

**DRAFT MINUTES**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
NOVEMBER 3, 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 Clerk to the Board Elizabeth W. Corn.

Also present were: Planning Director Anthony Starr, 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, HR Director Jan Prichard, Erosion Control Division Chief Natalie Berry, Library Director William Snyder, DSS Director Liston Smith, Captain Greg Cochran, Deputy David Pearce, Auxiliary Business Manager Bill Blalock, Deputy Clerk to the Board Teresa L. Wilson, and Public Information Officer Pam Brice.

**CALL TO ORDER/WELCOME**

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

**PLEDGE OF ALLEGIANCE**

Stephen McKinney, Scout Troop 602, led the Pledge of Allegiance to the American Flag.

**RESOLUTION OF APPRECIATION – EAGLE SCOUT STEPHEN MCKINNEY**

The Board of Commissioner recognized Stephen McKinney who recently earned his Eagle Scout badge through his efforts to clean up the Gilbert-Justice Cemetery. The Board adopted a Resolution of Appreciation to Eagle Scout Stephen McKinney and a copy of the resolution is attached hereto and incorporated as a part of these minutes. Chairman Moyer presented the award to Stephen McKinney and a round of applause followed.

**RECOGNATION OF NATIVE AMERICAN VILLAGE DISPLAY WINNERS**

Chairman Moyer announced that there are displays in the hallway on the first floor in the back of building, near the elevator and the restrooms, of Native American Village displays. This is part of the Henderson County Heritage Museum. A tremendous amount of work went into these displays depicting the life of the native American villages. Some were ribbon winners and the ribbons are also displayed. The eighth grade social studies students at Apple Valley Middle School constructed these displays. Their teachers are Cathy Harrington and John Street who were both in attendance. Two of the students were in attendance and were recognized; Jaeyoung Yoo and Casey Maslow. They also received a round of applause.

**INVOCATION**

Commissioner Mark Williams gave the invocation.

**INFORMAL PUBLIC COMMENTS**

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

1. Michael Edney – Michael Edney addressed the issue of Commissioner voting districts. He is a former Commissioner. Redistricting is needed and he knows that. He stated that in 1996 this issue was discussed. He requested the Commissioners to step back from the issue and let a non-partisan or bi-partisan committee handle this so that the Commissioners will not be put in a position of being accused of doing anything. He also asked that the Board take their time

DATE APPROVED:

and study this issue. He, himself, brought up this issue back in 1996 and nothing was done until 2002. He suggested the Board step back and slow down on this issue.

2. Melissa LeRoy – Ms. LeRoy spoke to the issue of the Non-profit Awareness Month Resolution on the agenda today. Ms. LeRoy is the current executive director of the Foothills Equestrian Nature Center in Tryon, NC. She is a graduate of West Henderson High School as well as a graduate of Western Carolina University. She lives just inside the Henderson County line in Saluda, NC. She currently teaches for Duke University all across the State of NC in their non-profit management certificate program. She is also a board member of the NC Center for Non-profits and they are actually leading the charge statewide for the Non-profit Awareness Month. The purpose of the recognition is to educate the public about the contributions that non-profits make every day in the community and help create a better understanding about the value and importance of the sector to our state. Non-profits put in \$29 billion in the local economies of North Carolina. They are growing faster than business or the government sectors in banking. Currently non-profits provide more than 212 jobs, 6% of all jobs in the state of North Carolina. All 100 counties in North Carolina are home to charities such as 501-C3 non-profits, both very large and small non-profits. In Henderson County there are currently 105 non-profits with expenditures of \$1,083,000 with assets over \$377,000,000 just in Henderson County alone.
3. Joe White – Mr. White is the director at Vocational Solutions of Henderson County. He thanked the Board for their consideration of the maintenance of effort funds. This organization has historically been able to support itself with a little help from the county, United Way, and several other organizations. The vast majority of their funding comes from their program services and their business enterprises they operate. The difficult economic times have put a burden on them that they don't normally encounter. The businesses they operate that provide the jobs for people with disabilities are seeing a downturn and the funding for their program services is also down. They are having difficulty making ends meet currently. He stated that they provide a very valuable service to county residents with disabilities. A number of the people that come through their programs are now employed in the community. He asked for the Boards consideration in the maintenance of effort funds and thanked the Board for their continued support.
4. Terry Hicks – Mr. Hicks stated that Vocational Solutions, in any given year, provides service to over 100 people with disabilities. Of those, less than 40 overall qualify for any kind of state funding. "We're trying to do a lot more than what the state promotes us to do. We're trying to make sure this community is well served when it comes to people with disabilities. These current economic times are such that we're seeing an increase in people who are now coming to us who have lost their jobs and are hoping that we can provide them service." He thanked the Board for their consideration.
5. Clint Pollard – Mr. Pollard is with the Blue Ridge Prison and Jail Ministry. They are an organization that has served the Henderson County detention center for the past 10 years. It is completely community funded and is run by volunteers who raise support in the community. They currently have 60 individual volunteers who go into the jail at various times during the week. They are supported by 70 churches in Henderson County and Hendersonville who provide volunteers, bible collections and financial support. They are also supported by a number of local businesses. Their goal is to provide a positive influence both for inmates and staff inside the detention center. They provide for both spiritual and physical needs of the people behind bars. They have nearly 200 volunteer hours every month where people are going in and ministering to those who have been arrested and placed in our county detention center. They have more than 100 bibles that are collected and distributed to inmates during the course of a month. They provide devotional materials, secular books and library for the

inmates to keep them busy and they provide certain material goods such as reading glasses and Christmas gifts. They have started a transitional house for recently released female inmates to help them be assimilated into the community. Due to growth in the government sector, the Criminal Justice Partnership Program is looking for some office space adjacent to the jail. Currently they are housed in the only thing provided for this ministry, a single office. Over 18 months ago they moved from one office to another because the size of the ministry had grown significantly. He stated that some are discussing moving Blue Ridge Jail and Prison Ministry out of its office and having Criminal Justice Partnership come in. He appealed to the Board of Commissioners to become involved and to discuss the possibility of leaving the ministry where it is because of the fact that they have Board of Directors' meetings and multiple volunteers from throughout the community who meet in these offices all during the week, day and night.

6. Jeremy Lively – Mr. Lively works for the public school system. He helps run a program for homeless students and for at-risk students. His title is “Homeless Education Link Project Case Manager”. He stated there is federal legislation that basically determines what he does and how he deals with homeless families and families that live in substandard and inadequate housing. Part of that provides basic rights for these families, including their definition of homeless as being inadequate and substandard housing. He stated that the number of homeless student referrals that Henderson County Public Schools reported to the NC Dept. of Public Instruction jumped more than 50% from 225 in 2006 to 351 in 2008. A significant number of these families live in inadequate or substandard housing. A child's lack of adequate housing really puts them in a difficult position to learn and excel in school. Some statistics show that each time a child switches schools that they fall behind 4-6 months. Older transient youths of high school age have 75% drop-out rate nationally. Twenty eight percent of highly transient students will attend three or more schools in a year. He feels that by instituting a minimum housing code we are providing our most at-risk families with the tools to advocate for themselves and most of all we're protecting the children in our county that attend these schools.
7. Shelley Brown – Ms. Brown stated that Pisgah Legal Services strongly endorses the Minimum Housing Code. She had gathered some background information she wished to share with the Board. She had questioned Mac Sally, the Buncombe County Fire Marshal, who is in charge of the Buncombe County inspections and also Jeff Baker who just recently retired as head of Asheville's inspections. Buncombe County's currently population, not including Asheville and the other municipalities, is approximately 137,000. Henderson County's population that this code would be applicable to is somewhere around 75,000. Buncombe County's minimum housing code went into effect in 1998. Mac Sally gave Ms. Brown an annual number of inspections – if you take the ten year average, they've inspected about 79 houses a year on this complaint driven code. It varies, typically the biggest variant is what the winter temperature is. The colder the winter with no heat in the house, the more calls he gets. The first year was the most complaints with 116 requests for inspections. The year 2004 had a mild winter and they only had 58 requests for inspections. The Fire Marshal estimated that inspection including enforcement process takes on average about 4 hours. Jeff Baker agreed, saying 4-5 hours. Most are accomplished in 1½ hours but if there is an enforcement problem, it could take longer. Based on these estimates, Ms. Brown guesstimated that Henderson County would request around 50 house inspections a year, maybe more the first year but somewhere around that. If you assume 4 hours per inspection, we're talking about 200 hours of staff time. Ms. Brown also relayed that both Mr. Sally and Mr. Baker strongly encourage the enactment of a specific code to give the inspector guidelines as to what is approved and what is not. Both gentlemen also felt that specific guidelines give guidance to the landlords as to what is required and what is inspected so they can be proactive in their rentals as opposed to reactive. She encouraged the Board to include the two pages that were recommended by the Asheville

Housing Coalition. Buncombe County's Minimum Housing Code only applies to rental properties. Asheville City's Code applies to both rental and owner occupied.

8. Diane Dotson – Ms. Dotson is a third grade teacher at Glenn C. Marlow Elementary School. She is also a member of the Henderson County Association of Educators, this year she will serve as their President. She thanked the Board for the ½% increase that the Board approved for teacher supplemental pay. She stated that this is a good beginning. She looks forward to the Board taking further action on supplemental pay increase this year.

She requested that the Board make a formal recognition of American Education Week. That will be coming November 16 – 22. She did not have a draft copy of a proclamation or resolution, not realizing that was protocol.

9. Milton Butterworth – Mr. Butterworth worked for almost 10 years with disadvantaged families in the county through Henderson County Public Schools and Blue Ridge Community Health Services. He asked that the Board strongly consider a minimum housing code that is specific and addresses the needs of Henderson County.

**DISCUSSION/ADJUSTMENT OF AGENDA**

There were no revisions suggested.

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

**CONSENT AGENDA**

*Commissioner Williams made the motion to adopt the consent agenda with corrections to the typo in Consent Agenda Item E (Changes to French Broad River Metropolitan Planning Organization MPO Memorandum of Understanding.) All voted in favor and the motion carried.*

**Minutes**

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

August 12, 2008 – Regularly Scheduled Meeting

**Tax Collector's Report**

Terry F. Lyda, Tax Collector, provided the Tax Collector's Report for information only dated October 24, 2008.

**Financial Report/Cash Balance Report – September 2008**

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

The fiscal YTD deficit in the Emergency 911 Communications Fund is due to the replacement/capital outlay purchases for new computer hardware budgeted in FY2009.

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 timing difference between monthly inter-fund transfers (revenues) to cover liability and property insurance expense, worker's compensation costs, wellness clinic and risk management personnel costs for FY2009.

*Suggested Motion:*

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

**Henderson County Public Schools Financial Reports – September 2008**

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

*Suggested Motion:*

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

**Changes to French Broad River Metropolitan Planning Organization (MPO) Memorandum of Understanding**

An amended Memorandum of Understanding for the French Broad River Metropolitan Planning Organization was included with the agenda to be approved by each of the member governments in the MPO.

The French Broad River MPO has revised its Memorandum of Understanding to reflect the change in Lead Planning Agency from the City of Asheville to Land-of-Sky Regional Council. NCDOT has requested several other changes to the MOU, in part to bring it into compliance with the Open Meetings Law. Substantive changes include:

1. A quorum of 51% of voting members is required for the transaction of all business. If a quorum is not present at a meeting of the French Broad River MPO, it must be adjourned and no business can be conducted.
2. The membership of a county or municipality member who fails to send the appointee or alternate to two consecutive MPO meetings will be designated as a vacant seat and will not count towards quorum. Attendance at future meetings will reinstate the member.
3. The weighted voting provisions (page 6) have been simplified to make them clearer and easier to use.

Both the Technical Coordinating Committee and the Transportation Advisory Committee of the MPO have approved the MOU.

*Suggested Motion:*

*I move the Board approve the proposed Memorandum of Understanding with the French Broad River Metropolitan Planning Organization and authorize execution.*

**Seven Falls Golf and River Clue, LLC, on-premises permit comment**

North Carolina alcoholic beverage control law allows local governments to comment upon the application by private clubs for on-premises consumption alcoholic beverage sale permits. The purpose of the comment is to allow the Alcoholic Beverage Control commission to “be satisfied the applicant is a suitable person and that the location is a suitable place”.

Applications were included in the agenda which were filed on behalf of Seven Falls Golf & River Club, LLC, by Keith Vinson and William Griffin.

Comment by the Board is not required. If the Board wishes to comment upon this, they should do so as a group.

*Suggested Motion:*

*I move that the Board adopts the following as its commentary on this application.*

Henderson County’s Board of Commissioners does not desire to make any comment as to the suitability of these applicants nor as to the location of the prospective permit site. This lack of comment should not be

interpreted in a negative manner.

### **Resolution – Non-profit Recognition Month**

The Non-Profit community of Henderson County has requested that the Board of Commissioners adopts the Resolution provided with the agenda proclaiming the month of November locally as Non-Profit Recognition Month. A copy of the resolution is attached hereto and incorporated as a part of the minutes.

#### *Suggested Motion:*

*I move that the Board of Commissioners adopts the Resolution as presented, proclaiming the month of November as Non-Profit Recognition Month.*

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

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

A request from Nedra Moles, Register of Deeds was attached for the Board's consideration to use the Register of Deeds Restricted General Fund Balance for indexing system upgrades and archival document conversion. The budget amendment which is attached hereto and incorporated as a part of the minutes, appropriates \$88,000 requested from the restricted general fund balance for this purpose. Completion of the implementation changes is anticipated to be completed by January 1, 2009.

#### *Suggested Motion:*

*I move that the Board of Commissioners approves the request by the Register of Deeds and the associated budget amendment to use Restricted General Fund Balance for the purposes indicated.*

### **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.

The following roads were included in Twin Brooks Subdivision:

Twin Brooks Drive  
Leverette Drive  
Causby Lane

#### *Suggested Motion:*

*I move the Board approves the petitions and forward them to NCDOT for action.*

### **Soil and Sedimentation Erosion Control Update**

The required paperwork has been submitted to NC DENR and all monies received involved with the grant contract L09004 prior to the 08-09 budget year.

- \$33,784.80 grant

The erosion control division has been in operation for one year.

- Processed 56 erosion and sedimentation control plans. Note: Land disturbance  $\geq$  1 acre.
- Amount of land disturbance? 414.37 acres

Amount of permit application fees for these reviews? \$145,500.00 Note: Budget Revenue 2007-2008 projected \$159,795.00

- Fell short \$14,295.00 but funds were from October 1, 2007 to June 30, 2008 not a full fiscal year.

- July 1, 2008 – October 22, 2008
- \$26,000.00 (12 sets plans) + \$10.00/sketch plan x 190 = \$1900.00
- Total \$27,900.00
- Processed approximately 780 sketch plans during the first year. Note: Land disturbances < 1 acre
- Processed 255 complaints, out of which 244 have been resolved
- Complaints being resolved within 15 business days.
  - 75% of the complaints are being resolved in less than 15 business days
- Large Scale Plan reviews are going well (>1 acre)
  - The goal for review of plans was initially set to be 15 days or less. The average being around 12 days. Thirty-one (31) of the submittals have met the 15 day turnaround.

Goals for Next update from May 5 2008 presentation

- Plan reviews for large scale plans
  - Striving for 100% reviews being done under 15 days. Have not achieved this goal yet – at 70%
  - Striving for 85% complaints being resolved in less than 15 business days. The goal before was 85% in less than 30 days.

DENR Review of Local Program – August 12, 2008

- Gray Hauser PE, State Sedimentation Specialist with North Carolina Department of Environmental and Natural Resources (NC DENR) Raleigh Office conducted a local program evaluation. Good visit
  - Pleased with our record keeping
  - Prompt inspections of permitted sites
  - Impressed with response time to complaints

There were a few suggestions that were implemented immediately as follows:

- All local Erosion and Sedimentation Programs monitor ground cover more aggressively. Reason: Developers of large scale projects have been walking away from projects and leaving them unattended due to the economy.
- Use standardized forms located on their website for notice of violations and citations. Reason: Some local programs have had cases overturned in court.

**Maintenance of Effort Fund Allocation**

Henderson County has \$528,612 mandated for allocation for the provision of mental health services in the county for the period between November 1, 2008 and October 31, 2009. At their last meeting, the Board directed the County Manager and Arthur Carder with Western Highlands LME, to allocate \$450,000 of the available funds, leaving \$78,612 in reserve, and to stage the payment schedule. The County Manager has reviewed the applications and is recommending the allocation of \$440,000 at this time, leaving a balance of \$88,612 in Maintenance of Effort funds to be allocated throughout the remaining fiscal year.

The specific recommendations are:

<i>Blue Ridge Community Health Services</i>	<i>\$30,000</i>
<i>Henderson County Health Department</i>	<i>\$30,000</i>
<i>Mainstay</i>	<i>\$25,000</i>
<i>Sixth Avenue Psychiatric Rehabilitation</i>	<i>\$200,000</i>
<i>The Free Clinics</i>	<i>\$125,000</i>
<i>Vocational Solutions</i>	<i><u>\$30,000</u></i>
<i>Total</i>	<i><u>\$440,000</u></i>

No funds are currently recommended for Parkway Behavioral Health, but may be reevaluated in April, 2009.

Additionally, Staff proposed that the payment schedule be staged so that 50% of the allocated funds would be paid in November, 25% would be paid in February, and the final 25% would be paid in May. An

exception to this payment schedule would be the Henderson County Health Department, who would be paid in increments of 1/3<sup>rd</sup>, in November, February and July.

Suggested Motion:

*I move the Board appropriate \$440,000 of Maintenance of Effort funds at this time as recommended by the County Manager, and direct Blue Ridge, the Health Department and Mainstay to work with the Western Highlands LME on contracts to move services into a billable process.*

### **AMERICAN EDUCATION WEEK**

The Board was asked to adopt a resolution supporting November 16 – 22, 2008 as American Education Week. Chairman Moyer explained that the Board's next meeting will be too late to adopt such a resolution. He asked for the Board's

*Commissioner McGrady made the motion that the Board adopt a resolution supporting American Education Week November 16 – 22, 2008, with direction to the Manager and the Chair to create the appropriate resolution reflecting the Board's support. All voted in favor and the motion carried.*

### **NOMINATIONS**

#### **Notification of Vacancies**

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

1. **Board of Directors of the Henderson County Historic Courthouse Corp. (which does business as the Henderson County Heritage Museum Board) – 2 vac.**
2. **Cemetery Advisory Committee – 1 vac.**
3. **CJPP (Criminal Justice Partnership Program) – 2 vac.**
4. **Etowah/Horse Shoe Communities Planning Committee – 1 vac.**
5. **Fire and Rescue Advisory Committee – 2 vac.**
6. **Henderson County Planning Board – 1 vac.**
7. **Henderson County Zoning Board of Adjustment – 2 vac.**
8. **Hendersonville Planning Board – 1 vac.**
9. **Historic Resources Commission – 1 vac.**
10. **Home and Community Care Block Grant Advisory Committee – 4 vac.**
11. **Laurel Board Planning Board – 1 vac.**
12. **Library Board of Trustees – 1 vac.**
13. **Recreation Advisory Board – 1 vac.**
14. **Travel & Tourism Committee – 4 vac.**

#### **Nominations**

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

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

Chairman Moyer stated that Sheriff Davis had recommended the appointment of Detective Carol Coss for position #6. Commissioner McGrady nominated Detective Carol Coss for position #6. *Chairman Moyer made the motion to accept Detective Carol Coss to position #6 by acclamation. All voted in favor and the motion carried.*

2. **EMS Quality Management Committee – 1 vac.**

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

3. **Environmental Advisory Committee – 1 vac.**

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

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



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

**5. Historic Resources Commission – 1 vac.**

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

**6. 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.

**7. Juvenile Crime Prevention Council – 9 vac.**

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

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

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

**REQUEST FROM SCHOOLS – USE OF COMMISSIONERS’ MEETING ROOM AND HCTV 11**

The Board of Commissioners’ was asked to consider a request from the Henderson County Board of Education regarding the location and broadcast of workshops and other such meetings on a trial basis. Specifically, the Board of Education requested the Commissioners’ allow them to hold these meetings in the Commissioners’ meeting room at the Historic Courthouse and to consider allowing broadcast of the Board of Education workshops and meetings on HCTV Channel 11. Allowing the Board of Education to hold such meetings in the Commissioners’ meeting room would also allow them to record those meetings in a format that would be compatible with Henderson County’s broadcast equipment.

*Commissioner Young made the motion that the Board of Education be permitted to hold workshops and other such meetings in the Commissioners’ meeting room, and that those meetings be broadcast on HCTV Channel #11 and request that Joint Facilities Meetings also be held here and taped to be shown on Channel #11. All voted in favor and the motion carried.*

**UPDATE ON PENDING ISSUES**

This is an effort to keep the lines of communication open. It allows commissioners and staff an opportunity to bring the full Board up to date on issues that occur between meetings. It is also a time for staff to ask for direction so that the County’s public positions on current and upcoming issues can be developed. Individual commissioners will also be given the opportunity to report on related committee work and assignments.

Topics for this meeting are as follows:

**Economic Issues/Budget Impact**

The Board had given direction to staff to look at the budget and try to build a cash reserve of \$1,400,000 to \$1,500,000 in preparation for what looks like very difficult economic times.

Steve Wyatt explained, per his memo dated October 20, that at the October 15 meeting the Board took action to support the hiring freeze that had been placed at the administrative level which affects approx. ten (10) open positions throughout the county workforce and also directed with a target of about \$1,400,000 reductions in operational costs for the FY budget be identified. The proposed reductions assume the following guidelines:

1. That the reductions be on-going and sustainable. This means that we have looked for reductions that are recurring and the reductions are not simply delays in expenditures.
2. That we minimize the impact of the cuts on “essential services”, defined as those that directly impact health and safety.

Please see attachment for the proposed reductions – Memo to Commissioners from the County Manager dated October 20, 2008, showing reductions of \$1,500,000.

Additionally, staff has cut funding from Enterprise Funds totaling approximately \$231,800. Combined with the General Fund reductions, staff has cut a grand total of \$1,731,800.

Steve Wyatt stated, given the volatility of fuel expenses, we have not calculated a savings in this area. This plan proposes freezing 10 positions and employing a reduction in force (RIF) to eliminate 10 additional positions. It also includes reducing the number of vehicles scheduled for purchase this fiscal year from 21 to 18 (3 vehicles eliminated). Details of the cuts are attached to the Oct. 20 memo. Mr. Wyatt explained that the proposed cuts are county wide.

There was some discussion regarding the proposed 2.5% decrease to non-profits. Commissioner McGrady stated that this amount could be critical to the non-profits. Chairman Moyer agreed that these proposed cuts could be critical to the non-profits and stated that if the Board leaves non-profits as is, then they should go on notice that if these economic times continue they can expect cuts next year.

Chairman Moyer made a recommendation concerning the cuts to the HRD (Human Resource Department), stating that they took a hard look at the Christmas luncheon that is normally held for employees and decided to cut that \$23,000. In place of that luncheon, Chairman Moyer suggested having a drop-in with heavy hors d'oeuvres instead of a full meal and have it in the big community room of the historic courthouse, saving the fee for the Grand Ole Hall at Highland Lake Inn. It was estimated that could be held for about \$6,000.

*Chairman Moyer made the motion to approve the list presented with two changes:*

- 1. Leave the non-profits as is but putting them on notice that they may be cut next year*
- 2. Eliminating the \$23,000 for the employee luncheons but inserting \$6,000 for the drop-in as mentioned above.*

*All voted in favor and the motion carried.*

Chairman Moyer thanked Steve and staff for their diligence in working on this hard task.

Commissioner McGrady asked that the budget issue be kept on the Board's on-going agenda as we get more up-to-date sales figures.

Shop/Dine Henderson County. Chairman Moyer asked Steve Wyatt if he had any update on this economic development effort. Mr. Wyatt had nothing at this time.

### **Engineer Agreement with McGill & Associates FY09 Stormwater Master Plan – Henderson County Engineering**

As directed by the Board during the September 17, 2008 and October 15, 2008 Board of Commissioners meetings, Engineering staff has negotiated a proposed Engineer Agreement with McGill & Associates to perform the FY09 Stormwater Master Plan. Also during the September 17 meeting, McGill & Associates was selected as the most qualified firm to perform the Master Plan. In addition to the agreement with McGill & Associates, Lapsley & Associates will be working with them under a sub-agreement to perform portions of this project.

The Master Plan will inventory existing conditions within critical areas of the County, model stormwater, develop and prioritize improvements and develop a proposed Stormwater Ordinance for the Land Development Code. The Stormwater Ordinance will create a delegated Stormwater Program from the State similar to the County's delegate Erosion Control program begun in October 2007. In turn, a County Stormwater Program would not be an additional expense to our community; it would simply move the Stormwater fees (and possible job) from Raleigh to the County. The approved Clean Water Management Trust Fund Mini-Grant and local match will fund this Master Plan. Staff provided further information on Stormwater Management and a County delegated program, attached as part of the agenda.

The proposed agreement with McGill & Associates to perform the above scope of services is \$70,000. The scheduled completion of the study is March 2009 which will allow staff to incorporate proposed findings into the FY 2010 budget process. The funding for the Master Plan is from the approved Clean Water Management Trust Fund grant of \$50,000 and the local match of \$20,000 which is included in the FY1009 budget.

Staff requested the Board authorize the County Engineer to execute the proposed agreement for \$70,000 with McGill & Associates to conduct the FY2009 Stormwater Master Plan.

Chairman Moyer had raised a question and asked Marcus Jones to take a look at was the number of permits that are filed with the state, what kind of revenue they produce, and whether they are in line with what his projections were for the program if we adopted it.

Marcus Jones reviewed a PowerPoint presentation with the Board. The Board had seen the PowerPoint presentation earlier. A copy of the presentation is attached as a part of these minutes. **Updates to the earlier information** – Marcus had called Mark Randall with DEHNR and got an update. Initially after their first month they were experiencing about 20 permits per month and has ended up being 6 permits for the past 3 ½ months. That equates to 24 permits annually at the state fee of \$505 that's a little over \$12,000 revenue that is currently going to Raleigh. At a rate of two permits a month a stormwater permit program could easily be managed with existing staff with the addition of those revenues generated. The stormwater permits can be reviewed in conjunction with erosion control, requiring less time than separate reviews. Marcus and Natalie are in favor of a stormwater permit because it provides flexibility to them to manage revenue and maintain building inspections, erosion control, possibly stormwater as a self-sufficient entity. With the revenues for erosion control and the revenues for stormwater, through the efficiencies of doing them together, they both think they can generate some flexibility and be able to offset programs that are having difficulty with programs that are more fortunate at that time. Should the amount of permits increase, we may need to look at additional staff at that time. Marcus stated that should the permit become a financial burden, the county can discontinue the delegated program and then the state again assumes the jurisdiction. A county program would not be an additional regulation to our citizens or an additional expense. It is possible that a delegated program could be more restrictive than the state program and that would have an associated cost. That would be the case only if the Board approves a program that is more restrictive than the state's program.

#### Staff Recommendations:

- Approve the proposed Agreement with McGill and Associates and continue with the Grant Agreement as approved.
- With the information from the Master Plan and possibly under better economic conditions, consider the ordinance for a Delegated Program at the end of the Grant process or "shelf" it.

Commissioner McGrady stated (as a matter of disclosure) that he is a member of the Clean Water Management Trust Fund. He supports authorizing the County Engineer to execute the proposed Agreement. He stated we're not adopting an ordinance here yet, we're just putting together a plan. We've got a grant to pay for putting together the plan and putting together a draft ordinance and he thinks we should do so. He feels it is premature to make a decision at this time regarding a delegated program.

Commissioner Williams suggested that we survey other counties to see who else is doing a delegated program.

If we don't accept this grant now, the money will go elsewhere.

Commissioner McGrady feels that if we allow the State to do this, it will affect Henderson County in a negative way.

Following discussion, *Commissioner McGrady made the motion to authorize execution of this Agreement by the County Engineer, the proposed agreement for \$70,000 with the change that has been suggested, that we remove the portion that relates to drafting a draft ordinance, rely on the State's model to begin with, and that we add a fifth critical or study area. A vote was taken and the motion carried three to two with Commissioners Young and Messer voting nay.*

### **Sales Tax Referendum**

Chairman Moyer reminded everyone that this item will be determined tomorrow as folks go to the polling places and vote. The Commissioners have tried to make a case for the sales tax and why it is needed.

### **BREAK**

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

### **Minimum Housing Code**

Chairman Moyer explained that the Board had recently had a public hearing with respect to this issue and the Board deferred acting on this issue until staff had a chance to respond to some of the comments and issues that were raised.

Anthony Starr has had conversations with different groups for the last several weeks regarding this issue. He took the comments from the last public hearing and the September 17 meeting about specific suggestions regarding the ordinance from Pisgah Legal Services, Affordable Housing Coalition, the League of Women Voters and others. Some of them were very specific and allowed him to develop a list for the Board in a PowerPoint presentation that was distributed tonight for each Commissioner to review.

One issue brought up for discussion was rental versus owner occupied. Certainly this is a possibility. The County Attorney could have to comment on whether it is legal or not. Mr. Starr felt there would be some resistance from the real estate community if rental units were singled out and it wasn't applied to owner occupied units. The vast majority of the issues that will come up will be associated with rental properties.

Mr. Starr reviewed the following with the Board:

- Trying to reduce the program administration costs – after talking with Steve Wyatt and county staff he felt an option we could execute would be to have the inspections division administer the program with existing staff, given that some of the inspection levels have dropped off. We could do this with no additional staff or equipment and limited operational cost, maybe fuel on the high side of \$3,000 per year. Steve Wyatt informed the Board that this would be done without asking for additional fuel costs, it could be done within the current funds available.
- There was a request to insert tenant notification requirement in the ordinance. Currently the draft does not include that. Anthony stated that when tenants use P.O. Boxes, that may prove to be difficult to administer and find those. He said we could make it a practice of notifying tenants but not necessarily make it an ordinance requirement so that if it was proven difficult to find or they weren't using their physical address as their mailing address it would not cause any problems or stumbling points for staff in terms of administration.
- Request to change the appeal period from 10 to 20 days from the notice or order of decision. Currently the ordinance specifies a 10 day period from which they can appeal to the Board of Adjustment from the Code Official's decision. Some of the comments from the Carolina Real Estate Group were that they were concerned that if someone was out of town ten days might not be sufficient for them to respond so they requested a 20 day notice. Anthony Starr thought that was a reasonable request, staff has no objections to that.
- Reinsert grading and drainage provision in section 32-b of the January draft. This was deleted in its entirety from the January draft and it does not appear in the current draft. Standing water is addressed by the nuisance ordinance because it is a breeding ground for mosquitos; however, the current nuisance ordinance would not apply to soil erosion issues such as this provision does. Our

soil erosion ordinance does not apply to existing homes that are not under construction. The only gap by deleting that would be the soil erosion part but the stagnant water is covered by the nuisance ordinance.

- Reinsert the sidewalk provision. This was also deleted and is not in the current draft. The text requires that all sidewalks, walkways, etc. be kept in a proper state of repair and maintained free from hazardous conditions. That would be another option for the Board to look at.
- Reinsert the rodent infestation provision in section 32-d of the January draft. This was deleted by its entirety because it was covered by the nuisance ordinance for the interior sections and in section 38 of the current draft covers the exterior portion.
- Reinsert the accessory structure provision of section 32-f of the January draft. This was deleted in its entirety and no provision in the current ordinance. In the current draft the ordinance would not apply to accessory structures. It only applies to habitable structures with a dwelling in them.
- Reinsert the first sentence of the protective treatment provision, section 34-b in the January draft. The text was deleted. The draft states all exterior structures including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good safe condition.
- Revise the text of exterior walls provision. This is section 34-f in the January draft and 34-e of the current draft. It was shortened from the previous draft. The recommended text is that all exterior walls shall be free from holes, cracks, and loose or rotting materials.
- Reinsert roof drainage provision of section 34-g of the January draft. This text was also deleted. Current reads that the roof and flashing shall be sound, tight, not have defects that admit rain and so on.
- Reinsert overhanging extension provision of section 34-i in the January draft. This entire section was also deleted. Overhanging extensions would involve things like canopies, marques, signs, metal awnings, fire escapes, standpipes and exhaust ducts. In a single family application I'm not sure this applies very often. It probably would apply mostly in a multi-family situation.
- Reinsert stairways, decks, and porches provision of section 34-j. This was also deleted and no such provision regarding the exterior maintenance of stairways, decks, porches, and balconies is included in the current draft.
- Reinsert handrails provision. This was also deleted and is not included in the current draft. It basically goes on to say that the handrails should be fastened and capable of supporting its intended load and maintained in good condition.
- Reinsert former window, skylight, and door frames provision of section 120-34-m of the January draft. This text was shortened. The new draft requires weather tight windows but the operable window provision is not included. I think what they were suggesting is that #2 on this page be reinserted. I'm not certain that they suggested #1. #1 basically would be like window tinting and that kind of thing. You can see the current text is basically just the first sentence. It does not include the #1 or #2 subsections.
- Reinsert window screen provision of section 34-n of the January draft. This text was deleted from the current draft and there's no such provision. It deals with screens that unless you have central air or some sort of air curtain then you'd have to have screens in all of your operable windows. This requirement is not included in the current draft.
- Reinsert the basement hatchway provision. This was also deleted and it basically requires that they be maintained to prevent the entrance of rodents, rain, and surface drainage water.
- Reinsert the door security provision of section 34-r and this text was shortened from its current draft. The text in yellow is what is in the current draft and sections 1, 2 and 3 there are no longer included in the current draft.
- Reinsert former provision of section 120-35-c. This deals with interior surfaces. It says that all interior surfaces including windows and doors shall be maintained in good, clean, and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected. No such provision is in the current draft.

- Reinsert former stairs and walking surfaces provision in section 35-d. This is not included in the current draft and it required that every stair landing area and so forth be maintained in sound condition and good repair.
- Reinsert the former handrails and guards provision of section 35-e in the January text. This is also not included, similar to the other provision except that it says that every handrail shall be firmly fastened, capable of supporting normally imposed loads. He said one section deals with exterior and one deals with interior handrails. This is the exterior section.
- Reinsert water contamination provision. This was deleted from the previous draft and basically goes on to say the water has to be maintained free from contamination. There is no such requirement in the current draft.
- The water supply provision was requested to be reinserted. Currently there is no such provision for maintaining a water supply via plumbing fixture devices of sufficient volume or pressures for them to function properly. That is not in the current draft. Anthony Starr felt that goes mainly toward well situation. In municipal water systems that is typically not a problem.
- Reinsert storm water drainage provision 120-57. This dealt with drainage of roof and paved areas, that they not be discharged in a manner that creates a public nuisance. This is not covered under the current draft or in any other ordinance that we currently have.
- Change text for heating requirements to 68 degrees. The text was changed. The cooling requirement was deleted based on some of the comments that we got several months back. The new draft requires heating capability of 60 degrees. All the other text remains the same. Anthony Starr felt this was one area the Board could look at. It probably is an associated fire hazard if the heating system is not able to heat to a certain level, then the occupants may employ auxiliary heating devices which increase the risk for fire hazard and fires.
- Reinsert the combustion air provision of 120-63. This talks about more of a technical nature, the supply of air for complete combustion of the fuel systems employed. There is no such requirement in the current draft.
- Reinsert electrical outlet provision. Basically this provision required two outlets in every room. There is no such requirement in the current draft.

Anthony Starr was available to answer questions from the Board.

Russell Burrell stated that he was fairly confident that it will be a far stronger basis for the county to regulate the inter-reaction between a landlord and a tenant than it would be for the Board to deal with the issue of an owner occupant. He thinks the Board has a greater basis of authority of exercising that power to regulate the relationship between landlord and tenant. The Board would have a much more difficult time, absent eminent danger, regulating an owner occupant. He thinks the Board would be fine limiting it to rental properties.

Chairman Moyer expressed that he felt the Board should start small and take small steps, get some experience and see where to go rather than jumping in full-blown. He thinks we have a good minimum code, expressing concern about two areas – water quality and heating. He thinks the Board should discuss changes in those two areas.

Following discussion, *Chairman Moyer moved approval of the draft used for the public hearing with the two changes mentioned above (water provision and heat to 65 degrees), to delete section 120-31C regarding the condition of auxiliary buildings, and deleting items d–g regarding exterior structures.*

More discussion followed, especially regarding making this applicable to rental units only. Anthony Starr explained that in section 120-1C, scope – “the provision of this code shall apply to all existing dwellings” could be changed to all existing rental dwellings.

*Chairman Moyer restated and amended his earlier motion – motion to approve this draft dated August 20 which was provided for the public hearing adding the provision with respect to water quality, changing the*

*heat to 65 degrees from 60, changing section 121-C- the scope, just to apply to rental dwellings, and to delete in its entirety section 120-31C. All voted in favor and the motion carried unanimously.*

Chairman Moyer asked Anthony Starr to make those changes and get it back to Chairman Moyer and Russ Burrell to review. If there seems to be anything controversial, he'll bring it back to the Board, if not it stands adopted.

Anthony Starr informed the Board that staff may bring back an item on the contamination issue for further clarification.

### **Commissioner Redistricting**

There have been several speakers address this issue with former Commissioner Mike Edney addressing the Board this evening.

Board discussions showed that the Commissioners felt this should be put off until after the new census count is done in 2010.

Commissioner McGrady felt that once we have new census numbers changes can be made to make it more competitive for the county commissioners, meaning more people are capable of running for office.

## **STAFF REPORTS**

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

Nothing further at this time.

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

Steve Wyatt stated that work on the 2010 census has begun. Late on Friday a coordinator with the Federal Census Bureau visited Henderson County to begin the process. Steve had a staff meeting today with some folks to discuss coordination. Steve's suggestion was to invite this individual to an up-coming LGCCA meeting to introduce the census process to the LGCCA representatives. Mr. Wyatt said he also had had a request for some office space.

Steve Wyatt briefly addressed the issue of jail ministries that was mentioned earlier in the meeting – He had received a call this afternoon and had a chance to look into it. He and staff have made other arrangements. The office of sentencing services (a state mandated agency) is a new operation, they were looking for office space. He thinks they have found a way to locate them in the same vicinity without dislocating the jail ministry. He feels the jail ministry does a commendable job working with our jail population.

## **IMPORTANT DATES**

Chairman Moyer asked the Commissioners to mark December 5 on their calendars from 10-2:00 p.m. for the employee Christmas drop in. It is a Friday.

Chairman Moyer stated that Commissioner McGrady has a conflict on November 19 and cannot make that Board meeting. Commissioner McGrady is on the 21<sup>st</sup> Century Transportation Committee and likely the final meeting of the committee to recommend all the issues related to secondary roads and other transportation projects is now set for the 19<sup>th</sup>. It is important that he be there representing counties. Commissioners looked at their calendars to change that meeting but there were too many conflicts. It was decided to leave the meeting scheduled for Wednesday, November 19. Commissioner McGrady just won't be in attendance at it.

### **Set Public Hearing on Rezoning Application #R-2008-11.**

Rezoning Application #R-2008-11, which was submitted on July 11, 2008, requests that the County rezone approximately 4.54 acres of land from an R-1 (Residential One) zoning district to an I (Industrial) zoning district. The Subject Area fronts Old Hendersonville Road (SR#1537) and is comprised of two tracts currently owned by BTD-Asheville, LLC (PINs 9652516225 and 9652516447).

The Henderson County Planning Board considered rezoning application #R-2008-11 at its regularly scheduled meeting on September 18, 2008. During that meeting, the Planning Board voted 9 to 0 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2008-11 to rezone the Subject Area from an R-1 (Residential One) zoning district to an I (Industrial) zoning district.

Before taking action on the rezoning application, the Board of Commissioners must hold a public hearing. Staff proposes that the hearing be scheduled for Wednesday, November 19, 2008 at 9:00 a.m.

*Commissioner McGrady made the motion that the Board schedule a public hearing for Rezoning Application #R-2008-11 for Wednesday, November 19, 2008 at 11:00 a.m. All voted in favor and the motion carried.*

**Cancellation of December mid-month meeting**

Chairman Moyer was in favor of cancelling the December 17 meeting due to the busy holiday season. Following some discussion, *Chairman Moyer made the motion to cancel the December 17 Board meeting. 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, in order to consider and give instructions to the attorney with respect to the following claim: Harris v. Wyatt
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)(5), to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease.
4. 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:

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Elizabeth W. Corn, Clerk to the Board

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William L. Moyer, Chairman