that this is the Etowah/Horse Shoe communities plan. It is for both areas, not just the Etowah area. Horse Shoe is not being included as part of Etowah. This has absolutely nothing to do with the incorporation process that is being discussed in the communities.

Mr. Starr stated that at the last Board meeting, the Board included all the Seven Falls project site as well as all of the Etowah/Horse Shoe fire tax district. The dark green line is the Fire Tax District on the map and the light green on the southern part of the map is the Seven Falls project site. Staff looked at the map and suggested following the ridgeline as well as following parcel lines. The proposed addition would include properties that are accessed from the Pleasant Grove Church Road and Foley Road area. Portions to the south of that red line are generally accessed from the Crab Creek Road area. The alternate Community Planning area was outlined with a bold red line on the map.

Following some discussion, *Commissioner McGrady made the motion that the Board adopt the map as recommended as the Alternative CP Boundary as the boundary for the Small Area Planning for Etowah/Horse Shoe. All voted in favor and the motion carried.*

#### **2007 COMMUNITY HEALTH ASSESSMENT UPDATE**

Linda Charping, Health Education Director at the Health Department, informed the Board that every four years local public health departments are required to conduct a Community Health Assessment (CHA) and during off years to provide data updates to the report. The Henderson County Department of Public Health is presently involved in the 2007 CHA in collaboration with the Henderson County Partnership for Health and numerous other organizations and agencies in our community. Ms. Charping is coordinating the project. She updated the Board on the project, the survey tool being used to get citizen input and the timeline for the project.

Ms. Charping stated that the last Community Health Assessment was done in December 2003. We are currently in the process of completing one that will be due in December of this year. She stated that in the process we will be able to identify what our strengths are, what resources we have in our community to address some of the other problems that we have, and it will be an opportunity to identify and plan how to address some of those problems. The current process began in March. A community health assessment team was formed involving people from other agencies and organizations, about 30 people in all. They have been collecting data. They are doing a Community Health Opinion Survey, a copy of which was included in the agenda packet. This survey was distributed widely in the community, also online. She encouraged the Board members to complete the survey, if they had not done so and return it to the health department, to Ms. Charping, or to the Partnership for Health. So far they have about 1,000 surveys and are entering that data into a database to be able to analyze what the community thinks are some of the bigger problems. They are conducting key informant interviews. They have talked with about 25 key members in the community and they will be analyzing that information. They are reviewing data available through the State and from other

sources. They will be selecting health priorities, creating a report for the State, and then reporting back to stakeholders in our community about what those priorities are. The Community Health Assessment can be used in grant writing, planning programs and development, and it helps to identify what the problems are so that plans can be developed to address those issues. It also helps to be able to activate for change or for policy changes or new programs. At the time of the last Assessment seven priorities were identified:

1. Obesity
2. Dental
3. Mental Health
4. Tobacco Use
5. Shortage of School Nurses
6. Asthma
7. Colorectal Cancer

Ms. Charping stated that the Assessment is updated yearly in the State of the County Health Report.

Ms. Charping told the Board that she looked forward to returning after the first of the year to report on the findings from this process for the new Assessment.

### **STORMWATER MANAGEMENT CONTINUED**

Steve Wyatt stated that earlier in the meeting Natalie Berry gave a great presentation updating the Board on Soil Erosion and Sedimentation Control. He stated that the purpose of this agenda item was to present options for the Board's consideration regarding developing a County Stormwater Management Program. Staff has no specific timeframe for this other than the fact that it won't be long before discussions will begin on 2008-09 Budget and planning for that, as well as the January retreat.

Chairman Moyer stated that the Board of Commissioners took action on this item at the July 18 meeting, under consent agenda. At that time the Board agreed to study and research on moving towards our own program but needed more information. The Board wanted to see specifically what grants and other resources would be available.

Marcus shared with the Board additional information he had gained since the July 18 meeting, sharing a PowerPoint presentation (attached as a part of these minutes). He explained that there has been a State Program since July 1 and he had been in contact with Mike Randall who is managing the State Program. One Engineer is managing the State Program for 19 counties.

