

DRAFT MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
JULY 7, 2008**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 5:30 p.m. in the Commissioners' Conference Room of the Historic Courthouse on Main Street.

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

Also present were: Deputy Clerk Terry Wilson, Communications Officer Pam Brice, Erosion Control Division Chief Natalie Berry, Associate County Attorney Sarah Zambon, Planners Matt Cable and Parker Sloan, Interim Planner Jason Waddell, Planning Director Anthony Starr, Engineering/Facility Services Director Marcus Jones, Sheriff Rick Davis 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

Rebecca Torres, 4-H Club leader in training, led the Pledge of Allegiance to the American Flag.

INVOCATION

Commissioner Mark Williams gave the invocation.

MOMENT OF SILENCE

Commissioner Young requested that everyone stand and observe a moment of silence to honor the passing of Senator Jessie Helms who was a true patriot for North Carolina.

INFORMAL PUBLIC COMMENTS

1. Ned Ryan Doyle – Mr. Doyle spoke in regards to the vested rights amendments for the Biltmore Farms Hammond Tract. He felt that the request for amendments were even worse than their initial request for vested rights. He requested that the Board deny the application for the amendments for the vested rights for the Biltmore Farms Hammond Tract.
2. Dennis Justice – Mr. Justice spoke in opposition of a tax referendum. He felt that putting a tax referendum that would surely fail on the ballot is not a productive way to address our facility needs. He suggested the Board propose a bond referendum instead for the needs of the schools, Parks, etc. He pointed out that other counties are using artificial turf at their high schools for recreation and this would be a way of addressing our soccer field needs.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer requested adding an update on the ICE Program before the consent agenda.

Commissioner Messer made a motion that the Board of Commissioners adopts the agenda as modified. All voted in favor and the motion carried.

ICE PROGRAM UPDATE

Sheriff Rick Davis stated that it had taken quite some time to get this program up and running. There were some various concerns about funding starting October 1, 2008, so therefore he felt an update was essential. The program began July 1, 2008 at 8:00 am. He made the decision to press ahead with the program even though the funding has not officially kicked off for it yet. The people that are occupying our jail space are doing so right now and costing us money so there is no reason to sit on this and just have these people

DATE APPROVED: _____

housed in our jail while we wait on this program; it will save us money to get it going. The funding will happen. Sheriff Davis had just spoke with the agent that is in charge in Washington, DC this morning and as soon as they get some issues cleared up on their end, with the bureaucracy that we always know accompanies the federal government, it will start immediately as soon as it is signed in Washington, DC.

Within the first few minutes of starting the ICE program last week, we had someone in custody and earmarked for deportation. This was an arrest made by the City of Hendersonville Police Department. We have a full-time federal agent (Special Supervisory Agent, Tim Cleas) that is now working in our detention center and he is with Homeland Security Immigrations Customs Enforcement. His primary purpose is to oversee the 287G program. We lobbied heavily to get the agent here and were successful. Mr. Cleas will be here until the Atlanta office of immigrations decides who will draw full-time assignment here; Mr. Cleas is interested in the full-time position.

Sheriff Davis has given the Finance Director a check for \$40,500.00 for the reimbursement that was provided by the State for our deputies when they went to training. We did not incur that much expense and actually made a little money on that.

As of this morning fourteen (14) people are at various stages of deportation since last week. They expect the number to be even higher for the 1 week total.

Sheriff Davis provided information including monthly totals and the break down of categories of deportation, (what the people were charged with, etc).

Sheriff Davis informed the Board that the road crew work would begin with the arrival of signs that were required to be used.

CONSENT AGENDA

Chairman Moyer requested the addition of Fletcher Fire and Rescues need for a tax exempt loan certificate for a pumper as an additional consent agenda item. Commissioner McGrady requested that item G (Revision to charter and bylaws of Henderson County Historic Courthouse Corporation) be pulled for discussion.

Commissioner McGrady made the motion to adopt the consent agenda with the exception of item G (Revision to charter and bylaws of Henderson County Historic Courthouse Corporation) and the addition of Fletcher Fire & Rescue. All voted in favor and the motion carried.

Fletcher Fire & Rescue

At the May 6, 2008 Fire and Rescue Advisory Committee meeting, Fletcher Fire and Rescue presented a proposal to purchase a new pumper. The total amount financed will be \$355,761.00 at an interest rate of 3.86% with an annual payment of \$58,966.91 for 7 years.

The Fire and Rescue respectfully request the Chairman sign the letter provided for tax exempt loan to Federal Signal Corporation (d.b.a. E-One fire apparatus).

Commissioner McGrady made the motion that the Board authorizes the Chairman to sign the letter for a tax exempt loan on behalf of Fletcher Fire & Rescue. All voted in favor and the motion carried.

Revision to charter and bylaws of Henderson County Historic Courthouse Corporation – item G

The Board is requested to amend the charter and bylaws of the Henderson County Historic Courthouse Corporation. The Amendment would increase the Boar of Directors of the Corporation to nine voting members, and add two non-voting ex-officio members (one a member of this Board and the other a member of the Travel and Tourism Committee).

Commissioner McGrady stated that now that the museum has moved into this building and the courthouse is complete he questioned if the Commissioners needed to continue to be the entity that makes appointments to this board. This is a 501(c)(3) and most 501(c)(3) either have a membership organization or they have a self-appointing board (meaning people that are on the board recruit other people to be on the board). He is not philosophically excited about this being an entity that we are responsible for because we're appointing the board. Financially if the museum isn't doing well, it comes back to the Board of Commissioners. Commissioner McGrady did not feel that the Board should be in the appointing business with respect to the Courthouse Museum Corporation now. He feels that now is the time for the Board of Commissioners to simply allow the museum to operate as other non-profits.

Chairman Moyer did not feel that now was the time. The Board (Historic Courthouse Corporation) is in the process of restructuring and it is critical to the Commissioners to have an effective Board functioning with respect to the Heritage Museum. We have been very much involved with this and we have a Board that was committed to getting the museum up and started and getting the first exhibit ready. Several members have served for 5 or more years and are ready to transition off the board. We now need to move the board to a board that is geared around volunteers for the museum, fund raising for the museum, and getting guides for the museum while making the museum very affective. Dr. Jones has resigned as Chairman and Jeff Miller will remain on the board but step down as president. The board has unanimously suggested that Spence Campbell become the Chairman.

Commissioner Young made the motion that the Board approves the Third Articles of Amendment to the Articles of Incorporation of Henderson County Historic Courthouse Corporation, and further approves the amended By-Laws, and he further moved the appointment of Spence Campbell as Chairman of the committee. The motion passed 4-1 with Commissioner McGrady voting nay.

Minutes

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

- January 18, 2008 – Special Called Meeting
- April 16, 2008 – Regularly Scheduled Meeting
- May 29, 2008 – Special Called Meeting
- June 2, 2008 – Regularly Scheduled Meeting
- June 18, 2008 – Regularly Scheduled Meeting

Tax Collector's Report

Terry F. Lyda, Tax Collector, provided the Tax Collector's Report for information only dated June 27, 2008.

Financial Report/Cash Balance Report – May 2008

The Financial Report and Cash Balance Report for May 2008 were presented for the Board's review and consent approval.

The Garage budget was exceeded beginning in April due to the increase in the cost of fuel purchased for the County's fleet. At the end of May, fuel purchases exceeded budget by \$158,900.72.

Non-Departmental costs include insurance premiums paid to date for Property and Liability insurance coverage and Worker's Compensation costs. These costs are being allocated out to all departments on a pro rata basis during the fiscal year.

The YTD deficit in the Travel & Tourism Fund is from additional advertising expense, a new vehicle purchase and capital project costs which are covered by an appropriation of fund balance to cover these expenses in FY2008.

The YTD deficit in the Emergency 911 Communications Fund is due to the purchase of new recording equipment (\$45k) for the 911 Center covered by an appropriation of fund balance in the 911 Fund in FY2008.

The YTD deficit in the Lewis Creek Restoration Project Fund is due to the timing difference between the expenditure of Federal grant funds and the subsequent requisition and reimbursement of these expenditures.

Suggested Motion: I move the Board of Commissioners approves the May 2008 County Financial Report and Cash Balance Report as presented.

Henderson County Public Schools Financial Reports – May 2008

The Public Schools Financial Reports for May 2008 were presented for the Board's information and consent approval.

Suggested Motion: I move the Board of Commissioners approves the May 2008 Henderson County Public Schools Financial Reports as presented.

Sidearm Request – Benjamin Whitaker

The Henderson County Sheriff's Office requests that the service sidearm of Officer Benjamin Lee Whitaker be given to him in recognition of his retirement from the Henderson County Sheriff's Office.

Officer Whitaker has served the Sheriff's Office and the people of Henderson County for nearly 29 years. He began his career at the Sheriff's Office as a Deputy Sheriff on February 25, 1984. Prior to that he worked with Henderson County EMS, beginning employment there in 1979, Officer Whitaker has moved through the ranks within the agency, and has been instrumental in solving crimes in Henderson County through the years.

Officer Whitaker's service to the people of Henderson County is greatly appreciated and will be remembered.

Sheriff Davis makes this request on behalf of the Henderson County Sheriff's Office pursuant to North Carolina General Statute 20-187(a).

Suggested Motion: I move the Board allows Sheriff Rick Davis to present this service sidearm as a token of appreciation to Officer Benjamin Whitaker.

Mountain Home Fire & Rescue Lease Purchase Agreement

At the May 20, 2008 Fire and Rescue Advisory Committee meeting, Mountain Home Fire and Rescue presented a proposal to order a new pumper and refinance two existing apparatus. The total amount financed will be \$837,959.00 at a rate of 3.8% with an annual payment of \$185,600.00 for 5 years.

The Fire & Rescue Advisory Committee approved the proposal unanimously.

Mountain Home Fire and Rescue respectfully request the Chairman sign the provided letter to United Financial.

Suggested Motion: I move the Board authorizes the Chairman to endorse the letter to United Financial Services on behalf of Mountain Home Fire & Rescue.

Transfer of Ownership to Hendersonville Utilities – Jackson Park Sewer Extension

As described in the letter from the City of Hendersonville Water and Sewer Department, Staff recommends the Board approve the Warranty Deed of Easement to transfer ownership and maintenance of the recently completed sewer extension in Jackson Park. In addition to transferring ownership and maintenance

expenses, the agreement will allow the City to extend sewer service to neighboring properties to the Park. The sewer extension project was completed within schedule and \$25,000 under the \$190,000 budget.

Suggested Motion: I move the Board authorizes the County Engineer to execute the Warranty Deed of Easement to transfer ownership and maintenance of the Jackson Park Sewer Extension to the City of Hendersonville.

Proposed Facility Use Fee – Historic Courthouse Community Rooms

The expectation for maintenance, security and appearance for the Henderson County Historic Courthouse is higher than that of our other office buildings. This is even more the case with the museum location with the building. Therefore, we are requiring that when either of the public rooms are in use (Large Community Room on the 2nd floor and Small Community Room in the basement), staff is present to assure appropriate use and to secure the building afterwards. While the rooms are available to the public as per the Facility Use Policy, we recommend revising the policy to include a Facility Use Fee to cover expenses associated with staffing.

The Facility Use fee will apply to the two Historic Courthouse Community Rooms and be applicable only outside normal business hours. The fee is recommended at \$25 per hour with a \$50 minimum.

Suggested Motion: I move the Board approves the proposed Facility Use Fee for the two Community Rooms in the Historic Courthouse.

Non-Profit Performance Agreements

Subsequent to the approval of the FY 2008-2009 Budget, staff has distributed the funding agreements to the non-profit agencies receiving County allocations. Staff will be including signed funding agreements on the Board's consent agenda as we receive them from the agencies.

Staff recommends that the Board authorize the Chairman to execute the provided funding agreements and, in doing so, authorize the release of the first of the following agencies' quarterly allotments.

1. Alliance for Human Services
2. Blue Ridge Literacy Council
3. Boys and Girls Club
4. Children and Family Resource Center
5. Community Development Council
6. Council on Aging
7. Dispute Settlement Center
8. Environmental and Conservation Organization
9. Healing Place
10. Housing Assistance Corporation
11. Interfaith Assistance Ministry
12. Mainstay
13. Partnership for Economic Development
14. Pisgah Legal Services
15. United Agenda for Children
16. United Way 211 Program
17. Vocational Solutions
18. WCCA – Medical Transportation
19. WCCA – Community Transportation Grant Match
20. WNC Communities

Suggested Motion: I move the Board authorizes the Chairman to execute the provided funding agreements and, in doing so, authorize the release of the first of the aforementioned agencies' quarterly allotments.

Designation of Voting Delegate to NCACC Annual Conference

The North Carolina Association of County Commissioners (NCACC) has requested that the Board of Commissioners designate a Voting Delegate to the Annual Conference being held in Craven County on August 21 – 24, 2008.

Suggested Motion: I move the Board designates Chairman Moyer as Henderson County’s voting delegate to the NCACC Annual Conference.

NOMINATIONS

Notification of Vacancies

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

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

Nominations

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

- 1. Board of Directors of the Henderson County Historic Courthouse Corporation (Which does business as the Henderson County Heritage Museum) – 4 vac.**

Due to changes in bylaws and restructure of this committee action was deferred at this time. Spence Campbell was voted in a Chairman. Commissioner Young stated that Theron Maybin had recommended appointment of Karen-Eve Bayne to represent his area on the board.

- 2. Blue Ridge Community College Board of Trustees – 1 vac.**

Chairman Moyer nominated Andrew Tate for position #2. *Chairman Moyer made the motion that the Board accepts the appointment of Andrew Tate to position #2 by acclamation. All voted in favor and the motion carried.*

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

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

- 4. Community Child Protection Team (CCPT) – 1 vac.**

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

- 5. EMS Quality Management Committee – 2 vac.**

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

- 6. Environmental Advisory Committee – 2 vac.**

Commissioner McGrady stated that the Chair did not have anyone specific to appoint to the 2 vacant positions. Commissioner McGrady nominated Richard DeSimone for position #5 subject to the receipt of his application. Mr. DeSimone has shown interest in serving on this committee. No action was taken and this item was rolled to the next meeting.

- 7. Henderson County Board of Health – 2 vac.**

Commissioner Young nominated Dr. Phil Sellers for position #1. *Chairman Moyer made the motion that the Board accepts the appointment of Dr. Phil Sellers to position #1 by acclamation. All voted in favor and the motion carried.*

- 8. Hendersonville City Zoning Board of Adjustment – 1 vac.**

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

- 9. Historic Resources Commission – 3 vac.**

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

10. Home and Community Care Block Grant Advisory Committee – 1 vac.

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

11. Juvenile Crime Prevention Council – 11 vac.

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

12. Mountain Area Workforce Development Board – 2 vac.

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

13. Nursing/Adult Care Home Community Advisory Committee – 2 vac.

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

14. Senior Volunteer Services Advisory Council – 1 vac.

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

15. Solid Waste Advisory Committee – Chair appointment

Commissioner McGrady nominated Stan Kumor as Chair for the committee. *Chairman Moyer made the motion to accept Stan Kumor as Chair by acclamation. All voted in favor and the motion carried.*

ASSESSMENT OF FORMER HEALTH DEPARTMENT BUILDING

Two reports were recently provided under separate cover assessing possible uses of the former Department of Health Building at 1347 Spartanburg Highway. One report reviews the use of the building for general office space and the other for the Sheriff Department. Both reports were written by HSMM Architects. Representatives of HSMM were present to provide a presentation on the report's conclusion. These reports provided the Board with additional options to consider in addition to selling the property.

Commissioner Messer left the room for a brief moment to answer a cell phone call.

County Manager Steve Wyatt stated that the Board and Staff had held conversations over the last year or so in regards to the old public health department building. They have taken bids and had some interest in the building. They have explored the option of reuse of the building by determining what needed to be done to bring it up to modern workable standards; looking at the air conditioning, hearing, plumbing, and bring it up to a general office type standard. Along with that look there was interest in determining the potential uses the County may have should the County maintain it. The Sheriff's Department, county law enforcement, is one area that scattered about in different parts of the county and perhaps the opportunity to bring that operation under one roof.

Commissioner Messer came back into the meeting while County Manager Steve Wyatt was speaking.

General Assessment

Don Liss, Regional Market Director for HSMM stated that a team of architects, engineers, and Triple A Environment of Spartanburg had completed an evaluation of hazardous materials in the building in May.

- The existing facility is built in three (3) different pieces; one going back to 1975, an addition in the 80's, and addition in the 90's.
- The site is fairly level and right on Spartanburg Highway; high profile.
- The site is located on 2.4 acres of land
- Additional storage building in back of parking lot
- There is potential to increase parking

The building, pavement and drainage are in fairly good condition. Benefits of the site (the first part of the study was considering the building as potential for general office use – not getting specific to the Sheriff's Department)

- Under 3 miles from central business district
- High profile location
- Ample parking with good road access
- 70% of building flexible plan

Architectural Upgrades

- General code update
- Demolition & reconfiguration (extensive amount of plumbing through out the building)
- Window replacement
- Upgrade of interior finishes
- Doors & hardware
- Optional – modification of 1975 structural framing for more flexibility

Mechanical Upgrades

- Reuse equipment vs. replace
- Reconfigure ductwork to fit new layout
- Substantial plumbing demolition
- Upgrade restroom facilities – ADA
- Bring fire protection up to code

Electrical Upgrades

- Existing main service adequate; upgrade panels
- Replace lighting throughout
- Reconfigure power distribution to match layout
- Upgrade fire protection system to current code
- New data and telecommunication distribution system throughout the building
- Upgrade grounding system to meet ANSI
- Upgrade intrusion detection system

Hazardous Materials

Suspected Asbestos

- Ceiling tiles, floor tile & linoleum, and mastics
- Roofing materials
- Pipe insulation

Suspected Lead Paint

- Doors & Frames in 1970s construction

Suspected PCB's

- Lighting ballasts
- Mercury-containing HVAC controls

Renovation – Scenario “A” – Estimated Budget \$1,358,334

- Site parking expanded
- Hazardous material mitigated
- Layout revised to open plan with 10 – 15% enclosed
- Existing HVAC equipment reused
- Plumbing system flushed; new public restrooms

- Modify fire protection system to meet code
- Upgrade lighting, fire alarm
- New telecommunication system

Renovation – Scenario “B” – Estimated Budget \$1,663,314

- Site parking expanded
- Hazardous material mitigated
- Layout revised to plan with 30 – 40% enclosed
- Higher quality finishes throughout
- Replace HVAC with more efficient system
- Plumbing system updated; new public restrooms
- Modify fire protection system to meet code
- Upgrade lighting, fire alarm
- New telecommunication system

Steven Loomis, Justice and Public Safety Director, joined Mr. Liss at the podium to assist in answering questions from the Board. Discussion followed.

Needs Assessment

Mr. Loomis stated he had met with each department head of the Sheriff’s Department and reviewed their space needs. An assessment was done to determine if the old public health building would be compatible for the Sheriff’s Department.

- The Spartanburg Highway site is relatively small for expanded sheriff’s office
- There are approximately 84 parking spaces on this site (170 parking spaces are needed)
- The building is approximately 13,000 square feet (To house the entire Sheriff’s Department would require around 34,570 square feet)
- Located outside of central business district
- Remote from jail and courthouse

Summary Findings and Recommendations

- Not recommended for use as Sheriff’s office
 - Virtual reconstruction to accommodate program
 - Space and Functional Layout compromised
 - Site not large enough for proposed parking
 - Estimate nearly same for new vs. additions and renovations

Sheriff Rick Davis stated that he did not feel that they would be able to pull off the design. If they moved into the building it would put them into the same situation they are already in.

Commissioner Williams ask if there was a possibility of making use of the old public health building without going in and doing renovations by consolidating a portion of the Sheriff’s Department current six (6) locations down to four (4) with three (3) being in the old health department.

Sheriff Davis stated that this had been discussed but felt that it was once again turn into the same case of not enough adequate space very quickly.

Commissioner McGrady stated that it sounded as if Sheriff Davis would rather stay in their current locations as opposed to taking this opportunity to move into this space.

Sheriff Davis did not see this as an opportunity and agreed that his preference would be to stay as they currently are versus the move to the old health department building. He did not see this as an opportunity to

provide better service to the public. The public will not like having to go to different locations that are spread further apart.

County Manager Steve Wyatt stated that the Board, through the process of elimination, would like for us to go back and look to see if there are pieces that could fit with the Sheriff's Department, with a minimal cost, with the goal of increasing the effectiveness of operations, Sheriff's or otherwise, but also to look perhaps at alleviating some of the lease obligations. If we go through the issues of Sheriff or other courthouse related offices, and the Board determines that it is just not a good fit or good county use for the building, then there is the option of putting it on the market.

Chairman Moyer requested that Staff get the information necessary to determine if the building can be utilized for other county departments or should be put on the market for sale and bring it back to the Board by the second meeting in September with recommendations.

BREAK

A break was taken to change video tapes.

Chairman Moyer called the meeting back to order.

PUBLIC HEARING – Economic Incentive Grants to the Warm Company

Commissioner Messer made the motion that the Board go into public hearing in regards to consideration of an economic incentives grant to the Warm Company. All voted in favor and the motion carried.

Andrew Tate, Executive Director of Economic Development, stated that this project has gone by Project Century for the last couple of months. It is an existing industry capital investment and job creation expansion. They are looking at a \$.13 - \$1.5 million investment in new construction for a building addition, and approximately \$1.8 million in investment in machinery and equipment. The total job expansion will be about 6 – 12 new jobs with wages in the \$14 - \$18 an hour range. This company pays full health insurance benefits for their employees as well as all dependants, and matches 4% retirement contributions. This expansion will require extension and expansion of sewer which has an estimated cost of approximately \$160,000. We are pursuing, in partnership with the Planning Department and Land of Sky, the CDBG Grant to cover this expense and administration of the grant. This is a competitive expansion in that the company is headquartered in Washington State where some of the machinery investment currently exists and will be transferred to this area. We are competing with the west coast to win this investment and the growth of the company.

Barry Brown, General Manager of the Warm Company, spoke briefly in regards to the project. This project was brought before the Board approximately 4 years ago; to move and consolidate in Henderson County. Since that time, the Warm Company has grown tremendously and outgrown their facility.

Notice was given pursuant to N.C. Gen. Stat. §158-7.1 that the Henderson County Board of Commissioners would hold a public hearing on 7 July 2008 at 7:00 p.m. or as soon thereafter as the Board can consider the matter, to consider the request of The Warm Company, for economic development incentives to assist in investment resulting in the expansion of its existing plant, and the addition of new jobs.

The Company is a manufacturing concern operating worldwide, including a plant located near Hendersonville, North Carolina. The public benefit to be derived from the capital project is a total new taxable capital investment in the amount of approximately Three Million Two Hundred Thousand Dollars (\$3,200,000.00) in machinery and equipment, creating not fewer than nine (9) new full time employment positions.

The Board is considering granting assistance toward actual expenditures incurred in the Company's plan to construct its operation up to a maximum payment equaling Fifty-One Thousand Seven Hundred Forty-Four

Dollars (\$51,744.00), to be paid over a period of five (5) years. Each year's incentive payment would be no greater than Two Thousand Three Hundred Forty-Eight Dollars and Eighty Cents (\$10,348.80).

If approved, the request would be funded through the general property tax revenue.

Public Input

There was none.

Commissioner Young made the motion that the Board grant economic incentives pursuant to the economic incentives policy of Henderson County, in a maximum amount of \$51,744.00 to be paid over a period of five years, with no single year's incentive payment exceeding \$10,348.80. All voted in favor and the motion carried.

Commissioner Young made the motion that the Board go out of public hearing. All voted in favor and the motion carried.

PUBLIC HEARING – Rezoning Application #R-2008-06

Chairman Moyer stated that Donald Lee Burnett was the next applicant for rezoning and that Mr. Burnett wished to address the Board.

The applicant, Donald Lee Burnett, came to the podium, briefly explained the situation, and officially withdrew his application for rezoning.

Chairman Moyer stated that there would not be a public hearing in respect to rezoning application #R-2008-06 as the application has been withdrawn. This application cannot be filed again for at least 6 months. The applicant has ensured the Board that he has no intention of filing the application again.

PUBLIC HEARING – Rezoning Application #R-2008-07

Commissioner Young made the motion for the Board to go into public hearing with respect to Rezoning Application #R-2008-07. All voted in favor and the motion carried.

Parker Sloan, Planner, stated that rezoning Application #R-2008-07, initiated by Henderson County Planning staff subsequent to a petition submitted by a number of property owners, requests that the County rezone approximately 29 acres of land, located off of Hendersonville Road (US Highway 25 North), from a Regional Commercial (RC) zoning district to a Local Commercial (LC) zoning district. The Subject Area is composed of 61 parcels.

The Subject Area is currently zoned Regional Commercial (RC) as a result of the adoption of the Land Development Code. The Subject Area was previously zoned Highway Commercial (C4). Regional Commercial zoning is applied to the north and east of the subject area. Industrial zoning is to the west. The City of Fletcher annexations near the subject area are zoned Interstate Commercial (C2). The Subject Area is predominantly residential with one (1) abandoned commercial use near the intersection of US Highway 25 N and Darity Road.

Surrounding area lands contain residential and commercial uses. North of the Subject Area is a self storage facility. Arvin Meritor industrial facility is located adjacent to the Subject Area to the west. A variety of retail trade and business/professional services are located to the south of the Subject Area. Parcels east of the Subject Area contain a gas station, Smiley's Flea Market, two separate modular home sales uses, and a number of other commercial uses. Public water and sewer are located within the Subject Area.

The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area. The southern portion of the Subject Area is within a community service center. Applying Local Commercial will

allow for an increase in the number of permitted residential uses while reducing the amount of commercial uses permitted.

Staff supports the rezoning of the Subject Area to Local Commercial, consistent with the recommendations of the Henderson County Comprehensive Plan. It is generally incumbent upon the property owners to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the property owners to present any information that would inform the County's consideration of the proposed rezoning.

The Henderson County Planning Board considered rezoning application #R-2008-07 at its regularly scheduled meeting on May 15, 2008. During that meeting, the Board voted 5 to 0 to send the Board of Commissioners a favorable recommendation for rezoning application #R-2008-07 to rezone the Subject Area from existing RC zoning district to a LC zoning district.

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §§200A-314(c) and 200A-337(b) of the Henderson County Land Development Code and State Law, notices of the July 7, 2008, public hearing regarding rezoning application #R-2008-07 were published in the Hendersonville Times-News on June 18, 2008 and June 25, 2008. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the Applicants and posted signs advertising the hearing on the Subject Area on June 18, 2008.

Public Input

1. Regina Nunn – Ms. Nunn spoke on behalf of the Brickton residents. They are in favor of rezoning the twenty-nine (29) acres along US Highway 25. Under the current zoning the property owners are restricted from utilizing their property for the purpose intended, which is residential. The fact that their property is zoned residential is equivalent to them losing ownership of their property. Regional Commercial has taken away their rights as homeowners for affordable housing, expansion of existing dwellings, new residential construction, and the right to replace any home that has been destroyed beyond 50%. It has taken away the tradition of allowing property to pass the property (land) down to their family members for generations so that they may have the opportunity to raise their families together. By rezoning the property to Local Commercial, the residents would have the opportunity to maintain their residential status in addition to pursuing any commercial opportunities. Local Commercial is a win, win situation for the residents in addition to the Henderson County Development Code. They requested that the Board approve rezoning application #R-2008-07.
2. Robert Dunbar – Mr. Dunbar stated this parcel has been in his family for generations. He requested that the property be rezoned to Local Commercial (LC) in order that they may rebuild, if need be, additions to existing dwellings, and pass the property down through generations.

Commissioner Messer made the motion that the Board recommend approval of rezoning application #R-2008-07 to rezone the Subject Area from a RC (Regional Commercial) zoning district to a LC (Local Commercial) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. All voted in favor and the motion carried.

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

PUBLIC HEARING – New Countywide Flood Insurance Rate Maps (FIRMs):L Rezoning #R-2008-08 and Text Amendment #TX-2008-02

Commissioner Williams made the motion that the Board go into public hearing with respect to the New Countywide Flood Insurance Rate Maps (FIRMs): Rezoning #R-2008-08 and Text Amendments #TX-2008-02. All voted in favor and the motion carried.

Anthony Starr, Planning Director, stated that rezoning request #R-2008-08 and Text Amendment #TX-2008-02, which were initiated by Henderson County Planning Staff on April 2, 2008, and requests that the County adopt the finalized Flood Insurance Rate Maps (FIRMs) and make the necessary associated amendments to the flood damage prevention regulations of Chapter 200A, Land Development Code. The current flood insurance maps were originally adopted in 1982. As a result of legislation at the State level in 2004, (because of the flooding in western part of North Carolina) the State in cooperation with the Federal Government is initiating new flood maps for our County.

The Henderson County Board of Commissioners does not have any authority at this point to change any of the boundaries on the flood maps. The text amendments are basically required to stay in the program. There are two choices available; adopt the Flood Insurance Rate Maps as presented by the State and Federal Government along with the required text amendments to stay in the program or not adopt these changes, there by meaning that we are no longer being a national flood insurance program, which would not allow folks to obtain flood insurance or renew their policies.

Planner Matt Cable explained that the State of North Carolina is designated a Cooperating Technical State by the Federal Emergency Management Agency (FEMA). The North Carolina Floodplain Mapping Program was established to produce, issue and maintain all North Carolina Flood Insurance Rate Maps (FIRMs) as required by FEMA under this partnership. Information about the FIRMs was provided including (1) the map development process; (2) the resultant changes to the maps and flood damage prevention text; and (3) the adoption processes.

Mr. Cable explained the process which begins with meeting with County officials. Base Maps are acquired using Federal, State, and local agencies. Light detection and ranging data (LiDAR) are acquired, which basically gives you an idea of the topography of the land with in a certain level of accuracy (centimeter accuracy). Maps are then produced. There are three types of studies conducted; (1) a detail study with measurements actually taken in the field, (contact was made with Natalie Berry to identify which specific streams detailed study could be done on). It is a very expensive and detailed process so there were limitations to the resources available. In addition (2) limited detail studies were done using the LiDAR data to identify specific cross sections. This is less detailed but also less costly. Thirdly (3) delineation studies were done, where existing base flood elevations are used with revision of the boundaries using the LiDAR data and topography available.

The development of new FIRMs is a multi-step process that began for Henderson County in August 2005. These FIRMs were reviewed publicly and, following a formal appeals process, were finalized. On April 2, 2008 the regulations of Chapter 200A, Land Development Code (LDC) have been proposed to reflect: (1) regulation changes associated with the new FIRMs, (2) changes made to the State Model Flood Damage Prevention Ordinance since the original adoption of the regulation in 2005, and (3) integration with the LDC.

The County has six (6) months in which to adopt the new FIRMs and associated text amendments (a deadline of October 2, 2008); however, FEMA recommends adoption within four (4) months (a deadline of August 4, 2008) in an effort to:

- Prevent suspension from the National Flood Insurance Program (NFIP),
- Allow Federal agencies to approve loans and grants within the 100-year floodplain,
- Make State and Federal disaster assistance available for flood-damaged structures, and
- Comply with the North Carolina Flood Act of 2000.

The adoption of the new FIRMs and text amendments will be under procedures outlined by FEMA, the State of North Carolina, and the LDC. The adoption of these FIRMs and associated text amendments is consistent with the Henderson County 2020 Comprehensive Plan which supports “minimizing the potential for damage to personal property, infrastructure, and life due to flooding.”

Maps were provided to the Board showing where the FIRMs have resulted in a flood area reduction and where the FIRMs have resulted in a flood area expansion. Flood Area Reduction and Expansion Maps which are divided into Quadrants are available at: www.hcplanning.org. Preliminary FIRM panels may be reviewed in the office of the Floodplain Administrator or by visiting the North Carolina Floodplain Mapping Site www.ncfloodmaps.com/default.htm.asp#. The following table provided a comparison of 1982 and 2008 floodplain and floodway acreage which fall within the County’s jurisdiction. Overall the regulated area will be reduced by over 32 acres.

Floodway and Floodplain within Henderson County’s Jurisdiction: Comparing Existing and New FIRMs			
Acreage in	Map Year		Change in Acreage
	1982	2008	
Floodway	3,884.71	3,909.73	25.02
100 Year Floodplain	5,675.64	5,618.18	-57.46
500 Year Floodplain	655.52	689.26	33.74
Regulated Area (Floodway & 100 Year Floodplain)	9,560.35	9,527.91	-32.44

Adoption of the FIRMs and associated text amendments by the Board of Commissioners is recommended on or by August 4, 2008 with an effective date for the amendments on October 1, 2008. FEMA will review certified copied of officially amended ordinances within this two (2) month grace period to ensure communities remain in good standing with the NFIP to prevent suspension from the program. The proposed changes to the Flood Insurance Rate maps will not effect flood insurance policies until after the effective date of the FIRMs (October 2, 2008).

Natalie Berry explained that in the non-encroachment area when there were unnumbered A-zones there was restriction to 20 feet from the center line of the stream or five (5) times the width of the creek from bank to bank edge. This could put you 100 – 200 feet away from the edge of the bank, therefore restricting the development of the property. When the limited detail study was done, the base flood elevations were developed so you know how high to build but do not know where to locate the floodway. The non-encroachment table was developed where you take the data (Natalie Berry would normally do this for the customer) and it will tell you from the left side of the stream it is X amount of feet between these two cross sections and it is X amount of feet from the right side from the same two cross sections. She would connect the dots basically and create a floodway or non-encroachment area and you would have to stay out of this area when you build. There are several methods but staff time is a concern. The straight line method is easiest and quickest however it does make the floodway larger for the customer. If a customer chooses to hire an engineer to develop the floodway with the correct way of studying a detailed study, we will accept that in place of this. This data will be submitted to FEMA to replace the other data.

Matt Cable continued with highlights of the intentions of the text revisions. The standard text revisions are to provide standards for structures that are partially within the special flood hazard areas (100 year floodplain) or with multiple base flood elevations, those provisions were not previously included. Provisions have been included as in the State Model Ordinance for recreational vehicles. The Board may recall that those are not permitted by our Land Development Code zoning standards in the floodplain. If that were to ever change we would be covered under the flood regulations and are not in violation of that. There are some additional accessory structure limitations in terms of what you can use those structures for. There are additional standards for determining base flood elevations in floodplains without established base flood elevations. Standards for floodway or non-encroachment area have been expanded to include the terms non-encroachment area and explain further how that will impact the properties. Provisions that explicitly spell out that the floodplain administrator can inspect suspected violations and also has the authority to enter properties to ensure that there are not obstructions.

Staff recommends approval of the request. Adoption is recommended on or by August 4, 2008 with an effective date for the Map and Text Amendment of October 1, 2008. This allows FEMA time to review the

ordinance and ensure that it is in compliance. The proposed text changes have already been approved by the State floodplain mapping program and must now be approved by FEMA. This provides a grace period to ensure that we are not kicked out of the program while they are doing the review. It also gives FEMA time to finalize the maps and send them to us so that we have them ready to go on the effective date of the ordinance. Changes to the FIRMs will not affect citizens flood insurance policies until after the effective date. Policy holders will have the option of using the 1982 maps for their flood insurance rate.

Commissioner McGrady stated that he may need to recuse himself as he owns property that is within the floodplain.

Chairman Moyer felt that all Commissioners could possibly own property within the floodplain and that there may be possible conflict yet all Commissioners would participate.

BREAK

A five minute break was taken in order to change video tapes.

Commissioner Williams stated that the county entered into the flood insurance program approximately four years ago. We developed an ordinance and part of that was in response to the events that we experienced from the hurricane activity. There was disaster funding available at that time but we were told that if we did not participate in the national flood insurance program we would not be able to get flood insurance for homes that were flood areas, limiting loans that might be made for properties that were in the flood areas. For future disastrous events, properties that were in the flood areas would not be able to get the same level of funding in terms of disaster funding. This is what prompted us several years ago. Now we find ourselves at a point where we are looking at an update of the mapping which was also part of the plan in moving forward. Funding from the disaster events was also provided to do the updates to the maps.

Chairman Moyer indicated previously that when we talked about starting this program a lot of people spoke in favor but were very concerned with we were starting with old maps (1982). We pressed hard to get them updated and now we have them.

Planning Director stated that if any of the public had questions in regards to their specific property they should contact the Planning Department.

Public Input

1. Phil Botnick – Mr. Botnick stated that he and his wife own Phil and Ann’s RV on Tracy Grove Road. They received the notice of this public hearing along with the zoning notice. His property was open zoned when they purchased it 18 years ago. They are located on the interstate directly across from Light Industrial zoning. They winter in Arizona and when they came back they found that it was rezoned and they were not notified. Their property is residential and mobile home right on the interstate. When they questioned this they were told it would be a \$350 or more application fee to discuss this. He then began discussing the floodplain. He felt that no one had verified the maps made by FEMA to compare all the local people present at the meeting. We are letting them do the job and what this means is our insurance rates are going to “go to the sky”. The insurance companies are the ones that are behind this in a big way. It will all cost you and me money. In Florida the insurance has “gone to the moon” because of this and Florida is considered a flood zone, the whole state because it is a peninsula.
2. Dave Rogers – Mr. Rogers lives out Highway 64 East. He requested the telephone number of Planning. He moved up from Florida and was familiar with this type of zoning. Since part of his land is declared flood zone, he wanted to know what he could do to stop further erosion of his land and if he would receive financial assistance to do this. It was recommended that he speak with the Planning Department at a later time to talk about this issue and was provided with the telephone number.

3. May McGraw – Ms. McGraw stated that the area of her property that is in the flood zone is located below a bank in front of her home. She had allowed the City of Hendersonville to put a sewer line through her property and they removed all of the big boulders on her property after they swore they would not. The boulders supported the bank that supports her house. When there is any erosion and it takes the bank down, she is going to sue the City of Hendersonville. She also had a problem with debris on her property that had washed down the creek. She felt that if anyone doing business with Henderson County or the City of Hendersonville should hire a lawyer out of the County so that they will not be hoodooed out of their own property. She bought the land so that she could play on the boulders (which are expensive) and in the creek.

The power went off for a brief moment due to lightning and the audio/video equipment had to be reset. The meeting resumed within a couple of minutes. While the equipment was being reset, Anthony Starr shared the telephone number with the citizens who had questions for the Planning Department, 828-697-4819. They are located at 100 N. King Street.

4. Bill Owens – Mr. Owens lives in Staton Woods. He had a question pertaining to flood damage prevention regulations. He had lived there for 34 years. The owners of property in Staton Woods own the north bank of Cane Creek, and Highland Lake golf course is on the south bank. Staton Woods has never, in his 34 years of residency, flooded, however the golf course has flooded countless times. He wanted to know if there were any regulations that would prevent the golf course from sometime in the future deciding to build a bank along there to protect their property and thereby forcing the creek to flood Staton Woods.

Anthony Starr stated that this area may be in the City of Hendersonville's jurisdiction or Flat Rock's jurisdiction. One of the main requirements of any flood damage regulation is that you can't do things that would fill and cause further flooding without certifying that it would not cause flooding. To dike it and dam it, there would be a lot of regulations, not just flood regulations, they would have to jump through in order to do that. He felt that this was unlikely. Mills River does not participate in the flood plain and Flat Rock did not have anything in their jurisdiction up until the new maps. They may be considering this program now that they have stream segments that are designated areas. Each municipality has their own administration and ordinances; Fletcher, Hendersonville, and Laurel Park.

5. Scott Jarvis – Mr. Jarvis questioned if the flood plain would be an affective control for the buffer on US Highway 25 North, and if the restraints on the flood zone would affectively control people's property which is basically joining Mud Creek; any land that can be developed on Highway 25 North. His family has property on Highway 25 North that is elevated above the 100 year flood plain in the 1980's and early 90's. We spent approximately 4 million dollars in earth work back in those days and we had some good property; along comes the construction of Highway 25 and they tore the buildings down. Our property is still a little over a foot above the hundred year flood plain. They hope that everything will still be fine with their acreage. Henderson County has a unique situation with taxes as they are in the donor county. If this FEMA plan comes in and restricts development more on Highway 25 North, will we become a bigger donor county and our tax monies go elsewhere such as people spending their money in Buncombe County? We don't have the money to do stuff for our county? Will we benefit from FEMA? People need to elevate and protect themselves.
6. Leon Allison – Mr. Allison was not opposing the map amendments, but was looking for more solutions for it. Recently he was talking to a banker locally and the bank has six pieces of property that were in the floodplain on the old FEMA maps. It has been documented by surveyors that these properties are no longer in the floodplain and this information and the fees were sent to FEMA and FEMA would not accept this. They are waiting on the State. One of the pieces of property is close to Interstate 26. It is twenty-eight feet above the interstate and in the floodplain. The old maps are the craziest maps that he has ever seen. This is a hardship upon landowners and businesses to get the State or FEMA to pay attention. He understands that if

there is a piece of property on the FEMA map that shows it is in the floodplain, the City of Hendersonville uses a documented survey engineer to survey the property and they move it out of the floodplain according to Hendersonville maps. When he was on the Planning Board and there were lots of sub-committees talking about the floodplain, you would be protected and you would get insurance. He has three buildings on his property and highest contract to construct was \$45,000. The policy had to be written according to Federal mandate, one policy per building, and the total was \$11,400 per year. He recognized the great work by Natalie Berry for the County.

Chairman Moyer stated that this is a complex issue with the various levels of Government involved. He hoped the Board and staff had done a reasonable job of trying to explain it.

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

Commissioner Young made the motion that the Board approve rezoning #R-2008-08 and text amendment #TX-2008-02, effective October 1, 2008, to adopt the finalized Flood Insurance Rate Maps (FIRMs) and amended flood damage prevention regulations of the Land Development Code necessary to reflect regulation changes associated with the new FIRMs and changes made to the State Model Flood Damage Prevention Ordinance, and he further motioned that this approval is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. All voted in favor and the motion carried.

REVENUE OPTIONS REFERENDUM

Chairman Moyer stated that this was on the agenda because obviously the Board knows what they will be facing next year; a lot of money was taken from fund balance this year which we cannot do for another year. If we are going to put anything on the ballot, and he is not saying we should, we have an August 1 cutoff date. In all fairness to the Board they would need to be aware of this date and this was opened for discussion as to whether the Board wanted to look at any of the other revenue options; recognizing the shortfall for next year. There is no question, based on the two referendums, that if the Board decides to put another referendum on it would take a lot of work and a lot of energy on the Board's part. We must weigh the option of referendums or the possibility of a property tax increase if it becomes necessary next year. He did not see how a property tax increase could be avoided in the following year. The only two options are the Land Transfer Tax again or the sales tax. There is legislation in the Senate to try to get rid of the Land Transfer Tax for all counties. It is uncertain if this applies to counties that already impose land transfer taxes, but certainly no new counties would be allowed to get it. The sales tax, he understands, is still an option. Chairman Moyer had not heard any discussion about eliminating it. He had spoken with Senator Apodaca about the possibility of pushing it up to 1% to help solve our problems; Chairman Moyer did not feel that you would see it in this session.

Commissioner Young expressed that the sales tax option referendum is probably the one he would support and felt that it would have the best chance of passing by the citizens of the County. At the same time the quarter of a cent sales tax increase with declining revenues is not going to be as much as we would like for it to be. With the economy like it is, we don't know when that is going to get stronger. He feels it will be a long period of time. He would be in favor of putting the quarter cent sales tax option back on the ballot and then try to educate the public to the fact that not only will the property owners pay part of the Counties bills, but the people that purchase items will pay a small portion also. This, he feels, is the fairest option of tax that we could ask the people to pass.

Commissioner Williams reiterated that you take in revenues from folks that right may not be contributing to that pool. You've got tourist you come and shop here, folks that don't own property, and you've even got folks that may be here illegally. You're tapping in to a pool of folks to help pay their part for County services that otherwise would not be captured in the way of property tax. He was initially concerned about who would be impacted. Car dealers would not be impacted, wholesale basis purchasers would not be

impacted directly. The consumer would be impacted to some degree. For every \$10,000 spent you would be paying an extra \$25 per year. If you don't spend, you don't pay. Those who wish to conserve would be paying less. With the property tax option, if you own property you have no choice. Commissioner Williams was in support and felt that it should be put back into the hands of the voters. We could make the case that the voters have already spoken and they rejected it. He had spoken with a lot of folks who voted on it that he did not feel that they understood what they were voting on. They see the word "tax" and immediately vote against it. At this point and time we have general public who are a little more informed and with additional effort to get the facts out and inform the voters a little more, we could see a much more positive outcome. We may not see this passed but he felt it was worth giving another shot and see truly where the voters want to be on it.

Commissioner Young felt that if we educated the public to this they will realize that the sales tax option is the way to go. He reminded the Board that the last bond referendum failed big time. He didn't know if a bond referendum would pass and if it did you would have to raise property taxes to pay that. He also felt that the sales tax option was the fairest option.

Commissioner Messer was in agreement with the other Commissioners. The land transfer tax was a no go and didn't feel that the Board should even go there. He realized that a lot of people did not understand the land transfer tax and people needed to be educated on the sale tax option. He was in favor of the sales tax option. If the economy gets worse, the County may have to look at cuts somewhere down the road.

Commissioner Williams didn't think that an increase of a quarter cent would cause a retailer to lose a competitive edge with a neighboring county. With fuel prices as they are he couldn't imagine someone driving much distance to save a quarter of a percent difference.

Commissioner McGrady philosophically agreed that sales tax is the best option. He was not sure if he was supportive of putting it on the ballot. He felt the Board could learn from the ballot initiatives in other Counties and, to his knowledge, everyone that passed (and most did not) were put on the ballot only when the County Commission made a very specific commitment to one thing. He again felt that if this was put on the ballot, and the Board is just simply saying that if we don't property taxes will go up, he did not think the citizens would believe it. This has been said before and the taxes did not go up and the schools are still being built.

Commissioner Young was in favor of earmarking the sales tax increase for paying debt service on capital projects.

Commissioner McGrady agreed but did not see a way to earmark it on the ballot. If you look at the successful counties, the ones that were successful (small handful) all earmarked it very specifically.

County Manager Steve Wyatt that this has been the subject of some conversation in the legislature, and these points have been made. There is discussion of the possibility that they may change the law to allow specific earmarking language on the ballot because they too recognize the fact that those counties that have been successful have said "this is what we're going to spend it for". This may change as early as this fall as it has been discussed.

Chairman Moyer stated that the Board would explore every possible option before they vote for a property tax increase and this is a possible option. If the public doesn't buy it at least we will have thrown it out and said here it is and make our best case. We can make a better case than before. The Board must be committed to the case and get the information out. We must be very, very clear that there will be a property tax increase in effect if the sales tax option doesn't get approved.

Commissioner Young stated that we also need to make sure that every group that will benefit from this is on the same page and that they are out pushing this; such as the education people.

Commissioner Messer emphasized that even if the sales tax option is approved, if sales decline the property tax rate could still be increased.

County Manager Steve Wyatt stated that the figure from sales tax is a moving target. It would possibly be in the \$1.6 - \$1.9 million dollar range.

Chairman Moyer made the motion that the Board take action to put the sales tax referendum on the ballot in November and that the Board commits themselves to coming up with a plan which involves specifying the use of the monies, and come up with a plan in which the Board and everyone benefiting is involved in trying to sell this to the public so that they understand and know what the options are if it does not pass. The vote passed 4-1 with Commissioner McGrady voting nay.

HENDERSON COUNTY PURCHASING POLICY

County Manager Steve Wyatt provided the draft Henderson County Government Purchasing Policy Statement to the Board. The purpose of the presentation is to begin an effort in which the County can work to strengthen the local economy by purchasing and contracting with local business as provided for within the framework of the law. We have had conversations individually and he asked the County Attorney and the Finance Director to research “what is doable” along with an explanation of why there is interest. They have developed a one sheet policy with a purpose of strengthening the local economy by purchasing and contracting with local businesses, as provided for within the framework of state law. This is an opportunity to encourage business growth for local companies, enhance employment opportunities for County residents as those businesses are strengthened, and also stimulates taxable investment by current and potential businesses. Strong tax-paying businesses spread that tax burden out among more people and everybody’s share can be a little bit less.

Contracts below NC Competitive Bidding Threshold

In the procurement of apparatus, materials, supplies, services or equipment by the County that have a total contract cost of less than \$30,000, preference will be given to local County vendors in the event price, quality and delivery time are equal to that proposed by out of County vendors if it is deemed in the best interest of Henderson County. This sends a very strong signal to each of the 25 departments that they are to “look local first.”

Contracts requiring competitive bidding

While complying with North Carolina’s competitive bidding requirements (for both informal and formal bids), the County seeks to stimulate and promote local business through its procurement process. The County does this by providing to businesses which have offices with the County with individual notice of solicitations for quotes or bids when requested by such business. Such requests are good for a period of one year from the date received, and must be in writing, and must specify the types of contracts for which the business wishes to be considered.

Disclaimer

This policy should not be interpreted as restricting requests for bid proposals from local vendors only. The purpose of this policy is to assure that local vendors have an opportunity to participate in County contracts.

County Attorney Russ Burrell stated that there are certain restrictions on when bids must be required or when those bids must be done formally or informally. Informal bids are just what it sounds like, but you must document what you’ve done and you must get a certain number. This is a level between \$30,000 and \$100,000. Some contracts can go above that number and still not have formal bidding requirements, but there are certain IT contracts where you may have specific requirements that if they are justified they only require that they come from a specific vendor because of the specifications. These are unique circumstances.

There are circumstances when you get above another level where you must go through the entire public bidding process; put an ad in the newspaper and accept sealed bids during a specified time. In his opinion, this proposed policy will comply with North Carolina State law and is about as far as you can go without tipping over. From the State prospective, North Carolina had a history of bad purchasing decisions before these bidding requirements were imposed and State Government. They then imposed the same requirements on County Government.

Commissioner Williams suggested a change in the first paragraph, changing the word equal to comparable, substantially equal or competitive; meaning something that is close. Mr. Burrell responded that this could not be done. It is the combination of price, quantity and delivery time that have to be equal and not each of the factors during a non-bidding context. Commissioner Williams also suggested a implementing a data base for local vendors so that they could be contacted when a certain job was being solicited.

Chairman Moyer questioned the wording in the Contracts below NC Competitive Bidding Threshold. It is not really oriented toward services. He also questioned how anyone would verify this. Mr. Wyatt stated that this policy covers what and when but did not cover the how in the administration. If the Board decides to move forward with this, we would meet with our department heads and go through it and state what the expectations are and a review process would follow.

Further discussion followed and a decision was made to ask the County Manager to take another look at the policy in light of the Commissioners comments and bring it back to the Board at the July 16, 2008 meeting.

AGREEMENT WITH RADIO HENDERSONVILLE, INC.

The County's agreement with Radio Hendersonville, Inc., regarding cablecast audio has expired. Further direction is sought regarding the Board's desires in this regard.

County Attorney Russ Burrell brought the Board up to date on where we stand on the agreement and what the Board's options are. The agreement of July 21, 2006 has expired as of the last fiscal year. Essentially what is required were technical standards that Radio Hendersonville provides in terms of the feed quality that partially free them from any kind of restrictions that the Board could otherwise place in terms of content, but required some significant disclaimers that would be required of WHKP at the beginning of each and every program that was of religious nature or was of a non-local political nature that is a non-pay political program and the disclaimers would say that the contents of this program does not necessarily contain the opinion of or is endorsed or improved by the Henderson County Government; that the Radio station and not the County has control of what programming is broadcast on the Radio station. The point of this is when this station uses simulcast on the County's Government Channel 11 that the County is not seen as endorsing or controlling any such programming. The fee provided to the County would not include the paid political broadcast; they would just go silent during the program.

Chairman Moyer noted that the one thing that the Board does not feel that Radio Hendersonville, Inc. is in compliance on the disclaimers with respect to religious and political programming. The County Attorney had contacted them in regards to the disclaimers but had not received a return call. Technically at this time, the County does not have an agreement. Chairman Moyer suggested that the Board continue in agreement and go back to the Radio station and state that we are interested in entering into a new agreement or continuing but we need to talk about paragraph #5, disclaimers, with respect to whether they are in compliance and bring it back on a future agenda to enter into a new agreement.

DESIGNATION OF REPRESENTATIVE ON AIRPORT AUTHORITY BOARD

The Board is requested to have discussion regarding the Henderson County representative to the Asheville Regional Airport Authority Board. Chairman Moyer stated that the Board had been receiving clear indications the virtue of Commissioner McGrady serving on the Airport Authority Board. Asheville Regional Airport Authority wanted the County to have a representative on the Board. In separate discussion in regards to the water agreement, Chairman Moyer had raised this issue and Mayor Bellamy had indicated

that yes, they were looking for the Henderson County Board of Commissioners to make a recommendation to them as to who we would like to serve on the Board.

After the Board's last meeting, Mayor Bellamy and Chairman Moyer had a discussion about the water agreement and they had a subsequent discussion because she was very unhappy with Chairman Moyer's statements with respect to threatened possible litigation as he felt they were out of line and the City was working to comply. Mayor Bellamy felt that by virtue of giving the County a seat on the Authority Board, at no cost to us, that should be taken into consideration and weigh heavily into resolving our issues under the water agreement. Chairman Moyer had expressed to Mayor Bellamy that he did not agree and these are two separate issues. The Airport Authority Board places a representative on the Board from Henderson County would not resolve our issues under the water agreement.

Commissioner McGrady has been attending most of the Airport Authority Board meetings and he was surprised hearing Mayor Bellamy's perspective on this. This started with the Airport Authority coming to Henderson County and belatedly asking us for approval to sign off on some real estate transactions which they are required to do. Unbeknown to us at the time the Airport Authority had already done one of them and we said no. He remembered that the Airport Authority stated that we need to work better together in the future and while they can't put somebody from Henderson County on the Board, they would like to have someone from Henderson County come to the meetings as an ex-officio member, without a vote, and participate in the process. Subsequently they amended their agreements to provide that the 7th member of their Board (three members are appointed by Asheville, three members are appointed by Buncombe County) be chosen by the collective group and could be a resident of Henderson County. Commissioner McGrady spoke with the Chairman of the Airport Authority Board at their last meeting and asked him how he wanted to handle this situation. The Chairman told Commissioner McGrady "just don't raise it" because when they have the next meeting they will appoint Commissioner McGrady as their 7th member.

Chairman Moyer made the motion that the Board takes no action until after the next meeting of the Airport Authority Board and at that time reconsider and take action as the Board deems appropriate at that time. All voted in favor and the motion carried.

COUNTY ATTORNEY'S REPORT

There was nothing further at this time.

COUNTY MANAGER'S REPORT

The County Manager briefly updated the Board that the legislature was meeting tonight and must vote on the budget two times during open session. He felt that either tonight or tomorrow you would see the budget and possibly by the end of the week general assembly be complete. In regards to annexation, there is a possibility of a moratorium in one house, senate probably not. There is a lot of draught legislation being talked about and it is possible that the State will move before they leave because of the situation we are in. The State may act to strengthen their authority to act in a draught type emergency.

IMPORTANT DATES

Chairman Moyer reminded the Board of the NACO Conference July 11 -15 in Kansas City, Missouri. Commissioner Messer would be the Henderson County representative.

Schedule Tour of BRCC Technology Center

Chairman Moyer made the motion that the Board set a Special Called Meeting on Wednesday, July 23, 2008 at 9:00 am at the Blue Ridge Community College Technology Center. All voted in favor and the motion carried.

Schedule a public hearing for 2008 Rural Operating Assistance Program (ROAP) Funds

Commissioner McGrady made the motion that the Board schedule a public hearing on the 2008 Rural Operating Assistance Program grant application for Tuesday, August 12, 2008 at 7:00 pm. All voted in favor and the motion carried.

Set Public Hearing on Vested Right Amendment Application (VR-2007-03-A1) for the development known as "Biltmore Farms Hammond Tract"

Chairman Moyer requested that Planning Director Anthony Starr look for other dates that this public hearing may be held and bring it back to the Board at the next meeting.

Commissioner Williams gave a brief update in regards to the Agriculture and Economic Development. Several months earlier the Board of Commissioners had approved a couple of different projects related to agriculture and economic development for agriculture. Funding was approved for two primary pieces of that puzzle; a cold storage facility for Apple Wedge Packers and the development of a farmland protection plan for Henderson County. All of this was done in conjunction in the hopes that we would receive quite a bit of grant funding that was being made available through the State as agriculture development farmland preservation trust fund. As of June 23, 2008 both projects were approved. Apple Wedge Packers received \$300,000 from State funding to go along with the \$35,000 approved by Henderson County. This grant was worded "The Henderson County Agriculture Advisory Board was awarded \$300,000 to help fund a facility. Henderson County will also receive \$22,500 to go toward the development of the Countywide Farm Protection Plan.

CANE CREEK WATER & SEWER DISTRICT

Commissioner Messer made the motion that the Board adjourn as the Henderson County Board of Commissioners and convene as the Cane Creek Water & Sewer District. All voted in favor and the motion carried.

Commissioner McGrady made the motion that the Board adjourn as Cane Creek Water & Sewer District and reconvene as the Henderson County Board of Commissioners. All voted in favor and the motion carried

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 reasons:

1. (a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
2. (a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Commissioner McGrady made the motion that the Board go out of closed session. All voted in favor and the motion passed.

ADJOURN

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

Attest:

Teresa L. Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman