

DRAFT

10/6/10

MINUTES

cc: Boc
Steve
Selena
Russ
Christy

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
MONDAY, OCTOBER 4, 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, Planning Director Anthony Starr, Property Addressing Coordinator Curtis Griffin, Transportation Planner Hope Bleecker, Sheriff Rick Davis, Construction Manager David Berry, Henderson County Assessor Stan Duncan, and Officer David Pearce (as security).

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 Sarah Hart of the Hawks 4-H Club.

INVOCATION

Reverend Dave Marshall of the First Baptist Church Hendersonville gave the invocation.

INFORMAL PUBLIC COMMENT

There was none.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner McGrady made the motion to adopt the Agenda as presented. 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):

September 22, 2010 – Regularly Scheduled Meeting

Tax Collector's Report

Deputy Tax Collector Carol McCraw had presented the Tax Collector's Report to the Commissioners dated September 24, 2010 for information only. No action was required.

Financial Report/Cash Balance Report – August 2010

The August 2010 County Financial Report and Cash Balance Report were provided for the Board's review and approval.

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

DATE APPROVED:

Non-Profit Contributions – 1st quarter contributions paid in August to outside agencies after executed Performance Agreements received and approved by the Board
Finance – professional services for financial management software system support paid in July
Fire Services – payment of annual fire districts workman’s compensation premium for FY2011
Rescue Squad – 1st quarter non-profit contribution paid in advance at beginning of the quarter
Tuberculosis, Risk Reduction Health Programs – 100 percent grant funded health programs
NC Cardiovascular Health Program - \$100,000 program grant approved after budget ordinance was adopted. Budget amendment for these grant funds recorded in September
BRCC – monthly operational expense for September was posted at the end of August

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

The YTD deficit in the Public Transit Fund is due to the timing difference between the expenditure of ARRA grant funds for the CNG Station Project and subsequent reimbursement from the N.C. Department of Transportation.

The YTD deficit in the Law Enforcement Center Project is expenditures that will be reimbursed from financing proceeds that are expected to be available in the second quarter of FY2011.

The YTD deficit in the Cane Creek Water and Sewer District Fund is temporary and due to a quarterly debt service payment coming due in August.

Suggested Motion:

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

Henderson County Public Schools Financial Reports – August 2010

The Henderson County Public Schools August 2010 Financial Reports were provided for the Board’s information.

Suggested Motion:

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

Construction Management Update

Construction Manager David H. Berry & Associates, LLC provided a monthly status report to the Commissioners for Henderson County facilities.

Elkamet Agreement

Elkamet, Inc., entered into an agreement with the County in 2006 requiring them to expend not less than \$4,800,000.00 toward the construction of a new factory in Henderson County. They did so, in fact expending, according to tax value, over \$8,500,000.00. This agreement would conclude and terminate the previous agreement with Elkamet, Inc.

Motion Suggested:

I move that the Board approves the draft agreement with Elkamet, and direct the chairman and staff to execute the same.

Nominations

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

1. Child Fatality Prevention Team – 1 vac.

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

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

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

3. Community Child Protection Team (CCPT) – 6 vac.

Commissioner McGrady nominated for reappointment Alice Arrowood for position #2, Patricia Jones for position #3, Paula DeLorenzo for position #4, and Kristi Goodrum for position #5.

Chairman Moyer made the motion to accept the reappointments by acclamation. All voted in favor and the motion carried.

4. Downtown Hendersonville, Inc. – 1 vac.

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

5. Hospital Corporation Board of Directors – 4 vac.

Commissioner Larry Young nominated for reappointment John Bell and Joseph (Bill) Smith. He further nominated Fielding Lucas for position #9 and Don Holder (pending receipt of application) for position #11.

Chairman Bill Moyer nominated Carolyn Justus (pending receipt of application) for position #9.

Commissioner Chuck McGrady nominated Bill Moyer for position #11.

This item was rolled to the next meeting.

6. Juvenile Crime Prevention Council – 9 vac.

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

7. Mountain Area Workforce Development Board – 1 vac.

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

8. Mountain Valleys Resource Conservation and Development Program – 1 vac.

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

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

Commissioner McGrady nominated for reappointment Martha Mohidin for position #12.

Chairman Moyer made the motion to accept the reappointment of Martha Mohidin to position #12 by acclamation. All voted in favor and the motion carried.

10. Senior Volunteer Services Advisory Council – 3 vac.

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

11. Western Highlands Local Management Entity – 1 vac.

Commissioner McGrady nominated Steve Wyatt for reappointment to position #1.

Chairman Moyer made the motion to accept the reappointment Steve Wyatt to position #1 by acclamation. All voted in favor and the motion carried.

MISSION HOSPITAL SYSTEM PRESENTATION ON PLANNED JOINT VENTURE

Representatives of Mission Hospital System George Renfro, Chairman of Mission Health System Board of Directors, and Ronald Paulus, M.D., President and CEO of Mission Health System provided a presentation

of the planned joint venture to be located in Fletcher, North Carolina.

George Renfro stated Mission Hospital System is a local neighbor with a 125 year history of caring for families in Western, North Carolina. All of their employees live and work in Western, North Carolina. Their focus is on providing the highest quality care, as close to home as possible. They would like to partner with Pardee, another high quality, low cost, local care provider, to be proactive, and get ahead of the need for additional, convenient, patient-centered ambulatory care in North Henderson County and South Buncombe County. The bottom line is they would be able to offer additional services, more local jobs, enhanced convenience and highest quality care.

Who is Mission Health System?

- Dedicated professionals working with others to improve the health of our region
 - 125-year old, community-owned, not-for-profit
 - Committed to providing care as close to home as possible and returning referred patients to local providers as soon as safe and effective
- Local healthcare organization
 - Board and management all live and work in Western, North Carolina
 - Services are provided exclusively in Western, North Carolina
 - Money that is earned here, stays here
- Independent of government entities
 - Governed by a volunteer board of directors
- Grounded in the Judeo-Christian tradition
 - Not affiliated with any denomination

Their Mission

- To promote and improve the health and wellness of people of Western, North Carolina
- To improve access to high quality, cost-effective care
- To provide superior care through education, innovation, integrated services and research
- To work with others who share their vision

Six Asheville hospitals (Asheville Colored, Aston Park, Biltmore, Mission, Norburn, and St. Joseph's) came together over the span of 50 years to make up Mission Hospital.

Mission Health System Affiliates

- Blue Ridge Regional Hospital (formerly Spruce Pine)
- McDowell Hospital
- Mission Medical Associates

Consumer Preferences

- In all counties beyond Buncombe and Madison, the local hospital is preferred for routine care while Mission is preferred for critical care

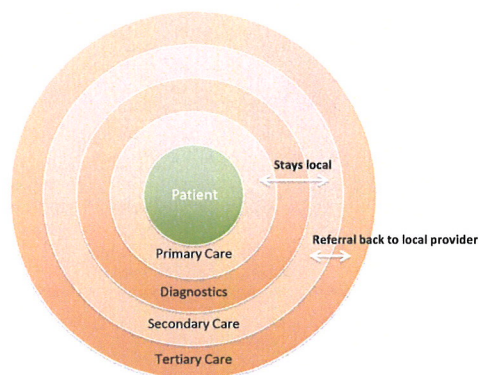
Mission Hospital has received a number of awards relating to the quality of the hospital. Dr. Ron Paulus' was looked at as a candidate for the CEO position due to his knowledge, energy, enthusiasm, and commitment to innovation. Mission's interest in collaborating with Pardee in the North Henderson and South Buncombe area is all about innovation. Forth and foremost the Mission/Pardee Health Campus truly is a joint venture with Pardee and Mission sharing control. Mr. Renfro wanted to make it clear that none of this was about Mission wanting to take control of Pardee. Mission has never approached another hospital. All of the hospitals that are affiliated with them approached Mission. This project is about working with another local hospital that is equally committed to finding a local solution to address three issues; access, good health, and cost. This project is also about economic health. The project construction loan is expected to bring about 100 jobs to this area. As the project grows it will bring more good paying jobs along the border

of the counties that are served. This project is about creating a healthy population by diagnosing problems early and preventing chronic health problems.

Dr. Ron Paulus shared the following information and felt it defined the strategy of Mission relative to the broader Western North Carolina region.

Mission's Philosophy of Care

Providing Patient-Centered Care Where and When it is Needed



Quality is providing superb integrated care across the region

Mission: Innovation

- Outpatient – Coordinated continuum of patient-centered care
 - The Mission Pardee Health Campus an innovative solution to a community's need
- Inpatient – Their “Big Aim”
 - Eliminate preventable patient harm while lowering costs
- Make Western, North Carolina a center of innovation
 - Generate and test new ideas
 - Improve access to care (inpatient and outpatient)
 - Become the national leader in patient safety and quality

Mission and Pardee will be working together to improve the Health of Henderson and Buncombe Counties

- Goal of the Mission Pardee Health Campus project:
 - Increase primary care access, health and wellness services in North Henderson and S. Buncombe Counties
- Rationale:
 - Population growth and healthcare reform will demand it
 - Pardee partnership brings together two high quality, low cost organizations to enhance quality and access

Both Mission and Pardee are leaders in innovative community-based wellness and prevention programs:

- Lighten Up 4 Life (community weight-loss wellness initiative)
- Minutes Matter at the Apple Festival and Mountain State Fair with 1,600+ people trained:
 - 911 activation
 - Signs and symptoms of stroke
 - Compression CPR

Both Mission and Pardee share a commitment to clinical quality through collaborative training in Henderson

County:

- Acute Coronary Syndrome classes
- Cultural Competency – The Hispanic Patient
- RACE training for hospital ER staff and Henderson County EMS staff
- Recognized by Dartmouth-IHI Collaborative for nation-leading, high quality, low cost hospitals

The projected growth in greater Fletcher area from 2008 to 2013 (based on Claritas Data) goes from 78,500 in 2008 to 84,440 in 2013. A 15% increase in adults 65+ (higher utilization of inpatient and outpatient care) is also projected for this same time period.

Mission has a long standing commitment to their local community in caring for the uninsured.

2009 Emergency Department Volumes for the Uninsured:

Mission - 18,649 self-pay/charity

Pardee – 8,357 self-pay/charity

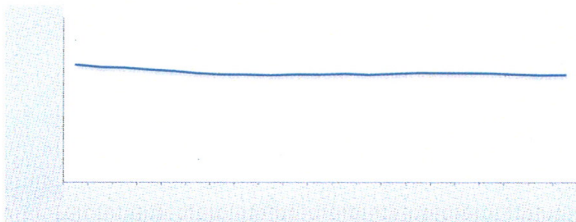
Park Ridge – 5,450 self-pay/charity

Henderson County residents want (Based on Henderson County Focus Group Findings, August, 2010)

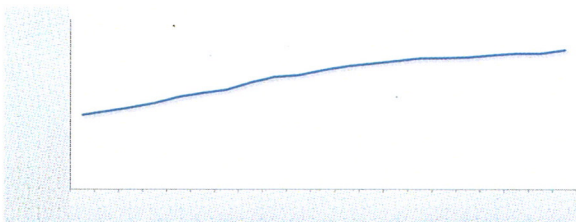
- Convenient hours, 8:00 a.m. until 10:00 p.m.
 - Important to working families and adult children caring for elderly parents
- Care near where they live, work and shop
 - Concept of “one-stop shopping”
- Comprehensive services
 - Primary and specialty care
- Continuity of care
 - A consistent provider who knows their medical history

National Inpatient and Outpatient Trends

Inpatient vs. Outpatient Visits



Per 1,000 Flat/Down 1988–2008



Per 1,000 Doubled 1988–2008

Source: Avalere Health analysis of American Hospital Association Annual Survey data, 2008, for community hospitals. U.S. Census Bureau: National and State Population Estimates, July 1, 2008.
Link: <http://www.census.gov/popest/states/tables/NST-EST2008-01.xls>.

- Massachusetts was the first state to mandate universal health insurance
 - Passed healthcare reform in 2006 that requires nearly every resident to obtain a minimum level of health insurance
 - The state offers subsidized and free coverage for people below designated income levels
- The effects of this reform on healthcare delivery have been:
 - **A greater demand for healthcare services**
When everyone is insured, more people seek healthcare
 - **An initial and significant increase in ED admissions**
Because of the nationwide shortage of primary care physicians, more people are going to hospital emergency departments for care
 - **A substantial increase in need for primary care**

What we can learn from Massachusetts

- The best strategy is to be proactive not reactive
 - We must anticipate the inevitable increase in healthcare demand in our region and build additional capacity --convenient, patient-centered and lower cost -- into our health delivery system
 - We need to take these step before the needs exceed our collective ability to meet them

What does this mean for Henderson County?

- New Jobs
 - Construction (150-200), clinical, administrative
- Existing Jobs
 - Successful relocation of Alliance Trucking within Henderson County
- Access to more outpatient facilities providing:
 - Wellness and prevention programs/keeping people well
 - Diagnostic capabilities/early detection of health problems
- Access to more primary care and specialty physicians
 - Medical care close to home, when you need it

Profiling Mission Health System and Adventist Health System

	Mission	Adventist/Park Ridge
Corporate Office	Western NC	Florida
# of Employees	7,000	55,000/1,100
Denomination	Not denominationally controlled	Seventh Day Adventist “ <i>Largest not-for-profit Protestant healthcare provider in the nation</i> ”
Revenues	\$961 million	\$6.1 billion
# of Hospitals	3	43 (1 in North Carolina)

Areas of Operation	W. North Carolina	10 states
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Adventist Health System Opposition to Mission

PROJECT	DATE	RESULT
Cost Overrun CON (“J” Building construction)	Filed 2008 Resolved 2009	NC Office of Administrative Hearings ruled in favor of Mission and found no merit in the complaint. Cost to Mission - \$4.5 million
Objection to COPA and Mission-Pardee Health Campus	July 15, 2010	NC Attorney General and Department of Health Services Regulation issued findings denying Park Ridge’s [Adventist Health System’s] allegations.

What the State says about the Health Campus:

The excerpts that follow are from the September 15, 2010 report: “Decision of the Department of Health and Human Services (DHHS) regarding its review of the Biennial COPA (Certificate of Public Advantage) Report of Mission Health System, Inc.”

Regarding the period of public comment:

- “DHHS and the Department of Justice (DOJ) met at length with one commenter...Park Ridge Health (Adventist Health System), and received several rounds of documentary material.”
- Upon review of the documents, DHHS concluded that “the rationale for many of Park Ridge’s (Adventist Health System’s) proposals is weak or lacking.”

Regarding Mission’s Collaboration with Pardee:

- “...an increase in Mission’s ability to provide medical services in the vicinity of Park Ridge (Adventist Health System) is not in itself anti-competitive. In fact it would appear to be pro-competitive by increasing competition.”

Regarding Adventist Health System’s Accusation of “Predation”:

“Park Ridge (Adventist Health System) has not shown that Mission’s affiliation with other hospitals is predatory, otherwise anti-competitive, or harmful to the public interest.”

Dr. Paulus feels there is an undeniable demand for more services and we have to get out ahead of it to meet the needs of our community and citizens.

Commissioner McGrady questioned at what point the various hospital issues would come back before the Board of Commissioners.

Chairman Moyer was not sure. It would be helpful to have a definitive plan and will depend on how things proceed forward with Pardee.

AGREEMENT WITH FLAT ROCK PLAYHOUSE FOR WINTER PRODUCTION

Assistant County Manager Selena Coffee stated the Board previously approved entering into an agreement with Flat Rock Playhouse for the production of “A Few Good Men” and directed staff to negotiate their use of various spaces within the Courthouse for rehearsal and performances. That agreement was executed and “A Few Good Men” is set to begin October 6th.

During that meeting however, the Board did not direct staff to negotiate and schedule the facility for the “Miracle on 34th Street” production. With the Playhouse advertisement and rehearsal time quickly approaching, staff recommends that the Board discuss entering into an agreement during this meeting. The proposed dates for this production are November 11, 2010 through December 23, 2010.

Board is requested to direct staff to enter into the same agreement with changes to the dates and as well as

the per diem amounts charged to the Playhouse due to the length of this production being longer previous production, as well as any other non-substantive changes agreed to by County staff and Playhouse representatives.

The Board was concerned with the frequency of performances as it can be somewhat disruptive.

Commissioner Williams made the motion that the Board direct staff to enter into an agreement with the Flat Rock Playhouse for the use of the Historic Courthouse for their "Miracle on 34th Street" performance, thereby changing the dates on the agreement and as well as the per diem amounts charged to the Playhouse due to the length of this production being longer previous production, as well as any other non-substantive changes agreed to by County staff and Playhouse representatives. All voted in favor and the motion carried.

COMPRESSED NATURAL GAS (CNG) TRANSIT VEHICLE PROCUREMENT AND UPDATE

Anthony Starr stated in April 2009, the Board of Commissioners authorized staff to proceed with grants for a CNG station and CNG transit vehicles. Stimulus grants were later awarded in July 2009 for those projects. Staff prepared this request to update the Board on the project before the advertisements are issued.

Federal rules require Asheville to own the vehicles since they are the direct recipient of the grant funds. The City of Asheville will issue a formal bid request with assistance from the County staff, and will make a purchase of four CNG medium-duty transit buses and one paratransit van for Henderson County early next year. Staff secured \$585,841 in stimulus funding and \$291,159 in other Federal Transit Administration funds for this project. NCDOT is in the process of approving \$44,000 in ten percent match funds for two of the vehicles. The vehicles will be the first CNG buses in the western North Carolina region.

The procurement is expected to take approximately three months, after which time staff will return to the Board of Commissioners with a request for contract approval. A summary of anticipated expenses was included in the agenda. The vehicles likely will not be delivered until around September 2011. Expenses related to final payment and delivery will be included in the FY12 Henderson County budget in order to supply funds for the match, taxes, graphics and licensing fees.

This goes into the formal limit for purchase of vehicles and the bidding statutes as well as it will represent a financial obligation that will carry forward in a future budget year. We do not expect delivery of the vehicles until the fall of 2011 which is typical for these types of larger vehicles. The total cost to the County for the purchase of five (5) vehicles would be \$83,255 which is less than 10% of the cost of all of the vehicles. The additional \$83,255 would need to be appropriated at a future time. A contract would be brought back before the Board.

The chassis is one manufacturer but there are several manufacturers for the bodies. The bidding process was discussed with questions in regards to the possible number of bids. Financial obligations and funding were discussed and not clear to the Board.

Steve Wyatt noted that vehicle bus replacement is ongoing regardless of whether they are CNG or otherwise. The County made the decision some time ago to get into a public transportation partnership.

This item was rolled to the October 20, 2010 meeting and the Board requested additional clarification in regards to cost to the county.

STAFF REPORTS

There was nothing further at this time.

IMPORTANT DATES

Set Public Hearing on Rezoning Application #R-2010-01

Commissioner McGrady made the motion that the Board schedules a public hearing on rezoning application

#R-2010-01 for Monday, November 1, 2010 at 7:00 p.m. All voted in favor and the motion carried.

CLOSED SESSION

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

1. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(1), to prevent disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The purpose will be to approve general accounts of previous closed sessions, as shown on the attached log.
2. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(4), to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
3. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(5), to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease; or (II) the amount of compensation and other material terms of an employment contract or proposed employment contract.
4. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(6), to consider the qualifications, competence performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

All voted in favor and the motion carried.

The Board reconvened into open session.

PUBLIC HEARINGS

Continuation of Public Hearing for Cave Inn Drive

Chairman Moyer noted this is a continuation of the previously held public hearing for Cave Inn Drive.

Planning Department staff requests the Board to continue a public hearing to consider the abandonment of State maintenance and the closure of all known right of ways for Cave Inn Drive (SR 1661) located on the property of Tommy J. and Joan C. Heinz. Mr. and Mrs. Michael Harris are contesting the closure of said right-of-way (ROW). Both parties acknowledged that the current right-of-way and road does not extend to the beginning of the Harris property.

Curtis Griffin noted the request was for a short old state road that served a clinic which has been closed for some time. A verbal agreement was reached by the parties on September 13 at a meeting with Planning Department staff. However, the Harris' have since retracted their agreement. The tentative agreement included the following:

- Access easement is platted and prescribed
- Inclement weather access for Harris'
- Fuel truck access to Harris property
- Emergency vehicle access to Harris property
- Agreement terminates when Harris' convey their property
- Harris' agrees not to oppose ROW closure and SR abandonment
- Harris' assume liability for damages while someone uses easement for Harris'
- Heinz' agree for road to stay in place per plat and will maintain said access

The Board possesses three primary options:

1. Approve the ROW closure and abandonment of state maintenance. The Harris' could appeal the ROW closure to the court of jurisdiction. The maintenance abandonment, however, is only a recommendation and NCDOT would actually render that decision. A formal order to close the ROW would be presented at a subsequent Board meeting.
2. Choose to not act on either request until both parties reach an agreement. State law does not require a Board of Commissioners recommendation to NCDOT to act on the petition to abandon maintenance. No formal action is required by the Board for this option.
3. Oppose abandonment and forward the petition to NCDOT at which time the State Board would take up and have the final say.

Public Input

1. Tom Heinz – Mr. Heinz stated the following facts are clear. All homeowners with the Cave Inn Drive address have approved closing of the road. The DOT has stated that they would support the abandonment of SR1661. Original DOT documents show that there are two homes and a hospital using the road for access. The hospital burned down a number of years ago. The DOT documents also show that two homes do not meet the requirements for a maintained road. Original DOT documents show only the signatures of the homeowners with a Cave Inn Drive address and the Hospital Board of Directors approving the Right of Way. SR 1661 is in serious disrepair requiring immediate attention if left open due to erosion and undercut of the roadway. A recent survey of the property shows the current DOT roadway and right of way ends 18' short of the Harris property. SR1661 lies solely on the properties at 30 Cave Inn Drive and 57 Cave Inn Drive. The Harris property is not mentioned in any on the DOT documents. The Harris' are the only ones opposing to closing the road. Mr. and Mrs. Heinz were disappointed to receive the phone call from Ms. Harris informing them that the Harris' were retracting the agreement they had made for an easement across the property. Upon the Commissioners' request Mr. Heinz had his survey plot out the proposed easement showing the Harris access. As in most negotiations there was a give and take dialog. Finally after agreeing, both parties left the table compromising. The following day Mr. and Mrs. Heinz met with their lawyer to have the agreement finalized as directed by the Commissioners and the County Planning Department. As stated previously, the road is in serious disrepair and unsafe. Mr. and Mrs. Heinz do not want the road repaired, they want it closed, abandoned, and all county right of ways dismissed. Neither Henderson County nor the DOT needs a 24 ft wide paved road and a 291 ft by 60 ft right of way across the Heinz property to service a hospital that no longer exists. The DOT right of way area is huge and goes across two Heinz properties. In comparison note the 16' width of the right of way for the Bentley property. The paved section of the Bentley right of way is 12 ft wide in which we share the maintenance expenses. There is more than enough room for emergency vehicles and service trucks to access our properties. Mr. and Mrs. Heinz feel they have offered a reasonable and fair easement to the Harris'. If there are other concerns with the agreement they should approach the Heinz' with further negotiations. The Heinz' feel that after taking everything under consideration, their good faith and commitment to resolve the issues with the Harris' that the road should be closed. The differences between them still need to be resolved whether the road is closed or not. Mr. and Mrs. Heinz believe that closing the road is in the best interest of the people of the State of North Carolina. Assuming the road is closed, the Heinz' will continue to grant permission for emergency vehicles and the oil truck to cross their properties to the Harris' when or if required. In addition, they are open to further negotiations with the Harris'. Hopefully they can reach an agreement quickly.
2. Walter Carpenter, Attorney for the Harris' – Mr. Carpenter stated the problem with the negotiation was that it would terminate at the end of the Harris' ownership of the property. This does not address any of the issues that Bat Cave Fire Department brought up because they would sell this house to somebody that would need to live there. This has been the sole access to that house from 1939 to 1998. In 1998 this alternate driveway was built up to the eastern part of the Harris property. The other access to his client's property is extremely steep at approximately 35 ft from road frontage up to their property in height. This is a gain of 35 ft in 35 – 40 ft. Parts of the drive are at nearly a 45 degree angle. There is a steep curve and the drive is impassable during bad weather. The driveway does not allow access for the propane

tank. Mr. Carpenter feels his clients clearly have a prescriptive easement across this property based on that long continued use but they would not have a prescriptive easement over a state right of way. They have not maintained that and could not argue that. The fact that his clients had nothing to do with the DOT or his predecessors entitled with the DOT is that they did not have anything to do with road and didn't own the land so therefore wouldn't normally have signed it. If the Heinz' would give them that right of way certainly they don't need 60 ft but it needs to run with the land and not expire at some date. Please do not take any action on this item unless the parties can reach an agreement. The Harris' purchased the property in August of 1999.

Chairman Moyer questioned if the agreement survived the purchasers of the Harris property would this seal the basis of the agreement.

Mr. Carpenter responded yes. The current negotiation that his clients can use the right of way during their lifetime does not solve anything. The property will be difficult to sell with no good access. A lot of changes would have to be made including but not exclusive to moving the propane tank.

Mr. Heinz stated he and his wife are open to the issue of negotiation. They were not approached in order to try to reach further negotiations. Instead it was brought back to the Board of Commissioners.

Chairman Moyer made the motion that the Board not take action and direct the parties to continue their negotiations in order to come up with an agreement that works for all interested parties. He further motioned that the hearing be continued until October 20, 2010 at 11:00 a.m. All voted in favor and the motion carried.

Approval of the Execution and Delivery of an Installment Financing Contract to pay for the Capital Costs for the Construction of a New Law Enforcement Center and Renovations to the Former Health Department Building to be used as a Development Services Center

A public hearing to hear comments on the execution and delivery of a proposed installment financing contract is required by the State of North Carolina pursuant to N.C.G.S. 160A-20. A notice of the public hearing shall be published once at least 10 days before the hearing. This notice was duly advertised in the Times-News on Thursday, September 23, 2010.

Steve Wyatt suggested talking about the two projects separately. The anticipated earliest date the Board would consider the bid contract would be October 20th or possibly at the November 1st meeting for consideration. As we move forward we need to make sure that any action taken would not be binding action on the Health Department building.

Carey McLelland stated the purpose of the hearing is to hear comments from the public on a draft installment financing agreement initially being the two projects. We only have bids in hand for the Law Enforcement Center. In preparation for financing the two projects and getting the application to the Local Government Commission, they are both included on the agenda but it is a draft installment contract and can be revised before taking final action to approve the contract if the Health Department piece is removed.

The proposed contract being considered is to finance the capital costs for the construction of a new Law Enforcement Center and renovations to the former Health Department Building to be used as a development services center.

Provided for the Board's information is a Notice of Award from the N.C. Department of Commerce to issue Recovery Zone Economic Development Bonds (RZEDBs) for the projects. As the Board is aware, by issuing these bonds to finance the projects the County will receive back a 45 percent interest payment subsidy from the U.S. Treasury. The Department of Commerce has given an allocation of up to \$7.5 million for both projects but it is not necessary to issue all of it.

A summary of interest rates proposed to finance the projects was provided. The lowest responsive proposal received was from BB&T Governmental Finance. A copy of their proposal was provided for the Board's information.

Financing documents in substantially final form will be presented to the Board of Commissioners at the October 20, 2010 or November 1, 2010 regularly scheduled meetings for consideration and approval.

Attorney Russ Burrell stated the LGC essentially divided its appropriation when they approved this and approved it in two parts for the recovery zone bonds.

Public Input

There was none.

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

ADJOURN

Commissioner McGrady made the motion that the Board go out of closed session and adjourn at 7:55 p.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

William L. Moyer, Chairman

EXTRACTS FROM MINUTES OF THE BOARD OF COMMISSIONERS

A regular meeting of the Board of Commissioners of the County of Henderson, North Carolina (the "Board") was held in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina, at 7:00 p.m. on October 4, 2010 after proper notice, and was called to order by the Chairman, and upon the roll being called, the following members of the Board answered present:

Bill Moyer, Chairman
Mark Williams, Vice Chairman
Chuck McGrady
Charlie Messer
Larry Young

The following members of the Board were absent: None.

Also present: Steve Wyatt, County Manager, Selena Coffey, Assistant County Manager, Russ Burrell, County Attorney, Carey McLelland, Finance Director and Teresa Wilson, Clerk to the Board.

* * *

The Finance Director reported to the Board that notice of a public hearing regarding the construction of a new law enforcement center (the "*Law Enforcement Center*") and the renovation of an existing County facility for use as a development services center (collectively, the "*Projects*") pursuant to an installment financing contract (the "*Contract*"), in a principal amount not to exceed \$7,500,000 and the giving, in connection with the Contract, as grantor, of a deed of trust and security agreement (the "*Deed of Trust*") on the real property on which the Law Enforcement Center will be located, was published on September 23, 2010 stating that the Board would hold a public hearing thereon on October 4, 2010 at 7:00 p.m.

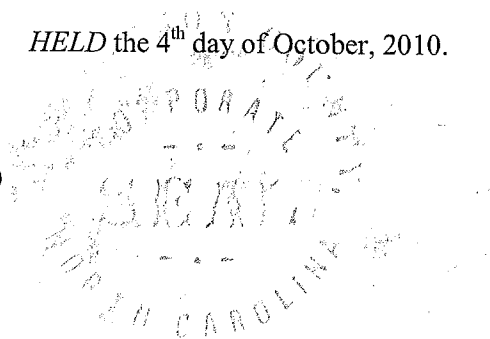
The Chairman announced that the Board would hear anyone who wished to be heard on the questions of the proposed Contract, the Projects to be financed thereby and the granting of the Deed of Trust.

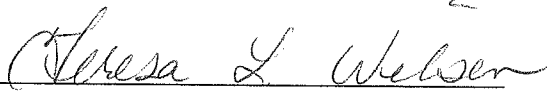
The following persons spoke at the public hearing: No persons spoke at the hearing.

Commissioner McGrady moved that the public hearing be closed and the motion was unanimously adopted.

HELD the 4th day of October, 2010.

(Seal)




TERESA WILSON
Clerk to the Board
County of Henderson, North Carolina

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

September 24, 2010

Re: Tax Collector's Report to Commissioners – 10/04/10 Meeting

Please find outlined below collections information through September 23rd for the 2010 bills, which were mailed out on August 13th, 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:

2010 Total Charge \$57,384,937.54
Payments & Releases: 8,231,830.58
Unpaid Taxes: 49,153,106.96
Percentage collected: 14.34%
(through 09/23/10)

2009 Total Charge: \$56,966,943.87
Payments & Releases: 9,109,833.46
Unpaid Taxes: 47,857,110.41
Percentage Collected: 15.99%
(through 09/23/09)

Motor Vehicle Bills G01 Only:

2010 Total Charge: \$1,313,998.70
Payments & Releases: 907,466.44
Unpaid Taxes: 406,532.26
Percentage collected: 69.06%
(through 09/23/10)

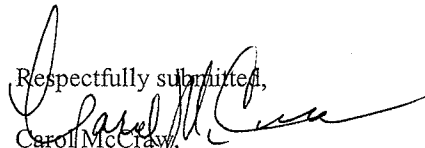
2009 Total Charge: \$1,408,291.78
Payments & Releases: 963,286.59
Unpaid Taxes: 445,005.19
Percentage collected: 68.40%
(through 09/23/09)

Fire Districts All Bills

2010 Total Charge: \$6,375,656.74
Payments & Releases: 1,046,164.96
Unpaid Taxes: 5,329,491.78
Percentage Collected: 19.51%
(through 09/23/10)

2009 Total Charge: \$6,279,358.20
Payments & Releases: 1,064,233.35
Unpaid Taxes: 5,215,124.85
Percentage Collected: 20.08%
(through 09/23/09)

Respectfully submitted,


Carol McCraw,
Deputy Tax Collector

Stan C. Duncan,
Tax Collector