

**DRAFT**

9-6-2012

MINUTES

cc! BOC  
Steve  
David  
Russ  
Christy

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
TUESDAY, SEPTEMBER 4, 2012**

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

Also present were: Public Information Officer Christy DeStefano, Finance Director J. Carey McLelland, Planning Director Anthony Starr, Engineer Marcus Jones, Research/Budget Analyst Amy Brantley, Fire Marshal Rocky Hyder, Planner Matt Champion, Assessor/Tax Collector Stan Duncan, Senior Planner Autumn Radcliff, DSS Director Liston Smith, Real Property Supervisor Nick Mazarella, and Code Enforcement Director Toby Linville.

**CALL TO ORDER/WELCOME**

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 Joseph, John, and James Weiser of the Lego and Robotics 4-H Club.

**INFORMAL PUBLIC COMMENT**

1. Karen Rhoads – Mrs. Rhoads questioned if soil testing had been done on the Boyd Property.

**CLOSED SESSION**

The Board is requested to go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a), for the following reason(s):

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.

*Commissioner O'Connor made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(4). All voted in favor and the motion carried.*

*Commissioner O'Connor made the motion that the Board go out of closed session and reconvene into open session. All voted in favor and the motion carried.*

**DISCUSSION/ADJUSTMENT OF AGENDA**

Commissioner Edney requested the addition of 1995 Courthouse renovations under discussion.

*Commissioner Edney made the motion to adopt the Agenda with the addition of discussion of the 1995 Courthouse renovations. All voted in favor and the motion carried.*

**CONSENT AGENDA**

*Commissioner O'Connor made the motion to adopt the Consent Agenda as presented. All voted in favor and the motion carried.*

CONSENT AGENDA consisted of the following:

APPROVED: \_\_\_\_\_

**Minutes**

Draft minutes were presented for board review and approval of the following meeting(s):

August 6, 2012 – Regularly Scheduled Meeting

August 8, 2012 – Special Called Meeting

**Tax Collector's Report**

Tax Collector Clerk Kathy Johnson had presented the Tax Collector's Report to the Commissioners dated August 24, 2012 for information only. No action was required.

**County Financial Report/Case Balance Report – July 2012**

The July 2012 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 July:

- Dues/Non-Profit Contributions – 1<sup>st</sup> quarter non-profit contribution payments paid in advance
- Elections – annual voting equipment hardware and software maintenance contract paid in July
- Register of Deeds – printing and binding costs to be covered by a budget amendment from the ROD's restricted fund balance for automation and enhancements
- Garage – fuel purchases for the County's fleet to be allocated out to departments and utility charges for the month of July
- Information Technology – non-capital technology purchases for software and annual maintenance contracts appropriated in the current fiscal year for various departments
- Rescue Squad – 1<sup>st</sup> quarter non-profit contribution payment paid in advance
- Mental Health – payment of mental health maintenance of effort funds appropriated for the fiscal year and paid in July to Western Highlands Area Mental Health Authority
- Public Library – blanket purchase order encumbrance for the purchase of publications throughout the fiscal year
- Non-Departmental – 1<sup>st</sup> quarter property and liability insurance premium paid in July and to be allocated out to all departments

The YTD deficit in the Revaluation Reserve Fund is due to a July payment of \$23k for N.C Property Tax System version updates/enhancements being implemented.

The YTD deficit in the Emergency Telephone System (911) Fund is due to expenditures running slightly ahead of revenues received for the month of July. Fund balance of \$271,713 was appropriated to cover expenditures in this Fund for FY2013.

The YTD deficit in the CDBG – the Mud Creek Grant Project Fund and the CDBG – Talley Drive Grant Project Fund is due to the timing difference between the expenditure of grant funds and subsequent reimbursement from the state.

Motion:

*I move that the Board of Commissioners approves the July 2012 County Financial Report and Cash Balance Report as presented.*

**Public Schools Financial Reports – July 2012**

The Henderson County Public Schools provided the July 2012 Local Current Expense Fund and Other Restricted Funds Financial Reports for the Board's information.

Motion:

*I move that the Board of Commissioners approves the Henderson County Public Schools July 2012 Financial Reports as presented.*

#### **Scattered Site Housing Rehabilitation Grant Administration Contract**

The County has used outside firms to administer this grant program for prior grant cycles. The program requirements and documentation are quite large and require a tremendous effort to manage. The grant program provides funds to hire a firm to manage the grant. No local funds are required for the grant administration. Planning Staff solicited proposals for this service and recommends Benchmark CMR as the most qualified firm.

Most local governments hire outside firms for this service because of the complex nature of the grant requirements. The Planning Department does not have the necessary staffing to administer this grant in house. The County received this grant once every 3 years from the State. Benchmark's proposal would provide complete service for a fixed fee of \$59,500.00. Consulting type contracts over \$50,000 require Board approval as specified in the FY2013 Budget Ordinance.

Motion:

*I move that the Board authorizes the Planning Director to enter into a contract with Benchmark CMR for grant management and administration for the fixed amount of \$59,500.00.*

#### **Resolutions for Henderson County's CDBG Grant for Talley Drive and CDBG/NCRC Grants for Sierra Nevada/Ferncliff Industrial Park**

Previously the Board approved the acceptance and implementation of two grant projects utilizing CDBG and NC Rural Center (NCRC) funds. The Talley Drive CDGB Grant is intended to improve the Talley Drive community by providing a new road through the neighborhood and rehabilitating some of the homes. The Ferncliff Park & Sierra Nevada CDBG Grant and NCRC Grant extend water and sewer infrastructure. In order to be more efficient and responsive, staff requests that the Planning Director be permitted to sign all documents pertaining to these two grants so that these documents do not need to be brought before this Board repeatedly. All documents or decisions statutorily or administratively required to be made by this Board will come before this Body. Staff can also provide an update on these projects at the request of this Board. The two attachments are:

- 1) A Resolution Authorizing the Planning Director to Sign Documents pertaining to the Talley Drive CDBG Grant; and
- 2) A Resolution Authorizing the Planning Director to Sign Documents Pertaining to the Sierra Nevada CDBG & NCRC Grants.

Motion:

*I move that the Board approves and adopts the Resolution authorizing the Planning Director to sign all documents pertaining to the Talley Drive CDBG grant except for any modifications to the Deeds of Trust; AND*

*I move that the Board approves and adopts the Resolution authorizing the Planning Director to sign all documents pertaining to the Sierra Nevada CDBG & NCRC grants.*

#### **Surplus Equipment (Building)**

A resolution was provided for the Board's consideration, declaring the old guard building for the Transfer Station as surplus equipment as it is no longer used by the County. The resolution also authorizes staff to advertise the surplus equipment for sale by electronic public auction at [www.govdeals.com](http://www.govdeals.com) after the required advertisement of the sale.

Motion:

*I move that the Board approves the resolution declaring the old guard building as surplus and authorizes staff to sell the surplus equipment by electronic public auction utilizing GovDeals auction*

*services after the required advertisement.*

**Non-Profit Performance Agreement**

Subsequent to the approval of the FY 2012-2013 Budget, staff has distributed the funding agreements to the non-profit agencies receiving County allocations.

Vagabond School of the Drama                      \$100,000.00

Motion:

*I move the Board authorizes the Chairman to execute the funding agreement and, in doing so, authorizes the release of the aforementioned agency's quarterly allotment.*

**2012 Fall Litter Sweep Resolution**

The fall 2012 Litter Sweep roadside cleanup, organized by the NC Department of Transportation, will be taking place September 15<sup>th</sup> through September 29<sup>th</sup>, 2012. Henderson County encourages citizens in Henderson County to take an active role in making our community cleaner through participating in local litter sweep activities.

Motion:

*I move the Board adopts the Resolution designating September 15, 2012 – September 29, 2012 as Litter sweep time in Henderson County.*

**Ambulance Procurement**

Henderson County EMS would like to purchase two ambulances to replace two units under a three year lease agreement expiring in December 2012. During research of ambulance purchases over the past year, EMS staff discovered the State of Florida conducted a public bid on a substantially similar ambulance in October 2011. The Florida bids resulted in purchase prices which are as good or better than staff anticipates would be received were a bid for two ambulances alone let. Staff requests the Board consider utilizing the Florida bid to procure two ambulances.

Under NCGS 143-129(g)(3), out-of-state public bids less than one year old may be used in such circumstances,

...if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Notwithstanding any other provision of this section, any purchase made under this subsection shall be approved by the governing body of the purchasing political subdivision of the State at a regularly scheduled meeting of the governing body no fewer than 10 days after publication of notice that a waiver of the bid procedure will be considered in order to contract with a qualified supplier pursuant to this section. Notice may be published in a newspaper having general circulation in the political subdivision or by electronic means, or both.

Public notice for waiver of bidding for previously bid contracts was provided in the Hendersonville Tribune on August 23, 2012. The annual debt service payment for the purchase of these ambulances is included in the FY 2013 budget.

Motion:

*I move the Board waive the bid requirements pursuant to NCGS 143-129 and approve the purchase of two ambulances from Precision Rescue Vehicles (Road Rescue).*

**Abandoned Manufactured Home Removal Grant**

In 2008, House Bill 1134 was enacted. The purpose of this bill is to protect public health and the environment by encouraging counties to develop plans that provide for the deconstruction of abandoned manufactured homes and the removal of reusable or recyclable components, by providing for the abatement

of abandoned manufactured homes that are determined to be a nuisance, and to designate that a portion of the Solid Waste Management Trust Fund be used to fund the deconstruction and removal of the abandoned manufactured homes.

Henderson County participated in this grant from February 2010 – February 2011 and removed 25 abandoned manufactured homes. Henderson County has once again been awarded this reimbursement grant. The grant contract is from February 2012 – February 2013. In order to reflect the reimbursements from the grant a budget amendment must be made for this fiscal year. To date 14 of the available 25 homes have been demolished. The available grant is for \$25,000 and a \$9,000 reimbursement was requested last fiscal year. The remaining \$14,000 of the grant is to be added to the FY 2012 - 2013 budget.

Motion:

*I move the Board approves a budget amendment for \$14,000 for the expenditure of these reimbursement grant funds.*

**Lease of space at Clear Creek Elementary School for City of Hendersonville utilities metering tower**

The City of Hendersonville seeks a lease of space on the Clear Creek Elementary School property for the location of a utilities metering tower. The City of Hendersonville’s new water meters collect meter data by radio signal, with the goals of increasing meter-reading accuracy while lowering costs.

Title to the real estate of Clear Creek Elementary School is currently in Henderson County. However the County’s title to the land is subject to an encumbrance which financed the construction of the school, and also subject to an option in favor of the Board of Education to require conveyance of the real estate back to the Board of Education upon repayment in full of that debt.

