

DRAFT

12/13/11

cc: BJC
Steve
David
Christy
Russ

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
MONDAY, DECEMBER 12, 2011**

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

Those present were: Chairman Tommy Thompson, Vice-Chairman Bill O'Connor, Commissioner Michael Edney, Commissioner Larry Young, Commissioner Charlie Messer, County Manager Steve Wyatt, Interim Assistant County Manager David Whitson, Attorney Russ Burrell, and Clerk to the Board Teresa Wilson.

Also present were: Finance Director J. Carey McLelland, Planning Director Anthony Starr, Public Information Officer Christina DeStefano, and Assessor/Tax Collector Stan Duncan.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Vice-Chairman Bill O'Connor.

INVOCATION

County Manager Steve Wyatt gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Thompson made the motion to adopt the Agenda as presented. All voted in favor and the motion carried.

Chairman Thompson noted a letter had been received from the attorney of Sheriff Rick Davis and this letter would be shared with the public just before the Board entered into Closed Session. The Board would not receive public comments at this meeting.

PUBLIC HEARINGS

Commissioner Messer made the motion that the Board go into public hearings. All voted in favor and the motion carried.

PUBLIC HEARING TO CONSIDER ECONOMIC DEVELOPMENT INCENTIVES FOR CANE CREEK CYCLING COMPONENTS, INC

Notice was hereby given pursuant to N.C. Gen. Stat. §158-7.1 that the Henderson County Board of Commissioners will hold a public hearing at a meeting on December 12, 2011, at 5:30 p.m., or as soon thereafter as the Board can consider the matter, to consider the request of Cane Creek Cycling Components, Inc. ("the Company") for economic development incentives.

Henderson County will consider granting assistance toward actual start-up expenditures incurred in the Cane Creek Cycling Components, Inc's investment. If approved, the request would be funded through the general property tax revenue.

DATE APPROVED:

President and CEO of the Henderson County Partnership for Economic Development Andrew Tate stated Cane Creek Cycling Components, Inc. is a manufacturing concern located inside Henderson County contemplating expansion.

Under the project as proposed, the public benefit to be derived from the capital project is a total taxable capital investment by the Company of at least \$185,000.00 in new business personal property (equipment). The project would result in the creation of three new jobs, at an average wage of \$19.50 per hour for full-time employment, plus other benefits. The contemplated incentives would last for a period of five years. The first year's contemplated incentive, if granted, would be \$665.11, based on the new investment, the number of new employees, and the Board's incentives guidelines.

Josh Coaplen, Research & Development Director of Cane Creek Cycling Components, Inc., showed a component made by the company and stated they are a bicycle component manufacturer located in Fletcher. They manufacture high-end bicycle products of various assortments including brakes, grips, seat posts, rear suspension components and bicycle headsets. They will begin producing parts of the rear suspension component in January which is currently being produced overseas in Taiwan.

Public Input

There was none.

Commissioner O'Connor made the motion that the Board grant economic development incentives to Cane Creek Cycling Components, Inc., in the amount determined in accord with the County's incentives guidelines, and direct that staff negotiate the terms of an incentives agreement pursuant to the guidelines, and if successful in negotiations, execute the contract for the County. All voted in favor and the motion carried.

PUBLIC HEARING TO CONSIDER ECONOMIC DEVELOPMENT INCENTIVES FOR PUTSCH & COMPANY, INC

Notice was hereby given pursuant to N.C. Gen. Stat. §158-7.1 that the Henderson County Board of Commissioners will hold a public hearing at a meeting on December 12, 2011, at 5:30 p.m., or as soon thereafter as the Board can consider the matter, to consider the request of Putsch & Company, Inc., for economic development incentives.

Henderson County will consider granting assistance toward actual start-up expenditures incurred in the Putsch & Company, Inc's investment. If approved, the request would be funded through the general property tax revenue.

President and CEO of the Henderson County Partnership for Economic Development Andrew Tate stated Putsch & Company, Inc. is a manufacturing concern located inside and outside the United States (and Henderson County) contemplating expansion at its site in Henderson County.

Under the project as proposed, the public benefit to be derived from the capital project is a total taxable investment by Putsch & Company, Inc., of at least \$2,300,000.00 in real property, and \$450,000.00 in business personal property (equipment). The project would result in the creation of four new jobs, at an average wage in excess of the average wage in Henderson County for full-time employment, plus other benefits. The contemplated incentives would last for a period of five years. The first year's contemplated incentive, if granted would be, not more than \$9,886.80, based on the new investment, the number of new employees, and the Board's incentives guidelines.

Public Input

There was none.

Commissioner Messer made the motion that the Board grant economic development incentives to Putsch & Company, Inc., in the amount determined in accord with the County's incentives guidelines, and direct that staff negotiate the terms of an incentives agreement pursuant to the guidelines, and if successful in negotiations, execute the contract for the County. All voted in favor and the motion carried.

PUBLIC HEARING TO CONSIDER ECONOMIC DEVELOPMENT INCENTIVES FOR PROJECT 300 COMPANY

Notice was hereby given pursuant to N.C. Gen. Stat. §158-7.1 that the Henderson County Board of Commissioners will hold a public hearing at a meeting on December 12, 2011, at 5:30 p.m., or as soon thereafter as the Board can consider the matter, to consider the request of a company ("Project 300 Company") for economic development incentives.

Henderson County will consider granting assistance toward actual start-up expenditures incurred in the Project 300 Company's investment. If approved, the request would be funded through the general property tax revenue.

President and CEO of the Henderson County Partnership for Economic Development Andrew Tate stated Project 300 Company is a manufacturing concern located outside Henderson County contemplating locating an additional facility in Henderson County.

Under the project as proposed, the public benefit to be derived from the capital project is a total taxable capital investment by Project 300 Company of at least \$45,000,000.00 in real estate improvements, and at least \$70,000,000.00 in business personal property (equipment).

The project would result in the creation of not fewer than one hundred twenty-five (125) jobs, at an average wage in excess of the County's average wage for full-time employment, plus other benefits. The contemplated incentives would be to assist the Company with some or all of land acquisition, site development and preparation, water, sewerage, and construction. The incentives, in a total maximum amount of \$3,750,000.00 would be accounted for over a period of seven years, based on the size and scope of the new investment, the number of new employees, and the Board's incentives guidelines.

Public Input

1. Jane Bilello – Ms. Bilello was concerned about using taxpayer money for all three projects and questioned where the money comes from. She would like to see taxes lowered for all businesses to attract industry and utilize the free market principles that have worked to make the country great. She questioned why the 11% property tax increase was not rescinded.
2. Glenn Englem – Mr. Englem questioned how the average wage is determined, how the incentive is determined versus the number of jobs, and where the money comes from.
3. Ralph Freeman – Mr. Freeman supports all three projects and feels these are great investments for Henderson County.

County Attorney Russ Burrell explained the incentives are paid from the taxes paid to the county by the company on their new investment. When a company invests, for example \$1 million in their company, they pay property taxes on the personal property, the equipment bought with that \$1 million. A portion of those taxes can be set aside as economic development incentives by the Board of Commissioners policy. It is essentially a rebate on taxes on their brand new investment rather than paying them money. Companies must meet the target or goal pr they do not receive the incentives.

Andrew Tate explained that the Employment Security Commission tracks average wages and jobs by sector for every county in the state. The most recent data for the year ending in 2010 for Henderson County average annual wage is \$33,800.00 per year.

Commissioner Edney made the motion that the Board grant economic development incentives to the Project 300 Company in a maximum amount of \$3,750,000.00, and direct that staff attempts to negotiate a contract with the company for incentives, and bring that contract back before this Board for final approval. All voted in favor and the motion carried.

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

McGuire, Wood & Bisette, P.A. letter in regards to client Rick Davis

Chairman Thompson read the letter addressed to the Chair and it is hereby attached and incorporated as a part of these minutes.

CLOSED SESSION

Commissioner Edney 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 Henderson County, including agreement on a tentative list of economic development incentives that may be offered by the Board in negotiations.
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 against an individual public officer or employee.

All voted in favor and the motion carried.

Commissioner Edney made the motion to go out of closed session and reconvene into open session. All voted in favor and the motion carried.

RECONVENE

Chairman Thompson called the meeting back to order.

Response in regard to letter from attorney for Sheriff Rick Davis

Chairman Thompson read the following statement from the Board of Commissioners:

This Board has met in closed session with its manager and council to discuss the personnel issue concerning the County's Sheriff. The Board has reviewed the letter from the Sheriff's attorney previously released to the public. The Board has received many rumors and much innuendo but has had access to few facts. The Board knows that the County has been billed \$5,000 for an insurance deductible regarding the claim involving the Sheriff but the Board has been denied information about the claim or any settlement of it by the insurance company and now by the Sheriff against whom the claim was made.

The Sheriff's letter confronts the County with a situation where the Sheriff has not asked for or been granted a leave of absence, but has been away from his job since before Thanksgiving and evidently will

remain away from his job for an undetermined length of time. The Board will address this in another letter to the Sheriff and to the public which we hope will be sent out tomorrow.

As the Sheriff has chosen not to provide medical documentation of his reasons for not working we will be demanding that the Sheriff either immediately return to work or to take a formal leave of absence.

The Board will remain actively engaged the public informed as to its progress within the constitutional and statutory limits that we are bound by.

ADJOURN

Commissioner O'Connor made the motion to adjourn at 8:30 p.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

Thomas H. Thompson, Chairman



December 12, 2011

Thomas H. Thompson, Chairman
Henderson County Board of Commissioners
1 Historic Courthouse Square, Suite 1
Hendersonville, N.C. 28792-5097

VIA HAND DELIVERY

Dear Commissioner Thompson:

This Firm's client, Rick Davis, has asked that I respond to your letter of December 6, 2011, requesting information on behalf of the Board of Commissioners.

1. Mr. Davis is receiving appropriate treatment for the mental health problems that resulted in his taking some of his accrued sick time. Having alerted the Board to his suffering from a bipolar disorder, Mr. Davis needs to give priority to his treatment and recovery, which at this point includes staying out of the public eye and declining to be interviewed while he remains under the care of a physician.
2. Mr. Davis respectfully declines to discuss with the Board matters involving his private life and actions in his personal capacity.
3. Mr. Davis understands that the Board's highest duty must be to maintain the integrity of County government and the confidence of its citizens. The Board and the citizenry should rest assured that Mr. Davis is acting responsibly in seeking appropriate treatment for his condition, and that he will not return to perform his duties as Sheriff until he is confident that his doing so will not breach the public trust in his Office and in the Board.

Sincerely,

A handwritten signature in black ink that reads 'Joseph P. McGuire'. The signature is written in a cursive style with a large, looped initial 'J'.

Joseph P. McGuire

HENDERSON COUNTY BOARD OF COMMISSIONERS

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THOMAS H. THOMPSON
Chairman
WILLIAM O'CONNOR
Vice Chairman

J. MICHAEL EDNEY
CHARLIE MESSER
LARRY YOUNG

December 13, 2011

The Honorable Rick Davis, Sheriff
c/o Mr. Joseph P. McGuire
McGuireWoods LLC
Post Office Box 3180
Asheville, North Carolina 28802-3180

DELIVERED BY U.S. MAIL AND FACSIMILE

Dear Sheriff Davis:

This is to acknowledge receipt of the letter from your attorney, Mr. Joseph P. McGuire, yesterday afternoon. I have been directed by the Board of Commissioners to respond to your letter.

This letter leaves the County in an untenable situation: one in which you have not worked since Thanksgiving and evidently are not able to perform your duties. Further, you have not requested a leave of absence. You have not provided any documentation of this situation. This sort of action without documentation would not be allowed for any other County employee, nor, we expect, for any employee anywhere, regardless of their station.

This is to respectfully request and demand that you take either of the following courses:

- 1) Return to work. Given the statements in your counsel's letter and other statements that have been attributed to you in the media, we request documentation from your care provider of your ability to perform the duties of your office, as we would of any other County employee returning from a period of similar illness.
- 2) Request a formal leave of absence under the applicable statute. Again, since the law requires you to request such a leave and this Board to consider whether to approve it, we would request documentation of your grounds for this request.

Please understand that if you fail to take one of these courses by noon on December 23, 2011, the Board must view this as a refusal to perform the duties of the office of Sheriff, and will be forced to act accordingly.

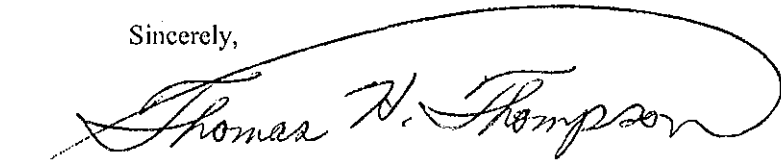
Given the volume and tone of the rumors and allegations with which Board members have been confronted regularly, the Board feels it must carefully review the management of public funds handled by the Sheriff's Office. In doing so, the Board has neither been offered nor received any evidence of any wrongdoing other than pure rumor. However, the Board cannot ignore the demand of its citizenry for an accounting for these funds. To that end, the Board is in the process of contracting with an independent auditor to review the management of all public funds handled by the Sheriff's Office, and expects to have such auditor in place by the end of this week. As you are still technically in command of the Sheriff's Office, this is to request that you act to insure that all Sheriff's Office employees cooperate fully with the auditor.

Finally, this is to request that you reconsider your decision to decline to discuss with the Board and the public details of any claim in which insurance procured by the County was involved. As was noted at last evening's Board of Commissioners' meeting, the County has been billed by and paid to its insurer a \$5,000.00

deductible for such a claim. We believe that when taxpayer funds are expended to pay insurance premiums to cover the type of claims as are allegedly the case here, the County and the public should have a right to an understanding of the details of the insurance expenditure.

In authorizing this letter, the Board is trying to understand the problems inherent in bipolar disorder and to be compassionate. While the Board is trying to act in a manner that is sensitive to these problems, it is also trying to act in a way that maintains the faith of the people of Henderson County in its local government.

Sincerely,

A handwritten signature in black ink that reads "Thomas H. Thompson". The signature is written in a cursive style with a large, sweeping flourish that loops back under the name.

Thomas H. Thompson, Chairman
Henderson County Board of Commissioners

Cc: William O'Connor, Vice Chairman
J. Michael Edney, Commissioner
Charlie Messer, Commissioner
Larry Young, Commissioner
The Citizen-Times
The Hendersonville Tribune
The Times-News
La Voz Independiente
WLOS ABC13/MY40
www.hvillescoop.com