

**DRAFT MINUTES**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
MARCH 19, 2008**

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, Commissioner Larry Young, Commissioner Chuck McGrady, Commissioner Mark Williams, County Manager Steve Wyatt, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Deputy Clerk Terry Wilson, Planning Director Anthony Starr, Finance Director J. Carey McLelland, Engineering and Facility Services Director Marcus Jones, Associate County Attorney Sarah Zambon, Communications Officer Pam Brice, Sheriff Rick Davis, Captain Greg Cochran, Fire Marshal Rocky Hyder and Erosion Control Division Chief Natalie Berry.

Absent was: Assistant County Manager Selena Coffey and Research/Budget Analyst Amy Brantley.

**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. Steve Franks – Mr. Franks discussed the prior campaign to obtain voter approval for the Land Transfer Tax and stated that he recalled hearing predictions that if that tax did not pass, property taxes would have to be raised in order to finance construction of any new schools. The Land Transfer Tax did not pass and the Board is faced with the issue of whether to move ahead with the financing proposal to build new schools at Mills River and Hillandale. He stated “When one looks at the financial condition of the County as of June 30, 2007, the assets exceeded liabilities by over thirty-one million dollars, an increase of twelve and a half million dollars in 1 year. Property tax revenue increased by over 7 million dollars and other tax revenue increased by over 6 million dollars in 1 year. Now to be fair, expenses also increased by 6 million dollars but we are left with an increase of over 7 million dollars of revenue in 1 year.” He felt that the County had the revenue to finance this thirty million dollars school construction project without raising property taxes by 1 cent.
2. Karyn Joyner – Ms. Joyner asked the Board to fund one additional school nurse at Bruce Drysdale School. She spoke on behalf of the Children and Family Resource Center. She is a retired educator. A study by Western Carolina University has proven that having a full-time nurse at Bruce Drysdale School saves 7 hours of instruction time every day. The national recommendation is for 1 full-time nurse for every seven hundred and fifty (750) students. In Henderson County there is 1 nurse for every two thousand one hundred and eighty-two (2182) students.
3. Linda Pilcher – Ms. Pilcher spoke in regards to the need for more school nurses. She does not have any children but suffered from a chronic illness at the age of ten and nurses were very important.

**DISCUSSION/ADJUSTMENT OF AGENDA**

DATE APPROVED:

Chairman Moyer requested that discussion item G (ICE Program Follow-up) follow item B. He also requested that item D (Water Line Extension – Cobblestone Village) be pulled from the agenda. He felt that item D would be held after discussion of the Comprehensive Plan. There are issues with respect to the Comprehensive plan that bear on this decision.

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

### **CONSENT AGENDA**

Commissioner McGrady recused himself from consent agenda item L, Possible property easement/property exchange between Partners in Health Condominium (Pardee Care Center) and Blue Ridge Community College. He is the president of Partners in Health Condominium and felt he should be recused of the matter.

*Commissioner McGrady made the motion to approve items A – K of the consent agenda. All voted in favor and the motion carried.*

*Commissioner Williams made the motion to approve item L of the consent agenda. The motion passed 4-0.*

### **Minutes**

Draft minutes were presented for Board review and consent approval of the following meeting:  
February 18, 2008 special called meeting

### **Tax Collector's Report**

Terry F. Lyda, Tax Collector, provided the Tax Collector's Report for information only dated March 7, 2008.

### **Henderson County Library Canned Food Drive**

The Board of Trustees, Henderson County Public Library, requested that Henderson County approve a "Canned Food for Fines Drive" during National Library Week. The event will begin on April 13 and end on April 19. The intent of the drive is to (1) encourage the public to return overdue items and (2) benefit area food banks. The drive will allow borrowers to donate one canned food item for each overdue item. The Library also expects many in the community who do not owe fines will also contribute to this effort. In previous years the library has waived fines during National Library Week. This effort will add the benefit of aiding local efforts to feed those in our community who are less fortunate than many of us.

*Suggested Motion: I move the Board approve the "Canned Food for Fines Drive" during National Library Week, allowing borrowers to donate one canned food item for each overdue item during the period of April 13, 2008 through April 19, 2008.*

### **Review Special Intensity Allocation application WS-2008-02-01**

Leroy Brown, Buyer, submitted an application on property owned by E.K.S. Morley, for approval of a proposed warehouse and office building (9,600 square feet) with associated parking and driveway access (10,334 square feet) on February 13, 2008. The application has a proposed impervious surface of 46.0 percent. This exceeds the 24 percent allowed by right. A Special Intensity Allocation permit would be required. The PIN for the property is 9631-31-8953 and is approximately 1.00 acres in size. The property is currently a vacant parcel of land. This parcel of land is located in the Town of Mills River.

Normally these types of applications would be under staff review using category 1 allocation for Lower Mills River (Asheville) Balance of Watershed (WS-III). On November 2, 2006, category 1 was exhausted of allocation. The Henderson County Land Development Code (LDC) Section 200A-322.D (Special Intensity Allocation staff/formal review) requires applicants submit is reviewed by the Henderson County Board of Commissioners for any proposed nonresidential development once Category 1 has been exhausted. On December 19, 2007, the Board of Commissioners approved criteria for each applicant to meet.

Category 3 has a total of 30.736 acres, this application removes 1.00 acre from the total if approved. This would leave 29.736 acres for future projects located in the WS-III Balance of Watershed district.

*Suggested Motion: I move that the Board approve the application for Carolina Flooring Contractors Special Intensity Allocation (WS-III Balance of Watershed) subject to the applicant satisfying all recommendations of the Watershed Administrator, Senior Planner, Mills River staff and the Board.*

### **Water Line Extensions**

The City of Hendersonville has requested that the County comment on two proposed water line extensions for the Etowah Land Development Co., for the Benjamin Smith minor subdivision and The Sanctuary at Mills River. The proposed water line extensions are located within the Urban Service Area and the Rural/Urban Transition Area and are generally consistent with the Henderson County 2020 Comprehensive Plan. A City of Hendersonville Project Summary Sheet, with supporting documents and County Review Sheet with Staff comments, was attached for each project for the Board's review and action.

*Suggested Motion: I move that the Board approve the proposed water line extensions for the Etowah Land Development Co. for the Benjamin Smith minor subdivision and The Sanctuary at Mills River and direct Staff to convey the County's comments to the City of Hendersonville.*

### **Adoption Confidential Intermediary Service Policy and Fee Schedule; Revised Home Study Guidelines Fee Schedule**

Effective January 1, 2008, House Bill 445 authorizes county departments of social services to act as Confidential Intermediaries between adult adoptee, adult lineal descendants of a deceased adoptee, and biological parents.

The service is optional and a county social services department agreeing to provide the service may charge a reasonable fee.

NCGS 108A-10 authorizes the Board of Social Services and county Board of Commissioners to establish a fee to recover costs for an optional service that is: (1) voluntarily rendered and received; and (2) receiving no Federal or State funding.

The proposed policy and fee schedules follow State guidelines and were reviewed by the County Legal Department. Costs were locally determined and reviewed by the department's state fiscal consultant. The policy and fee schedules were reviewed and approved by the Henderson County Board of Social Services at their meeting on February 26, 2008.

*Suggested Motion: I move the Board approve, as recommended by the Henderson County Board of Social Services, the Adoption Confidential Intermediary Services Policy Fee Schedule, as well as the adjusted service cost for Home Study Guidelines.*

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

Beginning in January 2002, the General Assembly enacted legislation that required counties to place 10 percent of certain revenues generated by the Register of Deeds Office into a fund to pay for automation enhancements and document preservation. This fund which is a portion of the County's Restricted General Fund Balance has in excess of \$325,000 currently. Only the Board of Commissioners may authorize the use and release of these restricted funds.

Nedra Moles, Register of Deeds had included a request for the Board's consideration to use the Register of Deeds Restricted General Fund Balance for on-going upgrades, system support and the micro-filming of all records. The attached budget amendment appropriates \$30,000 requested from the restricted general fund balance for this purpose.

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

**Resolution Authorizing the Disposition of Personal Property by Private Sale**

The Director of the Board of Elections has received a request from Printelect in New Bern, NC to purchase two (2) Accuvote voting machines no longer used by the Board of Elections for a negotiated total price of \$500.

A resolution was included for the Board's consideration declaring this equipment as surplus and authorizing the private sale to this company as allowed under N.C.G.S. 160A-267.

*Suggestion Motion: I move that the Board approve the attached resolution declaring the equipment as surplus and authorizing the private sale to Printelect at the negotiated total purchase price.*

**Utility Easement for Duke Energy Utility Pole Relocation County of Henderson Property: Sugarloaf Elementary**

Duke Energy is requesting the attached easement on County property to locate two utility power poles onto the County's Sugarloaf Elementary property. The transmission line needs to be relocated to allow for improvements to Sugarloaf Road as per the driveway permit with NCDOT for the School's access. The relocated line will result in two new poles on County property. A layout plan of the access and notes from conversation with Duke Energy were included for the Board's review.

*Suggested Motion: I move that the Board of Commissioners authorize the Chairman to execute the Utility Easement with Duke Energy to locate two utility poles onto the County's Sugarloaf Elementary property located on Sugarloaf Road.*

**ABC Permit Holder Recycling Permit – Henderson County Solid Waste**

The purpose of this agenda item is to provide an option to Alcoholic Beverage Control Permit holders within Henderson County for complying with the new recycling Statute, 19B-902. North Carolina General Statute 18B-902 requires applicants for on-premises malt beverage permits, on-premises unfortified wine permits, on premises fortified wine permits or mixed beverages permits to prepare and submit with the application packet a plan for the collection and recycling of all recyclable beverage containers for all beverages sold for consumption on the licensed premises.

The Solid Waste Division will allow Henderson County ABC permit holders with the permit which was included for the Board's review, to use the County's Recycling Center at the Stoney Mountain Facility. Currently, the County's ordinance restricts this facility to residential use only. However, due to the requirement from the State to recycle, we recommend approval of this one exception. The permit holder is responsible for collection and transportation of the recyclables. The proposed Permit Application was attached which requires an accompanying NCABCC Recycling Form which was included also.

*Suggested Motion: I move that the Board approve use of the County Recycling Center by approved Henderson County ABC Permit holders.*

**Possible property easement/property exchange between Partners in Health Condominium (Pardee Care Center) and Blue Ridge Community College**

The road access to the Partners in Health Condominium facility in which the Pardee Care Center is housed crosses a strip of land owned by Blue Ridge Community College. In order to facilitate the sale of Pardee Care Center, this strip of land will need to be titled in the name of the same real estate owner as the rest of the facility.

Staff from Henderson County Hospital Corporation and the College discussed a possible mutual beneficial swap of strips of land. To accomplish this, a survey of the two strips is required. This agenda item seeks the Board's permission to obtain such a survey by the Hospital Corporation.

*Suggested Motion: I move that the Henderson County Hospital Corporation be permitted to obtain a survey of the strip of land owned by Blue Ridge Community College which is used to access Pardee Care Center.*

**NOMINATIONS**

**Notification of Vacancies**

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

1. EMS Quality Management Committee – 19 vac.
2. Henderson County Planning Board – 3 vac.
3. Nursing/Adult Care Home Community Advisory Committee – 1 vac.
4. WCCA Board of Directors (Western Carolina Community Action) – 1 vac.

**Nominations**

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

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

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

**2. CJPP Task Force (Criminal Justice Partnership) – 2 vac.**

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

**3. Edneyville Community Plan Committee – 9 vac.**

Commissioner Williams stated that we are continuing to receive applications and requested delaying making any appointments until the next meeting. There were no nominations at this time so this item was rolled to the next meeting.

**4. Equalization and Review, Henderson County Board of – 3 vac.**

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

**5. Fletcher Planning Board – 1 vac.**

Commissioner Messer nominated Duane Gentle for reappointment for position #1. *Chairman Moyer made the motion to accept Duane Gentle to position #1 by acclamation. All voted in favor and the motion carried.*

**6. Henderson County Zoning Board of Adjustment – 1 vac.**

Commissioner Young nominated Brandon Yelverton for alternate position #9. *Chairman Moyer made the motion that the Board accept Brandon Yelverton to alternate position #2 by acclamation. All voted in favor and the motion carried.*

**7. Hendersonville City Zoning Board of Adjustment – 1 vac.**

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

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

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

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

*Chairman Moyer made the motion that the Board accept Barbara Petrie to position #7 and Leca Harris to position #21 by acclamation. All voted in favor and the motion carried.*

**10. Senior Volunteer Services Advisory Council – 1 vac.**

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

### **SALES TAX DISTRIBUTION**

Chairman Moyer stated that following an update on the Sales Tax Distribution issues at the March 6, 2008 meeting, the Board tabled further discussion and potential action on the matter until after discussion with the municipalities at the March 18, 2008 LGCCA meeting. The Mayors and another representative for each municipality were present. Commissioner Young sat in on the meeting but did not participate. Each of the municipalities spoke with respect to their position. As discussed in our last Commissioners meeting, Laurel Park had sent the County a letter, within the scope of the contract, indicating that they did not wish to continue to participate in the agreement. We also heard from Fletcher, and based on what had happened and the position taken by Laurel Park, they voted to terminate their participation in the agreement. Hendersonville indicated that they had not made a decision and had lots of differences of opinion. They wanted to see what happened in the meeting on 18 March and there was definitely not a vote to stay in the agreement. Flat Rock put their proposal on the table, and Mills River supported the position taken by Flat Rock. The Board tried to clarify some of the misconceptions out in the public; that if the municipalities terminate this agreement all of the sudden there will be 2 million additional dollars for the county to spend on capital projects, this is just not true. If we reallocate the sales tax money there will be potentially money going to the fire systems, which would enable them to reduce the fire rates, but that money does not go to the County. There will be a net loss to the County in the range of \$850,000 from our budget that we would have to make up, and we would have to work out agreements with the fire departments as to what their ad valorem rates would be based on how much sales tax they would receive. Both Chairman Moyer and Commissioner Williams said that they would try to bring back and reflect accurately what was said at the meeting and that they would recommend the Board make a decision today so that the municipalities can begin to line up their budgets and we can begin the very difficult task of working with the fire departments.

Commissioner Williams re-emphasized that it was clear that Laurel Park and Fletcher wanted to dissolve the agreement, Mills River and Flat Rock wanted to keep it in tack, and Hendersonville was undecided.

Mayor Henry Johnson was in attendance and made no additional comments.

County Manager Steve Wyatt stated the issue was that the law requires in the month of April that the Board of Commissioners decide the method of distribution. The two methods are the ad valorem and the per capita. Looking at the per capita method, in round figures, would be a revenue loss of about 1.2 million based on preliminary sales tax projections. Under the ad valorem method the loss would be estimated at about \$850,000. Going into the budget process, the ad valorem would be a bigger benefit as we move forward with the projects the Board is already committed to.

Chairman Moyer felt that the decision should be made at this meeting and a motion would be appropriate.

*Commissioner Young made the motion that the Board authorize the change to the ad valorem sales tax distribution method and direct the Staff and Chairman to work with the fire departments to try to resolve this issue to everyone's best interest. All voted in favor and the motion carried.*

### **HILLANDALE/MILLS RIVER ELEMENTARY SCHOOLS BIDS**

Based on the action taken by the Board of Commissioners at its' February 20, 2008 and March 6, 2008 regularly scheduled meetings, staff presented the financing documents in substantially final form prepared by bond counsel for financing the construction of the new Hillandale and Mills River Elementary Schools and Phase II construction and renovation at Dana Elementary School.

The total amount included in the documents to be financed for three projects at 3.72 percent for 17.5 years is a not to exceed amount of \$33,250,000. It is anticipated at today's meeting that the Board will determine the final project costs to be financed that are associated with construction of the two new elementary schools of which will be included in the closing documents.

County Manager Steve Wyatt stated that at the last Board meeting the Board had discussed the status of both Mills River and Hillandale. He felt that the Board was comfortable with the Mills River bid and uncomfortable with the Hillandale bid because of the roughly half a million gap between the two. After considerable discussion Staff was instructed to go back and look at the project and try to bring the cost difference down. We had established a target of a \$200,000 reduction. As of late yesterday the \$200,000 reduction had been realized. In talking with American South General Contractors, the bid has come down from \$11,914,000 for Hillandale to \$11,714,000. One hundred and twenty-five thousand nine hundred and twenty-three dollars (\$125,923.00) of this savings is a switch by Mr. Morgan who is with American South to go with a different plumbing contractor. Mr. Willhide working with the contractor, has identified \$43,273 in miscellaneous value engineering items. The remaining \$30,804 is a deduction by the contractor from American South. The previous total project for Hillandale and Mills River was \$29,987,165. The change brings the total project down to \$29,787,165. This includes \$575,000 for furnishings, fixtures, and equipment in the total project, and \$624,750 in architectural and engineering fees; 722 student capacity and 800 core capacity. He stated that the target had been met, but Staff needed to know if the Board was comfortable with the \$200,000 straight deduction contingency.

*Commissioner McGrady made the motion that the Board approve the bid for the Mills River School and accept the amended bid of \$29,787,165 for Hillandale School with the deduction from the total price and not go into contingency. All voted in favor and the motion carried.*

*Commissioner McGrady made the motion that the Board approve the resolution approving an installment financing of elementary school facilities in Henderson County and authorizing the execution and delivery of documents in connection therewith. All voted in favor and the motion carried.*

**Final Financing Documents – Elementary Schools**

The following meeting extracts and resolution provide for the approval of the installment financing and authorizes the Board Chairman and County Staff to execute the documents and close the transaction with SunTrust Leasing Corporation subject to the Local Government Commission’s approval on April 1, 2008.

At 9:00 a.m., the Chairman stated that one of the purposes of the meeting was to approve and authorize the execution and delivery of the proposed installment financing contract and certain related documents and instruments under which the County would obtain financing pursuant to Section 160A-20 of the North Carolina General Statutes, as amended, for the design, acquisition, construction, renovation and/or equipping of the Hillandale Elementary School, the Mills River Elementary School and Phase II of the Dana Elementary School (collectively, the “School Facilities”), and under which the County would secure repayment by it of moneys advanced pursuant to such installment financing contract by granting a security interest in the Hillandale Elementary School and the Mills River Elementary School and real property thereof. Thereupon, Commissioner McGrady introduced the following resolution that was read by title, and moved that it be adopted.

**RESOLUTION APPROVING AN INSTALLMENT  
FINANCING OF ELEMENTARY SCHOOL FACILITIES IN HENDERSON COUNTY  
AND AUTHORIZING THE EXECUTION AND DELIVERY  
OF DOCUMENTS IN CONNECTION THEREWITH**

**WHEREAS**, there have been available at this meeting substantially final drafts of the following:

- (1) A form of the Installment Financing Contract to be dated on or about April 10, 2008 (the “Contract”) between Henderson County, North Carolina (the “County”) and the

SunTrust Equipment Finance & Leasing Corp. (the "Corporation");

- (2) (2) A form of the Deed of Trust and Security Agreement to be dated on or about April 10, 2008 (the "Deed of Trust"), from the County to a trustee for the benefit of the Corporation;
- (3) A form of the Lease Agreement to be dated on or about April 10, 2008 (the "Lease") between the County and the Henderson County Board of Public Education (the "Board of Education");
- (4) A form of the Construction & Acquisition Agreement to be on or about dated April 10, 2008 (the "Agency Agreement") between the County and the Board of Education; and
- (5) A form of the Escrow Agreement to be dated on or about April 10, 2008 (the "Escrow Agreement"), by and among the Corporation, the County and SunTrust Bank.

**WHEREAS**, the Board of Commissioners of the County desires to approve the proposed installment financing of the School Facilities and to authorize other actions in connection therewith;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the County as follows:

- (1) All actions heretofore taken by the County Manager, the Assistant County Manager, the Finance Director and the County Attorney effectuating the proposed installment financing of the School Facilities are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the documents referred to above.
- (2) The Board of Commissioners hereby authorizes the acceptance by the County of conveyance of title to the Hillandale Elementary School and the Mills River Elementary School to the County, which will be used by the Board of Education for school purposes.
- (3) The Board of Commissioners hereby finds and determines in connection with the Contract and the transactions contemplated thereby that (a) the Contract is necessary or expedient to the County, (b) such proposed Contract, under current circumstances, is preferable to a bond issue of the County for the same purpose, (c) the sums estimated to fall due under such Contract are adequate and not excessive for its proposed purpose, (d) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) any increase in taxes necessary to meet the sums estimated to fall due under the Contract will not be excessive and (f) the County is not in default regarding any of its debt service obligations.
- (4) Each of the Contract, the Deed of Trust, the Escrow Agreement, the Lease Agreement and the Agency Agreement, in the form submitted to this meeting, is hereby approved, in substantially such form and the Chairman or Vice Chairman of the Board, the County Manager, the Assistant County Manager, the Finance Director, the County Attorney and the Clerk to the Board are each hereby authorized and directed to execute



and deliver each of those documents on behalf of the County, with such changes, insertions or omissions as they may approve with the advice of counsel.

- (5) Subject to the limitations set forth herein, the County Manager is hereby authorized to approve the terms of the Contract, including but not limited to, the aggregate principal amount thereof, the redemption provisions thereof and the interest rate thereon; provided that: (i) the principal amount of the Contract shall not exceed \$33,250,000; (ii) the final maturity date of the Contract shall not exceed 17.5 years; and (iii) the interest rate thereof shall not exceed 3.72%.
  
- (6) The Chairman or Vice Chairman of the Board, the County Manager, the Assistant County Manager, the Finance Director, the Clerk to the Board, and the County Attorney are hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this Resolution and to effect the installment financing pursuant to the Contract, including, without limitation, entering into tax compliance certificates. Without limiting the generality of the foregoing, each of the County Manager and Finance Director is authorized to approve all details of the financing, including without limitation, the amount advanced under the Contract (which shall not exceed \$33,250,000, the annual payments under the Contract, the interest rate with respect to such payments, and the term of the Contract. Execution of the Contract by the Chairman or Vice Chairman of the Board or the County Manager and Finance Director shall conclusively evidence approval of all such details of the financing.

On motion of Commissioner McGrady, the foregoing resolution entitled "RESOLUTION APPROVING AN INSTALLMENT FINANCING OF ELEMENTARY SCHOOL FACILITIES IN HENDERSON COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH" was duly adopted by the following vote:

AYES:           5  
 NAYS:           0

This Resolution shall become effective immediately upon its adoption.

This the 19th day of March, 2008.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
 William L. Moyer, Chairman

ATTESTED BY:

[SEAL]

\_\_\_\_\_  
 Elizabeth W. Corn, Clerk to the Board

**Memorandum of Understanding with Board of Education**

The Henderson County Board of Education had requested that the Board of Commissioners enter into a Memorandum of Understanding memorializing the two Boards' agreement regarding the upcoming school financing. As has occurred in previous situations where the real property upon which improvements are to be made is held by the Board of Education, this Memorandum of Understanding contemplates the conveyance of the property to the County, so that the County can pledge the same as collateral for the financing. The Board of Education would lease the property back, and have the right to have the property conveyed back to it upon repayment of the financed amounts.

County Attorney Russ Burrell referred to the draft Memorandum of Understanding prepared by council for the Board of Education. It is substantially identical to that used for every school construction except for the Sugarloaf School that you have done. The County has held title to the Sugarloaf School property from the first that it ever become into public ownership. It has never been titled in the name of the Board of Public Education. The properties that we are dealing with here are titled in the name of the Board of Education. This MOU sets out that the title will be transferred to Henderson County at no cost, at that time the property would be pledged as collateral for the loan. At the end of the repayment period of the loan, the property would be titled back into the name of the Board of Education. The MOU also sets out each Boards responsibilities under the financing which are identical to those set out by statutes.

*Commissioner Williams made the motion that the Board enter into the agreement of the Memorandum of understanding with the Board of Education, and authorize the Chairman to execute the documents on behalf of the Board of Commissioners. All voted in favor and the motion carried.*

#### **Water Line Extension – Hillandale Elementary**

County Manager Steve Wyatt stated the City of Hendersonville had requested that the County comment on the proposed water and sewer line extension for Hillandale Elementary School. The Proposed water line is 1,353 linear feet and includes 3 hydrant assemblies. The sewer line is approximately 575 linear feet. The projects' location within the urban services area is consistent with the Henderson County 2020 Comprehensive Plan. A City of Hendersonville Project Summary Sheet, with backup documents and County Review Sheet with Staff comments was included for Board review.

*Commissioner McGrady made the motion that the Board approve the Hillandale water and sewer line extension and direct Staff to convey the County's comments to the City of Hendersonville. All voted in favor and the motion carried.*

#### **ICE PROGRAM FOLLOW-UP**

Sheriff Rick Davis had asked the Board of Commissioners to support his efforts and authorize the recruitment of two (2) ICE positions and the purchase of a transport van contingent upon his successful negotiation of a MOA with the Federal Government. These positions will not be filled and the van will not be purchased until April 1, 2008 after the receipt and execution of the official MOA between Henderson County and the Department of Homeland Security Immigrations and Customs Enforcement Agency.

Staff recommends the Board's support of the Sheriff's efforts, authorizing the Sheriff to proceed with recruitment for the two (2) positions contingent upon the successful negotiation of an agreement with ICE officials. Staff further recommends that the Board request the Sheriff or his designee work with Marcus Jones, Director of Engineering and Facility Services to estimate the costs for any related capital needs at the Detention Center and bring those estimates back for the Board's consideration at a later date. He explained that 8 Deputies would be sent to training on May 19 and that by mid-June they should be able to start making identification.

After lengthy discussion *Commissioner Chuck McGrady made the motion that the Board support the Sheriff's efforts in this regard and authorize the recruitment of two (2) positions contingent upon the successful negotiation of an agreement with ICE officials. He further moved that the Board request that the Sheriff's Department work with the county staff to estimate the costs for any related capital needs at the*

*Detention Center and bring those estimates back for the Board's consideration at the earliest possible date. He further moved that the Board authorize that \$25,000 be taken from fund balance with the understanding that it will be reimbursed in the future as the funds flow from the ICE program. All voted in favor and the motion carried.*

Chairman Moyer felt it was important to mention the obvious success of the program will be held as implemented. There are a lot of safeguards in the Memorandum of Agreement with respect to the protection of the rights of the people involved, citizens of the community, and appeal processes. This will not be a break into places and arrest people without due procedures. If we are not satisfied with how it's going we can terminate it immediately. The downside is that the Federal Government can also terminate at anytime without paying us.

### **TRAVEL AND TOURISM CAPITAL PROJECT**

Travel and Tourism is planning the renovation of the building it occupies to include a new roof and outside public restrooms. A copy of the construction contract approved by the Travel and Tourism Board was included for the Board's review. This construction has a contract price of \$379,332. The Travel and Tourism Board Chairman Dale Bartlett discussed the project and provided the Board of Commissioners with plans and specifications for the project.

There are not adequate funds available to Travel and Tourism to complete this project without seriously depleting their fund balance. The Travel and Tourism Board proposes the financing of this project for a period of two (2) years. The financing would be undertaken by Henderson County as owner of the building. However, expenditures made by the County in repayment of this financing are proposed to be reimbursed to the County from funds controlled by the Travel and Tourism Board (the Room Occupancy Tax). The Travel & Tourism Board has included projected debt service requirements for this financing in their proposed FY2009 budget.

After a request for proposals from various banks was made, the best offer under the circumstances for a loan of such short duration was made by First Citizens Bank of which a proposal was included. The terms of this offer are to loan the amount of \$273,000, unsecured by collateral, at an interest rate of 3.50 percent. An unsecured loan is recommended for a loan of such short duration because of the upfront expense of a secured loan (title examination fees; title insurance; survey; recording fees) would not likely be recouped by lower interest costs over the repayment term.

County Finance Director Carey McLelland explained the extra ½ percent occupancy tax passed back in November will bring in about another \$125,000 which will go toward the debt service on this project. The reason the County is involved is because the building itself is in the name of the County. The loan must be taken out in the name of the County and of course Travel and Tourism will reimburse the County through a transfer from their fund to the General Fund to cover the debt service. The \$273,000 was put out to bid to several banks.

*Commissioner Young made the motion that the Board approve the financing of the Travel and Tourism building renovation project with First Citizens Bank on the terms shown in their proposal and authorizing the Board Chairman, County Manager, Travel & Tourism Chairman and County Staff to take such actions as necessary to complete this transaction, subject to the approval by the Board of Commissioners of a repayment agreement between the Travel and Tourism Board and the Board of Commissioners. All voted in favor and the motion carried.*

### **WATER LINE EXTENSION – COBBLESTONE VILLAGE**

This item was pulled for future agenda.

### **UPDATE REGARDING THE EDNEYVILLE COMMUNITY PLAN**

Anthony Starr stated that during the February 20, 2008 meeting the Board of Commissioners approved the charter and boundary map for the Edneyville Community Plan. Planning Staff began gathering preliminary data for the benefit of the committee. At the February 20 meeting the Board indicated a general 30 day period to accept applications for committee membership. Planning staff distributed information about the effort, including a press release and a project website, and advertised a March 21 application deadline to ensure consideration. That deadline would allow the Board to consider applications and make appointments at the April 7<sup>th</sup> regular meeting. Several applications have been submitted as of printing time for this agenda. If the appointments are made April 7<sup>th</sup>, the committee would begin meeting in May.

The Planning Board has also recommended two of its members to serve on the Edneyville Community Plan Committee. Both Stacy Rhodes and Gary Griffin live in the study area and are members of the Planning Board. John Antrim, Planning Board member, serves on the Etowah/Horse Shoe Committee and is Chair. The Planning Board also recommends that either Stacy Rhodes or Gary Griffin serve as chair of the Edneyville Committee given their experience.

The charter did allow for an ex-officio municipal representative (City of Hendersonville). They are undergoing their comprehensive planning process and this study area borders the City of Hendersonville’s jurisdiction. It may be advantageous to coordinate those efforts and have a municipal representative whether their planning director or some other person that can represent the city adequately.

*Commissioner Williams made the motion that the Board accept applications for the Edneyville Community Plan Committee through April 7, the next meeting. He further moved that an ex-officio member be added as the 10<sup>th</sup> member as a representative of the Hendersonville area. All voted in favor and the motion carried.*

**JACKSON PARK BALL FIELD RENOVATION**

County Engineer Marcus Jones stated that the infields of the nine ball fields at the County’s Jackson Park need renovating to include additional soil material and grading. Due to heavy use and operational maintenance (raking) over the past twenty or more years, a great deal of the soil material in the infield has been lost. In turn, the elevation of the infields has dropped relative to the grass areas of the fields. This drop in elevation has created significant lip in the transition from infield to grass which creates unsafe playing conditions. In addition, the remaining material in the infields is not appropriate and difficult to maintain. Unfortunately, this has been an ongoing issue for many years and after installation of sewer at Jackson Park, recreation and maintenance staff identifies this as the highest priority project within our parks.

With funds allocated in the current year’s budget for park capital improvements, we recommend contracting with Wilson and Associates to renovate all nine infields at Jackson Park. Four bids were solicited with Wilson and Associates being the lowest, responsible bid. The bids are as follows:

- Wilson and Associates \$62,800
- Sports Construction Management \$96,900
- Ingle & Son \$66,528 (w/out material)
- Carolina Green \$92,375

Following discussion *Commissioner Messer made the motion that the Board approve Wilson and Associates to renovate the infield areas of the nine ball fields at Jackson Park for a \$62,800 in accordance with their January 9<sup>th</sup> proposal. All voted in favor and the motion carried.*

**COUNTY ATTORNEY’S REPORT**

There was nothing further at this time.

**COUNTY MANAGER’S REPORT**

Steve Wyatt briefly updated the Board that the lease where the sewer district office is located in Fletcher is coming up. The lease is approximately \$25,000 per year for the office space. We have been looking at reuse of this facility at 100 N. King Street and this would be a \$25,000 savings.

In regards to the lease with probation and parole, Mr. Wyatt explained that through discussion probation and parole had asked for an extension under the agreement of the current arrangement while price negotiations are being made.

With the upcoming vacancies in the 100 N. King Street building, staff had a study done of the square footage of the building and ability to put the Sheriff's Department operation into it. The operations had outgrown this building.

The need was also discussed for an Emergency Operations Center. The E911 and the Emergency Management center are located in the lower part of this (100 N. King Street) building. It has been discussed with the Fire Marshall the possibility of bringing the rest of that facility up to an EMS Base; whether this would be an additional base or replace the current base and operational headquarters that operate out of Pardee. In reality the only part of the building that is probably not had a great deal of thought is attorney's office.

We believe that the meeting room will be much needed for use by the community and the planning department.

**IMPORTANT DATES**

**Request for public hearing on new road names**

*Commissioner Williams made the motion that the Board set a public hearing on new road names for Wednesday, April 16, 2008 at 11:00 am. All voted in favor and the motion carried.*

**Reschedule Annual NCDOT Public Hearing on Secondary Roads – Dates available April 22, 24 & 25**

*Commissioner McGrady made the motion that the Board set a public hearing for the annual NCDOT Secondary Roads for Thursday, April 24, 2008 at 10:00 am. All voted in favor and the motion carried.*

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

**CLOSED SESSION - cancelled**

**ADJOURN**

*Commissioner McGrady made the motion to adjourn at 10:34 am. All voted in favor and the motion carried.*

Attest:

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Teresa L. Wilson, Deputy Clerk to the Board

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William L. Moyer, Chairman