The Board of Education has reviewed the proposed lease, and has given its approval.

Motion:

*I move that the Board approves the lease with the City of Hendersonville.*

**BOC appointments to Community Child Protection and Child Fatality Prevention Team**

The Directors of Social Services and Public Health, with the facilitation of the Assistant County Manager, have reached agreement on recommendations and nominations to this Board for the Community Child Protection and Child Fatality Prevention Team.

The Board of Commissioners appoints eight (8) of the members of this Team. One team member must be a law enforcement officer, one must be a representative of emergency medical services or firefighters, and one must be the parent of a child who died before reaching age 18. The other members appointed by the Board of Commissioners are “at-large”.

Each of the eight nominees for Board of Commissioner appointment is presented jointly by Social Services and Public Health.

Law Enforcement Officer	Andrew Anderson
Emergency Medical Services/Firefighter Representative	Crit Harley
Parent	Marilyn Tatham
Community Member at Large	Kathleen Jocelyn
Community Member at Large	Becky Banadyga
Community Member at Large	Robert Duffy
Community Member at Large	Angie Alley
Community Member at Large	Tanya Blackford

**Motion:**

*I move the Board appoints the nominees listed in the Community Child Protection and Child Fatality Prevention Team agenda item.*

**Modifications in Voluntary Agriculture District ordinance**

Changes in state law have made provisions in the County's Voluntary Agriculture District Ordinance (Part One of Article VIII of Chapter 92 of the County Code) inappropriate. Inclusion in a Voluntary Agriculture District can no longer be conditioned on participation in the "present-use-value" program for *ad valorem* property taxation. However, this Board can set other reasonable conditions on participation in this program.

Your Agriculture Advisory Committee has met with your Assessor and County Attorney to discuss this matter, and recommends to you the changes shown in the draft attached. The proposal:

- Lowers the acreage requirements for new districts from 100 acres to 50, and
- Adds an additional qualification route for properties not participating in the present-use-value program, namely being engaged in "agriculture" as defined in N.C. Gen. Stat. §106-581.1, *and* provides gross revenue from agriculture of at least \$2,000 per year (either the year prior to application or on average over the five years prior to application).

N.C. Gen. Stat. §106-581.1 defines "agriculture" as all of the following:

- (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- (2) The planting and production of trees and timber.
- (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
- (4) Aquaculture as defined in G.S. 106-758.
- (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.

Your Advisory Committee feels that these changes open the door for real "farms" that are in need of the protections offered from inclusion in Voluntary Agriculture Districts without so diluting that designation as to make it meaningless and valueless to those already included.

**Motion:**

*I move the Board approves the modifications to the Voluntary Agriculture District Ordinance shown in the attachments to this agenda item.*

**Tourism Development Authority**

The agreement included with the agenda has been negotiated with the Henderson Tourism Development Authority. The Authority had its initial meeting 1 September 2012.

At the 6 August meeting, the Board authorized and empowered staff "to negotiate and execute a contract

with the Henderson Tourism Development Authority for its operations for a period not to exceed the balance of Fiscal Year 2013.”

This agreement keeps in effect the budget approved by this Board for the 2013 Fiscal Year, effectively holding both the County and the Authority harmless from the change in its organization.

### **Use Permit for Westfeldt Park for French Broad River Clean Up**

Western North Carolina Alliance, along with sponsor Sierra Nevada Brewing Co., seek the use of Westfeldt Park on September 29 as a part of their “French Broad River Clean Up”. This proposed use would require a waiver of both the County’s Facility Use policy and its Parks and Recreation Policy, and a temporary repeal of Henderson County Code section 130A-8A.

The proposed action, if the Board is so inclined, is as follows:

The provisions of section 130A-8A of the Henderson County Code are temporarily repealed and waived only for the County’s Westfeldt Park and only for such park’s regular hours of lawful use only on September 29, 2012. Further, any provisions of the County’s Facility Use policy and its policies regarding use of its parks are hereby waived insofar as they would prohibit the otherwise lawful serving (but not sale) of malt beverages in the County’s Westfeldt Park during the park’s regular hours of lawful use on September 29, 2012. Notwithstanding, however, no person or entity shall serve any malt beverage at such event to any person who appears to a reasonable person to be under the influence of an impairing substance.

If the Board is inclined to grant this request, staff intends to propose a new ordinance and policies regarding use of County parks and facilities in this regard.

Motion:

*I move that the Board adopts the proposed action regarding Westfeldt Park on September 29, 2012.*

### **AgriBusiness Development Board – Name Change**

The Board of Commissioners is requested to consider changing the name of the Henderson County Agribusiness Development Board, to Agribusiness Henderson County. At the Agribusiness Board’s last meeting, it was voted unanimously to recommend this name change for approval by the Board of Commissioners.

Motion:

*I move the Board approves changing the name of the Henderson County Agribusiness Development Board, to Agribusiness Henderson County.*

### **NOMINATIONS**

Chairman Thompson informed the Board of vacancies and opened the floor for nominations.

#### **Notifications of Vacancy**

1. Nursing/Adult Care Home Community Advisory Committee – 1 vac.  
Position #16
2. WCCA Board of Directors – 1 vac.  
Position #1

#### **Nominations**

1. Henderson County Board of Health – 2 vac.  
Commissioner Young nominated George “Pete” Richards for position #2 (dentist), and Robyn Bryson for position #6 (pharmacist). *Chairman Thompson made the motion to accept the appointments of George Richards to position #2 and Robyn Bryson to position #6 by acclamation. All voted in favor and the motion*

*carried.*

2. Historic Resources Commission – 1 vac.

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

3. Juvenile Crime Prevention Council – 5 vac.

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

4. Mountain Area Workforce Development Board – 1 vac.

Chairman Thompson nominated Mr. Terry Collins for position #6. *Chairman Thompson made the motion to accept the appointment of Mr. Terry Collins to position #6 by acclamation. All voted in favor and the motion carried.*

5. 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.

6. Nursing/Adult Care Home Community Advisory Committee – 4 vac.

Commissioner Messer nominated Cynthia Bantsolas for position #2. *Chairman Thompson made the motion to accept the appointment of Cynthia Bantsolas to position #2 by acclamation. All voted in favor and the motion carried.*

7. Senior Volunteer Services Advisory Council – 2 vac.

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

8. Smartstart – 1 vac.

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

### **CONFEDERATE MEMORIAL**

Captain Walter Bryson and Warren Scott, with George Mills Camp 70 of the Sons of Confederate Veterans have submitted a request to add an iron Southern Cross of Honor in front of the Confederate obelisk at the Historic Courthouse in Hendersonville as a additional remembrance of the Henderson County citizens who served in the War between the States one hundred and fifty years ago.

Crosses are generally placed at the graves of the veterans in honor of their service, but we would like to show our respect for those whose burial places are far from home or lost to our memory.

The Board of Commissioners is requested to consider this request.

Mr. Warren Scott stated that George Mills Camp 70 of the Sons of Confederate Veterans will maintain the marker and replace it if necessary within twenty-four hours at their expense. They will also share information with the Heritage Museum Director for any questions citizens may have in regard to the Confederate obelisk.

*Commissioner Messer made the motion that the Board approves allowing the addition of an iron Southern Cross of Honor in front of the Confederate obelisk at the Historic Courthouse. All voted in favor and the motion carried.*

### **ANNUAL LAND DEVELOPMENT CODE TEXT AMENDMENTS (TX-2012-02)**

Planning Director Anthony Starr stated with the adoption of the Land Development Code (LDC) on September 19, 2007, the Board of Commissioners directed staff to prepare annual updates to the LDC to prevent it from becoming outdated. This annual review is intended to prevent the need for a large overhaul of the entire code in the future. Trends and new issues are regularly emerging that require periodic updates to LDC text.



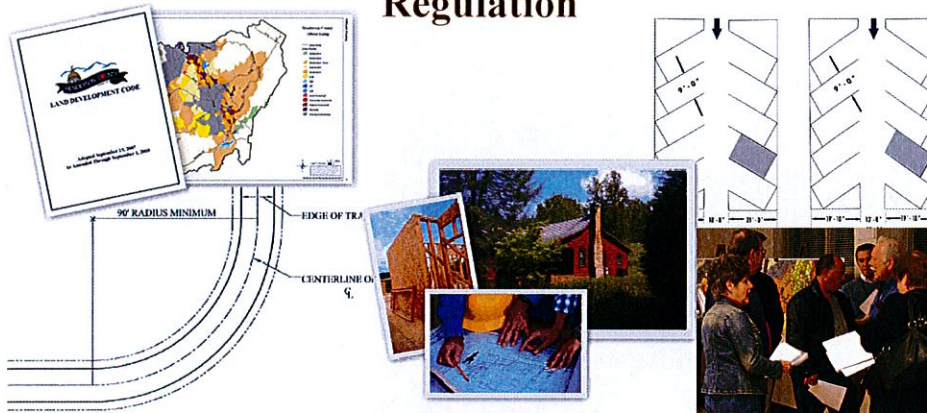
Based on input from staff, the Planning Board and the public, the Planning Department prepared several text amendments for consideration. All of the changes associated with these amendments reduce regulation while protecting the public interest and safety. The proposed changes will lower development costs, provide greater flexibility with the design of projects, and lower the impact of development on the environment.

The proposed changes are intended to be non-controversial. The proposed text amendments reduce regulations by:

- Simplifying the process for amending the County Comprehensive Plan
- Reducing the minimum parking requirements for multifamily and industrial development
- Reducing the property line setbacks for accessory structures
- Clarifying that dumpsters are allowed for multifamily and nonresidential projects
- Making technical corrections to the responsibilities of various boards
- Making a technical correction regarding the appeal hearing for soil erosion regulations
- Streamlining the legal notice requirements for quasi-judicial hearings
- Eliminating the Soil Erosion Permit (Soil Erosion Plans still required for larger projects)
- Reducing the turn radii standards for private subdivision roads

State law and the LDC require the Board of Commissioners to hold a public hearing prior to acting on a text amendment. The Planning Board and Technical Review Committee reviewed the proposed text amendment and both unanimously recommended approval.

## Land Development Code Amendments to Reduce Regulation



Henderson County Board of Commissioners

Tuesday, September 4th, 2012

Presentation by: Anthony Starr, AICP, Planning Director

*Henderson County Planning Department*

## 2012 LDC Text Amendments

- LDC originally adopted September 19, 2007
- The Board of Commissioners directed staff and the Planning Board to propose updates, at least annually, to prevent the LDC from becoming outdated
- Each year, the Planning Staff and Planning Board work together to create possible text amendments
- Based on feedback from the development community, the Planning Board and the public, staff created this initial list of potential text amendments
- The BOC also directed staff to identify possible options to reduce regulation and enhance the County's business friendly climate

*Henderson County Planning Department*

## Amendment A: CCP Amendments

- LDC requires public hearing for substantive changes
- State law does not require a public hearing
- Propose to eliminate public hearing requirement & newspaper advert; instead post on County website
- Would reduce advertising costs
- Board of Commissioner (BOC) approval still required
- Public input at every Planning Board/BOC meeting
- Provides greater flexibility to promote development where a CCP change is needed
- Legal advertisements rarely read by the public
- Recommend elimination of public hearing/legal advert

*Henderson County Planning Department*

Department websites and channel 11 will be used to notify the public.

## B: Multi-Family Minimum Parking

- County currently requires 2 parking spaces for each dwelling unit (single-family or multi-family)
- Propose to reduce multi-family (MF) requirement to 1.5 spaces per dwelling unit (25% decrease)
- This reflects modern parking needs as not all MF households need 2 spaces
- This standard is used by other jurisdictions
- For a 100 unit townhouse project, this would reduce the minimum parking spaces from 200 to 150
- No change for single-family homes
- **Recommend reduction of the parking standard**

*Henderson County Planning Department*

Decreasing the number of parking spaces required would improve stormwater runoff.

## C: Industrial Minimum Parking

- County currently requires 1 parking space for each 500 square feet of gross floor area of industrial facilities
- Warehouses must provide 1 space for each 4,000 square feet (sqft) of gross floor area
- Propose to change the industrial minimum to 1 space per 4,000 sqft
- Proposed standard reflects changes in employment trends where productivity is higher thereby using fewer employees per sqft
- For a 100,000 sqft industrial building, this would reduce the minimum # of parking spaces from 200 to 25
- **Recommend reduction of the parking standard**

*Henderson County Planning Department*

## D: Accessory Structure Setbacks

- County currently requires 10 foot setback from property lines in all districts
- Propose to reduce accessory structure setback to 5 feet for all districts (residential and non-residential)
- Common standard for many jurisdictions
- Provides better use of property
- Buffers and screening requirements still apply and may require greater setback
- Subdivision covenants unaffected by this change and may still require greater setbacks
- Recommend reduction in accessory structure setbacks

*Henderson County Planning Department*

## E: Dumpsters

- Dumpster requirements explicitly allowed for certain land uses
- Current LDC text could be interpreted to not allow dumpsters for a variety of land uses
- This amendment specifically allows dumpsters and uses screening requirements that are already in place where dumpsters are currently listed
- This provision allows for temporary dumpsters (up to 18 months) where **there is no text that allows them currently**
- Screening requirements would not apply to temporary dumpsters

*Henderson County Planning Department*

## F: Corrections to Decision Making Section

- This amendment does not increase regulation
- This amendment corrects several errors in the current LDC text
- It clarifies that Special Fill Permits are reviewed using a quasi-judicial public hearing since the Board of Adjustment acts as the Flood Damage Prevention Board (which approves the Special Fill Permits)
- Recommend changes for this section

*Henderson County Planning Department*

## G: Soil Erosion Appeals

- This amendment does not increase regulation
- The current LDC text requires the hearing for an appeal filed to occur within 30 days
- It is not always possible to hold the appeal hearing and meet the required public notice provisions within 30 days since the ZBA meets monthly
- The proposed change would require the appeal hearing to be held within 60 days instead of 30 days
- Recommend change for soil erosion appeals

*Henderson County Planning Department*

## H: Quasi-judicial hearings

- LDC currently requires a newspaper advertisement for quasi-judicial hearings
- State law does not require a newspaper advertisement
- Propose to eliminate newspaper advertisement requirement and instead post signs at the site
- Would reduce advertising costs
- Quasi-judicial hearing still held and mailed notice given
- Newspaper legal adverts rarely read by the public
- Newspaper advertisements still required for text amendments & zoning map amendments (rezonings)
- Recommend change for QJ hearings

*Henderson County Planning Department*

## I: Eliminate Soil Erosion Permit/Sketch Plan

- County currently requires a permit & sketch plan of areas when disturbing more than 100 square feet of soil
- A formal erosion control plan isn't required unless disturbance exceeds 1 acre; or 1/2 acre on slopes >15%; or 1/4 acre if on slopes >25%
- No permit fees are collected with sketch plan/permits
- Originally implemented with local soil erosion standards/program in 2007 & not required by the State
- We average 25-40 permits per month
- Recommend elimination of the soil erosion permit
- Erosion control also required even without permits

*Henderson County Planning Department*

## J: Reduce Curve Radii for Roads

- LDC currently requires 90-110 foot curve radius for new subdivision roads
- Provision is aimed at maintaining a minimum radius for safe vehicle operation
- Current standard better suited for flat land areas
- Propose to reduce the centerline curve radii in exchange for widening road travel lanes in curves
- New provision provides adequate access for the largest emergency vehicles
- Could significantly reduce development costs
- Could reduce amount of land disturbed for new projects

*Henderson County Planning Department*

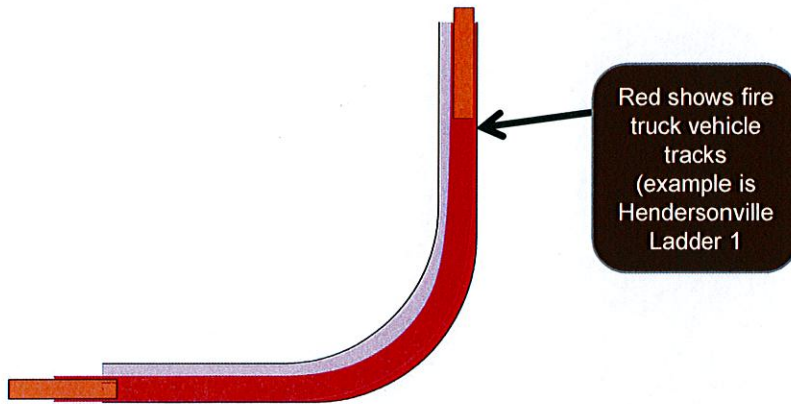
## Reduce Curve Radii for Roads

- This idea first suggested by Planning Board member and a local engineer
- Planning Staff has been coordinating with Emergency Services Department on this idea
- Here is how it works for a 16 foot wide (local) road:

Normal Road Width (feet)	Centerline Curve Radius (feet)	Increase in Road Width	New Road Width in Curve (feet)
16	90+	0	16
16	70-90	25%	20
16	60-70	35%	21.6
16	50-60	45%	23.2
16	40-50	50%	24

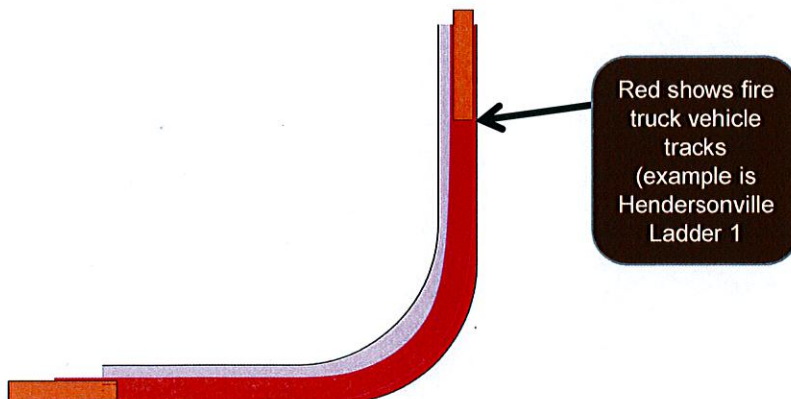
*Henderson County Planning Department*

## Example: Curve Radius 60 feet



*Henderson County Planning Department*

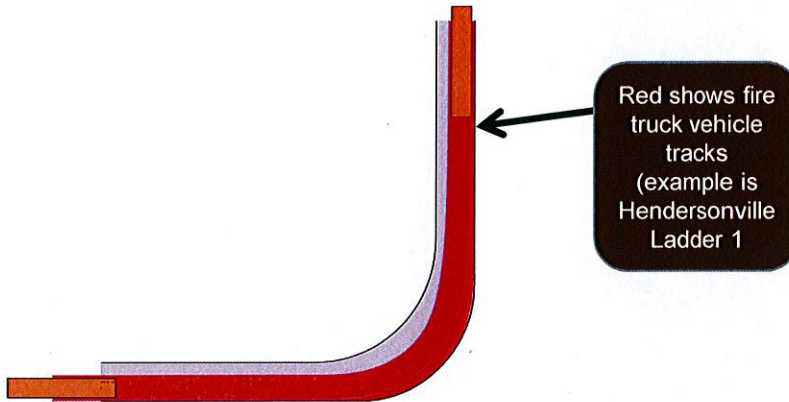
## Example: Curve Radius 50 feet



*Henderson County Planning Department*



## Example: Curve Radius 40 feet



*Henderson County Planning Department*

### Next Steps:

- Board of Commissioners sets the required public hearing date (Wednesday, September 19<sup>th</sup> at 9am)
- Board of Commissioners holds the required public hearing
- Board of Commissioners approves, denies or modifies the proposed text

*Commissioner Young made the motion that the Board sets a public hearing to receive public comment for Land Development Code Text Amendment 2012-02 for Wednesday, September 19th, 2012 at 9:00a.m. All voted in favor and the motion carried.*

### **NCACC LEGISLATIVE GOALS**

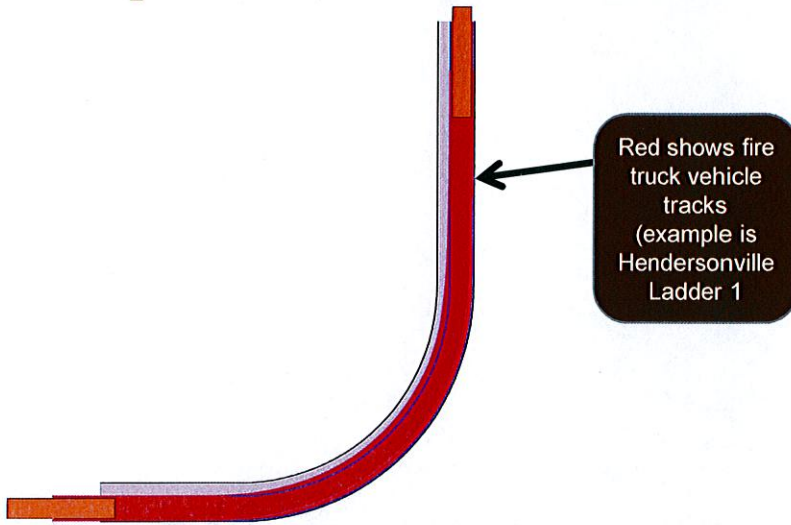
County Manager Steve Wyatt stated the NCACC has announced the legislative goals development process for the 2013-13 biennium, and are inviting counties to submit their legislative proposals to the Association. The submission deadline for proposals is September 17, 2012. A list of the Legislative Goals for 2011-2012, and an update on their status, was included in the agenda packet for reference.

NCACC is the only organization in the state that truly represents all the citizens of North Carolina. For each biennial session of the General Assembly, counties submit legislative proposals, and commissioners from across the state review and recommend them to our members.

### Legislative goals development timeline

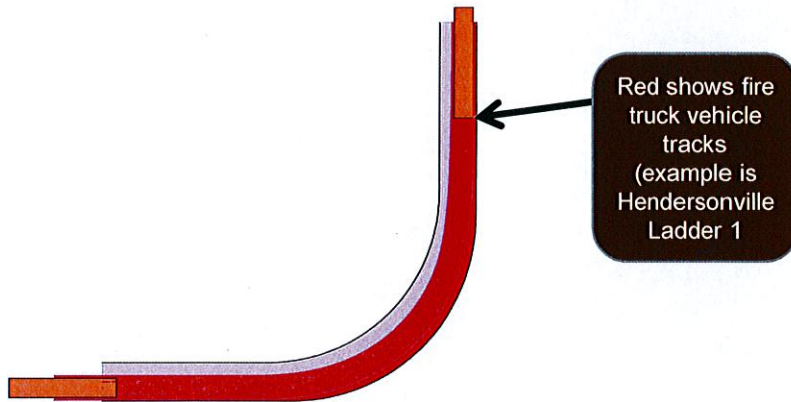
- September 17, 2012      Goals submission deadline
- September – October      Steering committees review goals
- November      Legislative Goals Committee meets
- December      Board of Directors reviews and finalizes recommendations
- January 24-25, 2013      Legislative Goals Conference, membership approval of goals

### Example: Curve Radius 90 feet



*Henderson County Planning Department*

### Example: Curve Radius 70 feet



*Henderson County Planning Department*

**Goal #1: Support Voter ID legislation**

Goal Description: Support legislation to require a legally acceptable picture identification, issued by either the State or local government, in order to be allowed to cast a ballot.

Motion: *Commissioner Edney made the motion to send goal #1, supporting Voter ID legislation. All voted in favor and the motion carried.*

**Goal #2: Economic Development Incentives (State Rules for Development)**

Goal Description: Allow greater flexibility for counties, based upon individual county needs and economic development priorities as it pertains to economic development incentives. Specifically for those companies making a large investment in job creation but not necessarily a large investment in taxable plant and equipment.

Motion: *Commissioner O'Connor made the motion to send goal #2, supporting more flexibility for counties in Economic Development Incentives. All voted in favor and the motion carried.*

**Goal #3: Authorize electronic notice of public hearings and other legal notices.**

Goal Description: Seek legislation to provide counties with options for notice of public hearings, notice of delinquent taxpayers and other legal notices, through electronic means.

Motion: *Chairman Thompson made the motion to send goal #3, seeking legislation to authorize counties to use electronic notice of public hearings and other legal notices. All voted in favor and the motion carried.*

**Goal #4: Sweepstakes Gaming Regulation Authority**

Goal Description: The Board is against Sweepstakes Gaming establishments, and wishes them to be outlawed. However, if such establishments are allowed, the County supports legislation to give counties regulatory authority of gaming establishments. Such regulation would mirror the authority granted to municipalities, allowing the regulation of hours of operation, minimum age for entry, etc.

Motion: *Commissioner Young made the motion to send goal #4, seeking County authority of Sweepstakes Gaming Regulations. All voted in favor and the motion carried.*

**Goal #5: Eliminate second primary and run-off elections**

Goal Description: Seek legislation to eliminate second primary and run-off elections, and have popular vote determine election results.

Motion: *Chairman Thompson made the motion to send goal #5, seeking legislation to eliminate second primary and run-off elections. The motion passed 4-1 with Commissioner O'Connor voting nay.*

**Goal #6: Tax law revisions for foreclosure properties**

Goal Description: Allow purchasers in foreclosure actions (where the purchase closes after 1 January) to seek, and Assessors discretion to allow, revaluation of the purchased property for ad valorem tax purposes effective back to 1 January, so long as such revaluation is based solely on physical changes (vandalism, theft, damage) to the property not assumed in the assessor's 1 January valuation.

Motion: *Commissioner Edney made the motion to send goal #6, requesting tax law revisions for foreclosure properties. All voted in favor and the motion carried.*

**Goal #7: Support NC drivers permit for agricultural workers**

Goal Description: Support legislation making it possible for individuals actively working in agriculture to get a NC permit allowing them to drive without regards to their citizenship, thereby insuring an adequate workforce for farm operations, a means for workers to legally travel to and from work and other locations as needed, and enable better enforcement of proper motor vehicle insurance, as well as insuring proper training of operators, who will be on the road regardless.

Motion: *Commissioner Messer made the motion to send goal #7, requesting support of NC drivers permit for agricultural workers. All voted in favor and the motion carried.*

**Goal #8: Support suspension of mandatory use of E-verify (NC HB36) for agriculture**

Goal Description: Suspend the requirement for employers in the agricultural sector, under HB36, to participate in the federal E-verification program until the Federal Government has addressed the issue of a Guest Worker Visa system that allows for an adequate and legal workforce for agriculture, whereby the suspension of the state level requirement would protect our number one industry which is highly dependent upon immigrant labor and without which, the result would be devastating to this vital part of our economy.

Motion: *Commissioner Messer made the motion to send goal #8, requesting the suspension of mandatory use of E-verify (NC HB36) for agriculture. The motion passed 3-2 with Commissioners O'Connor and Young voting nay.*

**POSSIBLE IMMEDIATE PURCHASE AND LEASE/BACK OF BOYD PROPERTY**

Interim Assistant County Manager David Whitson stated the Board has been contacted by the L. C. Boyd, Jr., regarding the immediate purchase of Boyd's property located near "Five Points" in Hendersonville.

The Board has a contract for the purchase of the land, at a time to occur of Boyd's choosing, but in not less than eighteen (18) months from August 22, 2012. The County has paid \$750,000 into escrow for such purchase, and will owe the remaining \$2,000,000 at closing.

Boyd has proposed the immediate purchase by the County of the property, but the leaseback to him of the property to approximately 18 months.

Should the Board agree to immediate purchase and leaseback, a draft reimbursement resolution was included for consideration, which would allow the Board to finance the purchase price at any time within eighteen months.

Stan Duncan provided an analysis conducted on commercial property which resulted in the following estimates of rental cost:

Two structures on property at an estimated rental of \$10,229.00 per month or \$122,740.00 per year based on the following figures:

Garage	20,000 square ft at \$3.50 per square foot
Showroom	5264 Square ft at \$9.00 - \$10.00 per square foot

David Whitson provided an estimated rental of \$9,997.00 (rounded to \$10,000) per month based on loss of taxes, insurance cost, etc.

County Manager Steve Wyatt noted that at time of purchase of the property, a Phase I environmental assessment was completed by the State. Additional selective soil borings were completed and no indications of anything unusual were found.

Commissioner O'Connor looked at this as a financial transaction and felt the rental income should be more in the vicinity of \$12,850 per month.

County Finance Director Carey McLelland felt the best financing term would be for 10 years. It would have to go through a bidding process to determine the interest rate. The process will take 60-90 days and must include approval by the Local Government Commission.

*Commissioner Messer made the motion that the Board authorizes the Finance Director to take appropriate*

*steps to begin the financing process. All voted in favor and the motion carried.*

*Commissioner Edney made the motion that the Board proceeds with the immediate purchase of the Boyd property, at the contract terms, but with immediate leaseback of the property to Boyd for a period of eighteen months, at a monthly lease payment of \$10,000.00, and further moved approval of the proposed reimbursement resolution. The motion passed 4-1 with Commissioner O'Connor voting nay.*

### **1995 COURTHOUSE RENOVATIONS – ADD ON**

County Manager Steve Wyatt stated that over the years, the 1995 Courthouse has incurred much vandalism to courtroom furniture. Refinishing the furniture through rotation was doable, with the possibility to reconfigure the seating. The cost to refinish benches is approximately \$200 per bench for a total of \$14,000. The cost to move the divider bar is approximately \$3000.00.

For the Superior Courtroom, Commissioner Edney suggested removing the first 2 rows of benches and moving the divider bar back to provide more of a buffer for jurors. For the District Courtroom, he suggested removing the first (1) row of benches and moving the divider bar back also providing a larger buffer for the public from inmates. He has spoken with the staff at the Courthouse and they are okay with the idea. The Clerk of Court is concerned of the loss of seating capacity. At this time she is also looking at a new sound system within the courtrooms.

*Commissioner Edney made the motion that the board authorizes follow through of this plan and instruction to staff accordingly. All voted in favor and the motion carried.*

It was noted that the metal detector in the 1995 Courthouse had been moved from the 3<sup>rd</sup> floor to the second floor and consideration is being made to move it to the first floor for safety reasons. If the detector is moved to the first floor, the front entrance will be closed and all entry must be made through the first floor, going through security. At this time, Sheriff McDonald is working on increasing security and getting recommendations. He will bring the information to the Commissioners at a later date.

### **IMPORTANT DATES**

Schedule NCDOT Secondary Roads Public Hearing

*Chairman Thompson made the motion that the Board schedules the annual NCDOT Public Hearing on Secondary Roads for Wednesday, September 19, 2012 at 9:00 a.m. All voted in favor and the motion carried.*

Chairman Thompson noted that he had spoken with Steve Cannon at the NCDOT in regard to the Upward Road/Spartanburg Highway divider. This will also be discussed at the September 19, 2012 meeting.

### **CANE CREEK WATER AND SEWER DISTRICT**

*Commissioner Messer made the motion for the Board to convene as Cane Creek Water & Sewer District Board. All voted in favor and the motion carried.*

Please see separate Cane Creek minutes for action.

*Commissioner Edney made the motion to go out of session as the Cane Creek Water & Sewer District Board. All voted in favor and the motion carried.*

### **ADJOURN**

*Commissioner Edney made the motion to adjourn at 8:45p.m. All voted in favor and the motion carried.*

Attest: