

DRAFT MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
FEBRUARY 2, 2009**

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, and Clerk to the Board Elizabeth W. Corn. Attorney Russ Burrell was absent.

Also present were: Associate County Attorney Sarah Zambon, Deputy Clerk to the Board Terry Wilson, Public Information Officer Pam Brice, Finance Director J. Carey McLelland, Research/Budget Analyst Amy Brantley, Planning Director Anthony Starr, Engineering Director Marcus Jones, and Officer Ben McKay.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Master Hunter Rogers of the "Run Abouts 4-H Club" led the Pledge of Allegiance to the American Flag.

INVOCATION

Steve Wyatt gave the invocation.

Chairman Moyer stated that last Thursday evening he went, along with Commissioner Messer, to Statesville to represent the Board of Commissioners. They had the Main Street Awards for projects and developments on Main Streets throughout the State of North Carolina. He was pleased to accept, on behalf of the Board, the North Carolina Main Street Center award to Henderson County for the best public building improvement which is the building we are currently in – the Historic Courthouse. He presented that award to the Board of Commissioners. They also presented an award, which he accepted, for Steve Wyatt as County Manager and for David Nicholson as the previous County Manager. There was only one winner in this category. Chairman Moyer thanked Pam Brice who helped put together the application, worked with Downtown Hendersonville who actually submitted the application on behalf of Main Street and listed the Board of Commissioners as a worthy recipient.

Chairman Moyer presented Steve Wyatt with his award.

INFORMAL PUBLIC COMMENTS

1. David Vaughn – Mr. Vaughn stated that he was pleased to see in the newspaper today that the Board of Commissioners is not letting up on the "dog" issue. He stated that he is unable to stay for the meeting because he has to be at work at 5:00 a.m. He stated that he knows this can be done because he had in his hand a large list of municipalities across the country who have taken action. He is not asking for a ban on these dogs. If people feel they need them or want them, they just ask that they be confined so that they don't do damage and the general public can be protected from the uncertainty of "if and when" one will attack. This past Friday night WLOS had two stories about pit bull attacks. One was an 11 year old boy who was rescued by two girls, friends of his, just after he had gotten off the bus. The other was an elderly lady who required about 13 stitches to close the wound on her leg. As the Animal Control Board suggested punishing the dog or the owner after an incident is kinda like locking the barn door after the cows spent the night in the cornfield.

DATE APPROVED _____

2. Robert Ballard – Mr. Ballard read a letter from one of the members of the Green River Community Association. “The Green River Community Association is extremely disappointed in the Commissioners’ approach to membership on the Water Supply and Distribution Task Force. Since many citizen members have been appointed from other areas in the county, we do not understand why the Green River community has no representation. Flat Rock, our neighbor, has two and we have none. Fletcher has two, Mills River has two, Laurel Park has two and we have none. The Commissioner representing Green River is also not on the elected members of the Task Force. It isn’t that there are no water issues of interest to the residents in Green River. Cobblestone was an issue a few months ago, Pinnacle Falls was before that. A water system and supply located in Tuxedo may be sold to the South Carolina interests. The Lake Adger watershed classification question is of great importance to the Green River area and also involves water to be transferred to South Carolina. At this point, we have to ask if meetings of this Task Force will be open meetings so that we can at least watch and listen as people from other parts of the county identify and evaluate solutions regarding water supply needs.”

Chairman Moyer informed Mr. Ballard that the meetings are open. The first one was held in this room and taped and will be shown on Channel #11.

3. Melissa Myers – Mrs. Myers was present once again to talk to the issue of “pit bull dogs”. She said she would be present every month until she feels there is a resolution to help keep the residents of Henderson County safe. Her family has had to borrow \$2,000 to build a fence which looks like a cage (six feet tall) for their back yard to keep their children safe from their neighbors’ pit bulls. She doesn’t allow her children to play in their front yard since it is not fenced. She takes them to the park. She told the Board that she appreciates that the Board is still considering this issue. She trusts that the Board will represent the county and take care of the citizens of this county. She stated she is not asking the Board to destroy these animals or ban them. She is requesting that the Board make stricter penalties so when these dogs get out. She hopes she doesn’t have to read of a child being killed by a pit bull.

Mrs. Myers also noticed that the Board has three vacancies on the Animal Services Committee. She asked that she be considered for one of those vacancies. She stated she has a deep concern for the citizens of Henderson County and she also has a deep concern for animals. She would like to be on that committee to help keep the residents safe and to handle animal issues for the county.

4. June Barnwell – Mrs. Barnwell said thank you to the Board for opposing any open shooting range at the Edneyville Justice Academy. “It is a sad state of affair when our local representative, our county commissioners and the citizens of Edneyville cannot remove such an undesirable, detrimental range to a more remote area on the thousands of acres the state owns. We request your continuous effort to eliminate any outdoor range at the Justice Academy. From the Edneyville community we would like to present each of you a reference binder for your information. It has been sent to the Council of State. Also in your reference binder we have added a letter sent to the budget committee.” She gave the Clerk five binders for the Commissioners.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer requested two additions to the agenda, under Discussion Items, as “G – an update on the Firing/Shooting range” and “H – update on the Joint School Facilities Meeting.”

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

CONSENT AGENDA

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

CONSENT AGENDA consisted of the following:

Minutes

Draft minutes were presented for the Board's review and approval of the following meeting:
January 5, 2009, Regularly Scheduled Meeting

Financial Report/Cash Balance Report

Attached for the Board's review and approval were the December 2008 County Financial Report and Cash Balance Report.

The fiscal YTD deficit in the Travel & Tourism Fund is due to less revenues being collected in a month that lodging business is typically slower resulting in less occupancy tax collections.

The fiscal YTD deficit in the CDBG – Scattered Site Housing Fund, the CDBG – Shuey Knolls Project Fund, the Lewis Creek Restoration Project Fund and the Public Transit Fund are temporary due to the timing of actual expenditures and the subsequent reimbursement of the expenditures from grant funds in succeeding months.

Staff requested that the Board consider approving the County's December 2008 Financial Reports as presented.

The suggested motion was:

I move that the Board of Commissioners approve the December 2008 County Financial Report and Cash Balance Report as presented.

Henderson County Public Schools Financial Reports

Attached was the Henderson County Public Schools December 2008 Financial Reports for the Board's information.

Staff requested that the Board consider approving the School System's December 2008 Financial Reports as presented.

The suggested motion was:

I move that the Board of Commissioners approve the December 2008 Henderson County Public Schools Financial Reports as presented.

U.S. Census Bureau Request for Classroom/Office Space

The Planning Department has been working with the Census Bureau in preparation for the 2010 Census. The most accurate Census count for Henderson County is desired as it affects many issues including federal and state revenues to the County.

Much work is already underway for the 2010 Census. Local Census officials are about to begin one of the most labor intensive steps of the counting process. This involves locating and recording every housing unit in the County. For this effort, the area Census office is hiring several hundred temporary employees and needs space for recruiting, testing and training. Sharon Lewis, of the Asheville Census Office, has requested to use space at the King Street Building. A classroom and an office are requested for this effort and to provide a local place for Henderson County residents to obtain information or help regarding the Census. Two rooms can be provided on the main floor past the Code Enforcement offices. Having a local office for recruitment may provide more employment opportunities for Henderson County residents.

Staff has considered the request and has identified the two rooms that could be used by the Census Bureau until September 2010.

Staff requested that the Board approve or deny the request for classroom and office space on a temporary basis for the Census Bureau.

The suggested motion was:

I move that the Board approve the use of space in the King Street Building for the Census Bureau on a temporary basis through September 2010.

Non-Profit Funding Reallocation – Medi-Find Program

Henderson County annually budgets for, and grants to local non-profit agencies, funding for the provision of services to citizens in the County. Within the FY 08-09 budget, the Board approved \$23,400 for the Medi-Find program, a program which assists individuals who cannot afford to purchase long-term medications.

The Medi-Find program was administered by Interfaith Assistance Ministry until December 2008. The program is now being administered by The Free Clinics, and Staff is proposing that the Board approve reallocation of half the grant, \$11,700, to The Free Clinics for continued provision of this service.

Staff requested the Board approve the reallocation of \$11,700 from Interfaith Assistance Ministry to The Free Clinics for the Medi-Find Program.

The suggested motion was:

I move the Board approve the reallocation of \$11,700 from Interfaith Assistance Ministry to The Free Clinics for the Medi-Find Program.

Renewal of leases (Carland Farms, Inc.; Blue Ridge Amateur Radio Club)

The County has had two fairly long-standing leases for the use of County property:

- 1) The first is with Carland Farms, Inc., for farm property located along the French Board River, and otherwise completely surrounded by Mr. Carland's property. The value of this lease was calculated for previous years by the Tax Assessor's office, based on the average rental value for farm property. This proposed lease is at that same rent.
- 2) The second is for the monthly use of a part of the Stoney Mountain Center by the Blue Ridge Amateur Radio Club. This rent has not changed in a number of years.

Staff recommended the Board approve the 2009 leases.

The suggested motion was:

I move the Board approve the draft leases for Carland Farms, Inc., and the Blue Ridge Amateur Radio Club.

Resolution in Support of Application to the Clean Water Management Trust Fund

Staff of the Mud Creek Watershed Restoration Project, which has been housed with the Cooperative Extension Program since 2003, request that the Board of Commissioners adopt a Resolution in support of their application for a Clean Water Management Trust Fund Grant.

Staff recommended Board adoption of the Resolution of Support as presented.

The suggested motion was:

I move the Board of Commissioners adopt the Resolution in Support of Application to the Clean Water Management Trust Fund as presented.

Records Retention Schedule Amendments

Stan Duncan, County Assessor, submitted a request for the Amendment to the Records Retention Schedule Amendments to be approved by the Board of Commissioners. They must be approved (with signature) before the new disposition can be applied to Records Retention and Disposition Schedule for County Tax Administration published April 1, 2004.

Staff suggested the Board approve the Records Retention Schedule Amendments.

The suggested motion was:

I move the Board approve and sign the Records Retention Schedule Amendments as presented.

Quarterly Schools Maintenance Report

Included in the agenda packet were several pages of the Schools Quarterly Maintenance Report. The expenditures are summarized in the report received.

Staff presented this material for the Board's information only. No specific Board action is requested.

Sidearm Request – James Mills Edney, Jr.

The Henderson County Sheriff's Office requests that the service sidearm of Sergeant James Mills Edney Jr., who recently passed away while employed with the Sheriff's Department, be presented to his family.

Sergeant Edney had served the Sheriff's Office and the people of Henderson County for 26 years. He began his career as a Dispatcher on January 30, 1982, and worked his way through the ranks to Captain. The Sheriff's Office requests that to honor him and his exemplary service to the agency, Henderson County and the citizens of the community they be allowed to present to his family the service firearm that he carried while on duty.

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

Sheriff Davis made this request on behalf of the Henderson County Sheriff's Office pursuant to North Carolina General Statute 20-187.2(a).

Staff recommended the Board allow Sheriff Rick Davis and the Henderson County Sheriff's Office to present the service sidearm of Sergeant James Mills Edney Jr. to his family.

The suggested motion was:

I move the Board allow Sheriff Rick Davis and the Henderson County Sheriff's Office to present the service sidearm of Sergeant James Mills Edney Jr. to his family.

NOMINATIONS

Notification of Vacancies

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

1. Animal Services Committee – 3 vac.
2. Board of Directors of the Henderson County Historic Courthouse Corp. (which does business as the Henderson County Heritage Museum Board) – 1 vac.
3. Fire & Rescue Advisory Committee – 1 vac.
4. Home and Community Care Block Grant Advisory Committee – 2 vac.
5. Recreation Advisory Committee – 2 vac.

Chairman Moyer asked that the Board vote to suspend the rules and take care of the vacancy of a member of the Board of Directors. They have submitted the name of Nancy Pryor. *Commissioner McGrady made the motion to suspend the rules and make the appointment to the Henderson County Historic Courthouse Board and that Nancy Pryor be appointed to that open slot. All voted in favor and the motion carried.*

Nominations

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

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

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

2. CJPP (Criminal Justice Partnership Program) – 2 vac.

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

3. EMS Quality Management Committee – 2 vac.

Chairman Moyer stated there are two vacancies, one for position #6 and one for position #14. Terry Layne recommended the appointment of Dr. William Thiemkey for position #6. Commissioner Williams nominated Dr. William Thiemkey for position #6. *Chairman Moyer made the motion to accept Dr. Thiemkey by acclamation. All voted in favor and the motion carried.*

4. Environmental Advisory Committee – 1 vac.

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

5. Henderson County Transportation Advisory Committee – 2 vac.

Chairman Moyer stated that positions #1 and #2 are vacant but both Renee Kumor and David Jones have indicated that they would be willing to be reappointed, if the Board so chooses. Commissioner McGrady nominated Renee Kumor and David Jones to their respective slots. There were no other nominations. *Chairman Moyer made the motion to accept both Kumor and Jones by acclamation. All voted in favor and the motion carried.*

6. Hendersonville City Zoning Board of Adjustment – 1 vac.

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

7. Historic Resources Commission – 1 vac.

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

8. Industrial Facilities and Pollution Control Financing Authority – 1vac.

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

9. Juvenile Crime Prevention Council – 8 vac.

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

10. Library Board of Trustees – 1 vac.

Commissioner Young nominated Tom Wilson for position #3. There were no other nominations. *Chairman Moyer made the motion to accept Mr. Wilson by acclamation. All voted in favor and the motion carried.*

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

Position #6 is vacant and Nancy Mitchell is unable to serve another term. The Chair recommended the appointment of Kay Ellen Nelson. Commissioner McGrady nominated Kay Ellen Nelson. *Chairman Moyer made the motion to accept Ms. Nelson by acclamation. All voted in favor and the motion carried.*

12. Senior Volunteer Services Advisory Council – 1 vac.

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

13. Water Supply and Distribution Task Force – 1 vac.

The vacancy is position #2 which is a Fletcher representative. Fletcher submitted their recommendation which was George Clayton. Commissioner McGrady nominated George Clayton. *Chairman Moyer made the motion to accept Mr. Clayton by acclamation. All voted in favor and the motion carried.*

Appointment of Commissioner Representatives for Boards and Committees

Chairman Moyer reminded the Commissioners that they had all been given copies and there had been input from all the Commissioners regarding Commissioner appointments on Boards and Committees. *Chairman*

Moyer moved the approval of the following list. A vote was taken and the motion passed four to one with Commissioner McGrady voting nay.

Agriculture Advisory Board	Mark Williams
Apple Country Greenway Commission	Chuck McGrady
Asheville-Henderson Water Issues Committee	Larry Young, Chuck McGrady
Cane Creek Water and Sewer District Advisory Committee	Charlie Messer
CJPP Task Force (Criminal Justice Partnership Program)	Charlie Messer
Community Child Protection Team (CCPT)	Chuck McGrady
Downtown Hendersonville Inc.	Mark Williams
Dupont State Forest Advisory Committee	Bill Moyer
Environmental Advisory Committee	Chuck McGrady
Fire and Rescue Advisory Committee	Bill Moyer, Charlie Messer
French Broad River MPO – Transportation Advisory Committee	Bill Moyer, Chuck McGrady
Governmental Financing Corporation	Bill Moyer, Charlie Messer
Henderson County Board of Health	Larry Young
Henderson County Historic Courthouse Corporation	Bill Moyer
Henderson County Planning Board	Mark Williams
Henderson County Transportation Adv. Committee	Chuck McGrady
Hospital Corporation Board of Directors	Bill Moyer
Joint School Facilities	Bill Moyer, Larry Young
Juvenile Crime Prevention Council	Bill Moyer
Land-of-Sky Regional Council	Bill Moyer, Chuck McGrady
Library Board of Trustees	Larry Young
Local Emergency Planning Committee (LEPC)	Bill Moyer
Local Government Committee of Cooperative Action (LGCCA)	Bill Moyer, Mark Williams
Metropolitan Sewerage District of Buncombe County (MSD)	Charlie Messer
Mud Creek District Ad. Council/Water and Sewer Adv. Council	Bill Moyer
Recreation Advisory Board	Charlie Messer
Social Services Board	Chuck McGrady
Solid Waste Advisory Committee (SWAC)	Chuck McGrady
Travel & Tourism Committee	Larry Young
Water Supply and Distribution Task Force	Bill Moyer, Mark Williams
Western Highlands Local Management Entity	Charlie Messer

TAX COLLECTOR’S REPORT

Stan Duncan explained that effective January 1, 1985, Ch. 1013 (H1676) amended NCGS 105-369 to provide that tax liens need to be advertised only once. A taxing unit may choose to advertise the tax liens more than one time, but it is not required to do so. The list must still be posted at the Courthouse or City Hall door and it must be advertised in one or more newspapers having a general circulation in the taxing unit. The advertising may be done at any time from March 1 through June 30.

In previous years, the Board of Commissioners has approved the Tax Collector advertising the tax liens once. The Board was requested to order the Tax Collector to advertise the tax liens one time. Stan Duncan stated that the main reason for his appearance at this meeting was to ask for an order of delinquent advertisement. He stated that the earliest they can make the request is the first Monday in April, by Statute. He asked that the order be drafted by the County Attorney in a manner similar to formats used in the past. He plans to advertise Monday, March 30, in the Times-News. The statutes require that they advertise in a paper having general circulation in the county or within the taxing unit. The Times-News fills that obligation. This would

allow them to make the most effective use of the advertising dollars they have budgeted for this purpose. Mr. Duncan informed the Board that collection percentage at this same time last year was 92.97% and this year is 92.58% but we are actually ahead of that in terms of actual real dollars brought into the office. He stated that they are up almost \$2.2 million collected as of this time last year. Also the levy charge is higher this year than it was last year.

Staff requested the Board order the Tax Collector advertise the tax liens one time.

Commissioner McGrady made the motion that the Board of Commissioners order the tax collector to advertise the tax liens one time per his letter dated February 2. All voted in favor and the motion carried.

Delinquent Tax Collector William Lee King addressed the delinquent status with the Board. Lee King stated that they are currently scheduling a sale for three properties for nonpayment of taxes on March 25 on the courthouse steps. They have also started a wage garnishment program which is new for Henderson County. He stated that they started with public sector (us) employees and eventually they will expand out and hit private sector industries in the county to collect taxes. They have done 282 bank garnishments for roughly \$175,000 in taxes. Lee King stated they are currently ahead of schedule as far as their budgeted goal of \$1.3 million this year. They have collected almost \$900,000. That reflects almost 69% of their budgeted goal for the year.

WESTERN CAROLINA COMMUNITY ACTION (“WCCA”) lease (former Etowah Library)

Russell Burrell explained that a draft lease was in the agenda packet. Currently the Board has a short-term lease with WCCA for this building for them to run their “More at Four” program. The lease calls for monthly rent between now and the end of June of 2011 of \$2,000 a month plus in addition WCCA will be putting in a minimum of \$50,000 worth of leasehold improvements in the facility. WCCA has the right to renew the lease at the same rent in two increments, in total going through June of 2017. They can opt out of the lease at any time they choose to do so. The county would not be reimbursing them for any leasehold improvements they make.

Chairman Moyer stated that one of the issues was the Board was concerned about the complexities of recouping leasehold improvements and yet the Board wanted to be very fair to WCCA. Chairman Moyer stated that working with David White and Russ Burrell has aided in simplifying the lease tremendously. We gave WCCA a longer term but there is no pay back but they do have the right, if need be, to get out of the lease at any time. He thanked David White for working with Henderson County.

David White stated that the WCCA Executive Committee and he feels that this is a good solution and they look forward to signing the long-term lease. It is the “More at Four Kindergarten Program” that they are operating there. Currently they have 10 or 11 children and once they get the sewer line built to the facility, maybe this time next year, they should be serving 36 children.

Commissioner Young made the motion to give approval to the proposed lease with WCCA for the former Etowah branch library property. All voted in favor and the motion carried.

CONTRACTOR SELECTION – FY09 Guaranteed Energy Savings Contract

As part of Strategic Plan 1.1F to Develop and Implement an Energy Policy and Plan, Engineering staff solicited qualified firms to perform the FY2009 Guaranteed Energy Savings Contract (GESG). As detailed in the September 19, 2007 presentation to the Board of Commissioners, this contract will identify and construct improvements to our facilities that will generate energy savings which in turn will at a minimum pay for the improvements. Important to note, the selected contractor will verify and guarantee that the savings pay for the improvements or they will be required to pay for the difference. Also important to note, is that this process is regulated by the NC Local Government Commission (LGC).

In accordance with NC General Statutes, staff advertised a Request for Qualification (RFQ). Staff also posted the RFQ on the County's website. Only firms vetted with the State Energy Office were eligible to submit qualifications. The RFQs were received by November 17, 2008 and Johnson Controls was the only firm having submitted qualifications.

A detailed review of Johnson Controls was conducted by staff based on the criteria established within the RFQ. While Johnson Controls was the only submitting firm, their qualifications represent a firm highly qualified to successfully perform the contract. In addition, Johnson Controls is currently and successfully contracted with Henderson County for maintenance contracts. The tentative investigation by Johnson Controls suggests that there is over \$3,500,000 in energy savings available over the next 15 years. The cost of the improvements to get these savings is just over \$2,200,000. Also, considering the interest expense, the net savings to the County is estimated at over \$500,000 over the 15 year project. For reference, the County's energy budget is approximately \$500,000 for electricity/gas and \$800,000 for gasoline/diesel. The executive summary and table of contents from the Statement of Qualifications were included and a complete copy is available from the County Engineer. Also, the Environmental Advisory Committee reviewed the SOQ and during its January 8, 2009 meeting voted unanimously to recommend selection of Johnson Controls.

Upon approval of Johnson Controls as the most qualified contractor, staff will negotiate a Contract and present it to the Board at a future meeting. At the request of Johnson Controls and with approval of the Board, the County Engineer will execute the Project Development Agreement (provided). This Agreement represents both organizations' commitment to the GESG. Also, it represents the County's willingness to compensate Johnson Controls for the extensive efforts in developing a Contract should the County arbitrarily discontinue its commitment.

Staff requested the Board authorize the selection of Johnson Controls as the most qualified contractor to conduct the FY 2009 Guaranteed Energy Saving Contract and authorize the County Engineer to execute the Project Development Agreement.

Steve Wyatt and Marcus Jones both addressed this issue, answering questions from the Commissioners. Richard Self with Johnson Controls was also present to answer questions. Steve Wyatt stressed that these savings are guaranteed under NC Law as opposed to many of the things that we are trying to do in-house. Energy conservation is one of our top administrative priorities. Staff will continue to pursue energy efficiencies and savings because it's the right thing to do.

Following discussion, *Chairman Moyer made the motion to table this issue for nine months. A vote was taken and the motion carried four to one with Commissioner McGrady voting nay.*

It was the consensus of the Board not to spend the money for this during these economic times even though this is a worthy project. The timing is not right. The return does not justify issuing the debt at this time. This was begun in a different economic environment.

CURB MARKET PARKING LEASE

A draft new lease for the parking lot of the Curb Market was included for review and approval.

Chairman Moyer reminded the Board that this was discussed several months ago. At that time the Board gave the Chairman some direction to go back and renegotiate the lease. The Commissioners were uncomfortable with the price of \$1,000 per month. They also requested the Chairman look at whether the Board could have expanded times or designated parking spots. Chairman Moyer discussed the lease with Ralph King (in the audience) and he has discussed it with the Curb Market Board. The feeling from the Curb Market Board was that the times could not be changed because when they are open they need the parking spaces. They were also concerned with managing it if they allowed us designated parking spaces. The two Boards went back and forth on the amount. Chairman Moyer revised the draft lease inserting the amount of \$7,500 per year. Ralph King took the revised draft back to the Curb Market Board. Both Chairman Moyer

and Ralph were happy with a three-year lease. The Curb Market Board would like to continue the relationship.

Commissioner Messer suggested offering the Curb Market Board \$750.00 per month for a 12 month lease with a lease agreement for three years. He had talked with several members of the Curb Market Board and felt that they could live with this arrangement.

Commissioner Williams suggested a change to item #7 which addressed renovations to the courthouse structure and possible damage caused to their parking lot. Following discussion, it was recommended that item #7 be deleted from the contract.

Ralph King mentioned the parking lot during Apple Festival is utilized by youth groups for fund-raising. In years past Boy Scouts, 4-Hers, or some other group have parked cars there for a fee. After some discussion it was decided that the County would make the decision on who would be allowed to park cars there as a fundraiser for the Apple Festival or other special events. The Curb Market Board would rather the County make that decision. That change will be made to the lease.

Commissioner Williams made the motion the Board of Commissioners approve the terms of the draft lease with the change being made to \$750 per month or \$9,000 per year, with the deletion of item #7, and an addition authorizing the Chairman to address the issues relative to parking for the Apple Festival. All voted in favor and the motion carried.

ANIMAL ORDINANCE: Dangerous Dog Provisions

Selena Coffey introduced some of the committee members of the Animal Advisory Committee who were present: Chair Gabby Johnsen and Pam Hodges. Brad Rayfield, Animal Services Director was also in attendance. Officer Ben McKay serves on the committee and is also the Animal Enforcement Division Chief for the Sheriff's Department (who was also present).

Selena Coffey reminded the Board that at their regularly scheduled January 5, 2009 meeting, this Board directed staff to work with the Animal Services Advisory Committee to propose ways to strengthen the County's dangerous dog provisions within the Animal Ordinance. To this end, are two options for the Board of Commissioners' review and consideration: (Attorney Sarah Zambon reviewed the following with the Board)

1. Animal Services Advisory Committee Recommendation: The Committee's recommendation is two-fold. First, the Committee recommends strengthening the public nuisance law so that animals that run astray 2 times within a 6-month period can no longer be tethered in a yard. These animals must be kept in a house, in a fenced yard, or on a leash held by a competent person and may not be tethered, chained, or tied outdoors. The second recommendation by the Committee is to restructure the Dangerous Dog ordinance so that the content is the same but the organization is easier for the public to understand.
2. Staff Option: The staff option proposes including Aggressive Animal provisions coupled with the public nuisance language recommended by the Committee. Staff believes that this option incorporates the Committee's recommendation, while providing an additional tool for law enforcement in protecting the public from aggressive animals. Several jurisdictions have similar provisions.

The underlined and highlighted sections of the ordinance are new additions and are not current law. The strikeouts are deletions that are current law.

Staff recommended that the Board of Commissioners review and discuss both options regarding strengthening the County's approach to dangerous animals. Upon review, staff recommends approval of the staff option (#2).

Sarah Zambon explained that this is modeled after Cabarrus County, NC. They have almost the exact language added to their dangerous dog language. They have what is called a vicious dog provision which is this definition plus the dangerous dog language.

Officer Ben McKay stated that he is in full agreement with Melissa Myers, who spoke at the beginning of the meeting, about strengthening the penalties for animals that leave their property. He thinks that the recommendation from the Animal Services Committee would do that very thing. His concern about the aggressive dog addition would be that in the handout where it talks about the difference between an aggressive dog and a dangerous dog – under the action it says that the aggressive dog would require no actual harm or attempted attack. This tells him that nothing has to happen. That dog doesn't have to do anything for there to be a concern and that tells him that there are going to be a lot of animals in this county that people are going to complain on that have done nothing wrong. A dog has teeth and potentially can bite whether it's a small puppy all the way up to a full grown large trained attack animal. If we adopt an aggressive dog section, he is concerned that we're going to identify a large number of dogs as aggressive animals and require people who have animals for the protection of their property and those animals have done nothing wrong – require them to have to fence in their yard at a cost to them in a situation where that is not needed. However, he said if we implement the recommendations of the Committee then those animals that are leaving property and causing damage, whether it's getting into trash or it's being aggressive to other animals or people, we have the tool with that addition to handle it.

Following discussion, *Chairman Moyer moved that the Board approve option #2 and direct staff to revise the Animal Ordinance to include the appropriate language as presented. All voted in favor and the motion carried.*

Recess

Chairman Moyer called a short recess.

PUBLIC HEARING – New Road Names

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

Curtis Griffin stated this public hearing is for the naming of five roads, new road names:

- Pressley Valley Lane
- Spirit Wolf Drive
- Kalmia Latifolia Drive
- Claude Justice Lane (currently Trio Lane)
- Hot Wheels Drive

Public Input

There was none.

Staff requested the Board approve the new road names.

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

Commissioner McGrady made the motion the Board approve the new road names as presented. 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 follow:

Tax Operational Study

Steve Wyatt informed the Board that on Monday, February 16, the team from the County Commissioners' Association, Institute of Government, and NC Dept. of Revenue will be here to begin the operational study of the tax office. Steve Wyatt has asked Lisa Nolan to carve out time on Monday morning beginning at 9:30 to provide any commissioner that would like the opportunity to have some input into that process, to discuss issues or concerns that the Board might have. Selena Coffey will be arranging times for the Commissioners to meet either individually or in twos with Ms. Nolan.

Steve Wyatt informed the Board that he has a commitment that the cost will be less than \$5,000. The primary cost will be for mileage and subsistence of the team members. Steve Wyatt stated it should be well below \$5,000. He will have a full accounting of the costs when it's completed. He encouraged the Commissioners to make some time or to at least get any issues to Selena to compile and get to the team.

FIRING/SHOOTING RANGE UPDATE

Commissioner Messer thanked the Edneyville citizens for sticking together on what they believe in for their community. Last week Chairman Moyer, Commissioner Messer and the Sheriff from Buncombe County and some Buncombe County staff had a meeting. Commissioner Messer explained that there are other alternatives to an outdoor range. Several counties in Western North Carolina are interested in finding an alternative option for the shooting range the State has planned. The counties, like us in Henderson, are interested in an indoor range rather than an outdoor range.

Our municipal and county officers have to qualify once a year with their weapons. Currently it is hard to find a location to do so. Some of our officers have been qualifying in Lake Lure or at the airport or even in Transylvania County. At this point, he wasn't sure how many counties were interested in joining together in this endeavor. No one is sure that the State will give the counties time to develop a plan, before they go ahead with their plan for the outdoor range at the Western NC Justice Academy. We need a facility that would be in the best interest of all the folks in Western North Carolina.

Chairman Moyer has talked with Senator Apodaca and Representative Justice about this issue on numerous occasions. The people of Edneyville have taken a stand along with the County Commissioners that we do not want an outdoor range at the Justice Academy in Edneyville. There is an issue of noise as well as an issue of safety for not having an outdoor range. Commissioner Messer stated there is a need for a range in Western North Carolina and if the State legislature will give us, the County Commissioners and our representatives the time, we can come up with a plan that will be in the best interest of all the citizens of Western North Carolina.

We appear to be at the mercy of the state. The funding and the timing of the funding seem to be the big issue now. The State is on the path that they do not want to lose the funding so they are going ahead with an outdoor range. We need the state to re-evaluate and consider other opportunities.

Chairman Moyer explained that the State has now become two separate parties. The Justice Academy State people appear to have no intention of backing off and they will move ahead because they don't want to lose the State funding. But as Commissioner Messer indicated, we now have several counties involved. Chairman Moyer has talked with our legislators and Buncombe County is talking with their legislators, what they are trying to do is put the pressure on that way to show an alternative site and an alternative plan which is far better and acceptable to the people of Edneyville than the plan that is being pushed by the Justice Academy. Just give us time to work it out.

Chairman Moyer informed the Board that he would keep them updated on this issue. Since he and Commissioner Messer have been talking to our legislators, something may appear in the newspaper so he wanted the Commissioners to be prepared for that, not caught by surprise.

JOINT SCHOOL FACILITIES COMMITTEE MEETING UPDATE

Commissioner Larry Young informed those in attendance that a Joint School Facilities Meeting was held this afternoon at 3:00. Commissioner Young, Chairman Moyer, and Steve Wyatt were in attendance. Superintendent Dr. Page, Chair Ervin Bazzle and Mary Louise Corn were in attendance for the schools. They gave the county a thumb-nail sketch of their long-range plans for capital projects. They had the architects at the meeting also, Jimmy Wilhide from Moseley Architects and Mike Cox from Architectural Design Studios. They want to build a two-level building in between North Henderson High School and Apple Valley Middle School. The lower level would serve the Middle School and the upper level would serve the High School. They also want an addition at Upward Elementary and additions and renovations to Edneyville Elementary. The estimated costs for these projects is around \$17 million.

Chairman Moyer stated that he asked the School folks to attend the Board's Capital Planning workshop and to be ready to answer any questions. The School Board had received the Commissioners' letter and knew where the County stands in regards to the economy and budget. The School Board recognized that the timing was right but they were pushing on these projects to be ready in case they got a call that money was available through the stimulus package so they would be ready to move the projects along. What has everyone concerned is the term "shovel ready", not knowing exactly what that means.

If the economic stimulus package doesn't cover schools then there will need to be a much different discussion with the school folks, according to Chairman Moyer. He stated they also talked about the school bus garage and the Balfour project as other projects that they are considering. They need to do some more detailed work on those two projects.

Chairman Moyer stated that there is an issue with the school folks about the amount of money they think the County owes for the fairground project. They think the County still owes them money, from when we got the money for Elkamet. There is a difference of opinion on that. Chairman Moyer felt that when the Board discusses capital planning, this should be put forth as a project to move on to get that ready for economic development.

Chairman Moyer stated that Steve had been approached by the Community College, they would like to have a joint facilities committee meeting. Chairman Moyer and Commissioner Young would like to get that scheduled before the Capital Planning Meeting so the Board will have all the pieces to work with.

STAFF REPORTS

County Attorney's Report

There was nothing more at this time.

County Manager's Report

There was nothing more at this time.

IMPORTANT DATES

Chairman Moyer reminded the Board of the Employee Service Award Luncheon at the Community College on February 19 at noon.

Schedule Capital Planning Workshop

Chairman Moyer suggested two options for this:

- 1) To make sure we have a controlled agenda, break for lunch, then have the workshop in the afternoon.

- 2) On the 19th is the Employee Service Award Luncheon at noon. One option is to start the workshop about 8:30 and plan on ending in time to go to the Luncheon. If need be, they could continue the workshop after the Luncheon.

Following much discussion and checking of calendars, *Commissioner McGrady moved that the Board schedule a capital planning workshop for Wednesday, February 18 at 1:00 p.m. All voted in favor and the motion carried.*

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION

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

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

In re the Tax Appeal of King

All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman