

DRAFT MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
SEPTEMBER 2, 2008**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 5:30 P.M. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

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 Deputy Clerk to the Board Teresa L. Wilson.

Also present were: Planning Director Anthony Starr, Planner Matt Card, Fire Marshal Rocky Hyder, Finance Director J. Carey McLelland, Research/Budget Analyst Amy Brantley, Code Enforcement Services Director Toby Linville, Engineering and Facility Services Director Marcus Jones, Associate County Attorney Sarah Zambon, Tax Assessor Stan Duncan, Soil and Water Conservation District Director Jonathan Wallin and Communications Officer Pam Brice.

Absent was: Clerk to the Board Elizabeth W. Corn

CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance.

PLEDGE OF ALLEGIANCE

Becca Janowiak of the American Clovers 4-H Club led the Pledge of Allegiance to the American Flag.

INVOCATION

County Manager Steve Wyatt gave the invocation.

PRESENTATION OF LAMENATED NEWS ARTICLE TO LAUREN MAYBIN

Chairman Moyer stated that at a meeting several weeks prior, Miss Lauren Maybin had presented a replica of the Historic Courthouse to the Board of Commissioners. Chairman Moyers presented a laminated copy (provided by Flanagan's Printing) of a news article (from the Hendersonville Times' New)to Miss Maybin in regards to a courthouse replica she built as a class project in the 2nd grade class at Upward Elementary School. Miss Maybin, accompanied by her Grandfather Theron Maybin informed the Board that the model had been in the school library prior to the presentation to the Board of Commissioners with a plaque stating that she was recognized by the school as an outstanding student. The Board congratulated Miss Maybin on her accomplishment.

PRESENTATION OF KETNER AWARD TO PAM FOSTER

Chairman Moyer stated at the North Carolina Association for County Commissioners' Conference, held in New Bern recently, they presented awards for various things within the County. One of the awards is called the Ketner Award; a man who was associated with Food Lion for many years and he donates \$10,000 annually to award (10) innovative County employees for their successful productivity improvements. We are very fortunate this year to have from our County a recipient of one of those 10 awards. Chairman Moyer on behalf of the Board and the County presented a certificate (2008 Ralph W. Ketner Employee Productivity Award) to Ms. Pam Foster, a Department of Health nutrition director, for her work in implementing open access scheduling of the Henderson County's WIC (Women, Infant, and Children Program) for clients along with a check.

Chairman Moyer explained that WIC is a Federal grant program that distributes funds to WIC state agencies and gives nutritious food, education and referrals to health and other social services to participants at no

DATE APPROVED _____

charge. It serves low income pregnant and postpartum women, infants and children under five (5) with nutrition challenges. The program has been plagued by a “no show” rate of roughly one-half of all daily WIC programs clients. The Health Department implemented the open access scheduling system for the WIC program to try to help with this problem. This new scheduling system allows employees to see a much larger number of clients in a day and increases the percentage of clients who show up for their appointments. It allows clients to call the same day for an appointment rather than schedule one out for three (3) months. The three (3) month wait met less than 60% of the people showing up because of transportation, family problems, or other work challenges. The new change increased the show rate to a range of 98%. During the six (6) months under the previous system the County served 3,350 clients; that number has increased to 5,271 clients with no increase in staffing during the six months that the new system has been implemented. Obviously we are doing a much better job of serving the people and getting the nutrition needs to them.

INFORMAL PUBLIC COMMENTS

Chairman Moyer asked each person who had signed up for informal public comments to please limit their time to about 3 minutes.

1. Pat de Lemos – Ms. de Lemos was thankful for the passing of Bill 66A-26 (prohibition against public places giving away or selling of animals). She stated that approximately 3 weeks prior she went to Smiley’s Flea Market and saw crates and crates of chicken in fecal matter. They had no water or food, there were also sick goats. She contacted Lt. Ben McKay and asked if this subject could be taken care of. She went to Smiley’s Flea Market again this past weekend and there were no goats but there were crates and crates of chicken in fecal matter and again no water or food. There were also puppies being sold that possibly were sick and had had no inoculations. She felt that no animals should be allowed to be sold or given away at Smiley’s. On June 17, Carolina Animal Action wrote to the manager of Smiley’s Flea Market, Wade McAbee. The co-owners are Mr. Ben Campen and his son. This letter asked very politely that Mr. McAbee reference the law 66A-26 and respond with cooperation. No reply has been received to date. Mr. Brad Rayfield, Henderson County Animal Services Director, Lt. Ben McKay, Assistant County Manager Selena Coffey, the Associate County Attorney, and the Henderson County Attorney Charles Russell Burrell were all copied on the letter. Mr. deLemos feels that Henderson County has passed a good law that now needs to be implemented. She was concerned that the director of the Animal Shelter is always cleaning out the kennels. The hours need to be changed at the shelter to begin at 9:00 am.
2. Ann Elks – Ms. Elks was in favor of Bill 66A-26 also.
3. Margit Sheldon – Ms. Sheldon, a disability coordinator at WCCA, is a resident of Etowah and was requesting that the Board consider the option of opening two (2) More at Four classrooms at the Old Etowah Library building. In order for the children to be successful in school she feels that we need a high quality school readiness program in Etowah. This would give the children a foundation and the basis to walk into Kindergarten on the first day feeling ready to learn. Etowah has the lowest percentage of children that have had that opportunity.
4. Kelly Johnson – Ms. Johnson was also present to help support Western Carolina Community Action’s request for the use of the old Etowah Library building. WCCA is willing to put money into the facility to upgrade it.
5. Ronnie Pepper – Mr. Pepper felt that quality child care was needed in Henderson County. They would like to take the old Etowah Library and offer quality child care for those individuals in the Etowah Community. The WCCA program is an enriched learning environment that works with the children as well as the family and is a great benefit to the school system.
6. David White – Mr. White requested the use of the old Etowah Library building by WCCA for More at Four. At this point, the State of North Carolina and the Henderson County More at Four Committee have approved the funds to be used to serve 54 additional children in Henderson County, 18 at Dana Elementary School and 36 to possibly be served at the old Etowah Library building. The long term benefits of a high-quality preschool program have

been shown in studies again and again. The sooner they can provide serves in Etowah the sooner WCCA can hire five (5) new full-time employees with competitive wages and health insurance benefits. The sooner they are in the building, the better job they can do of preparing the children for kindergarten. If they do not begin serving the thirty-six (36) students by December, the More at Four slots will go back to the State and some other County may be taking the advantage.

