

DRAFT

5/10/10

MINUTES

cc: Boc
Steve
Selena
Russ
Christy

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
MAY 3, 2010**

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 Mark Williams, Commissioner Larry Young, Commissioner Chuck McGrady, Commissioner Charlie Messer, County Manager Steve Wyatt, Assistant County Manager Selena Coffey, Attorney Russ Burrell and Clerk to the Board Teresa L. Wilson.

Also present were: Associate County Attorney Sarah Zambon, Public Information Officer Christy DeStefano, Finance Director J. Carey McLelland, County Engineer Marcus Jones, Planning Director Anthony Starr, Research/Budget Analyst Amy Brantley, Sheriff Rick Davis, Chief Deputy Greg Cochran, Sergeant Michael Cox, Construction Manager David Berry, Code Enforcement Director Toby Linville, Fire Marshall Rocky Hyder, and (as security) Captain Tim Griffin, Lieutenant Mike Peppers, Corporal Duane Frickel, Corporal Ricky Bishop, Detective Johnny Duncan, Deputies Terry Patterson, Neil McDonald, Ashley Cromer, Zack Blankenship, Dale Woody, Jeremy Parker, Chris Stepp, Daniel Lindsey, Alan Corthell, Christy Ellis, Travis Pierce and Emmanuel Zaragoza.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Jacob Smith of the Navigators 4-H Club.

INVOCATION

Senior Pastor Anthony Craver of the Hendersonville Pentecostal Holiness Church gave the invocation.

INFORMAL PUBLIC COMMENT

Chairman Moyer asked each person who had signed up for informal public comments to please limit their comments to about 3 minutes each. Those who signed up to speak in regards to the 287g program would be allowed to speak during the discussion of that item.

1. Dennis Justice – Mr. Justice spoke in regards to artificial turf at schools. He stated that the Henderson County Recreation Director had raised the issue that artificial turf could get hot. He felt there were companies promoting artificial turf to have cooler fields. Spartanburg High School has an infield system which has a cooler turf. Instead of a soccer complex in a flood plain, he felt that Henderson County would be better off having artificial turf for the schools. Parks and Recreation and the Board of Education need to work together over the next few month planning carefully for this. Brevard will be the next of a long list of schools which will have artificial turf. Mr. Justice has put a video on his website, hendersoncountyturf.com, which is a resource site about artificial turf and all of the counties in the region that have it already. The video show the current condition of fields' at all four high schools. This video is meant to shock, as the fields are that bad. There are rational ways to do this that will not cost the taxpayers much but will cost the lottery construction fund as in Haywood County.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer requested the addition of two (2) closed session items, Economic Development and Personnel.

DATE APPROVED _____

Commissioner Williams made the motion to approve the Agenda with the addition of two (2) closed sessions. All voted in favor and the motion carried.

CONSENT AGENDA

Commissioner McGrady made the motion to adopt 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 board review and approval of the following meeting(s):
April 21, 2010 – Regularly Scheduled Meeting

Tax Collector's Report

Deputy Tax Collector Carol McCraw had presented the Tax Collector's Report to the Commissioners dated April 23, 2010 for information only. No action was required.

Tax Refunds

A list of 22 refund requests was presented for the Board of Commissioners review and approval.

Suggested Motion:

I move the Board approves the Tax Refund Report as presented.

Tax Releases

A list of 34 tax release requests was presented for the Board of Commissioners review and approval.

Suggested Motion:

I move the Board approves the Tax Release Report as presented.

Public Records Disposal Request

Staff is requesting approval from the Board of Commissioners to destroy the records listed on both of the provided Public Disposal Request and Destruction Logs in accordance with the County's Record Retention Policy and the provisions of the North Carolina Department of Cultural Resources Records Retention and Disposition Schedule.

Suggested Motion:

I move the Board approves the Public Records Disposal Request and Destruction Log.

Financial Report/Cash Balance Report – March 2010

Provided for the Board's review and approval were the March 2010 County Financial Report and Cash Balance Report.

The following are explanations for departments/programs with higher budget to actual percentages for the month of March:

DSS Smartstart Program – federally funded grant program, no county dollars budgeted

The YTD deficit in the Travel and Tourism Fund is mostly the result of lower occupancy tax collections due to the current local economy, reduced room rates being offered for stays and travel effects from the I-40 landslide shutdown.

The Emergency 911 Communications Fund YTD deficit of \$1,789 is temporary and due to the budgeted capital expenditure of funds for the scheduled replacement of Computer-aided Dispatch (CAD) servers in the 911 Center. These expenditures are paid entirely from 911 telephone surcharge fees.

The YTD deficit in the CDBG – 2008 Scattered Site Housing Project Grant Fund and the CDBG – Warm Company Project Grant Fund is due to the timing difference between the expenditure of grant funds and subsequent reimbursement from the state.

The YTD deficit of \$8,595 in the Edneyville Park Project is recreation equipment purchased and additional soccer field work required by the state that will be reimbursed from the State PARTF Grant. This grant has been extended for six months until May 1st to complete the additional field work.

The YTD deficit in the North High/Apple Valley Middle Project and the BRCC Facilities Repairs and Renovations Project Fund are expenditures that will be reimbursed from future FY2010 financing proceeds expected to be closed on and available in June 2010.

The temporary YTD deficit in the Solid Waste Fund is due to a timing issue from two monthly hauling contract invoices (\$406,105) having been paid in February and a large payment (\$148,698) for the purchase of approved capital outlay equipment. There is \$301,928 in fund balance appropriated to balance the Solid Waste Fund budget in the current fiscal year.

Suggested Motion:

I move that the Board of Commissioners approve the March 2010 County Financial Report and Cash Balance Report as presented.

Henderson County Public Schools Financial Reports – March 2010

Provided were the Henderson County Public Schools March 2010 Financial Reports for the Board's information. Staff requested that the Board consider approving the School System's March 2010 Financial Reports as presented.

Suggested Motion:

I move that the Board of Commissioners approve the Henderson County Public Schools March 2010 Financial Reports as presented.

Resolution Providing for Final Approval of the Terms and Financing Documents for the Issuance and Sale of Series 2010 Limited Obligation Bonds (LOBs)

The resolution approving the final terms and financing documents drafted by Bond Counsel for the issuance and sale of the Series 1020 Limited Obligation Bonds (LOBs) was provided to finance the capital costs of certain repair and renovation projects at Blue Ridge Community College, the construction of a new classroom building to serve both Apple Valley Middle School and North Henderson High School to include certain cafeteria and locker room improvements, and the refinancing of certain "prior" installment financing obligations of the County due to favorable market condition producing positive savings.

The draft documents prepared by Bond Counsel, which are in substantially final form, include an Installment Financing Contract, the Trust Indenture, an Escrow Agreement, the Agency Agreement and a Lease Agreement with the public school system.

Suggested Motion:

I move the approval of the Resolution of the County of Henderson, North Carolina Approving an Installment Financing Contract to Provide for the Acquisition, Construction, Furnishing and Equipping of Certain Projects Set Forth Therein, the Refinancing of Certain Installment Financing Contracts and Related Matters.

Resolution Providing for Final Approval of the Terms and Documents for the Qualified Zone Academy Bonds (QZABs) School Improvements Financing

The Board of Commissioner’s funding plan for school capital projects in the current fiscal year includes the issuance of Qualified Zone Academy Bonds (QZABs) to finance repair and renovation projects at multiple school facilities. The County received an approved allocation of \$1,807,500 from the State Board of Education for this purpose which will complete the \$4 million current fiscal year funding plan approved by the Board of Commissioners.

Staff requested proposals to finance the issuance of the QZABs. A summary of the bank interest rates received/proposed for this financing was provided for the Board’s information. RBC Bank has been certified as the lowest responsive proposal received to finance \$1,807,500 in QZABs for 10 years at a 5.70 percent interest rate. The interest rate proposed is a taxable rate that qualifies for a 100 percent interest payment subsidy back to the County from the U. S. Treasury, if lower than the federal tax credit rate published on May 4, 2010, the day on which the Local Government Commission approves the financing.

The resolution provided approves the final terms and financing documents drafted by Bond Counsel for the issuance of the QZABs. The draft documents, which are in substantially final form, include an Installment Financing Contract, the Deed of Trust, and Agency Agreement and Lease Agreement with the public school system.

Suggested Motion:

I move the approval of the Resolution of the County of Henderson, North Carolina Approving an installment Financing Contract to Provide for the Acquisition, Construction, Furnishing and Equipping of Certain Projects Set Forth Therein and Related Matters.

Juvenile Justice and Delinquency Prevention Grants/Juvenile Crime Prevention Council County Plan FY2007-2011

The Henderson County Juvenile Crime Prevention Council (J.C.P.C.) has approved funding for local juvenile crime preventions programs. These funds for Fiscal Year 2010-2011 in the amount of \$209,672.00 are available for this purpose through the State of North Carolina. Each Program is required to provide a 30% match. The following grant applications have been recommended for approval to the Board of Commissioners by the Henderson County J.C.P.C. as follows:

1. J.C.P.C. Administrative Expenses	\$ 3,500.00
2. Henderson County Public Schools/C-Stop	\$ 25,000.00
3. Boys & Girls Club of Henderson County	\$ 25,000.00
4. Dispute Settlement Center	\$ 44,748.00
5. Open Door Christian Academy (Emergency Temp. Shelter)	\$ 12,000.00
6. Open Door Christian Academy (Psychological Services)	\$ 8,650.00
7. *Unallocated funds	<u>\$ 90,774.00</u>
Total	\$ 209,672.00

Note #7: * The Council agreed, based on guidance from our area consultant, to set aside \$18,341, the amount projected as the anticipated reductions. This allows the programs to plan on the amount of funds actually awarded. Should the anticipated reduction request not amount to the total money in line item #8, the programs will have an opportunity to request additional funds as needed.

The \$72,433 planned for Project Challenge has been included with the unallocated funds at this point, pending further Staff research.

The Henderson County Juvenile Crime Prevention Council (J.C.P.C.) has approved the 2007-2011 County plans for Henderson County. This County Plan has been recommended for approval to the Board of Commissioners by the J.C.P.C.

Suggested Motion:

I move that the Board approve the 2007-2011 County JCPC Plan and the applications for programs #1 through #6 as listed above. I further move that the Board authorize the County Manager or

Assistant County Manager to execute additional applications or necessary documents for the unallocated funds and Project Challenge on behalf of the Commissioners when they are satisfied with the applications.

Tuxedo Mill order

A draft order of the Board of Commissioners resulting from the Tuxedo Mill matter was provided. This item will give staff direction to proceed.

Suggested Motion:

I move that the Board approves the draft Order directing staff regarding the Tuxedo Mill.

Immigrations and Customs Enforcement (ICE) Update

Sheriff Rick Davis had provided an update to the Board on the Immigrations and Customs Enforcement (ICE) Program.

Request to Establish Two (2) Food & Nutrition Income Maintenance Caseworker Project Positions

Through September 2001, federal funding through the Department of Defense Appropriations Act of 2010 in the amount of \$89,003 will be available to the Henderson County Department of Social Services as contingency funding for the costs associated with administration of the Food and Nutrition Services Program. The available funding is 100% federal and requires no county match. It is the recommendation of the DSS Board and Director that the available funding be utilized to increase staff capacity by adding two (2) Income Maintenance Caseworker II project positions in the Food & Nutrition Program area. The request to increase staff capacity is support by:

1. Continued increase of Henderson County resident participation in the program:
 - 31% increase from month of January 2009 to month of January 2010 (2419 additional county residents; from 7715 to 10,134 monthly)
 - 69% increase from month of January 2008 to month of January 2010 (4146 additional county residents; from 5988 to 10,134 monthly)
2. Implementation of the following Food & Nutrition Program expansions effective July 1, 2010 which will increase service demand:
 - Poverty level incomes will increase from 130% to 200% of the federal poverty income level
 - Availability of automated referrals by community non-profit and medical providers via ePASS (An on-line pre-screening tool for Food & Nutrition and Medicaid)

Suggested Motion:

I move establishment of two (2) Income Maintenance Caseworker II project positions assigned to the Food & Nutrition Program utilizing 100% federal funding, requiring no county funding match, to address DSS staff capacity/level of service demands, with the understanding that DSS must return to request county funding should these federal funds be eliminated and/or after the project period has expired on June 30, 2011.

Proclamation - Mental Health Month

Representatives from the county's Adult Mental Health Roundtable, mental health providers have requested the Henderson county Board of Commissioners adopt a Proclamation, proclaiming the month of May as Mental Health Month in Henderson County.

Suggested Motion:

I move that the Board adopts the Resolution provided, proclaiming the month of May as Mental Health Month.

Abandoned Manufactured Home Grant Resolution

At the April 3, 2010 meeting, the Board of Commissioners discussed and approved permitting municipalities to share state funds provided in the Abandoned Mobile Home Program. Staff drafted a memorandum of understanding (MOU) to be signed by municipalities choosing to participate. This MOU outlines the program, describes the responsibilities of the County and the municipality, and states the expenditures for the program.

Suggested Motion:

I move that the Board approves the draft Memorandum of Understanding as proposed.

NOMINATIONS

Commissioner McGrady informed the Board of a vacancy on the Solid Waste Advisory Committee.

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

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

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

2. Community Child Protection Team (CCPT) – 1 vac.

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

3. Downtown Hendersonville, Inc. – 1 vac.

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

4. Equalization and Review, Henderson County Board of – 2 vac.

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

5. Henderson County Planning Board – 3 vac.

The following nominations were made at the April 21, 2010 meeting: Commissioner Young nominated Marilyn Gordon. Commissioner Messer nominated Wayne Garren and Jim Clayton, Commissioner McGrady nominated Jerry David and Renee Kumor. Chairman Moyer nominated Jonathan Parce. This item was rolled from the April 21, 2010 meeting and the Board was polled at this time.

Larry Young	Charlie Messer	Bill Moyer	Mark Williams	Chuck McGrady
1) Marilyn Gordon	1) Wayne Garren	1) Renee Kumor	1) Marilyn Gordon	1) Renee Kumor
2) Wayne Garren	2) Marilyn Gordon	2) Jonathan Parce	2) Wayne Garren	2) Jonathan Parce
3) Jonathan Parce	3) Jim Clayton	3) Wayne Garren	3) Jonathan Parce	3) Jerry David

Receiving the majority of votes, Marilyn Gordon was appointed to position #1, Wayne Garren to position #9 and Jonathan Parce to position #3 respectively.

6. Historic Resources Commission – 1 vac.

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

7. Home and Community Care Block Grant Advisory committee – 2 vac.

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

8. Juvenile Crime Prevention Council – 9 vac.

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

9. Senior Volunteer Services Advisory Council – 3 vac.

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

10. Solid Waste Advisory Committee – 1 vac.

IMMIGRANT RIGHTS COALITION

Reverend Austin Rios, with La Capilla Santa Maria, and student Zacnite Figueroa, both representing the Immigrant Rights Coalition, were present to provide the Board with information on the Coalition and immigrant rights.

Rev. Rios stated he felt all present had the best interest of Henderson County in mind. The Immigrant Rights Coalition feels that the current 287(g) program is not helping their community to be safer, more secure or economically viable. Currently the community does not feel that Henderson County is living into its stated goals and they hope the presentation will call the County to be more intentional about what it means to provide a safe and secure place to all citizens and all residents. Henderson County is our home and we share the values of community, unity and safety. We see Henderson County as one community, a community that wants to provide a safe place for families, opportunities, and dreams to grow. We believe that justice is only possible when we are all free from the fear created by 287(g).

Ms. Figueroa provided the following information: What is the 287(g) Program?

- Originated in Section 287(g) of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA).
- Department of Homeland Security partners with local and state law enforcement agencies to enforce immigration law in order to better apprehend criminals with an original focus on violent crimes.
- In 2008 the Henderson County Sheriff's Department entered into an MOA under which officers are given several weeks of training by ICE and upon completion authorized to detect and detain undocumented immigrants in the county detention facility.

Is there a relationship between immigration and crime?

- A 2010 study by UNC Chapel Hill of North Carolina shows no association between the rate of change in immigrating and Hispanic populations in NC counties and crime rates.

Ms. Figueroa stated as an immigrant, and part of such community, she felt that most immigrants are not here to hurt the United States. They are looking for a better lifestyle and to pursue the American dream.

Rev. Rios stated a concern of the nation is how money is being spent. He was not aware of the funding for the 287g program for Henderson County but shared costs from two other counties. What is the cost of the 287(g) program to Henderson County taxpayers?

- Direct Costs include:
 - Officer salaries & time for training
 - Upgrading technology & equipment
 - Housing detainees – county must pay detention costs while suspect is waiting state charges
- What will be the Federal Reimbursement Rate?
 - Latest reports by the Sheriff say, "The federal government is behind in payments..."
- How will taxpayers pay for un-projected and indirect costs?
 - Lost revenue, higher court costs, lost wages and negative economic impacts.

Ms. Maria Zacnite Figueroa continued. Does the 287(g) program meet its stated goals and improve public safety?

- Public Safety has been compromised by spending resources on detaining & deporting people with traffic & minor offenses while failing to direct attention to those who pose a threat to the community.
- Growing perception that law enforcement is not providing equal protection for all.
- Drastic underreporting of crime including drug activity, gangs, domestic violence and child abuse.
- Increased victimization of immigrants by abusers and violent criminals.

Jose Lewiez told the Commissioners about his situation with ICE officers via an interpreter. "Good afternoon. Three months ago while being in a parking lot I was sitting on the back part of a vehicle when two officers of ICE arrived. They opened the vehicle door and told me to get out. They asked me for an

identification which I showed them. Then they asked for my immigration status. I told them I was illegal. They arrested me. Now I am in the process of deportation. I believe my human rights were violated since I have committed no crime, only for being illegal.”

Ms. Figueroa stated because of the 287g program, fear is created in the community when you can't go to the police because you are afraid you are going to be deported.

Rev. Rios shared factors regarding the 287g program. He has heard from several forums that this system is designed to get criminals off our streets and particularly hard criminals like gang members and people who intentionally try to harm their community. These numbers show a different story and they are concerned.

- In 2008-2009 only 21 of those deported were classified as Level 1 (highest threat to public safety) from Henderson County. From October 2009 – January 2010 only 7 were reported as level 1.
- Statewide 86.7% of those booked through the program were charged with misdemeanors, while only 13.3% had felonies.
- In 2009, Chatham County rejected 287g for fiscal and liability concerns & Cumberland County terminated the program.

Scott Sheffron, an attorney in Hendersonville, addressed the Board. “Because I am a criminal defense attorney I am in the courthouse virtually every day and I see things that unfortunately you are not able to see unless somebody reports it to you. I don't see most of you at the courthouse that often. I don't expect to see you there. But I think that it's important, I want you to see through my eyes what I see at the courthouse as far as this 287g program is concerned. There is a sad joke around the courthouse that starts out like this, somebody's been arrested for DWH (not DWI) driving while Hispanic. That's the lead into...okay they are going to be arrested now for driving without a license. What really aggravates me is an attorney, somebody's who's taken an oath to uphold the law and has studied the law, aggravates me to see that somebody would be arrested for driving without a license, but somebody else would be arrested who is not Hispanic for driving without a license and they will receive a citation. But the Hispanic person gets arrested and then he's of course ultimately he'll be deported. Two weeks ago I saw somebody who was arrested for fishing without a license. I can't tell you the last time I ever saw anybody arrested for fishing without a license. Yes this person was Hispanic. That troubles me. I don't see the majority of the clients that come to me as the felons. The people that come to me...the majority of people that I represent are for very minor crimes in which most of the time the judges will say 24 hours in jail, time served, 48 hours in jail, time served, and then they go through the deportation process. We can't even fight whether their arrest was legal or illegal because it would just keep them in Henderson County custody for much longer than necessary. And even if I was to win or another attorney was to win on their behalf, what did they really win? They are still going to be deported. So these people don't even have the luxury of pleading not guilty and asking for a trial because it just extends their stay, they are going to be deported. Not the way our constitution was meant to be, not the way our justice system was set up to be. Basically these people are forced to plead guilty so they can leave. The majority of the clients that hire me are women. They hire me for men that are arrested. Again the majority that I see is driving charges and these are women who have children. This is what I have heard, I don't know if the commission is aware of this or not, but there are many social programs that are set up to take care of any child born in the United States, whether or not their parents are here legally or illegally. So I want you to think of this, the bread winner is being deported, Momma now has the child but in the Hispanic community it is mostly the men that work and the women stay home and raise the children. So momma now has to go and apply for social assistance. These are the things that I have been told that we provide at the County level. Could be wrong but this is what I have been told though...they can apply for a Workfirst grant through DSS where they can receive \$181 per month, they can receive food stamps, they can receive WIC, they can receive Medicaid, they can receive vouchers for headstart daycare, they can receive vouchers for heating bills, they can receive vouchers for kerosene in the winter and that's just what I was able to come up with today. I don't know what other programs are out there that are available. Most of these people that I understand would not ask for any of these things, they would be happy to pay taxes, to even pay for these things, but when Papa is deported for driving without a license, or fishing without a license, they just don't have the means to do that. They are giving all of these perks from the County. I've also been advised that if they apply through Mainstay, a momma and her US born one child, it doesn't have to be all

the children just one child, would be given housing assistance through the County. I don't know what the costs are I would just assume them to be great. I have no problem with the Sheriff's 287g program as far as its original intent. My belief is the original intent for 287g was for to remove violent offenders. That's what the government originally started this program for when it was first written. Now it's become people fishing without a license, or driving without a license. I don't think that's what we want to spend our money on. I don't think that's what is intended here. I think that's a travesty to these people who have no criminal record, committed no other crime, other than to drive without a license which is the majority that I see. We used to give them a license but now we don't. I'm sure that if we allow them to have a driver's license as we did in the past, they would apply as they did in the past. So I'm just asking you all to consider things through my eyes, through what I see on a daily basis through the court as you go through this process of discussing whether or not 287g is really the best thing for our community. Thank You."

Ms. Figueroa continued "what is the Law Enforcement perspective?"

- A 2009 nationwide Police Foundation survey found that civil immigration enforcement by local police undermines their core public safety mission, diverts scarce resources, increases their exposure to liability and litigation, and exacerbates fear in our communities.

Jose Ricardo Ramalo told the Commissioners about his situation with ICE officers via an interpreter. "I direct myself to you with respect and honesty to share my testimony. I am a father that has worked hard to give my kids a better life. Every day I take my grandchildren to school and my children to work because little by little various members of my family have been left without a license. Our community lives terrorized to leave and go into the streets. In August of 2009 one of my sons was deported to Mexico. He was out on his lunch break at work and they arrested him for having an expired driver's license (a great son). He had lived here for eight years, a son that had no vices and his only dream was to help his parents. My wife and I lost our home because my son was our economic. On behalf of my family and in front of my Hispanic community we ask for a more humane treatment and laws that are just for all. Thank you for your attention."

Rev. Rios provided the following recommendations:

- Uphold accountability by focusing resources on (convicted) criminal aliens who pose a threat to public safety as stated in the MOA.
- Adopt a policy of citation for traffic violations and other minor misdemeanors.
- Provide transparency by releasing current arrest and racial data and the costs of the 287(g) program to the public.
- Begin rebuilding trust with the Latino community through collaborative crime prevention programs as alternatives to 287(g).

Public Input

1. Marcia Ballard – "I'm the coordinator of the Henderson County 912 Project. We are here tonight to say thank you to our County Commissioners and our Sheriff for supporting the 287(g) program. In a time when our communities are stressed to provide even basic services to our citizens, we appreciate the removal of those who decided to break our laws by entering the country without completing the generous legal immigration program that we have. We fully support those who have passed the necessary examinations required to become legitimate citizens. There people from all over the globe have demonstrated a great respect for the law and cultural of the United States of America. The 287(g) program helps us support these very deserving naturalized citizens. Specifically tonight we want to thank our Sheriff Rick Davis for doing the job he was hired to do, enforcing the law. Hundreds of families in this county are grateful to you Sheriff Davis for what you do every day and pray for the safety and wellbeing of you, your family and your staff. Thank you Sheriff Davis."
2. Joanne Thomas – "We're really grateful to the County Commissioners and too Sheriff Davis and his deputies who implement the 287(g) program that operates here in Henderson County. Law abiding people need not be alarmed by this program since it's aimed at illegal aliens who have committed a

crime and I believe that our Sheriff has dutifully done his job along with his deputies in being fair in enforcing the laws. This program was instituted for US citizens to uphold our Nations laws. We are a sovereign nation obligated to protect our borders from invasion and federal law states that foreign citizens who enter our country illegally be deported. Federal government has left it to the citizens of the states and local communities to cope with the invasion anywhere from twelve to twenty million people who have come onto our soil illegally. We know that they have an allegiance to the country that they immigrated from and not to the United States with our constitution and our flag and our language. We would like to see the 287(g) be continued in Henderson County and we are grateful to have had it here so far. Thank you for allowing me to speak. I come from immigrants who came to this country just a generation ago and they did come through the front door. They did have documents. They were legally here. They came to work and I am a beneficiary of citizens who came to this nation and I thank you very much for your time for hearing us.”

3. Robert Heltman – “Commissioners, my name is Bob Heltman. In 2007 you established the Blue Ribbon Committee on Illegal Immigration. I was on it and become Chairman. It probably took three years off my life. That was a difficult, educational and remarkable experience. We had Patrick Tapia, who at that time was head of El Central and I got to know him quite well. We had Rev. Juan Undo on it and he has become a very close personal friend, a pastor at Pinecrest and I hope he is somewhere around tonight, he was working today. I have a deep affection for those folks. The laws in this land are confusing. They are not up to date. They are political and it leaves a big mess. Arizona has moved forward to try and solve it on their difficult state level. I’m not expert enough to say exactly what the magic answer is. I commend the Sheriff and I wanted to say also this committee had as its recommendation the start of the 287(g) program and at the time I personally testified in favor of getting it rolling. Any program you start is worth a review and the things that were said tonight could be very helpful perhaps in fine tuning. I commend Sheriff Davis, who I know, for doing his best at this and if there are places it can be changed and made better, I’m sure he will do it. I’d close with this comment; friends, whether you are Canadian, American or you came from anywhere in South America we have a common enemy. We need to find ways to friendly above all. That common enemy is radical Islam and it is coming on like cancer. So whatever we do tonight and whatever we think about we need to hang together against the common enemy. Peace be with everyone, amen.”
4. Hannah Chale – “I would just like to say that I think the Hispanic community is our family and our friends and they are being taken away us and it’s tearing apart our community. As a United States Military Police Officer I am humiliated by a law that would make people fear discrimination by our police force and that would make a community fear calling the police when they need them. (Her daughter made a statement) “I think they have the right to stay here because everyone here comes from a different country.”
5. Waymon Morris – “Good evening members of the Board. It is my great honor to appear here in support of Sheriff Davis and his enforcement of the 287(g) program. I am an attorney, I reside in this County, I work in this County and I firmly believe that the administration of this wall has brought much benefit to this whole community. Speaking of the Hispanic community, of that I am not addressing. I am addressing the benefit to the community as a whole. Now I do not base this comment on what has happened in Alamance County nor what has happened in Chapel Hill nor whatever such studies from around this state of nation may prove. I do however base this comments upon what happens in Henderson County and this is where we are concerned. I do appreciate the endorsement of the 287(g) program as far as it goes from the opposition. The question become though; doesn’t it? That if we endorse it to a certain level shall we not draw the line at any certain place? Shall we give the men and women of the Sheriff’s Office the authority to draw the line at any certain prime? Will that be DUI? Will that be shoplifting? Will that be assault? Will that be battery? Or, perhaps it will rape? But where shall they draw the line? I think the program either works in full or it does not work at all. And no one that has addressed you here this evening has said ‘let’s do away with this program’. Limit it to what end? Limit it to allow a certain number to go, that this is okay if you commit this crime but is not okay if you commit another. Please keep in mind that a person must commit a crime before they come to the attention of the Sheriff. No other way is

he out hauling people in that have not committed a crime. Therefore, it is criminals that we are concerned with and those criminals that are in this country improperly. Now you've heard the word many times undocumented workers. It is true but there are also undocumented robbers. There's also undocumented rapist. There are also undocumented thieves. All of those people are among those encountered by the Sheriff's Office. Therefore what we need then is enforcement of this law and not its dispensation. Thank you."

6. Eve Gregg – This citizen withdrew from speaking.
7. Douglas Coggins – "I didn't come up here with a written...anything written down. I speak from the heart when I say this. I know a lot of people who are of the Mexican descent that I consider friends. I have no hard feelings toward any of these folks. But I don't understand a lawyer that...if he becomes a lawyer I believe he takes an oath that he will uphold the law. Since I was a child when I heard the word illegal that meant woe; that's a red flag, something's wrong. Something's not like it is supposed to be and I do know that we as a country have started using the word undocumented as though it covered over illegal. I think that is the biggest issue that we have is the word illegal. I would love to see these folks...I used to...as a...years ago I used to wonder why we were not better friends with the Mexican people as we are with the Canadian people. But, by the way, when I was in the Air Force and I went into the...to serve in my...for my country in Canada, I had to go through the proper channels. I couldn't just walk across the border. I wonder why we can't...these folks can't get their country straightened out where they don't have the worry and the concern that they have from their own government. I personally think...and I've not been down there...but I think that it's their government that's the real problem and they do...our border is beginning to be a real issue. The people in Arizona are trying to fix something that our federal government has not fixed and they're not going out arresting people that haven't done anything and neither is Sheriff Davis. This 287(g) has guidelines and I believe that he follow those guidelines. I didn't support him in the Sheriff's election when he ran, but I will support him now because I've seen that he does a fantastic job. I believe the man is doing a great job. I don't particularly like him doing the traffic stuff because sometimes my foot gets a little heavy. But I will tell you that I believe he is a good man and I don't believe that he's out to punish or to take advantage of someone else. I just don't believe that. I don't believe American's as a whole dislike the Mexico people. I believe that we have a great love for everybody. There is no other country that's ever gone out and built hospitals and schools and given as much as we have. We're in debt up to our head and yet we're sending money to other countries. So I just say to you that I hope that you will keep the 287(g) program enforced but not because I have any bad feelings toward the Mexican people. If you break the law you ought to have to face that music. If I break the law, if I'm caught speeding or if I do anything else that is illegal then I have to face the music about that. I have to go to court and that's not a comfortable place, I know that. You don't just stand there and say anything you want to say. I've spoke my peace."
8. Roger Rusnak – "Just a couple of points I'd like to make. I didn't bring a power-point presentation with me to make it. The slide show that the cost of detention is very high; that's true, the cost of detention is very high but we can't overlook the fact that the people that are being detained committed some other crime in order to be there. So there is a reason for it. Another thing and I'm no lawyer. My understanding is this is a federal program with federal guidelines and we've adopted it. So I don't think we have the liberty to pick and choose which law breakers we choose to stop and which law breakers we say is okay. That is not within our realm of authority. In closing I would like to thank Sheriff Davis and his staff for a fine job that they are doing. I think that 287(g) is a good program. I think it has reduced the crime here and I believe we should continue it without error. So thank you."
9. Manuel Mayorga – "Thank you for listening to my opinion. I've been raised as an American child...well I'm not a child anymore, a young man. I grew up with many American friends and I also grew up with the Hispanic community around my side and I've seen the good side of my people. I've seen the people who care for their children and want to push them forward. I've also seen the bad side. The one's who want to hurt our community. I have tried my best to reach out to those who do the bad things that hurt our community and tell them that we live here. We can't say that you're a racist when we're being hypocrites ourselves. When I tell them that and I've seen many of them

indeed better, and I see where you all come from. I see the criminals but I also see my people. I see the workers, I see the parents and I agree with enforcing this law against violent charges but like they have stated...like the fishing license...driving with no license...but they've just given a citation to anyone else. I think there should be some equality in there. I've had a personal experience with the Buncombe County Sheriff's...the Police Department and one of my family members was facing domestic violence for a while now and they ended up getting deported and the person who was inflicting the violence to her is here and nothing happened to her. I remember when I was at that trailer park...I remember saying somebody call the cops. I was there seeing my family member be hurt and nobody would call them. I knew that they were afraid that if they called them they would be questioned and they would be taken in court...that's what their fear was. Their fear was to be deported. I just want the best for my community and I want everyone in my Hispanic community to know that they have my full support and me as a student I just want to see everything get better because I lost my innocence when I was eight years old and I had to see many people around me getting hurt and going to jail and I grew up thinking maybe the change that we want will start with us and that's where I grew up. I grew up knowing that we need to change ourselves and I agree fully that some of us are criminals but the majority is not. I think that economically that I think that we just don't need so much enforcement. I think that we need to focus on the real criminals. Thank you."

10. Gustavo Silva – "Good evening Mr. Chairman, Commissioners, it is an honor to be here. I'm no lawyer, I'm no politician, I no preacher. I just come to Henderson...I come to this country for twenty years, I vote already three times in this country and city since 1992. I see in Hendersonville is every kind my friends, American or Spanish people it fear. I asked myself about the 287(g). We need to find away to get together like the old times we get around the kitchen table and talk with the law enforcement, commissioners and local government to try to find a solution that we can apply and punish the people who are dealing drugs, people who are taking advantage of others; the youth people in schools. We need to crack those people around, make those people just go away. I work hard in construction. I pay taxes for acquired property in Hendersonville. I'm just a simple guy working in construction. I respect the values and love this country every time I go to Europe or Southern America. You always say this country is wonderful. But when I talking Hendersonville with my friends in yard or my lady friend who takes her children to school I can see fears and that is the end of the road for me. I know it is low in the book in the Constitution bylaws and it leaves it low in my heart and in my soul as a human being. It really bothers me when I see my friends, female or male friends, when they see the highway patrol, when they see the Sheriff's Department car they are in fear. For me as a human being it just hard for me to even flavor when my brother sits there in fear. I don't get it. I am fifty-five years old, I pay my taxes, I love everybody, I work and Chief Hogan and Duncan in Asheville know me for twenty years. We have a law enforcement committee in Asheville and we meet. For me it's just hard. I don't find a way to explain. How can we live in the community when people in fears. I can't digest."

287G/ICE PROGRAM UPDATE

Sheriff Rick Davis presented the Board with an update on the 287g/ICE Program.

Sheriff Rick Davis stated "Thank you Mr. Chairman. First of all I'd like to make sure everyone knows my Chief Deputy Greg Cochran and Sergeant Michael Cox who is the sergeant that's in charge of our immigration, customs enforcement, 287(g) program. All of our 287(g) deputies have been through federal training and they are indeed sworn ICE agents. Thank you for again providing the opportunity to tell you the success of our 287(g) program. Gentleman, I receive calls, emails, letters and I am stopped on the street almost daily by people urging me and the Sheriff's Office to continue forward with our program. This is a very reasonable, well-run program and has a key component of addressing crime. As you know 287g is a federal law created in 1996 which enables local law enforcement to partner with federal authorities to enforce immigration law. It is very important to remember my chief role as law enforcement officer here in Henderson County. I have a solemn duty to protect the citizens of Henderson County. Let there be no mistake, I shall always act in the best interest of people for their protection. Invariably in law enforcement, there will be a multitude of views on any particular enforcement action. As an example there are those who

believe traffic enforcement is not an effective use of an officer's time, yet speed was the deterrent factor that killed two people on Howard Gap Road a few months ago. I would defy anyone to go to the surviving family members and say more enforcement was not justified. Go to a crime scene like our deputies do and smell the blood, hear the howl when you tell a family member their loved one has been murdered or sexually assaulted. Ladies and gentleman this is a reality of what was occurring in the Latino community prior to 287(g). A key objective in law enforcement shall always remain the same: Find out what could have been done to prevent or mitigate crime and implement strategies to reduce and prevent the next crime. Decades ago street officers and detectives started seeing an escalation of crimes within the legal community. Having been provided the veil of anonymity by law enforcement's inability to identify suspects has led us to where we are today. Twenty years ago when our officers were called to disturbances around Henderson County, we would often find knives and occasionally marijuana. Today officers regularly find AK-47s and methamphetamine. Why? Because anonymity is all criminals seek. Failure to identify means they are not held accountable. This is true of citizens and non-citizens. This only fans the flames of crime. Had 287g been used locally in 1996 we would only see a fraction of the problems we currently experience. A recent DEA (Drug Enforcement Administration) support of federal court states 'The Mexican drug cartels has taken ironclad control of virtually every drug in North Carolina; every drug.' As U.S. citizens we are all held to a complete level of accountability. Let me give you an example: If you commit a crime, anyone here as a US citizen commits a crime, say that it is in California, Hawaii, or wherever, bank robbery, whatever you can think of, your fingerprints are on file. You come here to Hendersonville, North Carolina and you give a false name to an officer when you're picked up for speeding or whatever and like everybody else thought many years ago, 'I thought when we put that person on a fingerprint machine down in our booking room, that they would be identified and held accountable for that crime.' Most people here think that's right. That is true if you are a US citizen. If you are not a US citizen you are likely held in a separate database and before the 287g we would not have been able to account for your past crime. In short, without 287g U.S. citizens are held to a higher level of identification and accountability than non-U.S. citizens. It is only common sense for us to fully identify everyone brought into our jail. If we do not identify people that are brought into our jail where will be identifying them? Misconceptions about 287g abound within the illegal community due in large part to publications like LaVoz who profit through selective information. Face-saving efforts by family members who do not wish to have the realities of the true crimes brought to the front also are to blame for misinformation. Rarely does a complete story make it out. A few examples I would like to give you:

- 1) We had a female that came to the Sheriff's Office saying that we had abducted, kidnapped, on a no operator's license, her fiancée. Well, we went through every name and no name was recorded in our detention roster. We went through electronically and looked at the photographs. She pointed to a person that she said was her fiancée. He had been giving an alias. Well he had been giving an alias to her for six years and he was wanted for armed robberies in Arizona. Did she go back and say that he was wanted for those robberies in Arizona? No, she did not. She went back and told the community that he was picked up for no operator's license. That's a very difficult thing for us to overcome.
- 2) Not long ago there were two federal fugitives that Immigrations Customs Enforcement had arrested and identified. Their child went to a Henderson County public school and was on breathing treatments. Nothing critical but still on breathing treatments none the less. The ICE officials refused to process those two illegal aliens and released them immediately when they found out that that child had breathing treatments. There are levels that we have that we cannot process because of medical conditions and family separation, and for whatever reason those stories don't make it out. If you had been US citizens and you and your wife were wanted fugitives, federally, let me assure you, you would be in jail.
- 3) There was recently a jail show-up; there was a person that showed up at our jail wanting to be deported. We have to have an additional crime to deport somebody. There has to be an additional offense. There is no way for us to determine just by looking at somebody if they are illegal or if they have committed a crime unless it's happened in the presence of an officer. An illegal alien showed

up and actually it was to Sergeant Cox, and he wanted to be taken back to Mexico, and, unfortunately we are not a cab service. We do not have the authority to deport anybody unless there is a charge. Any allegations of misconduct on that of the Sheriff's Office, in my opinion, that's clearly shows we are running it the right way. That would have been the easiest place in the world for us to say "okay we'll make up a charge and then send you back because you want it." But, we want do that.

- 4) We recently approved the U-visa. U-visa enables temporary citizenship even to an illegal alien. We approve U-visa's in this particular case it was for a female and her daughter had been sexually molested for many years by her father. We need the testimony of that illegal alien in order to convict that person that was sexually molesting that small child, so we granted a U-visa and I signed that paper.
- 5) Not everyone that is processed is deported. That's a grievous misconception as well and I'll let Sergeant Cox expand on that a little bit here.

Another entity adding to inaccuracies is the ACLU, who continuously feed pro criminal groups their national agenda in the form of one-liners and sound bites, and I hear them so much. Why do they use words like racism, fear and separation? The reason is simple, they have no other option. Local data shows the criminal past of those arrested and it also shows that we are on track and we do what is right. Also, attempts to change immigration laws up to this point have failed. So they must now deal the race card from the bottom of the deck and attack the law enforcement officers who are sworn to uphold and protect the rights and everyone's lives that live here. It is the duty of law enforcement to do just that, enforce the law. It is not our duty to selectively interpret and enforce laws that have been passed to safeguard the entire population. If a law is inappropriate it is the right of the people to change that law. It should never be that officers on the street bow to political pressures and avert their gaze when a written law is broken in their presence, simply to appease special interest groups. There are those who say we should not arrest and process for minor crimes committed by suspected illegal aliens. I would like to remind everyone that we already process and arrest U.S. citizens for committing the similar offenses, and in a large number I might add. I would also like to remind everyone that small crimes always lead to larger ones if left unchecked. Additionally, it is usually smaller crimes that bring the attention of law enforcement where there is a larger criminal past involved and then brought to light. So called minor crime have recently lead to the arrest of sinister pasts like a man wanted in the raping a little girl in Boone County Kentucky and was picked up for violation of a city ordinance. I hear pro criminal groups speak of fear. One reason is that most people who seek refuge in the United States come from very dysfunctional, corrupt governments where distrust and fear are of authorities is the norm. We have highly trained professional law enforcement system and judicial system with an incredible amount of series of checks and balances. Despite this, well prior, well prior to 287g, crime was vastly underreported within the illegal populous. Were 287g removed today crime in the illegal community would still go on unreported like it did in the past. People who say they live in fear obviously have never placed themselves in the shoes the victims who have experienced the total horror of unspeakable crimes committed by some illegal aliens. I wonder if the child who saw his mother shot, and then shoot that same little boy was shot will live in fear? Officers arrested that little boy's father on three separate occasions for beating his mom. Will he ask in the future why his father wasn't deported after the beatings? That would have prevented his mother from being killed. There was an elderly Etowah woman who couldn't afford comprehensive insurance and the vehicle was struck by an illegal alien who had no insurance. By the way, it was his 3rd hit & run offence. I wonder if she lives in fear because she can't get around. There was a stolen merchandise/money laundering operation here in North Carolina a few years ago and it was connected to the terrorist group Hamas that was in the Middle East. I wonder if any Israelis lived in fear because of the illegal alien who was contributing directly to their organization, although she wasn't part of it. She was arrested for shoplifting and was connected to it financially. Our detectives just issued warrants this week for a murder which occurred in early 2006. The suspect and the victim were both illegal aliens. They were acquaintances through their methamphetamine sales. The victim was methodically shot at close range in one leg, then the other, then the stomach, then the chest. After he was shot in the stomach, as he begged for his life, I wonder

how much fear he felt before he was executed? Both were picked up on misdemeanor charges prior to the homicide. Had 287g been in place the citizens of Henderson County would not be facing extraditing a murderer back to this area and pay for all of that trial and that homicide would not have occurred. I wonder how many people lived in fear of their meth sales. And, anybody that for grunts that, in my opinion, should ultimately ask themselves and ultimately say to themselves, if the message is clear, don't break the law and you want live in fear. The criminal justice system isn't perfect. This is true across the board, including illegal immigration. There is absolutely no doubt a massive overhaul is long past due, but do not hold your breath. From what I've seen the far left is completely entrenched without compromise. The far right is completely entrenched without compromise. Unwillingness to compromise despite realities, politics and a daunting federal bureaucracy leads me to only one conclusion: The federal government will never come to our aid and they will never rescue any county that is in need of that aid until it is far too late. We must act locally to preserve the safety of the citizens of Henderson County as we see crime trends emerge. I would like to point out two basic components here which enable 287g to function. First the financial agreement which has Chairman Moyer's signature on it and sets the rate for federal reimbursements for transporting and housing illegal aliens, which prior to 287g we did not get, we simply were out the money. Let me make this crystal clear, if the commissioners decided to end reimbursements to Henderson County for incarcerated prisoners - 287g would continue. This is because the only item that is needed to continue this program bears my signature. After all of the hundreds of positive comments that I've received from citizens, after seeing drug traffickers move outside Henderson County for refuge, and declines in gang activity, no law enforcement officer on earth would ever water down or end such a program. I certainly won't. It would have been far easier for me to have pointed the finger at the federal government and stayed popular, but that not the right thing to do and it wasn't working in the past. And, as I close let me say this: It is the right of the citizens of Henderson County to abolish 287g should they desire. Henderson County citizens and their vote is this mechanism. There is a motto I learned in the army that all leaders were taught to live by and that is "Seek responsibility and take responsibility for your actions." As Sheriff, I took a sacred oath to protect the citizens of Henderson County. It is I that brought 287g here and it is my responsibility alone. I respect the right of pro criminal groups to exercise their constitutional rights and vote against me. (A women in the audience stood up and repeated "We are not criminals" repeatedly and had to be escorted from the meeting) Why, because the 287g program is critical for the continued safety for our community and will remain active as long as I am Sheriff. I will never shrink from my duty to protect everyone in Henderson County. Finally, I'd like to thank all of the employees of the Henderson County Sheriff's Office. They are highly trained to carry out their duties with extreme professionalism. The job that they do and the selfless sacrifices they make on a daily basis are in the highest keepings and traditions with law enforcement. They are protecting our very lives, property, and the rights we hold dear. We are blessed to have one of the finest law enforcement agencies in the nation. It is a true humbling honor to serve. Thank you, I'll be glad to answer any questions."

Sheriff Davis noted there were several miscellaneous questions (i.e., fishing without a license). The past record of the individual fishing without a license included aggravated assault with a deadly weapon, and aggravated battery. There is more to it than just the arrest in the field. Many times officers don't charge for everything they see, they will just charge for a single event, for that single offense on which the individual can be arrested. Another one that was brought up was a driver's license charge. The person was arrested on a driver's license charge but the prior criminal history was disorderly conduct for driving while impaired charges, aggravated battery, domestic violence, probation violation times two, trespassing, aggravated battery with intent to harm, possession with intent to sell, and schedule methamphetamine, trafficking methamphetamine, manufacturing methamphetamine, possessing of schedule II (which is methamphetamine probation violation, and he was permanently revoked from coming in the country. There are a few other things; statistics always don't bear out the reflection of what is going on. For example over sixty percent of the sex crimes that our detectives are actually investigating right now are committed by people that they believe to be are illegal aliens here of the U-visa that has been signed.

Sergeant Cox shared a power-point presentation which included the first quarter of arrests and processing by the ICE program.

HCSO 287(g) Statistics

- Foreign Born Subjects Interviewed – 697
- Foreign Born Subjects Detained – 601
- Subjects Processed for Removal – 562
- Subjects Pending Conviction – 39
- Jan. – Dec. 2009 – 75% Prior History
- Jan. – Apr. 2010 – 80% Prior History

Chairman Moyer thanked Reverence Rios and the Immigration Rights Coalition (IRC) for attending. He had been asked to give an opportunity for the Board to listen to concerns of the IRC and the Board has done so during this meeting in good faith. Personally the outburst by the lady does not help the cause. It was a discourtesy to the Board to be treated in such a fashion and furthermore makes it harder to go forth with the dialogue and consider the concerns without a proper vehicle. The Board has monitored the Sheriff's Department closely but it is possible to miss something. This is why the Board felt it was important to hear the coalition and Reverend Rios.

BLUE RIDGE COMMUNITY COLLEGE BUDGET PRESENTATION

Representatives for the Henderson County Public Schools, including David Whitson and Dr. Molly Parkhill, presented their FY 2010-2011 budget request to the Board. Dr. Parkhill stated that BRCC has experienced unprecedented enrollment growth, 24% in their curriculum programs, 13% in continuing education, and 4% in their basic literacy programs. At the same time they have had a reduction in their state funds which now must be spread between more students. This year their reduction amounted to about 5.6%. While this year has been challenging, the college has moved forward and added five new associate degree programs of which the enrollments are full as well as received some federal stimulus for some short term training for their dislocated workers to expedite their reentry into employment. There has also been a positive ongoing effort with providing community college courses and resources to high school students. The numbers have increased and this year five hundred high school students have taken college courses and have earned credit. The Early College Program with Henderson County public schools began in the fall with seventy-eight students. Most of these students are first generation students that would not have had the opportunity to continue and receive a college education beyond high school. There is hope that the NC General Assembly will be able to fund their state priorities specifically the enrollment growth funding across the state. All of the community colleges are experiencing growth; approximately 31,000 additional students this year which is about the size of NC State University.

The process for approving state construction projects is lengthy however BRCC feels that it is because of the thoroughness of the review it provides for assurances that errors are identified early rather than later. The timeline provided for the \$2 million in renovations is about three (3) weeks behind in schedule. There is still hope to go out for bids by September 1, 2010. David Berry, Henderson County Construction Manager is keeping close tabs on the progress. The Board of Commissioners had received a copy of the BRCC 2010/2011 Operating Cost requests including an \$11,107.00 increase. This increase is due to their health insurance premiums going up next year. The 2010/2010 Capital Outlay request of \$893,924 was submitted at the Joint Facilities Committee meeting held on January 12, 2010. Commissioner McGrady and Chairman Moyer were present at that meeting.

UPDATE ON STATUS OF ARRA BROADBAND STIMULUS GRANT APPLICATION

A representative of MCNC and IT Director Becky Snyder provided information on the status of American Recovery and Reinvestment Act of 2009 broadband grant funding requests and the impact of those requests on broadband availability in Henderson County.

Tommy Jacobson of the North Carolina Education and Research Network (NCREN) provided the following information via a power-point presentation.

The role of Microelectronics Center of North Carolina (MCNC)

- Founded in 1980 as a non-profit research institute
- Today as operator of NCREN focused on delivery of network based services to the K-20 community of North Carolina through contracts with the state of North Carolina
- Endowment created from the sale of Cronos in 1999 helps seed investments in the network
- Trusted advisor to the NC education community, today serving 3 million users daily

Federal Stimulus

- ARRA provides \$7.28B to enhance broadband access
 - \$4.5 B to Commerce BTOP
 - \$2.7 B to Agriculture RUS
- Why did MCNC apply?
 - Build on an existing asset – not build from scratch
 - Leasing bandwidth in rural areas no longer feasible
 - Equity of education
 - No dark fiber made available
 - Underserved consumers

BTOP Round 1 Approach

- Gauge Service Provider Interest
- Report on past inability to serve with fiber, either due to inability to acquire existing or lack of availability
- Understanding demographics of the areas we were going through
- Garner support from leadership areas: Federal and State, Layers of Education

Round 1 – MCNC's Successful Application

- \$28.2 M request, \$11.7M match
 - Uses no State Funds
 - \$7.7M From MCNC Endowment
 - \$4M From Bandwidth Wholesaler PalmettoNet
- 37 Rural Counties – 24 fully or partially underserved
 - Private partner reaches last mile consumers
- Round 1 Results: MCNC Won

What's in Store for Henderson County?

- Proposal to NTIA called two routes in to Western North Carolina, one via Asheville to Sylva; one via Hendersonville through Brevard to Cashiers
- Constructed network will be a combination of completely new build and acquisition of existing fibers under IRU

BTOP 2-Why MCNC applied again

- NCMC Success in Round 1 brought attention to the problems
- State Leadership asked us to finish covering the state
- Other areas in North Carolina not well served from middle mile perspective (North Central, Northeast, Northwest, and South Central)
- Focus on working in to economically distressed areas of the state

Round 2: Proposal

- \$111M for 1800 + Miles of fiber
 - Frank Hawkins Kenan Institute and MCNC led the application
 - \$33M to meet 30% match
 - \$24 M from Golden LEAF Foundation
 - 1500 jobs
- 4 Underserved areas remain
 - Northeast, North Central, Northwest, South Central
- Direct fiber to 179 community anchor institutions
 - Community Colleges and Libraries
 - Covers existing contracts to sustain the network

- \$24M to sustain (O&M and Refresh)

HENDERSON COUNTY CARES UPDATE

Sarah Zambon provided the Board with an update on the Henderson County Cares program regarding County employee charitable activities.

Activities

- Blood Drives
 - Drives Canned goods
 - Toiletries
 - School supplies
- Fundraising
 - Donations
 - Dress Casual Days
- Walks

Some of the Organizations Assisted

- Relay For Life of Henderson County
- March of Dimes
- Red Cross
- Manna Foodbank
- Mainstay
- Rathbun Center
- Toys for Tots
- Four Seasons Hospice and Palliative Care
- Land-of-Sky
- United Way of Henderson County
- Big Brother / Big Sister of Henderson County
- Henderson county Foster Parent's Association
- Local schools

March of Dimes

- Raised over \$1,000 in 2009 with about 20 teams members from various county departments
- In 2010 will have raised approximately \$5,000 and split into 3 different teams (one county, 2 family) Spearheaded by Matt Cable and Selena Coffey

Relay for Life

- In 2007 raised \$1,591 and had approximately 7 team members
- In 2008 raised \$2,704 with approximately 20 team members
- In 2009 raised \$2,923 with approximately 25 team members
- County employees have raised money individually, come to the event, and stayed overnight!
- Also participated in the 1st year of Bark For Live

Upcoming Activities

- June
 - May 11th – Jim Player for Sheriff's Department raising money at TCBY for Tour de Cure 40 mile ride to raise money for Diabetes
- July / August – collect school supplies for foster children
- Relay For Life
 - May 21 at North Henderson High School
 - Currently Henderson County Cares Team:

- Has 26 team members – Including staff families, children
- Has raised \$485
- County employees and their families should sign up
 - Can register and donate online or contact Sarah Zambon
- Bark For Life held on May 1st

Henderson County Cares has been a great success helping several non-profit organizations and different issues in Henderson County. It has brought together different departments, staff, board members and the public.

COUNTY MANAGERS REPORT

County Manager Steve Wyatt reported on a conversation with Congressman Shuler. He had received news from the County Commissioners Association that the Public Safety Employee/Employer Cooperation Act, which is the title of House Resolution 413, basically provides collective bargaining in North Carolina for public employees according to Congressman Shuler’s quote “It will not see the light of day”. Mr. Wyatt will relay this information to colleagues in Raleigh for follow-up.

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)(4), To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
- 2.
- 2) 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.

All voted in favor and the motion carried.

ADJOURN

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

Attest:

Teresa L. Wilson, Clerk to the Board

William L. Moyer, Chairman

A Regular Meeting of the Board of Commissioners (the "Board of Commissioners") of the County of Henderson, North Carolina (the "County") was held on Monday, May 3, 2010 at 7:00 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina.

Commissioners Present: William L. Moyer, Chairman
Mark Williams, Vice Chairman
Chuck McGrady
Charlie Messer
Larry Young

Commissioners Absent: None.

* * * * *

Commissioner McGrady moved that the following resolution, a copy of which was available with the Board and which was read by title, be adopted:

RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF CERTAIN PROJECTS SET FORTH THEREIN, THE REFINANCING OF CERTAIN INSTALLMENT FINANCING CONTRACTS AND RELATED MATTERS

WHEREAS, the County of Henderson, North Carolina (the "County") is a political subdivision validly existing under the Constitution, statutes and laws of the State (the "State");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina, to (1) purchase real and personal property, (2) enter into installment purchase contracts to finance the purchase or improvement of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

WHEREAS, the Board of Commissioners of the County (the "Board") has previously determined that it is in the best interest of the County to enter into (1) an installment financing contract with the Henderson County Governmental Financing Corporation, a North Carolina nonprofit corporation (the "Corporation"), in order to pay the capital costs of the (a) improvements at Blue Ridge Community College consisting of (i) replacement of the Spearman Building roof and (ii) construction, repair and renovation projects at various buildings to provide HVAC/energy efficiency and safety/ADA, (b) construction of a classroom building serving both Apple Valley Middle School and North Henderson High School, including related site improvements therefor, a cafeteria addition and locker room renovations (collectively, the "Projects"), and (c) refinancing its installment payment obligations under (i) an installment financing contract dated as of January 15, 2001 between the County and the Corporation (the "2001 Contract"), (ii) a financing agreement and deed of trust dated as of February 10, 2000 (the "2000 Contract"), (iii) a financing agreement and deed of trust dated as of April 10, 2002 (the "2002 Contract"), (iv) an installment financing contract dated as of November 27, 2006 (the "2006 Contract") and (v) an installment financing contract dated as of May 10, 2007 (the "2007 Contract" and, collectively with the 2001 Contract, the 2000 Contract, the 2002 Contract and the 2006 Contract, the "Prior Contracts"); and (2) a deed of trust, security agreement and fixture filing related to all or a portion of the

County's fee simple interest in the real property on which North Henderson High School is located (the "Site" and, together with the improvements thereon, the "Mortgaged Property");

WHEREAS, the County has determined that it would be in the best interest of the County to enter into an Installment Financing Contract dated as of June 1, 2010 (the "Contract") between the County and the Corporation in order to pay the capital costs of the Projects and refinancing the Prior Contracts;

WHEREAS, in order to secure the County's obligations under the Contract, the County will enter into a Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2010 (the "Deed of Trust") related to the Mortgaged Property;

WHEREAS, the Corporation will issue one or more series of limited obligation bonds (collectively, the "Bonds") in an aggregate principal amount not to exceed \$30,000,000 to evidence proportionate undivided interests in rights to receive certain Revenues (as defined in the Contract) pursuant to the Contract;

WHEREAS, in connection with the sale of the Bonds by the Corporation to Stephens Inc. (the "Underwriter"), the Corporation will enter into the Purchase Contract (hereinafter defined) and the County will execute a Letter of Representation to the Underwriter (the "Letter of Representation");

WHEREAS, there have been described to the Board the forms of the following documents (collectively, the "Instruments"), copies of which have been made available to the Board, which the Board proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract;
- (2) the Deed of Trust;
- (3) the Indenture of Trust dated as of June 1, 2010 (the "Indenture") between the Corporation and U.S. Bank National Association, as trustee;
- (4) the Contract of Purchase to be dated on or about May 21, 2010 between the Corporation and the Underwriter (the "Purchase Contract");
- (5) the Letter of Representation;
- (6) the Agency Agreement dated as of June 1, 2010 (the "Agency Agreement") between the County and the Henderson County Board of Education (the "Board of Education"); and
- (7) the Lease dated as of June 1, 2010 (the "Lease") between the County and the Board of Education;
- (8) the Escrow Agreement dated as of June 1, 2010 (the "Escrow Agreement") between the County and U.S. Bank National Association, as escrow agent;

WHEREAS, to make an offering and sale of the Bonds, there will be prepared a Preliminary Official Statement (the "Preliminary Official Statement"), a draft thereof having been presented to the Board, and a final Official Statement (together with the Preliminary Official Statement, the "Official

Statement") with respect to the Bonds, which Official Statement will contain certain information regarding the County;

WHEREAS, it appears that each of the Instruments and the Preliminary Official Statement is in an appropriate form and is an appropriate instrument for the purposes intended;

WHEREAS, the Board did conduct a public hearing on April 5, 2010, to receive public comment on the proposed Contract to finance the Projects and refinance the Prior Contracts; and

WHEREAS, the County has filed an application to the LGC for approval of the Contract;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. Ratification of Instruments. That all actions of the County, the Chairman of the Board (the "*Chairman*"), the Clerk to the Board (the "*Clerk*"), the County Manager, the Finance Director of the County (the "*Finance Director*"), the County Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. Authorization of the Official Statement. That the form, terms and content of the Preliminary Official Statement to be dated on or about May 12, 2010 are in all respects authorized, approved and confirmed, and the use of the Preliminary Official Statement and of the final Official Statement to be dated on or about May 21, 2010 by the Underwriter in connection with the sale of the Bonds is hereby in all respects authorized, approved and confirmed. The Chairman, the County Manager and the Finance Director are each hereby authorized and directed to execute and deliver, on behalf of the County, the Official Statement in substantially such form, with such changes, insertions and omissions as each may approve, the execution thereof by any of them to constitute conclusive evidence of such approval.

Section 3. Authorization to Execute the Contract. That the County approves the acquisition of the Projects and the refinancing of the Prior Contracts in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Contract are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk, and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the Board, and that from and after the execution and delivery of the Contract, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

Section 4. Authorization to Execute the Deed of Trust. That the County approves the form and content of the Deed of Trust and that the Deed of Trust is in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Deed of Trust, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate,

specifically including the removal of any property from the Mortgaged Property that the Underwriter determines is not needed in order to proceed with the issuance of the Bonds. Execution by the Chairman, the Clerk and the County Manager or their respective designees shall constitute conclusive evidence of the County's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Deed of Trust presented to the Board, and from and after the execution and delivery of the Deed of Trust, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Deed of Trust as executed.

Section 6. Authorization to Execute the Lease and Agency Agreement. That form and content of the Lease and the Agency Agreement are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Lease and the Agency Agreement, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Lease and Agency Agreement, respectively, presented to the Board, and that from and after the execution and delivery of the Lease and the Agency Agreement, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Lease and Agency Agreement as executed.

Section 7. Authorization to Execute the Escrow Agreement. That the County approves the form and content of the Escrow Agreement and that the Escrow Agreement is in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Escrow Agreement, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Escrow Agreement presented to the Board, and that from and after the execution and delivery of the Escrow Agreement, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement as executed.

Section 8. Letter of Representation. That the form and content of the Letter of Representation are hereby in all respects approved, and the Chairman, the County Manager or the Finance Director is authorized to execute the Letter of Representation for the purposes stated therein;

Section 9. County Representative. That the Chairman, the County Manager and the Finance Director are hereby designated as the County's Representative to act on behalf of the County in connection with the transactions contemplated by the Instruments and the Preliminary Official Statement, and the Chairman, the County Manager and the Finance Director are authorized to proceed with the acquisition of the Projects and the refinancing of the Prior Contracts in accordance with the Instruments and to seek opinions as a matter of law from the County Attorney, which the County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The County's representative and/or designee or designees are in all respects authorized on behalf of the County to supply all information pertaining to the County for use in the Official Statement and the transactions contemplated by the Instruments or the

Preliminary Official Statement. The County's representatives are hereby authorized to select the Underwriter and they or their respective designees are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the Instruments or the Preliminary Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 10. Severability. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

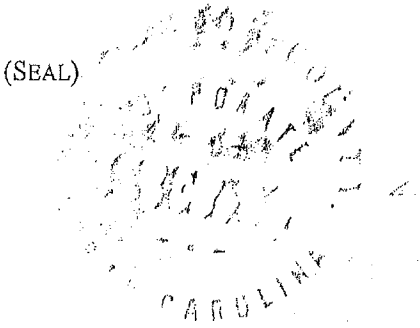
Section 11. Repealer. That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 12. Effective Date. That this Resolution is effective on the date of its adoption.

STATE OF NORTH CAROLINA)
) SS:
COUNTY OF HENDERSON)

I, *Teresa Wilson*, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution titled "RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF CERTAIN PROJECTS SET FORTH THEREIN, THE REFINANCING OF CERTAIN INSTALLMENT FINANCING CONTRACT AND RELATED MATTERS" adopted by the Board of Commissioners of the County of Henderson, North Carolina in regular session convened on the 3rd day of May, 2010, as recorded in the minutes of the Board of Commissioners of the County of Henderson, North Carolina.

WITNESS, my hand and the seal of the County of Henderson, North Carolina, this the 4th day of May, 2010.



Teresa Wilson

Teresa Wilson, Clerk to the Board of Commissioners
County of Henderson, North Carolina

A Regular Meeting of the Board of Commissioners (the "*Board of Commissioners*") of the County of Henderson, North Carolina (the "*County*") was held on Monday, May 3, 2010 at 7:00 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina.

Commissioners Present: William L. Moyer, Chairman
Mark Williams, Vice Chairman
Chuck McGrady
Charlie Messer
Larry Young

Commissioners Absent: None.

* * * * *

Commissioner McGrady moved that the following resolution, a copy of which was available with the Board and which was read by title, be adopted:

**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN
INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE ACQUISITION,
CONSTRUCTION, FURNISHING AND EQUIPPING OF CERTAIN PROJECTS SET FORTH
THEREIN AND RELATED MATTERS**

WHEREAS, the County of Henderson, North Carolina (the "*County*") is a political subdivision validly existing under the Constitution, statutes and laws of the State (the "*State*");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina, to (1) purchase real and personal property, (2) enter into installment purchase contracts to finance the purchase or improvement of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

WHEREAS, the Board of Commissioners of the County (the "*Board*") has previously determined that it is in the best interest of the County to enter into (1) an installment financing contract with RBC Bank (USA), a state banking corporation (the "*Bank*"), in order to pay the capital costs of the renovation, refurbishment and furnishing of (a) Edneyville Elementary School, (b) Bruce Drysdale Elementary School, (c) Atkinson Elementary School, (d) Glenn C. Marlow Elementary School, (e) Upward Elementary School, (f) Apple Valley Middle School, (g) Flat Rock Middle School and (h) North Henderson High School (collectively, the "*Projects*"); and (2) a deed of trust, security agreement and fixture filing related to all or a portion of the County's fee simple interest in the real property on which Glenn C. Marlow Elementary School is located (the "*Site*" and, together with the improvements thereon, the "*Mortgaged Property*");

WHEREAS, the County has determined that it would be in the best interest of the County to enter into an Installment Financing Contract dated as of June 1, 2010 (the "*Contract*") between the County and the Bank in order to pay the capital costs of the Projects;

WHEREAS, in order to secure the County's obligations under the Contract, the County will enter into a Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2010 (the "*Deed of Trust*") related to the Mortgaged Property;

WHEREAS, there have been described to the Board the forms of the following documents (collectively, the "*Instruments*"), copies of which have been made available to the Board, which the Board proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract;
- (2) the Deed of Trust;
- (3) the Agency Agreement dated as of June 1, 2010 (the "*Agency Agreement*") between the County and the Henderson County Board of Education (the "*Board of Education*"); and
- (4) the Lease dated as of June 1, 2010 (the "*Lease*") between the County and the Board of Education;

WHEREAS, it appears that each of the Instruments is in an appropriate form and is an appropriate instrument for the purposes intended;

WHEREAS, the Board did conduct a public hearing on April 5, 2010, to receive public comment on the proposed Contract to finance the Projects; and

WHEREAS, the County has filed an application to the LGC for approval of the Contract;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. Ratification of Instruments. That all actions of the County, the Chairman of the Board (the "*Chairman*"), the Clerk to the Board (the "*Clerk*"), the County Manager, the Finance Director of the County (the "*Finance Director*"), the County Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. QZAB Designation. The County hereby designates the Contract as a "*qualified zone academy bond*" within the meaning of, and for purposes of, Section 54E of the Code and agrees to do or cause to be done all things necessary to preserve and maintain such designation and qualification under Section 54E of the Code.

Section 3. Representations, Warranties and Covenants of the County. The County represents, warrants and covenants as follows:

- (a) During the term of the Contract, the Projects will be used by the County and the Board of Education only for the purpose of performing essential governmental uses and public functions of the County consistent with the permissible scope of the County's authority and that the Advance (as defined in the Contract) delivered to the County by the Bank will be used for (1) the rehabilitation and repair of

existing facilities of qualified zone academies within the meaning of Section 54E of the Code and (2) the provision of equipment for use at qualified zone academies within the meaning of Section 54E of the Code, all within the meaning of Section 54E(d)(3) of the Code (each, a "*Qualified Purpose*");

(b) The County will annually provide the Bank with current financial statements, budgets, proof of appropriation for the current budget year and such other financial information relating to the ability of the County to perform its obligations under the Contract as may be requested by the Bank;

(c) Each of the Schools at which the Projects will be installed or used constitutes a "*qualified zone academy*" within the meaning of Section 54E(d)(1) of the Code, created and established by the Board of Education at each of the Schools. In connection therewith, the County represents and warrants that:

(i) Each such school is a public school established by and operated under the supervision of the Board of Education to provide education and training below the post-secondary level and has been designed and will continue to be designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce;

(ii) All of the students at each such public school are subject to the same academic standards and assessments as other students educated by the Board of Education;

(iii) The comprehensive educational plan of each such public school is approved by the Board of Education;

(iv) There is a reasonable expectation as of the date hereof that at least 35% of the students attending each such public school will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (codified at 42 U.S.C.S. Sections 1751 through 1764); and

(v) Each such public school is located within the corporate limits and the jurisdiction of the Board of Education;

(d) During the term of the Contract, the Projects will be owned by the County or the Board of Education and used by the County and the Board of Education to provide educational services to the students of the County;

(e) The County has received written commitments from private entities to make qualified contributions within the meaning of Section 54E of the Code of in-kind services having a present value as of the date of execution and delivery of the Contract of not less than 10% of the Advance delivered by the Bank under the Contract;

(f) That 100% of the Available Proceeds (defined as the amount of the Advance minus issuance expenses (capped at 2% of the Advance) plus investment proceeds) delivered by the Bank to the County pursuant to the Contract will be used for Qualified Purposes at the qualified zone academy within three years from the date of closing and that the County owns and holds fee title to the real property to which all or a part of the Projects may be or become a fixture;

(g) The Board of Education is an organized board of education of the State and constitutes an "eligible local education agency" within the meaning of Section 54E(d)(2) of the Code and Section 9101 of the Elementary and Secondary Education Act of 1965, as amended (codified at 20 U.S.C.S. Section 7801(26)), because it is a public school board of education legally constituted within the State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the County;

(h) To the best of the County's knowledge and belief, the Contract, which has been designated as a "qualified zone academy bond", authorized by the County and approved by the North Carolina State Board of Education, will not cause the State's qualified zone academy bond allocation under the Code to be exceeded; and

(i) The County will comply with all applicable provisions of the Code, including specifically Section 54A and 54E of the Code, and the regulations promulgated thereunder, from time to time proposed or in effect, in order for the Contract to qualify as a "qualified zone academy bond" within the meaning of Section 54E of the Code and to maintain the federal income tax credits with respect to the Contract provided in accordance with Section 54E of the Code for the benefit of the Bank.

Section 4. Authorization to Execute the Contract. That the County approves the acquisition of the Projects in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Contract are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk, and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the Board, and that from and after the execution and delivery of the Contract, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

Section 5. Authorization to Execute the Deed of Trust. That the County approves the form and content of the Deed of Trust and that the Deed of Trust is in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Deed of Trust, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, specifically including the removal of any property from the Mortgaged Property that the Bank determines is not needed. Execution by the Chairman, the Clerk and the County Manager or their respective designees shall constitute conclusive evidence of the County's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Deed of Trust presented to the Board, and from and after the execution and delivery of the Deed of Trust, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Deed of Trust as executed.

Section 6. Authorization to Execute the Lease and Agency Agreement. That form and content of the Lease and the Agency Agreement are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed to execute and deliver the Lease and the Agency Agreement,

including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Lease and Agency Agreement, respectively, presented to the Board, and that from and after the execution and delivery of the Lease and the Agency Agreement, the Chairman, the Clerk, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Lease and Agency Agreement as executed.

Section 7. County Representative. That the Chairman, the County Manager and the Finance Director are hereby designated as the County's Representative to act on behalf of the County in connection with the transactions contemplated by the Instruments, and the Chairman, the County Manager and the Finance Director are authorized to proceed with the acquisition of the Projects in accordance with the Instruments and to seek opinions as a matter of law from the County Attorney, which the County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The County's representative and/or designee or designees are in all respects authorized on behalf of the County to supply all information pertaining to the County for use in the transactions contemplated by the Instruments. The County's representatives are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the Instruments or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 8. Severability. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 9. Repealer. That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

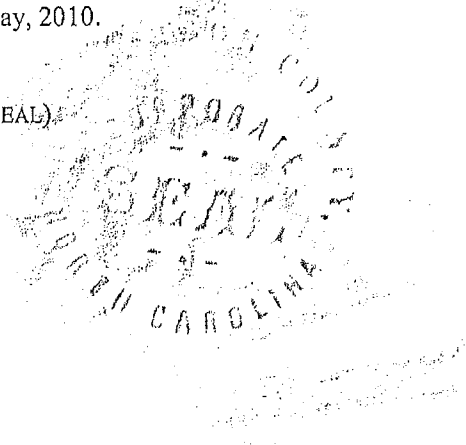
Section 10. Effective Date. That this Resolution is effective on the date of its adoption.

STATE OF NORTH CAROLINA)
)
) SS:
COUNTY OF HENDERSON)

I, *Teresa Wilson*, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution titled "RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF CERTAIN PROJECTS SET FORTH THEREIN, THE REFINANCING OF CERTAIN INSTALLMENT FINANCING CONTRACT AND RELATED MATTERS" adopted by the Board of Commissioners of the County of Henderson, North Carolina in regular session convened on the 3rd day of May, 2010, as recorded in the minutes of the Board of Commissioners of the County of Henderson, North Carolina.

WITNESS, my hand and the seal of the County of Henderson, North Carolina, this the 4th day of May, 2010.

(SEAL)



Teresa Wilson

Teresa Wilson, Clerk to the Board of Commissioners
County of Henderson, North Carolina

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1
Hendersonville, North Carolina 28792
Phone 828-697-4808 • Fax: 828-692-9855
TDD: 828-697-4580
www.hendersoncountync.org

BILL MOYER
Chairman
MARK WILLIAMS
Vice-Chairman

CHUCK McGRADY
CHARLIE MESSER
LARRY YOUNG

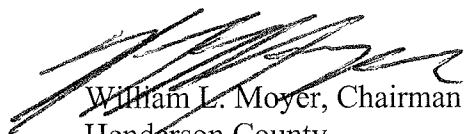
May 3, 2010

Mr. Stan Duncan, Tax Assessor
HENDERSONVILLE COUNTY ASSESSOR'S OFFICE
200 N. Grove Street, Suite 102
Hendersonville, NC 28792

Dear Mr. Duncan:

Attached please find the list of tax release requests (34), and tax refund requests (22), all approved at the Henderson County Board of Commissioners' Meeting on Monday, May 3, 2010.

Sincerely,



William L. Moyer, Chairman
Henderson County
Board of Commissioners

WM/tlw

enclosures

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1
Hendersonville, NC 28792
Phone (828) 697-4808 • Fax (828) 698-4443
TDD: (828) 697-4580
www.hendersoncountync.org

BILL MOYER
Chairman
MARK WILLIAMS
Vice-Chairman

CHUCK MCGRADY
CHARLIE MESSER
LARRY YOUNG

Proclamation Mental Health Month – Silent No More

- WHEREAS,** May is Mental Health Month which has provided an opportunity to raise awareness about mental health issues for more than 50 years; and
- WHEREAS,** Mental Health America launched “Mental Health Week”, which eventually became “May is Mental Health Month”, in 1949; and
- WHEREAS,** Each May, Americans recognize Mental Health Month with events and activities in communities across the country. The theme for Mental Health Month this year is "Get Connected" to emphasize the important role of social relationships in protecting and improving mental health and building resiliency; and
- WHEREAS,** Locally, we have *NAMI Four Seasons*, providing advocacy, education, and support to local citizens, and *Sixth Avenue*, the non-profit center for adult mental health and their psychosocial rehabilitation program called Sixth Avenue West Clubhouse as the center for ‘getting connected’ and promoting meaningful and social relationships; and
- WHEREAS,** These two non-profit agencies are joined by a host of other for profit agencies, local non-profit social service agencies, governmental, federal, and county agencies promoting and educating our citizens about mental health, integrated across a diverse and broad continuum of missions and populations; and
- WHEREAS,** Henderson County has long promoted mental health with its’ allocation of Maintenance of Effort funding; and
- NOW, THEREFORE,** be it resolved that we, the Henderson County Board of Commissioners, does hereby proclaim the month of May as Mental Health Month, and encourages all citizens to support advocacy, education, and support of all of our citizens and the hopeful and future elimination of stigma toward those living with mental illness, their families, their friends, and their co-workers.

Adopted this the 3rd day of May, 2010.

ATTEST:


TERESA L. WILSON, CLERK TO THE BOARD


WILLIAM L. MOYER, CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BEFORE THE BOARD OF COMMISSIONERS

In the Matter of Real Property Owned by
BRITTAIN HOLDINGS, INC., an Indiana
Corporation.

ORDER

The Board of Commissioners of Henderson County finds as follows:

1. Parcel Number 9956157 (PIN 9575642488, referred to herein as “the Property”) in Henderson County has the record owner “Brittain Holdings, Inc.” (sometimes, “the Owner”). According to Henderson County tax records, the address for Brittain Holdings, Inc., is 2021 W. Clinton County Road, Frankfurt, Indiana 46041.
2. Brittain Holdings, Inc., is an Indiana corporation. The records of the Indiana Secretary of State show the following:
 - A. A status of “Admin Dissolved” for “Brittain Holdings, Inc.”
 - B. An address for Brittain Holdings, Inc., of “2021 West County Road 0 N-S, Frankfurt, Indiana 46041.
 - C. The president and secretary of Brittain Holdings, Inc., is “Richard W. Brittain”, whose address is shown as “1009 S. Williams Road, Frankfurt, Indiana 46041.”
3. Richard W. Brittain and Etta S. Brittain filed Chapter 7 bankruptcy in the Southern District of Indiana in 2008. In their bankruptcy filing, they indicated that they were co-debtors with Brittain Holdings, Inc., in certain debts. They claimed no ownership interest in Brittain Holdings, Inc.
4. The record lienholder on the property is G.E. Capital Small Business Finance, along with the United States Small Business Administration.
5. The Property is a former industrial site, formerly a textile mill, but most recently a recycling center.
6. There exist on the property certain violations of the Henderson County Nuisance Ordinance, and the Henderson County Building Code.
7. The Owner, Richard W. Brittain, and the record lienholder (and its agent) have been given repeated notices of the violations of the Nuisance Ordinance, but have taken no action to remedy the same. Notice pursuant to N.C. Gen. Stat. §153A-140.2 has been given this calendar year.
8. Under Section 126-12 of the Henderson County Code and N.C. Gen. Stat. §153A-140.2, the County “may without further notice remedy a violation and charge the expense of the clean-up action as a lien against the chronic violator’s property.” Pursuant to N.C. Gen. Stat. §153A-140.2, “the expense of the action shall become

a lien upon the property and shall be collected as unpaid taxes.”

9. Due to the former industrial use of the Property, a part of the clean-up of the Property should include environmental assessments of the Property of the sort frequently required prior to financed construction.

From the foregoing, the Board of Commissioners makes the following conclusions:

1. The Board has the power to affect the clean-up of the nuisances of the Property without further notice.

2. Such clean up should include environmental assessment of the property, and may include remediation of any problems discovered as a result of such assessment.

3. Henderson County staff should proceed with obtaining such assessment, and with obtaining cost estimates for cleanup.

IT IS THEREFORE ORDERED:

1. Henderson County staff and its agents shall enter upon the Property for the purpose of obtaining an environmental assessment of the Property.

2. Henderson County staff and its agents shall enter upon the Property to obtain firm estimates of the costs of remediation of the nuisances on the property and any problems discovered as a result of the environmental assessment.

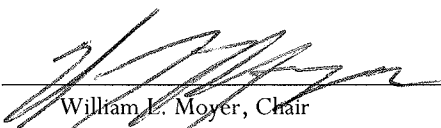
3. The estimates shall be brought back to this Board for award of contract for remediation.

4. A copy of this Order shall be mailed by certified mail to:

- A. Brittain Holdings, Inc.
- B. Richard W. Brittain
- C. The lienholder, and its agent.
- D. The Secretary of State of Indiana.

Adopted by unanimous vote, this the 3rd day of May, 2010.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: 
William L. Moyer, Chair

Attest:


Secretary to the Board

HENDERSON COUNTY TAX DEPARTMENT

Collector's Office
200 North Grove Street
Suite 66
Hendersonville, NC 28792

Phone: 828/697-5595

Fax: 828/698-6153

www.hendersoncountync.org/tc/

Stan C. Duncan
County Assessor & Tax Collector

Sandy Allison
Administrative Assistant II

April 23, 2010

Re: Tax Collector's Report to Commissioners: 05/03/10 Meeting

Please find outlined below collections information through April 22nd for the 2009 bills mailed out on August 5th, as well as registered motor vehicle bills. As a point of reference, we also have included collections information as of the same date last year.

Annual Bills G01 Only:

2009 Total Charge \$57,024,352.18
Payments & Releases: 55,012,277.67
Unpaid Taxes: 2,012,074.51
Percentage collected: 96.47%
(through 04/22/10)

2008 Total Charge: \$55,850,131.09
Payments & Releases: 54,070,210.14
Unpaid Taxes: 1,779,920.95
Percentage Collected: 96.81%
(through 04/22/09)

Motor Vehicle Bills G01 Only:

2009 Total Charge: \$3,814,784.42
Payments & Releases: 2,983,202.72
Unpaid Taxes: 831,581.70
Percentage collected: 78.20%
(through 04/22/10)

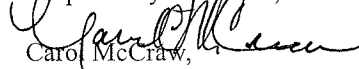
2008 Total Charge: \$3,835,225.56
Payments & Releases: 3,212,515.71
Unpaid Taxes: 622,709.85
Percentage collected: 83.76%
(through 04/22/09)

Fire Districts All Bills

2009 Total Charge: \$6,583,526.14
Payments & Releases: 6,270,189.31
Unpaid Taxes: 313,336.83
Percentage collected: 95.41%
(through 04/22/10)

2008 Total Charge: \$6,504,364.02
Payments & Releases: 6,216,627.51
Unpaid Taxes: 287,736.51
Percentage collected: 95.74%
(through 04/22/09)

Respectfully submitted,


Carol McCraw,
Deputy Tax Collector

Stan C. Duncan,
Tax Collector

HENDERSON COUNTY

PUBLIC RECORDS DISPOSAL REQUEST AND DESTRUCTION LOG

(Revised March 13, 2002)

DEPARTMENT: Assessor

RECORD TITLE & DESCRIPTION, INCLUSIVE DATES, & QUANTITY	RECORDS WILL BE		RECORDS RETENTION SECTION	IF APPROVED, DATE DESTROYED
	DESTROYED	*DUPLICATED		
Business Listing Forms + supporting documents	✓		Standard 6	
for years 1999 and 2000 yr (Closed Businesses)			Item #18	

*If duplication is required, indicate method.

Approval is requested for the records listed above to be destroyed in accordance with the provisions of G.S. 121 and 132. The period for retention of these records, as prescribed by the North Carolina Department of Cultural Resources, has expired; **OR** where the period for retention has not expired, the original records have been duplicated on microfilm, microfiche, data processing or word processing equipment, with the understanding that said duplication shall be maintained for the specified period of retention. **NONE** of the original records listed above have been scheduled for permanent preservation by the North Carolina Department of Cultural Resources.

[Signature]
Department Head

22 April 2010
Date

Submitted to the Henderson County Board of Commissioners. The Board:

APPROVED
DISAPPROVED

the destruction/duplication of the above records and such approval/disapproval has been entered into the official minutes of the Board of Commissioners meeting held on the 3rd day of May, 2010.

[Signature]
Clerk to the Board

STANDARD-6: PROGRAM RECORDS, PROPERTY APPRAISAL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
13.	REPORTS BY TRAILER PARKS, MARINAS, AND AIR CRAFT FACILITIES FILE	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-316
14.	REPORTS OF PERSONS HAVING CUSTODY OF TANGIBLE PROPERTY OF OTHERS FILE	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-315
15.	REPORTS TO THE DEPARTMENT OF ADMINISTRATION ON PROPERTY LISTED IN NAME OF UNKNOWN OWNER FILE	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-302.1
16.	REVALUATION RECORDS Records used by appraisers to reappraise the value of real property on a four-year, eight-year or similar cycle. Includes field notes, correspondence to and from property owners, building and construction lists, ratio studies, area and neighborhood records used to estimate market values, and similar records documenting changes in parcel features, and characteristics.	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-286
17.	SPECIAL ASSESSMENT RECORDS Includes rolls, schedules, ledgers and similar records listing amounts of assessment for streets, sidewalks, etc.	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	
18.	TAX ABSTRACTS AND LISTS Complete record of real and person property in the county, based on assessment lists. Includes name and address of taxpayer along with descriptions of property owned and estimated values.	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-309 G.S. 105-296
19.	UNIFORM SCHEDULES OF VALUES, STANDARDS, AND RULES Appraisal manuals used to determine market and income value of property for appraisal purposes.	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-317

*Records may be disposed of following minimum retention period only if released from audits or other official action (excluding litigation). If applicable, see LITIGATION CASE RECORDS item 11, page 17.

**HENDERSON COUNTY
RECORDS RETENTION AND DISPOSITION PROCEDURE**

PUBLIC RECORDS DISPOSAL REQUEST AND DESTRUCTION LOG
(Revised March 13, 2002)

DEPARTMENT: Assessor

RECORD TITLE & DESCRIPTION, INCLUSIVE DATES, & QUANTITY	RECORDS WILL BE		RECORDS RETENTION SECTION	IF APPROVED, DATE DESTROYED
	DESTROYED	*DUPLICATED		
2010 Real Property Listing Forms		Forms have been scanned and attached to the parcel record as a document	Standard 6 Item # 2	

*If duplication is required, indicate method.

Approval is requested for the records listed above to be destroyed in accordance with the provisions of G.S. 121 and 132. The period for retention of these records, as prescribed by the North Carolina Department of Cultural Resources, has expired; **OR** where the period for retention has not expired, the original records have been duplicated on microfilm, microfiche, data processing or word processing equipment, with the understanding that said duplication shall be maintained for the specified period of retention. **NONE** of the original records listed above have been scheduled for permanent preservation by the North Carolina Department of Cultural Resources.

[Signature]
Department Head

22 April 2010
Date

Submitted to the Henderson County Board of Commissioners. The Board:

APPROVED
DISAPPROVED

the destruction/duplication of the above records and such approval/disapproval has been entered into the official minutes of the Board of Commissioners meeting held on the 5th day of May, 2010.

[Signature]
Clerk to the Board

STANDARD-6. PROGRAM OPERATIONAL RECORDS: PROPERTY APPRAISAL RECORDS. Records received and created by county tax offices necessary to meet all statutory requirements.

STANDARD-6. PROGRAM RECORDS: PROPERTY APPRAISAL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
1.	AGRICULTURAL, HORTICULTURAL, AND FORESTLAND DEFERRED TAXES	Destroy in office after 10 years or two revaluation cycles, whichever occurs first.	G.S. 105-277.6
2.	APPRAISAL MONITORING RECORDS Records used to discover unlisted and under-appraised real and personal property during non-revaluation years. Includes field notes, correspondence to and from property owners, and similar records documenting changes in parcel features and characteristics used to update property records.	a) Destroy in office records concerning real property after 10 years or two revaluation cycles, whichever occurs first. b) Destroy in office records concerning personal property after two revaluation cycles. See also REVALUATION RECORDS item 16, page 35.	G.S. 105-287
3.	BOARD OF EQUALIZATION AND REVIEW (APPEALS FILE) Records associated with appeals to the Board of Equalization and Review. Includes appeal letters, hearing notices, listing information, affidavits, staff recommendations and final actions.	a) Destroy in office 4 years after final settlement appeals concerning real property. b) Destroy in office 1 year after final settlement appeals concerning personal property and motor vehicles.	G.S. 105-322 G.S. 105-323 G.S. 105-325
4.	BOARD OF EQUALIZATION AND REVIEW (MINUTES AND ATTACHMENTS) Official minutes summarizing each appeal heard before the Board of Equalization and Review.	Retain in office permanently. See the Microfilm section on page viii for instructions on microfilming.	G.S. 105-322
5.	LOCAL GOVERNMENT COMMISSION REPORTS (DEPARTMENT OF REVENUE)	Destroy in office after 3 years.	

Page 33 of the Records Retention & Disposition Schedule - County Tax Administration - Issued by: NC Dept. of Cultural Resources, Division of Historical Resources, Archives & Records Section Government Records Branch; published April 1, 2004

*Records may be disposed of following minimum retention period only if released from audits or other official action (excluding litigation). If applicable, see LITIGATION CASE RECORDS item 11, page 17.