

**DRAFT**

**MINUTES**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
MONDAY, MARCH 4, 2013**

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 Charlie Messer, Vice-Chairman Tommy Thompson, Commissioner Grady Hawkins, Commissioner Larry Young, County Manager Steve Wyatt, Interim Assistant County Manager David Whitson, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Public Information Officer Christy Hallingse, Finance Director J. Carey McLelland, Senior Planner Autumn Radcliff, Director of Business and County Development John Mitchell, Engineer Marcus Jones, Chief Deputy Rodney Raines, Planner Parker Sloan, Sheriff Charles McDonald, Health Director Tom Bridges, Research/Budget Analyst Amy Brantley, Delinquent Tax Collector Lee King, Recreation Director Tim Hopkin, Deputy County Attorney Sarah Zambon, Recreation Program Supervisor Karen Saine, and David Pierce as security.

Commission Edney arrived later in the meeting during the Patient Protection and Affordable Care (PPACA) Resolution discussion.

**CALL TO ORDER/WELCOME**

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

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the American Flag was led by Micah Haack from the AC/DC 4-H Club.

**PUBLIC HEARINGS**

**Public Hearing for Rezoning Application #R-2012-06**

*Commissioner Hawkins made the motion to go into public hearing in regard to Rezoning Application #R-2012-06. All voted in favor and the motion carried.*

Planner Parker Sloan stated Rezoning Application #R-2012-06, which was submitted on November 19, 2012, requests the County rezone a 0.43 acre tract. The applicant requests a rezoning from a Community Commercial (CC) zoning district to a Residential One (R1) zoning district. The subject area is owned by Glassy Mountain Partners LLC (PIN: 9577-59-3179).

The Henderson County Planning Board considered rezoning application #R-2012-06 at its regularly scheduled meeting on January 17, 2013. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2012-05 to rezone the subject area to Residential One (R1) zoning district.

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §200A-314(C) and §200A-337(B) of the Henderson County Land Development Code and State Law, notices of the March 4, 2013, public hearing regarding rezoning application #R-2012-05 were published in the Hendersonville Tribune on February 14, 2013 and February 21, 2013. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the subject area property owner on February 18, 2013 and posted signs advertising the hearing on the subject area on February 19, 2013.

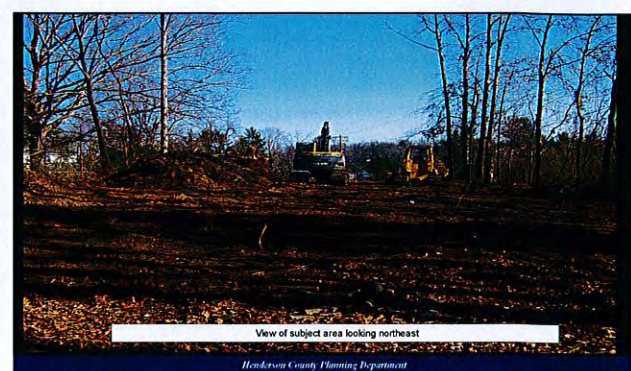
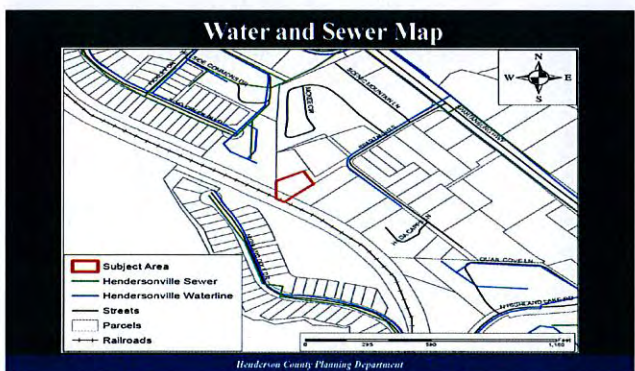
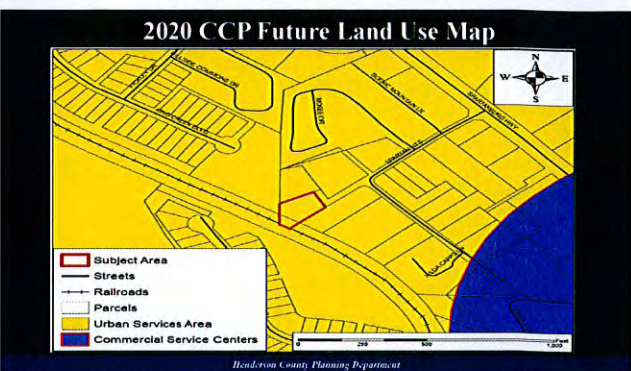
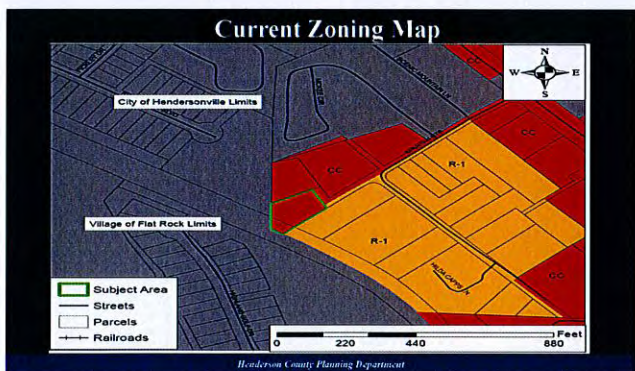
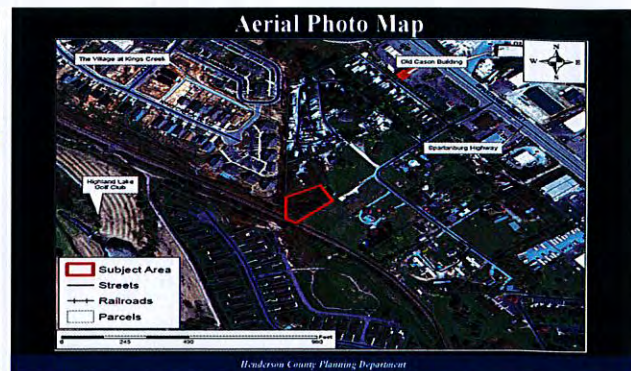
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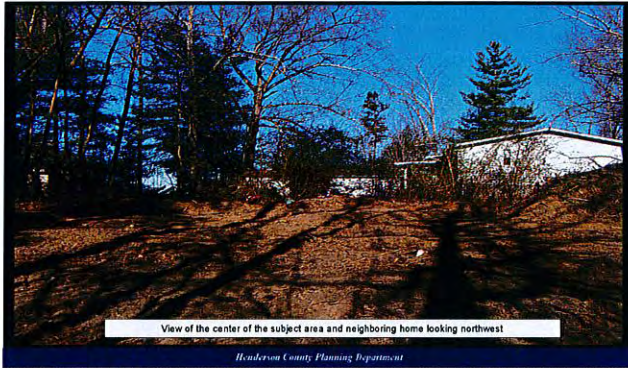
The subject area is adjacent to Residential One (R-1) to the east and surrounded by Community Commercial (CC) to the north. To the south the subject area is adjacent to the Village of Flat Rock municipal limits and to the west the subject area is adjacent to the City of Hendersonville municipal limits.

A City of Hendersonville water line runs down Spartanburg Highway and along Spartan Heights that stops before Hilda Capps Lane. The City of Hendersonville water line is approximately 220 feet to the north east from the subject property. The subject property is approximately 85 feet away to the northwest from the City of Hendersonville water line in the Village at Kings Creek neighborhood. Public sewer provided by the City of Hendersonville is currently located approximately 800 feet to the north east of the subject area along Spartanburg Highway at the intersection with Spartan Heights.

After holding the required hearing, Planning Staff recommends that the Board of Commissioners approves the application to rezone the subject area to a Residential One (R1) zoning district. State law requires that the Board adopt a written statement of consistency with the County Comprehensive Plan (CCP). A draft resolution was provided.







### Public Input

There was none.

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

*Commissioner Hawkins made the motion that the Board adopts the resolution regarding the consistency with the CCP, and further move that the Board adopts the proposed map amendment. All voted in favor and the motion carried.*

### INFORMAL PUBLIC COMMENTS

1. Theron Maybin – Mr. Maybin is the chair of the Agriculture Advisory Board. He informed the Commissioners of change in the Agriculture Extension and noted that Susan Colucci is leaving. A full-time agent will be needed for the future.

### DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Hawkins requested that the Western Highlands Area Authority be pulled from the consent agenda for discussion.

#### **Western Highlands Area Authority – Quarterly Fiscal Monitoring Report (FMR) for the quarter ended December 31, 2012**

N.C.G.S. 122C-117(c) requires the staff of the local area mental health authority to provide the County Finance Officer with the quarterly Fiscal Monitoring Report (FMR) within 30 days of the end of the quarter. The County Finance Officer is then required to provide the FMR to the Board of Commissioners at the next regularly scheduled meeting of the board. The FMR for Western Highlands Area Authority was received by the County Finance Officer on February 13, 2013.

County Manager Steve Wyatt explained that as a part of the Western Highlands LME, each county is charged with maintenance of funding. Henderson County is the second largest county in the region. Buncombe County pays the highest amount as the largest county. Henderson County has the largest per capita funding average. The Commissioners determine how the money is spent within that county, but the money is actually sent to Western Highlands for disbursement. As far as consultant funds in the budget, the State of North Carolina has mandated that the LME go through a reorganization process to move from being a traditional Local Management Entity into a Manager Care Organization. A Manager Care Organization basically means an insurance company. The State has qualified vendors to be consultants to lead those organizations through this transitions period. The State directly contracted with a company called the Mercer Company to begin the process. At this point it was determined that technical capabilities were needed that Mercer did not have and other vendors were provided to choose from. Western Highlands has contracted with a group called the Thornton Group which is guiding the LME through an Information Technology upgrade. Mr. Wyatt estimated that the LME will spend over \$1 million on software to administer the new Medicaid Program, and that the \$100,000 budgeted for consultant fees will fall short of a more likely figure of .5 million.

*Commissioner Hawkins made the motion that the Board of Commissioners approves the Western Highlands Area Authority Fiscal Monitoring Report for the quarter ended December 31, 2012. All voted in favor and the motion carried.*

*Commissioner Hawkins made the motion to adopt the Agenda as presented. All voted in favor and the motion carried.*

### **CONSENT AGENDA**

*Commissioner Hawkins made the motion to adopt the Consent Agenda minus the Western Highlands Area Authority, pulled for discussion. 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):

February 20, 2013 – regularly scheduled meeting

#### **Tax Collector's Report**

Collections Specialist Luke Small had presented the Tax Collector's Report to the Commissioners dated February 22, 2013 for information only. No action was required.

#### **Financial Report/Cash Balance Report – January 2013**

The January 2013 County Financial Report/Cash Balance Report was 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 January:

- Dues/Non-Profit Contributions – payment of 3<sup>rd</sup> quarter non-profit contributions
- Elections – poll workers paid for working the November election
- Fire Services – annual payment of worker's compensation premium for all fire departments
- Emergency Medical Services – purchase of two new ambulances and emergency medical equipment
- Rescue Squad – payment of 3<sup>rd</sup> quarter non-profit contribution
- Soil & Water Conservation – payment of state grant funds for a stormwater wetlands construction project
- Economic Development – payment of economic development incentives due to various companies
- Interfund Transfers – approved transfer of funds to purchase the Boyd Dealership property

The YTD deficit in the Emergency Telephone System (911) Fund is due to an annual debt service payment made in August on the 911 Center expansion project financing and the purchase of approved technology capital outlay. Fund balance of \$271,713 was appropriated to cover expenditures in this Fund for FY2013.

The YTD deficit in the CDBG – Scattered Site Housing Fund, the CDBG – 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.

The YTD deficit in the Immigration and Customs Enforcement (ICE) Fund is due to a timing delay in receiving payments – federal ICE revenues for January will not be received and posted until March 2013.

The YTD deficit in the Sierra Nevada/Economic Development Project Fund will be reimbursed from three approved grant funding sources (CDBG, Golden Leaf Foundation, Rural Development Center) for this project.

Motion:

*I move that the Board of Commissioners approves the January 2013 County Financial Report and Cash Balance Report as presented.*

**Henderson County Public Schools Financial Reports – January 2013**

The Henderson County Public Schools January 2013 Financial Reports were provided for the Board's information.

Motion:

*I move that the Board of Commissioners approves the Henderson County Public Schools January 2013 Financial Reports as presented.*

**Approval to Surplus One Sheriff's Office Vehicle**

The Sheriff's Office is requesting that the Board authorize the Sheriff's Office to surplus one Sheriff's Office patrol vehicle, transfer it to Blue Ridge Community College (BRCC), and sell the vehicle and associated equipment to BRCC for \$4,000. The vehicle and associated equipment will be used by BRCC for their Basic Law Enforcement Training (BLET) Program.

Year:	2007
Make:	Dodge
Model:	Charger
VIN:	2B3KA43G57H709164
Vehicle #:	SH 289
Asset #:	12477
Mileage:	76,800

Motion:

*I move the Sheriff's Office and the County Manager be authorized to surplus one Sheriff's Office patrol vehicle and transfer it to Blue Ridge Community College (BRCC); the vehicle and associated equipment will be sold to BRCC for \$4,000.*

**Renewal of lease (Carland Farms, Inc.)**

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

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

This item would renew the Carland Farms, Inc., lease on identical terms. Given the acquisition of the former Hendersonville Christian School, Inc., property, the lease with the Blue Ridge Amateur Radio Club will be reviewed and a renewal proposed once space is located there. Until then, it is recommended that the Club remain in their present space on a month-to-month basis.

Motion:

*I move that the Board approves the draft lease renewals included in the agenda.*

**Approval to delete inoperable and non-FCC compliant radios from asset list and be given permission to take items to scrap metal business**

The Sheriff's Office requested that the Board authorize the Sheriff's Office to remove the radios from the Henderson County Asset List. Furthermore, be allowed to take said radios to scrap metal yard for currency. That currency would be allocated to the operation of DARE Camp this summer. This past year, the FCC mandated ALL radios nationwide to be able to transmit on a narrow band frequency. These radios are not capable of this. The radios are 15-20 years old, many will not operate at all and could not be sold as surplus, as whomever purchased them would be subject to a \$10,000.00 fine per radio if they were put into service.

**Motorola Spectra**

221AVC0013, 221AVC0017, 221AVC00191, 221AVC0022, 221AVC0023, 221AWU0266, 221AXA0058, 221AXS0099, 221AXS0100, 221AXS0105, 221AXS0106, 221AYIG0141, 221AYN0071, 221AYN0072, 221AZN0091, 221AZN0096, 571VU011, 671ASG0240, 671ASG0244, 671ASQ0185, 671ASQ0190, 671ASQ0191, 671AUS0026, 671AWC0309, 671AXU0054, AZ492XCO6

HENDERSON COUNTY ID# 004268 (Four Tags)

**MOTOROLA SYNTOR**

483HLU1536, 483HLW0011, 483HMJ0520, 483HNA1543, 483HNA1544, 483HNA1548, 483HNA1550, 483HP41954, 483HPU0232, 483HPU0695, 483HPW1052, 483HPW1953, 483HPW1955, 538FPY0293, 621HMA0094, 621HN2W0652, 621HNS1515, 621HNU1490, 621HNW0650, 621HNW0651, 621HPW0583, 621HPW0584, 621HQW0705, 621HRA2107, 621HRA2108, 683HPY0186,

HENDERSON COUNTY ID-005776

**Motion:**

*I move the Sheriff's Office and the County Manager be authorized this destruction of the listed radios at a scrap metal yard, and the currency received from the business be allocated to the operation of DARE Camp.*

**Resolution for the Approval of Henderson County Historic Landmark Design Guidelines**

The Board of Commissioners is requested to approve a Resolution, affirming its intent to adopt both voluntary design guidelines and an ordinance referencing those guidelines during Fiscal Year 2014.

**Motion:**

*I move the Board approves the Resolution as presented.*

**Law Enforcement Officer Service Badge and Sidearm Policy**

Sheriff McDonald requested the Board approve the Law Enforcement Officer Service Badge and Sidearm Policy. This would be a County policy, and would be included in the Administrative Manual. The policy has been drafted in conjunction between the Sheriff's Department and the Human Resources Department, and is consistent with the existing "Henderson County Equipment Purchase by Retired Employee Policy".

**Motion:**

*I move the Board approves the Law Enforcement Officer Service Badge and Sidearm Policy as presented.*

**Use of Courtroom – Heritage Museum**

A request has been submitted by the Heritage Museum, for the Board of Commissioners to consider allowing them to use the Courtroom from Saturday, July 20, 2013 through Sunday, August 4, 2013. The Courtroom would be used for a fundraising play.

The Museum is requesting the following Courtroom availability for a fundraising play by Tom Orr:

- Area behind the Courtroom railing cleared of moveable items and available for dress rehearsals beginning Saturday, July 20.
- Performances will be given the weekends of 7/27 and 8/3 with a closing matinee on Sunday 8/4. The space can be cleared following the 8/4 performance.
- Orr will need sporadic access to and use of the Community Room for rehearsals throughout the month of July as permitted by previous commitments for that room. Scheduling for use of the room will be arranged with County by the Museum.
- Orr and the Play staff will also need temporary after-hours access to both the Community Room and Courtroom with responsibility for access assumed by the Museum.

Given the Commissioners' meeting scheduled for Monday, August 5<sup>th</sup>, Staff requests the space be cleared following the August 4<sup>th</sup> performance.

Motion:

*I move the Board approves the use of the Courtroom from Saturday, July 20, 2013 through Sunday, August 4, 2013.*

#### **Notification of Vacancies**

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

1. Agriculture Advisory Board – 1 vac.  
Chairman Messer noted that the individual appointed to position #2 at the February 20, 2013 meeting, had responded that he was unable to serve at this time.
2. Fletcher Zoning Board of Adjustment – 1 vac.
3. Henderson County Historic Courthouse Corporation (dba) Heritage Museum – 1 vac.
4. Henderson County Board of Health – 1 vac.
5. Regulations Review Advisory Committee – vac. (to be determined)

#### **Nominations**

1. Agriculture Advisory Board – 1 vac.  
Commissioner Young nominated Richard Jordan for position #2. *Commissioner Hawkins made the motion to accept the appointment of Richard Jordan to position #2 by acclamation. All voted in favor and the motion carried.*
2. Environmental Advisory Committee – 1 vac.  
Commissioner Hawkins nominated Francie Harrill for position #4. *Chairman Messer made the motion to accept the appointment of Francie Harrill to position #4 by acclamation. All voted in favor and the motion carried.*
3. Equalization and Review, Henderson County Board of – 3 vac.  
Commissioner Hawkins nominated for reappointment, William Alexander, Jr. for position #3. Commissioner Thompson nominated for reappointment, Don Dalton for position #5. Chairman Messer nominated for reappointment, Dr. John Bell for position #7. *Chairman Messer made the motion to accept the reappointments of Williams Alexander, Jr. to position #3, Don Dalton to position #5, and Dr. John Bell to position #7 by acclamation. All voted in favor and the motion carried.*
4. Henderson County Historic Courthouse Corporation (dba) Heritage Museum – 1 vac.  
Commissioner Thompson nominated Jo Ann Stepp Fain for position #7. *Chairman Messer made the motion*



*to accept the appointment of Jo Ann Stepp Fain to position #7 by acclamation. All voted in favor and the motion carried.*

5. Home and Community Care Block Grant Advisory Committee – 1 vac.  
There were no nominations at this time so this item was rolled to the next meeting.

6. Juvenile Crime Prevention Council – 7 vac.  
There were no nominations at this time so this item was rolled to the next meeting.

7. 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.

8. Nursing/Adult Care Home Community Advisory Committee – 7 vac.  
Commissioner Thompson nominated for reappointment Rev. Martha Sachs for position #1. Commissioner Thompson nominated for appointment Donna Sheline for position #6, Connie Cunningham for position #8, Jo Ann Nagle for position #17, William Nagle for position #18, Bernard Brodsky for position #20, and Ruth Rosauer for position #23. *Chairman Messer made the motion to accept the reappointment of Martha Sachs to position #1, and the appointments of Donna Sheline to position #6, Connie Cunningham to position #8, Jo Ann Nagle to position #17, William Nagle to position #18, Bernard Brodsky to position #20, and Ruth Rosauer to position #23 by acclamation. All voted in favor and the motion carried.*

9. Senior Volunteer Services Advisory Council – 2 vac.  
There were no nominations at this time so this item was rolled to the next meeting.

10. Smartstart – 1 vac.  
There were no nominations at this time so this item was rolled to the next meeting.

**INTRODUCTION OF JOHN MITCHELL**

Steve Wyatt introduced the new Director of Business and County Development John Mitchell. This is Mr. Mitchell’s first day with Henderson County.

**REFINANCING OF 2006 FUNDING (SUGARLOAF/BRCC/HISTORIC COURTHOUSE)**

Finance Director McLelland continually investigates potential refinancing of previous County indebtedness for possible savings. He has identified the 2006 funding of the construction of the Sugarloaf Elementary School and Blue Ridge Community College Technology Building, and the renovation of the Historic Courthouse, as such, and has pursued the refinancing to this point. SunTrust has submitted the lowest responsive bid for this refinancing, and their proposal and savings analysis were provided.

The Board received copies of the proposed forms of the First Amendment and an Escrow Agreement to be dated as of April 1, 2013 (the “Escrow Agreement,” and together with the First Amendment, the “Instruments”) between the County and U.S. Bank National Association, as escrow agent.

SunTrust	2.01%
TD Bank	2.14%

Mr. McLelland stated that the savings for the County will be between \$136,000 – \$137,000 annually and approximately \$1.77 million over 13 years.

*Commissioner Thompson made the motion that the Board approves the proposed Resolution approving an amendment to an Installment Financing Contract to provide for Refinancing of the existing County obligations. He further moved that the Board approves the SunTrust bid. All voted in favor and the motion carried.*