7. Mike Earle – Mr. Earle is the Vice Chair of WCCA Board. The General Session was late in approving and they did not get word of the final approval until the end of July. Their proposal was put together quickly, however they just missed the opportunity to be put on the August agenda. Their budget is right at 9.5 million dollars. They are able to hold the administration fees to right at 8%. This is an incredibly low administration fee for a not-for-profit. They feel that the old Etowah Library building would be the best physical site because the Etowah school system has the lowest percentage of kids coming in with any kind of pre-k. With the increase they will be serving 387 children in the community. WCCA would be willing to take care of the light maintenance including mowing of grass and changing of light bulbs. They would ask the County to take care of the physical plant itself. He thanked the Board for their consideration of the request.

Chairman Moyer noted that this was a discussion item later in the meeting and asked if Mr. White or Mr. Earle could stay until the discussion time. Mr. White and Mr. Earle would remain through that discussion.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer requested that discussion item E (Enhanced Agricultural Districts) be moved to discussion item A, and that discussion item C (Etowah Library Request for Proposals) be moved to discussion item B.

Commissioner McGrady made the motion to adopt the agenda as amended. All voted in favor and the motion carried.

CONSENT AGENDA

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

Minutes

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

July 7, 2008 – Regularly Scheduled Meeting

Tax Collector’s Report

Terry F. Lyda, Tax Collector, provided the Tax Collector’s Report for information only dated August 22, 2008.

Financial Report/Cash Balance Report – July 2008

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

The fiscal YTD deficit in the CDBG-Shuey Knolls Project Fund and the Lewis Creek Restoration Project Fund are temporary due to the timing of expenditures and the subsequent reimbursement of the expenditures from grant funds.

The fiscal YTD deficit in the Risk Management Fund is temporary and due from the first quarterly payment for liability and property insurance coverage for FY2009.

Suggested Motion:

I move the Board of Commissioners approves the July 2008 County Financial Report and Cash Balance Report as presented.

Henderson County Public Schools Financial Reports – July 2008

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

Suggested Motion:

I move the Board of Commissioners approves the July 2008 Henderson County Public Schools Financial Reports as presented.

2007-2011 Strategic Plan Revision

At the August 12, 2008 meeting the Board of Commissioners revised the 2007-2011 Strategic Plan and asked that these revisions be brought back for Board approval at this meeting. Provided for the Board’s review were the excerpted pages from the Plan containing the revisions.

Suggested Motion:

I move that the Board approve the Strategic Plan revisions as presented.

Homeland Security Grant

Henderson County has received a Homeland Security grant for \$228,145.00 from the NC Department of Crime Control and Public Safety. The grant will facilitate a cooperative effort with Mission Healthcare Foundation for homeland security equipment. It will not require expenditure of any local matching funds.

The Board was requested to authorize the County Manager to make the budget adjustments necessary to facilitate and reflect this grant.

Suggested Motion:

I move that the Board approve the receipt of grant as set out in the agenda item, and further authorize the County Manager to adjust the budget as necessary with no new net expenditure of funds.

Petitions for addition to State Road system

It has been the practice of this Board to accept road petitions and forward them to NC Department of Transportation for their review. It has also been the practice of the Board not to ask NCDOT to change the priority for roads on the paving priority list. Recommended approval was requested of the following petitions:

1. Bellariva Drive
2. Part of Riverstone subdivision
3. Easterly Lane
4. Beaumont Estates subdivision
5. N. Tupelo Drive and S. Tupelo Drive
6. North Springs Drive

Suggested Motion:

I move that the Board approve the petitions and forward them to NCDOT for action.

Resolution for permanent closure of easement(s) on the David L. Bayless and Ronald G. Calvert property

North Carolina General Statute 153A-241 requires that the Board of Commissioners first adopt a resolution declaring its intent to close a public road or easement. A copy of the resolution declaring the Board’s intent

of closing the easement(s) on the David L. Bayless and Ronald G. Calvert property, Hendersonville, North Carolina is attached hereto and incorporated as part of the minutes.

Suggested Motion:

I move the Board adopt the resolution provided.

Resolution for permanent closure of easement(s) on the David M. Bayless property

North Carolina General Statute 153A-241 requires that the Board of Commissioners first adopt a resolution declaring its intent to close a public road or easement. A copy of the resolution declaring the Board’s intent of closing the easement(s) on the David M. Bayless property, Hendersonville, North Carolina is attached hereto and incorporated as a part of the minutes.

Suggested Motion:

I move the Board adopt the resolution provided.

Resolution for permanent closure of easement(s) on the James E. Schultz, Debra L. Kaufman and Lynn S. Gosnell property

North Carolina General Statute 153A-241 requires that the Board of Commissioners first adopt a resolution declaring its intent to close a public road or easement. A copy of the resolution declaring the Board’s intent of closing the easement(s) on the James E. Schultz, Debra L. Kaufman and Lynn S. Gosnell property, Hendersonville, North Carolina is attached hereto and incorporated as part of the minutes.

Suggested Motion:

I move the Board adopt the resolution provided.

Etowah Horse Shoe Fire & Rescue Lease Purchase Agreement

At the May 20, 2008 Fire and Rescue Advisory Committee meeting, Etowah Horse Shoe Fire and Rescue presented a proposal to purchase two new pumper / tankers. The total amount financed will be \$850,000.00 at an interest rate of 4.65% with an annual payment of \$108,215.70 for 10 years.

The Fire & Rescue Advisory Committee approved the proposal.

Etowah Horse Shoe Fire and Rescue respectfully request the Chairman sign the attached letter to United Financial Services.

Suggested Motion:

I move the Board authorize the Chairman to sign the letter to United Financial Services on behalf of Etowah Horse Shoe Fire & Rescue.

Approval of Minor Changes to Ethics Ordinance

A clarification is recommended to the Ethics Ordinance. The need for this change arose because of concerns from board and committee members regarding the appearance of a conflict between their employment and their participation on these boards and committees. This change does not allow members to vote on issues before the board or committee where they may have a direct interest but does not prevent them from appearing before other County boards, committees, or departments.

Only the modified section of the ordinance is included. The addition is underlined and highlighted in grey.

ETHICS CODE

Section 3. Standards of Conduct

All County Officials as defined in this article shall be subject to and abide by the following standards of conduct.

(a) Interest in contract or agreement. No County Official shall participate in selection or award of a contract if the contract involves the County Official's interest or the Official is prohibited from voting pursuant to N.C. Gen. Stat. § 14-234.

(b) Use of official position. No County Official shall use his/her official position or the county's facilities for his/her private gain, or for the benefit of his interest, or for the benefit of any individual, which benefit would not be available to any other member of the public in the same or similar circumstance. No County Official shall represent any other private person, group or interest before any department, committee, or board of the county of which they are a member except in matters of purely civic or public concern. The provisions of this paragraph are not intended to prohibit a County Official from speaking before neighborhood groups and other nonprofit organizations.

Suggested Motion:

I move the approval of the revision to the Ethics Ordinance as presented.

Mills River Fire Insurance District

Mills River Fire & Rescue is in the process of an insurance rating survey. The Department has added two sub-stations since the last insurance district boundary was approved and respectfully request a resolution approving the fire insurance district boundary reflecting the changes. No fire tax districts will be affected by this action.

RESOLUTION

**NORTH CAROLINA
HENDERSON COUNTY**

Upon motion by Commissioner McGrady, BE IT RESOLVED that the Board of Commissioners of Henderson County approves the boundary lines of the Mills River Fire Insurance District for insurance grading purposes only, in accordance with the map filed this date with the Board of County Commissioners and recorded in the minutes of the meeting. The boundaries of the above referenced fire insurance district is specifically described in the Henderson County Land Records Office.

This is to certify that the foregoing is a true and accurate copy of excerpt from the Minutes of the Board of County Commissioners of Henderson County, adopted this the 2nd day of September, 2008.

Suggested Motion:

I move the Board adopt a Resolution approving the Mills River fire insurance district.

2008 Fall Litter Sweep Resolution

The fall 2008 LITTER SWEEP roadside cleanup, organized by the NC Department of Transportation, will be taking place September 20th through October 4th, 2008. Henderson County encourages citizens in Henderson County to take an active role in making our community cleaner through participating in local litter sweep activities.

Suggested Motion:

I move that the Board adopt the provided Resolution designating September 20, 2008 – October 4, 2008 as LITTER SWEEP time in Henderson County.

**HENDERSON COUNTY, NORTH CAROLINA
BOARD OF COMMISSIONERS**

**Resolution
2008 Fall Litter Sweep**

Whereas, the North Carolina Department of Transportation organizes an annual fall statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and

Whereas, the fall 2008 LITTER SWEEP roadside cleanup will take place September 20 through November 4, 2008, and encourages local governments and communities, civic and professional groups, businesses, churches, schools, families and individual citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and

Whereas, Adopt-A-Highway volunteers, Department of Transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP and may receive certificates of appreciation for their participation; and

Whereas, the great natural beauty of our state and a clean environment are sources of great pride for all North Carolinians, attracting tourists aid aiding in recruiting new industries; and

Whereas, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

Whereas, the 2008 fall cleanup will celebrate the 20th anniversary of the North Carolina Adopt-A-Highway program and its 6,000 volunteer groups that donate their labor and time year round to keep our roadsides clean; and

Whereas, the LITTER SWEEP cleanup will be a part of educating the children of this great state regarding the importance of a clean environment to the quality of life in North Carolina;

NOW, THEREFORE BE IT RESOLVED by the Henderson County, North Carolina Board of Commissioners that September 20 – October 4, 2008 be LITTER SWEEP time in Henderson County and encourage citizens in Henderson County to take an active role in making our communities cleaner through participating in local LITTER SWEEP activities.

Adopted this the 2nd day of September, 2008

Consideration of Construction Bids for Shuey Knolls Phase 3

The 2006 Community Development Block Grant (CDBG) Housing Development project will assist Henderson County Habitat for Humanity in increasing the amount of affordable housing available to county residents. The CDBG funds provide for 1,200 linear feet of water lines, road and drainage allowing for the construction of up to fourteen (14) homes. Planning Staff solicited bids for the Phase 3 section.

On August 14, 2008, at the King Street County Office Building, a total of 9 bids were received including 4 Henderson County contractors. The low bid was submitted by Site Development Corporation of Waynesville, NC. The bid was for a total of \$158,706.75, well below the construction budget of \$198,500. The engineer had included an alternate bid for additional work to benefit the Shuey Knolls project including clearing for a future road segment and drainage pipe work for home sites. However, the alternate bid would put the project over budget. It is possible to execute a portion of the alternate bid once the project is under way to maximize the state grant funds. This can be accomplished while staying under budget instead of returning state grant funds unused.

The Board has previously reviewed this project and approved the grant application. Construction is expected

to last approximately 60 days from notice to proceed. No County matching funds are associated with the grant.

Planning Staff requests that the Board award the bid to Site Development Corporation of Waynesville, NC for the amount of \$158,706.75 and authorize staff to execute the necessary documents to proceed with construction. It also recommended that staff be authorized to execute a change order to maximize the grant funding provided any such order stays within the approved budget.

Suggested Motion:

I move that the Board award the bid for infrastructure in the Shuey Knolls project to the Site Development Corporation of Waynesville, NC for the amount of \$158,705.15 and authorize staff to execute the necessary documents to proceed with construction. I further move that staff is authorized to conduct any change orders to maximize the state grant funds provided that the change order remains at or below the approved budget.

NOMINATIONS

Notification of Vacancies

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

1. **Child Fatality Prevention Team – 1 vac.**
2. **Community Child Protection Team (CCPT) – 4 vac.**
3. **Hospital Corporation Board of Directors – 3 vac.**
4. **Western Highlands Local Management Entity – 1 vac.**

Nominations

1. **Board of Directors of the Henderson County Historic Courthouse Corporation (which does business as the Henderson County Heritage Museum) – 9 vac.**

Chairman Moyer noted that Chair of the Heritage Museum Board Spence Campbell had provided a letter of recommendations and placements for the nine (9) open positions. Chairman Moyer stated that nominated by the Heritage Museum Board were Virginia Gambill for position #2, Karen Bayne Pfozter for position #3, Terry Ruscin for position #4, Terrell Garren for position #5, John McCormick for position #6, Jeff Miller for position #7, Bob Staton for position #8, Cricket Crigler for position #9 and Melody Heltman for position #10 a non-voting position. Commissioner Williams nominated Patsy Jones for placement in a position. Chairman Moyer stated that the bylaws of the Heritage Museum Board placed the nominations for positions in the hands of the Heritage Museum Board, the Commissioners then have the right to say yes or no. This would have to be taken back before the Heritage Museum Board or Ms. Jones could possibly be considered for a future opening. The Board of Commissioners could make suggestions but the Heritage Museum Board would make the nominations. After discussion it was determined that a letter would be sent to the Chairperson of the Heritage Museum Board requesting that Patsy Jones be considered for possible future openings on the Heritage Museum Board. *Chairman Moyer made the motion to accept the nine (9) nominations by the Heritage Museum Board by acclamation and send a letter to the Heritage Museum Board indicating that the Commissioners would like for Patsy Jones to be specifically considered along with the possibility that additional names may be sent to them before additional people are appointed in the future. All voted in favor and the motion carried.*

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

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

3. **Community Child Protection Team (CCPT) – 2 vac.**

Chairman Moyer noted that Karen Cottingham was nominated and accepted by acclamation subject to receipt of her application at the last meeting. Her application had not been received to date. Commissioner McGrady would be working to resolve this issue. He also questioned if Charles McDonald would be

continuing to serve in position #6. Mr. McDonald meets qualifications to be reappointed to position #6 should he be willing however no response had been received from Mr. McDonald.

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

4. EMS Quality Management Committee – 3 vac.

Chairman Moyer stated that a recommendation had been made by Terry Lane for the appointment of Tony Galloway for position #13. *Commissioner Williams nominated Tony Galloway to position #13. All voted in favor and the motion carried.*

5. Environmental Advisory Committee – 1 vac.

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

6. Henderson County Board of Health – 1 vac.

Commissioner Young nominated Dr. Phillip Stanley for position #2 pending receipt of his application. *Commissioner McGrady made the motion to accept Dr. Stanley to position #2 subject to receipt of his application. All voted in favor and the motion carried.*

7. Hendersonville City Zoning Board of Adjustment – 2 vac.

Chairman Moyer stated that Jay Angel is currently serving in position #3 and willing to be reappointed. *Commissioner McGrady nominated Jay Angel for reappointment to position #2. All voted in favor and the motion carried.*

8. Historic Resources Commission – 2 vac.

Chairman Moyer noted that the Historic Resources Commission had recommended the appointment of Alfred Gray, Jr. for position #2. Chairman Moyer nominated Alfred Gray, Jr. for position #2. *Chairman Moyer made the motion to accept Alfred Gray, Jr. to position #2 by acclamation. All voted in favor and the motion carried.*

9. 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.

10. Juvenile Crime Prevention Council – 10 vac.

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

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

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

12. Senior Volunteer Services Advisory Council – 1 vac.

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

13. WCCA Board of Directors (Western Carolina Community Action) – 1 vac.

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

ENHANCED AGRICULTURAL DISTRICTS

Commissioner Williams stated that this project had been on the table for quite some time now particularly with the Agriculture Advisory Committee. Presentations were made earlier in the year by other Counties that were already working with enhanced agriculture districting. We have had agriculture districts in Henderson County for a long time. Those are developed in part for the preservation of farmland and also to head off any mitigation that might result from neighbors coming in and building houses near by farms. Folks would have an opportunity to at least be made aware of the fact that they are entering in and going to live in a farming community; because where there is farming, there are going to be smells, noises, and things that some folks

might consider to be undesirable. There are some added benefits to expanding a program that is already in place and has been in place for some time. There are both economic benefits as well as esthetic benefits to the County. He emphasized the fact that as we consider some of the conservation practices that will be suggested or made available that it is still a voluntary program.

County Attorney Russ Burrell stated that the Henderson County Agricultural Advisory Board has unanimously recommended that this Board adopt the draft modifications, which would provide for "Enhanced Voluntary Agricultural Districts" in Henderson County, and which also changes slightly the criteria for inclusion in the existing Voluntary Agricultural Districts. The primary changes are to lower the size requirements for an agricultural district.

Enhanced Agricultural Districts are those in which the farm owners (meeting certain criteria) have agreed to restrict their property to agricultural uses for a period of ten years. In return, they receive certain benefits, primarily a higher percentage of cost-share funds from government sources. Under this ordinance, membership in regular voluntary agricultural districts is required to be eligible for membership in an enhanced district.

The Enhanced Districts are a layer over and above the current voluntary agriculture district. If someone chooses to become a member of an Enhanced Agriculture District they would restrict their land for a 10 year period of time to nothing but agriculture use. In return they would receive certain benefits, primarily from the State of North Carolina; a higher percentage of the cost share funds for various types of programs that the state offers. You must be a member of a regular voluntary agriculture district under this ordinance to be in an enhanced district. This is not the case in some County's version and Mr. Burrell questioned why they would want to be in the enhanced district if they are not already in the voluntary district.

The revisions to the regular agricultural districts lower the acreage/number of farms required to make up a district from the current 200 contiguous acres or 5 farms within a mile to 100 contiguous acres or 3 farms within a mile.

Chair of the Agriculture Advisory Board (AAB) Theron Maybin stated that the Board was adopted in 1992 and he has been on the Board since it was first established. The AAB has preserved farmland and green space within the county which also provides benefits of tax breaks by having the land in voluntary agriculture districts. He strongly recommended that the Board of Commissioners consider adopting the new proposal.

Soil and Water Conservation District Director Jonathan Wallin spoke in regards to the improvements that have been made through this plan. The Enhanced and Voluntary documents were originally around 25 pages with a lot of repetition; working with the County Assessor and County Attorney, they were able to decrease it to approximately 7 pages. The new document is much easier to understand and flows much better.

County Tax Assessor Stan Duncan stated that some major points had come out of the process. To get the information out to the General Public data fields have already been created in the CAMA software to code partials that are in the voluntary program versus the enhanced program so that when someone pulls up a partial on the GIS system they will be able to see that. In addition, there are requirements that certain perimeters around a partial be displayed to let the adjoining parcels be aware that they are in an agriculture district. The main purpose of this is so that realtors, in particular, can let their clients know where this property is. There will also be information in the Land Records section to alert the paralegals who are coming by to do title searches will be able to see that this land is either in an agriculture district, is the agriculture district parcels, or is somehow affected by that district. He feels that getting this information out will dissipate the usual complaints received about a tractor running late at night, etc.

Chairman Moyer stated that in the FY 2007-2011 Strategic Plan, adopted as part of the consent agenda with

recent changes, strategy 4.1 is to reduce farmland loss and Objective D was to adopt voluntary agriculture districting options to include enhanced agriculture districting by October of 2008. The Committee has done a tremendous job along with Commissioner Williams, Attorney Russ Burrell and Assessor Stan Duncan.

Commissioner Williams made the motion that the Board adopts the proposed amendments to Chapter 92 of the Henderson County Code. All voted in favor and the motion carried.

ETOWAH LIBRARY REQUEST FOR PROPOSALS

County Manager Steve Wyatt stated the County recently completed the new Etowah Branch Library, and operations are now in place in that facility. The building that formerly housed the library is now vacant, and the County has been approached by several groups regarding its use. The Folks from WCCA have made a very attractive proposal. To determine the best option for that facility, the County Manager requests the Board authorize Staff to seek Requested for Proposals from interested parties, staff suggested a 30 day period. Mr. Wyatt has had subsequent conversations with Mike Earle, Vice Chairman of WCCA, and they have a tight timeframe and are looking at several issues that may come in conflict with that date. He felt the Board may wish to establish the 16 September, 2008 as a cut-off date and that the proposals be brought before the Board at the 17, September, 2008 regular Board meeting. This would allow staff the opportunity to put the presentation together. An advertisement would be placed in the Times-News and this would have to be done rather quickly. Contact would be made to the folks directly who had expressed interest and inform them of the deadline.

It was the consensus of the Board that staff would work through the proposals, put the schedules together, and then provide a recommendation at the next Board Meeting, September 17, 2008.

UPDATE ON PROPOSED LAKE ADGER WATERSHED BOUNDARY AND IMPACTS

Planning Director Anthony Starr stated that the Planning Department received today the last information from Polk County necessary for the in-house analysis to check the work that the State had done to see if there were any discrepancies.

Staff provided a map of the proposed Lake Adger Watershed along with a map of current and proposed watersheds in Henderson County.

Chairman Moyer noted that there had been a lot of communication with the Commissioners, and Steve Wyatt had been in constant communication with the County Manager in Polk. At the convention, Chairman Moyer, Selena Coffey, and Commissioner Messer had met with the Commissioner Ted Owens of Polk County and the Polk County Manager and talked about the issue, trying to get a better feel for what they glean from their discussions with the State. His impression was that there was no pressure to act immediately this month, but they would like to wrap it up by the end of the year. Their feeling is that the State is going to continue to push for the Watershed 3 and that if we say "no" that may kill the whole deal. Chairman Moyer does not feel that this will happen, he feels that the State has the power to direct the Watershed and with the way water issues are these days he thinks the State will move in the direction of protecting water sources and push to make this happen. He feels that we are best off to recognize that there will probably be a Watershed there as they have already bought Lake Adger, that there will be some time of protection and we should get the best terms that we possibly can; particularly because Henderson County may wish to get water from this watershed at some point in the future for the southern portion of the County.

The discussions that Chairman Moyer and Commissioner Messer had with Polk County (the same discussions Steve Wyatt had with the Polk County Manager) were along the lines that Henderson County Board of Commissioners support putting the treatment plant on Lake Adger but questioned whether Polk County would guarantee Henderson County a certain amount of treated water to serve the southern end of the County. Discussion were held with terms of up to 500,000 gallons per day being supplied to Henderson County and Polk County felt that this was reasonable but they would have to talk with their engineering people as to whether that was possible. It was also discussed that if Henderson County would decide to put a

reservoir intake further up the Green River that they would not oppose but support such a recommendation if down the road Henderson County wanted to move forward. Polk County responded (during discussions) that under North Carolina law if Henderson County moved up stream, Polk County would have no say. Chairman Moyer feels that when the State has a chance they will look at the whole extent of the river and we would need Polk County's involvement if they are taking water out further down. Polk County will study this and further discussions will be held between the two counties.

County Manager Steve Wyatt briefly updated the Board that he had received communication from Mr. Whitson (Polk County Manager) this morning suggesting September 30 as a joint meeting date of both Boards at 7:00 p.m. in Columbus at the Commissioners' meeting chambers in Polk County's Historic Courthouse.

Chairman Moyer made the motion that the Board set a special called meeting with the Polk County Board of Commissioners on Tuesday, September 30, 2008 at 7:00 p.m. in the Board of Commissioners' meeting chambers in the Polk County Historic Courthouse. All voted in favor and the motion carried.

Chairman Moyer suggested setting up a Water Advisory Board which would have representatives from the public, municipalities and this Board. It would need staff help to do studies and retain information. He asked the Board to consider this and requested that the County Manager place it on the agenda for the next meeting for discussion; the charter and initial view. It should begin initially in the southern end due to the issues we are having at this time.

Commissioner McGrady was in full support of the Water Advisory Board. He felt there were plenty of issues to be covered.

SALES TAX REFERENDUM – UPDATE AND DISCUSSION

The Board received an update, and discussed the sales tax referendum that will be on the ballot November 4, 2008.

Chairman Moyer felt that he was important that a specific statement be made to the public with respect to the sales tax referendum and what the funds would be used for if it were passed in November.

Commissioner Young felt that the public would want to use the money for educational purposes. He recommended that the funds be used for debt service payment on school facilities.

County Manager Steve Wyatt stated that if the referendum were successful in November, the earliest date that the Board would be able to implement it would be April 1, 2009, the last quarter of the fiscal year. You could have a financial revenue effect of the current fiscal year of about 25% of the proceeds. Based on estimates looking at the sales tax he estimated a range of \$475,000 to \$525,000 for this fiscal year. It would be in full effect for the following year and the revenue would be in the \$1.9 to \$2.1 million range for the fiscal year. The sales tax is very fluid based on the economy.

Commissioner Williams inquired about the current debt serving for schools. It was estimated at \$7-8 million. He wanted the public to realize that the sales tax referendum would not come anywhere close to paying off the debt.

Commissioner McGrady did not oppose the concept but questioned if it had voter appeal. The Board is trying to make a clear statement that if the sales tax referendum passes the funds will be used for debts that have already been established and he did not think this had appeal where the voters were concerned. He felt the use should be broader to include new capital projects which have more appeal.

Commissioner Young elaborated on his recommendation by stating that he did not mean that it would pay the debt service on the schools or did not mean that it would pay future debt service, it would be a help on

both.

Commissioner Messer felt that the public needed to be more aware and that they should vote for the sales tax referendum.

After further discussion, Commissioner Young made the motion that the Board earmarks the ¼ cent sales tax revenues for school debt service payment. All voted in favor and the motion carried.

BREAK

A break was taken to change video tapes.

Chairman Moyer called the meeting back to order.

Commissioner Messer made the motion that the Board go into public hearing in respect to rezoning application #R-2008-10. All voted in favor and the motion carried.

PUBLIC HEARING – REZONING APPLICATION #R-2008-10

Planning Director Anthony Starr stated that Planner Matt Card would be presenting this public hearing. He informed the Board also that this would be Mr. Card's last meeting with the Board as he has accepted a job with the Catawba Land Conservancy (a sister organization of the Carolina Mountain Land Conservancy) and will be leaving Henderson County at the end of the month.

Matt Card stated that Rezoning Application #R-2008-10, which was submitted on May 22, 2008, requests that the County rezone approximately 0.83 acres from an Estate Residential (R-40) zoning district to a Community Commercial (CC) zoning district. The Subject Area is one parcel (PIN 9549-28-1451) located at 3751 Brevard Road (US Hwy 64) and owned by Mr. Kevin Brown. The Subject Area is surrounded by single family residential uses to the north, east and west. The Subject Area is located within the Etowah and Horse Shoe Communities Planning Area. Pursuant to §200A-314C(2)e of the Land Development Code the Planning Director initiated this rezoning request.

The Henderson County Planning Board considered rezoning application #R-2008-10 at its regularly scheduled meeting on July 17, 2008. During that meeting, the Planning Board voted 6 to 0 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2008-10 to rezone the Subject Area from an Estate Residential (R-40) zoning district to a Community Commercial (CC) zoning district.

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200A-314 of the Henderson County Land Development Code and State Law, notices of the September 2, 2008, public hearing regarding rezoning application #R-2008-10 were published in the Hendersonville Times-News on August 20, 2008 and August 27, 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 applicant on August 18, 2008 and posted signs advertising the hearing on the Subject Area on August 18, 2008 (see Attachment 6 for Certification of Notice Requirements).

Community Commercial abuts this property to the west, northwest and also to the south. The Plaza of Horse Shoe is zoned Community Commercial and all adjoining properties to the west are also zoned Community Commercial. This property along with the property to the north, northeast and east are zoned R-40 and there is R2 in this area as well.

The Subject Area is surrounded by single family residential uses to the northwest, north and east. The City of Hendersonville does provide public water to the site. According to the County Comprehensive Plan it is located pretty close to a community service center, it is located in urban service area as well.

Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the

rezoning of the subject area from R-40 (Estate Residential) to CC (Community Commercial) which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. Under the current Land Development Code a B1 buffer would be provided for any property that abuts a commercially and residentially zoned area (where two districts meet).

Commissioner Messer asked what the footer on the buffer would be.

Mr. Card responded that the footage would be a 20 foot wide buffer and then every 100 feet you have to plant deciduous and evergreen trees to create an adequate screening.

Public Input

There was none.

Commissioner Williams 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 approves rezoning application #R-2008-10 to rezone the Subject Area from an R-40 (Estate Residential) zoning district to a CC (Community Commercial) zoning district as recommended by the Staff Report. He further moved that rezoning application #R-2008-10 is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. All voted in favor and the motion carried.

Commissioner Williams made the motion that the Board go into public hearing in respect to rezoning application #R-2008-05-C. All voted in favor and the motion carried.

PUBLIC HEARING – REZONING APPLICATION #R-2008-05-C

Senior Planner Autumn Radcliff stated that rezoning application #R-2008-05-C was initiated by the Henderson County Board of Commissioners in March in a regular meeting at the request of the Emergency Services Department. It requests that the County rezone approximately 9.98 acres of a 12.03 acre tract of land owned by Henderson County, from an R1 (Residential One) zoning district to a LC-CD (Local Commercial Conditional District). The Subject Area is located in the Foxwood subdivision off Foxwood Drive, and adjacent to the Henderson County Landfill. The southern portion of the Subject Area is also located in a WS4 water supply watershed.

Before taking action on the request, 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 September 2, 2008, public hearing regarding rezoning #R-2008-05-C, were published in the Hendersonville Times-News on August 20, 2008 and August 27, 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 property owners on August 22, 2008 and posted signs advertising the hearing on the Subject Area on August 21, 2008.

Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). Conditional zoning district decisions are a legislative process subject to the same procedures as traditional zoning districts (See attachment 3).

The Subject Area currently contains a single family dwelling and a large metal structure that was previously used as a carriage house and barn by the original property owners. The portion of the property that directly abuts Foxwood Drive is not included in the rezoning request and will remain R1 at the request of the Foxwood Subdivision homeowners.

There are a number of commercial and residential uses in the vicinity of the Subject Area. Uses consist of

single family residents primarily in Foxwood and Baystone Heights subdivisions to the west, north and east. The Henderson County Landfill, Animal Shelter, school bus garage and NC-DOT maintenance facility are located south of the Subject Area.

According to the Future Land Use Map in the 2020 Comprehensive Plan the area is shown to be in the urban services area. This request is for a Conditional Zoning District which is a new thing that was added in with the Land Development Code and is the first one that we have actually received and processed. Conditional Zoning districts are different from traditional zoning districts because they require a site plan for the proposed use of the property. Certain conditions or restrictions are placed on the property based on the proposed or allowable uses. Conditional zoning districts decisions are a legislative process subject to the same procedures as traditional zoning districts. According to the Land Development Code conditional zoning districts are created for the purpose of providing an optional rezoning choice where the owner of the property proposes to rezone property and, in order to, among other reasons, carry out the purpose of the Comprehensive Plan, proposes to impose special limitations and conditions on the use of the property proposed for the rezoning.

The County proposes to use the large barn and property for emergency services storage and County government storage. It is expected that this use would generate an average of 1 trip per week and would have little to no impact on the neighborhood. Staff held a neighborhood meeting on April 15, 2008 with approximately 30 residents of the Foxwood subdivision to answer questions and concerns and address issues that the neighbors might have. With the conditional zoning district process, the County can impose limitations upon itself to address neighborhood concerns. With that in mind, only the storage by the county and emergency services would be allowed in this facility. Other commercial uses and governmental operations would not be allowed.

Staff suggested the following conditions be imposed on the Subject Area:

- 7.1 The existing structures on the Subject Area shall be used for the storage of emergency service supplies and equipment including the storage of County government records and property. Only storage by the County and emergency services shall be allowed. Other commercial uses and governmental operations shall not be allowed.
- 7.2 Stored items shall be stored indoors. Outdoor storage shall not be allowed.
- 7.3 Lighting mitigation is required. There shall be a minimum amount of lighting for the facility, and this lighting should not adversely affect the surrounding neighbors.
- 7.4 Access to the Subject Area shall be via the Henderson County Landfill. (There is access through Foxwood subdivision and there were a number of neighborhood concerns that the County would be accessing it through the subdivision).
- 7.5 The portion of the Subject Area adjacent to Foxwood Drive shall remain zoned for residential uses.
- 7.6 The existing wooded areas as identified on the site plan shall remain intact and shall comply with the provisions in condition 7.8.
- 7.7 The existing power line right-of-way shall remain open and unobstructed.
- 7.8 The proposed use(s) shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code (LDC Article V and VI).
- 7.9 The Subject Area may be accessed at any time for just cause to retrieve emergency service items stored on the premises.

Chairman Moyer requested that in 7.4 the word “only” be added to read...access to the Subject Area shall only be via the Henderson County Landfill.

Staff supports the rezoning of the property to a Local Commercial Conditional District based on the following:

8.1. The 2020 CCP: The CCP Future Land Use Map places the Subject Area in the “urban service area” classification. The text and map of the 2020 CCP suggest that the Subject Area would be suitable for high-

density residential, commercial or industrial development. The CCP indicates that the USA may be suitable for commercial or industrial development provided the development is in keeping with the surrounding community. A local Commercial Conditional District can ensure that use(s) will be compatible with the surrounding community.

8.2. Adjacent Zoning: The Subject Area directly abuts an existing Local Commercial (LC) zoning district to the south. If the Subject Area were to be rezoned to a Local Commercial Conditional District (OC-CD) this property would be a part of a contiguous LC zoning district.

8.3. Conditional Zoning Districts: Applying conditions or restrictions to the Subject Area reduces and/or eliminates the impact on the surrounding community. There are circumstances in which a general use district designation allowing such a use or all the uses by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of the Land Development Codes conditional zoning districts, the adopted Comprehensive Plan, and adopted district.

The Henderson County Planning Board considered rezoning application #R-2008-05-C at its regularly scheduled meeting on July 17, 2008. During that meeting, the Planning Board voted 6 to 0 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2008-05-C, with modifications to conditions 7.4 and 7.6, to rezone the Subject Area from an R1 (Residential One) zoning district to a LC-CD (Local Commercial Conditional District).

10.1.1. Modifications to condition 7.4: Remove the word primary so that conditions 7.4 reads; Access to the Subject Area shall be via the Henderson County Landfill. Changes are reflected in the staff report.

10.1.2. Modification to condition 7.6: State that condition 7.6 will comply with the provisions of condition 7.8 for the wooded areas. Changes are reflected in the staff report.

Planning Staff recommends that the Board of Commissioners approve rezoning application #R-2008-05-C with the conditions outlined and with any additional conditions as discussed by the Board as it is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

Public Input

1. Robert Payne – Mr. Payne lives at 70 Hounds Chase Drive in the Foxwood subdivision. He is the president of the Foxwood property owners association. Mr. Payne thanked the Planning Department and Rocky Hyder for their openness in meeting with the association back in April and for follow-up opportunities they have been given in order to make this a palatable change in the County zoning regulations. He realizes this is a valuable facility to the County but the property is also valuable to the Foxwood property owners as it represents a residential opportunity as well. This condition will prevent access by County vehicles from entering into the facility via Foxwood Drive. Foxwood Drive is not designed to handle the types of traffic that will be used for storage here; the access road that currently goes into the property is very unsuitable for use. They would like to have the restriction added to 7.4 that it be accessed “only” through the Landfill until the time that this property be returned to residential use.
2. Lewis Case – Mr. Case is an adjacent property owner but not in the Foxwood subdivision. They understand the use of the property by the County but would like to reinforce the recommendations by the staff in 7.4 and 7.6; specifically the wooded buffer area that is directly adjacent to their property.

County Attorney Russ Burrell emphasized that 7.4 should read that access to the “rezoned area” should only be through the Landfill.

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

Commissioner Messer made the motion that the Board approves Rezoning Application #R-2008-05-C based on the recommendations of the Henderson County 2020 Comprehensive Plan, and with the conditions as

noted in the staff report, and the condition by the Board to modify 7.4 that access to the rezoned portion of area be through the Landfill. All voted in favor and the motion carried.

DRAFT MINIMUM HOUSING CODE

Planning Director Anthony Starr stated that in January, staff presented to the Board a draft code. The Board provided direction for revisions to the draft code and the attached code reflects those comments. The new draft is several pages shorter and the language is more simplified. The County Comprehensive Plan and 2007 Strategic Plan (Strategy 3.2, Objectives A & B) identify the need to develop and implement a County Minimum Housing Code. The Planning Department, with the assistance of the County Attorney's Office, Code Enforcement Director, and the Fire Marshall's Office, has prepared the attached draft Minimum Housing Code. The Department took a comprehensive approach to preparing the Minimum Housing Code which included: reviewing existing codes, a comparison of other North Carolina local government minimum housing codes, and a review of recommendations by the International Code Council for minimum housing codes.

A minimum housing code provides protection for a community from absentee property owners, establishes minimum standards a dwelling must meet in order to be fit for human occupancy, helps to remedy and prevent the decay and deterioration of places where people live, protects those who cannot protect themselves, ensures that structures are safe, sanitary and fit for occupancy, and makes the owner of a structure responsible for its maintenance.

It covers residential structures including single and multi-family stick built, modular homes and manufactured homes. The parts covered are lighting, ventilation, heating systems, plumbing, fire/safety, mechanical/electrical systems, and maximum occupancy.

No residents are removed from their houses onto the streets overnight, one individual cannot condemn a dwelling, and the owner/tenant can appeal to the Board of Adjustment.

The changes from the January, 2008 draft are as follows:

- Text is shorter – 8 pages less
- Focuses on the basics
- Section 120-32 Exterior Property Areas: Deleted as exterior areas are covered by the Nuisance Ordinance
- Section 120-33 Private Swimming Pools: Deleted
- Section 120-34 Exterior Structure: Significantly shortened to require weather tight exterior and door security
- Section 120-35 Interior Structure: Text simplified and shorter
- Section 120-36 Handrails and Guardrails: Deleted
- Section 120-37 Rubbish and Garbage: Deleted – Covered by the Nuisance Ordinance
- Section 120-44 Occupancy Limitations: Text is shorter and overcrowding calculation is simpler and less restrictive
- Section 120-53 Toilet Rooms: Deleted – Previous draft contained access requirements and wall/floor surface standards
- Section 120-55 Water System: Text is shorter – Previous draft required the water to be free from contamination and required adequate supply/pressure
- Section 120-57 Storm Drainage: Deleted – Previous draft required proper discharge of water from roofs and paved areas to not cause a public nuisance
- Section 120-62 Heating Facilities: Room temperature requirements lowered from 68 degrees to 60 degrees for heating season – Cooling requirements eliminated
- Section 120-65 Electrical Equipment: Eliminated requirement for electrical outlets in habitable rooms
- Section 120-66 Elevators, Escalators, Dumbwaiters: Deleted

- Section 120-74 Fire Protection Systems: Section re-wrote to match NC Fire Code in effect when dwelling was constructed

Administration and Enforcement

- “complaint driven”
- Zoning officials/building inspectors/other county employees can also report possible violations
- Code Enforcement Services Department would administer the program
- First year cost of about \$67,720 (Personnel, Equipment and Vehicle)

Chairman Moyer stated that this meeting was for overview purposes only and that this item would be placed on the next regular meetings agenda for discussion.

VEHICLE FUEL EFFICIENCY STANDARDS

Assistant County Manager Selena Coffey stated that at the August 12, 2008 meeting, the Board approved fuel efficiency standards for certain vehicle purchases in the FY 2008-2009 budget. The standards by the Board were for small cars, sedans, utility vehicles, full-size trucks, compact trucks and police package vehicles. At that time the Board directed staff to purchase at least 2 hybrid vehicles out of those slated to be purchased and to delay where possible any vehicle purchases where new and better fuel technologies may be used for the 2009 models.

During the meeting staff also committed to work with department heads to evaluate departmental needs to determine which vehicles were best suited for their operations in order to find the most fuel efficient vehicles possible for those operations. As staff has been working with departments on this, they have determined that other options for vehicles may best suit the needs of a couple of departments. Therefore, staff is bringing back additional recommended standards for additional classes of vehicles as you will see in the bottom table of the document below.

Vehicle Fuel Efficiency Standards Approved on August 12, 2008

Vehicle	Standard MPG	
	City	Highway
Patrol cruiser	17	24
Full-size trucks	15	19
Small trucks	19	24
Sedans/Small cars	24	30
Hybrid/Compact utility vehicles	34	30

Vehicle Fuel Efficiency Standards Proposed September 2, 2008

Vehicle	Standard MPG	
	City	Highway
Small station wagons	22	28
Mid-size station wagons	17	24
4WD/crew cab/extended cab trucks	13	17
Cargo vans	13	17
Passenger vans	12	16
Minivans	17	24
Non-hybrid utility vehicles	20	27
Hybrid 4WD utility vehicles	29	27

Ms. Coffey stated that essentially what they were doing is adding more vehicle options. She stated that the numbers for the hybrid 4WD utility vehicles were transposed. The fuel numbers were derived from fueleconomy.gov which is taken from the manufacturer.

Commissioner McGrady made the motion that the Board approves the additional fuel efficiency standards with correction to the hybrid 4WD utility vehicle. All voted in favor and the motion carried.

WATER ISSUES UPDATE

County Manager Steve Wyatt stated that he continued to have some dialog with the City Manager of Asheville, Gary Jackson, along the lines of the city's interest in being a water supplier; their capabilities as they exist, and their potential capabilities and interest. Mr. Jackson has not backed off his interest to see Henderson County use up to 3 million gallons per day through the existing plant/facility. Asheville does have other water resources that seem to be beyond the immediate needs they have. The limitations that were spoken of generally were the inability of the Hendersonville system to take that water. Asheville was willing to see if improvements could be made and interconnections made with other parts of the Asheville system that would perhaps allow additional capacity beyond the 3 million gallons if that is desirable. Hendersonville City customers are faced with water restrictions while the City of Asheville does have a supply beyond what they need; and a desire as a business to sell treated water to customers that are in need as well as a business standpoint.

Chairman Moyer stated that with respect to the current situation most were concerned about the reserved capacity and the City of Hendersonville's system; how quickly they can move water from other systems if there is an emergency. Henderson County is put into an awkward situation as they are not the ones running the system it is the City of Hendersonville. He has heard from a number of people concerned about the situation with the water in Asheville and the problem of planning and he has had discussion with the legislatures, some of which have raised this issue, and basically has been very blunt with them and told them that under the current law we don't have the authority to force joint planning with the municipalities.

The County Attorney Russ Burrell discussed the outcome in the Court of Appeals of City of Asheville v. State of North Carolina, decided 19 August 2008. The City of Asheville challenged the Sullivan Acts; three acts in North Carolina Law, one dating from the great depression and two from just a couple of years ago that essentially restricted its ability to charge differential rates for non-City of Asheville customers to its water facility or to regulate them in different ways (how many gallons – different connection fees). The State of North Carolina, through legislation, effectively regulated the City of Asheville by saying they could not charge different rates for Buncombe County citizens who are outside the city limits of Asheville. Henderson County's contract with the City of Asheville for the Regional Water Authority specifies that the City of Asheville can also not charge a different rate to Henderson County residents. The City of Asheville cannot have different regulations between any of their customers no matter where they are located. Effectively the Court of Appeals said in essence since this system was not built with Asheville City tax dollars and was built with revenues off of the water systems it is not a governmental function but a proprietary function and therefore the legislature can regulate it any way it chooses. He is confident that the City of Asheville disputes this viewpoint and will appeal to the North Carolina Supreme Court.

Chairman Moyer noted that the Henderson County Commissioners have been working with the City of Asheville and putting pressure on them to resolve our issues. They have asked that Henderson County wait until this decision and we now have it. We will be putting pressure on them again to come to grips with our issues. At the Commissioners convention in New Bern there were many good forums; one was on water and in which Commissioner McGrady attended.

Commissions McGrady stated that the Governor and the General Assembly got together and have commissioned both Duke and UNC to put together a statewide set of forms on water issues. The first piece of the discussion was what came to the General Assembly this last session and gave the Governor some more powers but less than what he wanted to deal with water crisis issues as they go forward. The next step in the

process is going to happen sometime soon as the listening process has almost completed. Commissioner McGrady feels that a recommendation will come from Duke and UNC with respect to water generally. It mostly focuses on water quantity not quality because there seems to be a perception that the water quality issue is being addressed in different fashions.

COUNTY ATTORNEY'S REPORT

There was nothing further at this time.

COUNTY MANAGER'S REPORT

Steve Wyatt briefly updated the Board that there was a potential storm "Hannah" that could possibly come through our system in the following week. He was meeting with emergency management officials from South Carolina the next day to discuss possible evacuation scenarios, some of which might add temporally to our residents in Henderson County. As the events warrant, he would keep the Board advised should we need to take any action later in the week.

IMPORTANT DATES

Chairman Moyer reminded the Board that September 10 at 10:00 a.m. is the dedication of the new Technology Center at Blue Ridge Community College.

Honor Air would be having a reunion, a special program and a play called "We interrupt this program" about World War II and they need the Commissioners' meeting room October 5 through October 12 to set up for the play. Tom Orr and Jeff Miller are asking that the Board support the effort. There is a scheduled meeting for the Board on October 6 and Chairman Moyer suggested because of a meeting the following Wednesday, that the October 6 meeting be cancelled. The presentation and event begin October 11 and finish up on the October 12, 2008. *Chairman Moyer made the motion that the Board cancels the October 6 regular scheduled board meeting. All voted in favor and the motion carried.*

Request for three (3) public hearings on permanently closing of easement(s) on the David L. Bayless and Ronald G. Calvert property; on the David M. Bayless property; and on the James E. Schultz, Debra L. Kaufman and Lynn S. Gosnell property's, Hendersonville, North Carolina for October 15, 2008 at 11:00 a.m. *Commissioner McGrady made the motion that the Board set public hearings for the permanent closing of easements on David M. Bayless property; on David L. Bayless and Ronald G. Calvert property's; and on James E. Schultz, Debra L. Kaufman and Lynn S. Gosnell property's for October 15 at 11:00 a.m. All voted in favor and the motion carried.*

CANE CREEK WATER & SEWER DISTRICT

Commissioner McGrady 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. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(3), to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body.
2. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(4), to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

3. Pursuant to N.C. Gen. Stat. § 143-318.11(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 carried.

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