The options presented for the Board's consideration were:

1. No County Program. This option would leave management of stormwater to the State (Department of Environment and Natural Resources) which began July 1).
2. Further Decision. This option will schedule an Agenda Item for a future meeting for the Board to discuss the matter and if needed for staff to research and answer any questions or concerns.
3. Initiate County Program. This option directs staff to start the process for initiating a County "delegated" Stormwater Program similar to our efforts in Sediment and Erosion Control. The first step would be to apply for a NC Clean Water Management Trust Fund Grant. Upon completion of the grant, a proposed ordinance would be brought to the Board for consideration and approval.

Marcus Jones stated that if the County decides to pursue a County Stormwater Management Program the first step would be to model our stormwater (the existing conditions) in the county so that we would know what we were regulating. In the modeling process we could identify potential existing projects that could have an impact on existing conditions that will not be affected by a Stormwater Management policy, which would obviously only affect future developments. It would also provide us the ability to develop a potential Ordinance for Stormwater. The match for this grant has been included in the FY 08 budget. The State

program is funded by permit fees. Staff would recommend that a County Program be self supporting, funded by permit fees. Mr. Jones' opinion was that this be a combined effort with erosion control into a Stormwater or Water Quality Division. He recommended combining the two and make them an Enterprise Fund, similar to what solid waste is, the utility fund. The revenues that it generates should offset the expenses that it incurs. There is a potential for retained earnings. If the revenues are higher than expenses, retain some of the earnings and potentially develop a Stormwater or Water Quality Capital Improvement Plan that could possibly go back and identify some of these projects that were noted in the modeling in the initial phases and have an effect on existing conditions that are out in the county. That way we're not just affecting future development but also may be able to put some projects on the ground to help existing flooding situations and existing situations. It also gives you the ability if you recognize that you are developing more revenue than your expenses, you can adjust the permit fees. There is strong evidence to support that it certainly could operate as an enterprise fund and be self-supporting. If the Board chooses to have a County Program, it could be implemented in FY 2009. Fiscal Year 2008 would be used to:

1. Apply for Clean Water Management Trust Fund Grant
2. Model Stormwater
3. Develop Ordinance
4. Apply to State for Delegated Program
5. Estimate and Budget for Program Cost

Chairman Moyer liked the ability to tailor the Program that is right for Henderson County as long as we meet the State's basic minimum and have a far better program.

*Commissioner McGrady made the motion to apply for a NC Clean Water Management Trust Fund Grant which are available for the development of a Stormwater Master Plan and Program. All voted in favor and the motion carried.*

### **ROOM OCCUPANCY TAX**

Russell Burrell stated that currently Henderson County levies a three percent "Room Occupancy and Tourism Development Tax". The Henderson County Travel and Tourism Committee (Travel and Tourism) is requesting the Board authorize increasing this tax to four percent. One-half of the increase would be earmarked to defray the cost of operations of the Historic Courthouse facility (as an "other similar facility which could logically be expected to promote tourism in the county"), and the other half would be set aside toward payment of the cost of construction or renovation for the Travel and Tourism facility.

Additionally, Travel and Tourism is requesting the Board authorize that an additional one cent room tax which is currently available, be specified specifically for use by Travel and Tourism. That additional cent would not be added to the room tax at this time, but would be available to Travel and Tourism to be used at their discretion at a future date. However, given the current language of the legislation enabling the room occupancy, it is the opinion of the County Attorney that only the Board of Commissioners can levy the room occupancy tax, and once levied, it is owed by room occupants and must be collected (so there cannot be discretion in Travel and Tourism).

Commissioner Young currently sits on the Travel & Tourism Board. He stated that a couple of meetings ago, the Travel & Tourism Board voted to bring this request to the Board of Commissioners to get approval.

Chairman Moyer suggested splitting the two issues, stating that he and Commissioner Young would work on the fifth cent and see how it can be structured. The fourth cent has been in the works for quite a while. Travel and Tourism clearly needs some renovation and improvements. One half cent will go to that and one half cent to promote the Museum in the Historic Courthouse.

*Commissioner Young moved that the Board increase the rate of the Room Occupancy and Tourism Development Tax to four percent from the current three percent, and that one-half of the increase be earmarked to defray the costs of the operation of the Historic Courthouse, and the other one-half of the*

*increase be set aside toward the payment of the cost of construction or renovation of a Travel and Tourism facility. All voted in favor and the motion carried.*

**Recess**

Chairman Moyer called for a 10 minute break to change videotapes.

**PUBLIC HEARING – Application to the North Carolina Department of Transportation (NCDOT) for Rural Operating Assistance Funds (ROAP)**

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

Hope Bleecker appeared before the Board for her first time as a new employee in the Planning Department. This date was scheduled for a public hearing on an application for a North Carolina Department of Transportation Rural Operating Assistance Grant (ROAP) in the amount of \$231,448. If awarded, the funds will supplement the Apple Country Transit Operations.

These grant funds are not intended to supplant or replace existing federal state or local funds already designated to provide services. The grant funds will provide for senior and disabled transportation programs, transportation for a WorkFirst educational program, and an experimental fixed-route operation to Edneyville. None of the programs require matching funds from Henderson County.

A notice of Public Hearing was published in the newspaper on September 7, 2007 which fulfills the NCDOT requirements for this grant application.

The Board of Commissioners must hold a public hearing on the application, approve the Certified Statement (Appendix A), and authorize staff to file the application with the North Carolina Department of Transportation subject to any comments at the hearing. Staff recommends action as soon as possible to meet an extended late September deadline. The original July 13 deadline for filing ROAP applications has been extended because the General Assembly did not authorize the supplemental monies until June, which delayed noticing to the Counties.

A question was raised about the experimental fixed route in Edneyville. Ms. Bleecker stated that they are proposing a bus service to Edneyville. They are still meeting with some of the residents to finalize the route. Out of all the requests received for the bus system, people ask most about Edneyville. They are proposing use of a WCCA vehicle, which is a larger transit vehicle. The hours specified are between about 9:00 a.m. and 6:00 p.m. but they still have some refining to do when they meet with the residents in the area.

There was a discussion about the need for one of the buses to go to the General Electric Plant on Hwy. #176 South. Chairman Moyer asked Anthony Starr to address this.

Anthony Starr stated that there is an on-demand system set up now for the Retirement Center (Park Side Commons) so they can call and get service out there in East Flat Rock now. It has been in place for a couple of months. Regarding the other areas, they are about to embark upon an operational analysis for the whole system and look at where we need to either modify our service or to expand service for whatever the needs are, ways to make it more efficient. They are in the process of finalizing a request for proposals for that. That study will be funded through our Federal Grant that we received and hopefully use that as a springboard to make changes so that we don't make changes that may have negative impacts on other aspects of the system.

**Public Input**

There was none.

Following discussion, *Commissioner McGrady made the motion that the Board approve the application and authorize execution of the Certified Statement (Appendix A). All voted in favor and the motion carried.*

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

### **LAND TRANSFER TAX RESOLUTION**

Chairman Moyer explained that at the last Board meeting the Commissioners had a discussion of the various options made available to them by the State for alternative revenue sources and the Board voted to pursue the land transfer tax. There was a resolution included in the agenda packet which provides no new information but reaffirms what was discussed before. Chairman Moyer also explained that the Board needed to talk about what the role of the Board is going to be, what type campaign they're going to have, and what the role of staff is going to be. He mentioned early voting, stating that it would actually start a month from yesterday. A lot of people vote early.

Steve Wyatt informed the Board that Pam Brice, as well as Superintendent Steve Page, will be attending a day-long meeting in Raleigh sponsored by the North Carolina County Commissioners' Association where counties are coming from across the state to talk about these issues and to exchange ideas and to hear some presenters, including the folks that were behind the successful Wake County bond issue. Hopefully Pam Brice and Dr. Page will bring back some good information from across the state and from the NCACC as to how this issue is being approached.

Chairman Moyer asked the Board to first consider the Resolution and explained that the Board has no say in what the ballot wording is. The State specified the language. We can't say our intent is that it would be used only for capital projects. We have to use the language they gave us.

*Commissioner Young moved that the Board adopt a resolution endorsing the voter approval of the land transfer tax referendum. All voted in favor and the motion passed.*

Chairman Moyer informed the Board that the education part of this had already started. Steve Wyatt has spoken to the Chamber of Commerce. Chairman Moyer and Commissioner Williams were at the LGCCA (Local Government Committee on Cooperative Action) meeting yesterday where this issue was discussed. Chairman Moyer stated that the point comes through over and over again that we do need to get the word out and educate the public. He feels that the Commissioners have to take a very positive aggressive role. He has spoken to several groups who have agreed to get him on their agenda between now and November to speak to this issue. There is some public confusion, particularly regarding an impact fee. The Board needs to get the message out that legally we cannot consider an impact fee. Some people think that we'll put this money into the general fund and just use it for general purposes. We need to get the word out that we adopted a resolution stating that it would be used for approved capital projects. Last year when the Board approved the Hillandale and the Mills River school projects, and to a certain extent Dana and others, approval was given to almost \$3 million in debt service that we didn't have in the budget. That was controversial. We took a partial year out of the fund balance last year but this coming year we've got to cover that debt service with monies and we only have two available sources right now, the ad valorem tax which none of us want to raise any further or from general operations and the two big areas in that are law enforcement and the general schools budget. It would be extremely difficult to look to those two departmental budgets to the tune of \$3 million. Chairman Moyer feels that the option going forward would clearly be the land transfer tax and he feels that all five Commissioners need to take a very aggressive role, speak whenever they can and confront the issues in the public and be proactive.

A question was raised concerning whether we can use county monies in this effort. He asked Russ Burrell to address that concern. Russ Burrell stated that typically the amounts of public dollars you're allowed to spend on educational campaigns are extremely limited. They are purely in a situation where you would not be able to advocate particularly. They could be educational but they could not be used as advocacy and that's a

difficult line to draw. We will have to be very careful not to cross that line. The same issue comes into play with use of employee time, educationally it's not a problem. Commissioner time individually is not a problem at all, that's a totally different issue. Commissioners certainly do not give up their right to have an individual opinion or a group opinion amongst yourselves.

Chairman Moyer stated that at the LGCCA meeting yesterday all the Mayors were present, except for the City of Hendersonville, and they indicated they would support our effort aggressively.

Staff members are preparing talking points for the Commissioners to use in their presentations and a fact sheet for distribution.

Campaign discussions revealed some fundamentals that the Commissioners all agreed to:

1. All five Commissioners have to be actively involved, put their names out aggressively speaking and doing whatever they can to get ads in support of the campaign.
2. Staff will only be involved from an educational standpoint of getting the facts together for the Board as quickly as possible, giving the Board talking points. The Board/County can run ads that are educational only.
3. If Steve Wyatt goes to speak somewhere he'd be talking educational facts and when the Commissioners go to speak you'd get a much different version, it would obviously be in support of where the Board wants to go.
4. Get the School Board Chair and a few others and try to put together a campaign committee of the broadest people that we can get to put their names associated with it and have that group try to find people that will sponsor ads, pay for ads and things like that.
5. Collectively put the Commissioners' names on ads, not that we can use county money to pay for them but that the Commissioners will lend their full support and names to those efforts if they can get a campaign committee to do that.

Steve Wyatt stated that the Board has to be sure to show the need, stating there are \$30 million dollars worth of school projects that have been approved and the funding is not in next year's budget. He will be recommending a property tax increase to pay that debt service unless there's another way to fund it because the Board has made that commitment and that's roughly a three cent property tax increase. He stated that when we talk capital needs we're really talking about schools, perhaps parks, perhaps libraries, perhaps jail or law enforcement down the road. The Board has said this is where the money would go. It won't get sucked into operations but it would be for tangible brick and mortar type projects.

#### **COUNTY ATTORNEY'S REPORT**

Nothing further at this time.

#### **COUNTY MANAGER'S REPORT**

Steve Wyatt explained that it is not too early to start thinking about next year's budget. He will be requesting a meeting in January, a planning meeting (retreat). It will likely need to be a day-long session to talk about budget, land development code review, comprehensive planning, strategic planning, capital plans, school construction, parks and recreation facility plan, etc.

#### **QUESTION RAISED ABOUT HISTORIC COURTHOUSE**

Commissioner McGrady raised a question of whether the Board would be utilizing laptops for Board meetings when we relocate to the Historic Courthouse. Steve Wyatt stated that we are able now technologically but we would need to purchase portable laptops for all the Commissioners. Selena Coffey stated that each Commissioner will have the capability to connect. The Clerk will also have the capability to raise the screen when folks are doing PowerPoint presentations. We actually have a screen that will come up from the bottom. Folks will be able to see on a huge screen the PowerPoints and that sort of thing. The Commissioners will be able to see them individually on their screens at their seats. Electronically we will

have a lot more capability and technology. Selena also stated the actual booth for capturing the meetings will be in the very back of the room but there will also be some communication between the Chairman and that booth.

### **IMPORTANT DATES**

#### **Set Public Hearing on 2005 Community Development Block Grant Close-out.**

The 2005 Community Development Block Grant (CDBG) provided for the rehabilitation five houses in Henderson County. All work on the project is now complete and the grant requirements necessitate a public hearing to receive citizen input on the activities undertaken with grant funds. The grant resulted in the removal and replacement of two substandard housing units with two new modular housing units. It also resulted in the rehabilitation of three homes including lead hazard abatement in one home.

As recommended by staff, *Commissioner McGrady made the motion that the Board schedule a public hearing for the CDBG grant close-out for Monday, October 1, 2007, at 7:00 p.m. All voted in favor and the motion carried.*

#### **Report – Blue Ribbon Committee on Illegal Immigration**

Chairman Moyer informed the Board that Bob Heltman, Chair of the Blue Ribbon Committee, will attend the October 17 Board meeting to present that report. The Board can then discuss where to go based on the reports. There is a majority report and a minority report and other information.

#### **Public Hearing on Noise Ordinance Amendments**

The Board had set a public hearing on this item for October 11 but there has been a conflict and the Board needs to reschedule. *Chairman Moyer made the motion to set the public hearing for Noise Ordinance Amendments for Tuesday, October 9<sup>th</sup>, here, at 7:00 p.m. All voted in favor and the motion carried.*

#### **Annual Volunteer Appreciation Banquet**

Commissioner Young reminded those in attendance and those watching on television of the annual banquet to recognize members serving on Boards and Committees, will be held on Tuesday, October 23 at Highland Lake at 6:30 p.m.

#### **Farm/City Day**

Commissioner Williams wanted to remind folks of the Farm/City Day activities that take place at Jackson Park on Saturday, October 6<sup>th</sup>. The parade begins at 10:00 a.m. and they have requested the Commissioners be available to participate in that at 9:45 a.m. Afterwards selected individuals will have the opportunity to participate in a corn shucking contest. Mayor Roger Snyder (Mills River) came in first last year.

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

#### **CLOSED SESSION**

*Commissioner McGrady made the motion for the Board to go into closed session as allowed pursuant to NCGS 143-318.11 for the following reason(s):*

1. (a)(3) *To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to the following claim:*

*Parkridge MOB, LLC vs. County of Henderson.*

*All voted in favor and the motion carried.*

**ADJOURN**

*Commissioner McGrady made the motion to adjourn the meeting at 12:12 p.m. All voted in favor and the motion carried.*

*Attest:*

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Elizabeth W. Corn, Clerk to the Board

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William L. Moyer, Chairman

DRAFT