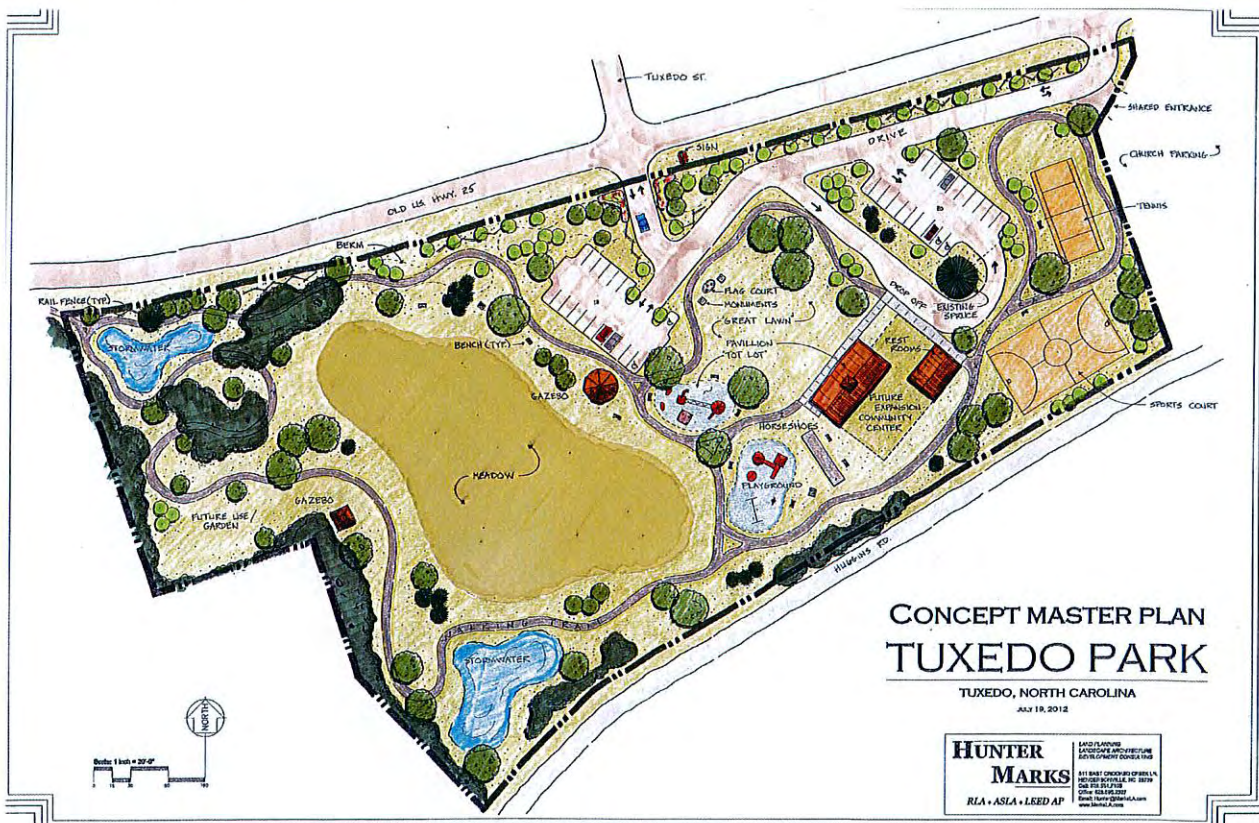


**GREEN RIVER, TUXEDO, ZIRCONIA PARK MASTER PLAN**

Chair Terry Maybin stated the Green River, Tuxedo, Zirconia Park Planning Committee was appointed to assist with preparing a master plan for the property acquired in Tuxedo (6.14 acre site) for a future community park. After several meetings with the Committee, Green River Community Association, Parks and Recreation Staff and consultants a final proposed master plan for the Tuxedo Park was completed.

The proposed master plan was presented to the Green River Community Association at their January 2013 meeting. The GRCA voted to adopt the plan. The plan adopted by the GRCA plan was presented to the Parks and Recreation Advisory Board at their February 2013 meeting. The Recreation Advisory Board voted to adopt the master plan as presented.

The Green River, Tuxedo, Zirconia Park Planning Committee now presents the master plan to the Henderson County Board of Commissioners.



*Chairman Messer made the motion that the Henderson County Board of Commissioners adopts the proposed Tuxedo Park Master Plan. All voted in favor and the motion carried.*

**HOUSING ASSISTANCE CORPORATION – HOME GRANT APPLICATION**

Hugh Lipham stated at the Board’s February 4, 2013 meeting, the Board approved HOME applications for Housing Assistance Corporation and Henderson County Habitat for Humanity. After submitting the Hillcrest HOME application to the Asheville Regional Housing Consortium, staff for the Consortium made the recommendation that Housing Assistance Corporation consider changing the type of application from “Henderson County” to Community Housing Development Organization “CHDO”.

The benefit of submitting a CHDO application to Housing Assistance is that when the funds are repaid by a client in the future, Housing Assistance can retain proceeds from the returned funds. These proceeds will support other future HOME eligible activities.

Mr. Lipham stated that the application can be made through Henderson County or as a Community Housing Development Organization "CHDO". The choice was made to apply as a CHDO and avoid self competition.

*Commissioner Young made the motion that the Board approves the change in the application from "Henderson County" to Community Housing Development Organization "CHDO". All voted in favor and the motion carried.*

### **WNC DOME**

At the Board's February 20, 2013 meeting, the Board heard a presentation on the proposed WNC Dome project. The Board is requested to discuss the information presented, and take action as appropriate.

Mr. Dennis Justice informed the Board that WNC AG Center is against the WNC Dome for reasons including the height of the dome and parking. Further discussion was not necessary.

### **HEALTH DEPARTMENT UPDATE – EXTENDED CLINIC HOURS**

Tom Bridges, Health Department Director, provided the Board of Commissioners with a brief update concerning expanded clinic hours at the Health Department. Mr. Bridges stated for many years the Health Department had offered one day a week a late evening clinic that would end at 6:00 p.m. This was done by using flex hours, with the nurse practitioner coming in at 9:30 a.m. and their day ending at 6:00 p.m. A review of their schedule one year ago indicated a lack of people participating at that time, and the schedule was changed till 4:30 p.m. However, in continuing to do patient satisfaction surveys, they have found that there are patients having difficulty getting into the clinic that miss the late evening clinic. Therefore to meet the needs of patients, they are once again offering an evening clinic on Monday evenings until 6:00 p.m.

### **PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) RESOLUTION**

It was requested that the Board discuss a Resolution seeking a waiver for Henderson County Government from the Patient Protection and Affordable Care Act. The new law subjects the taxpayers of Henderson County to double taxation due to the "fees" imposed on local governments that provide healthcare benefits to its employees and covered dependents that must be covered by local taxes, as well as the federal taxes citizens will be subject to under the PPACA as individuals and/or businesses.

Steve Wyatt discussed the impact for the County as an employer. The County provides a comprehensive health care benefit to its employees and their dependants. The County has a track record of managing that program in a very cost effective manner. The County does not buy insurance, it is partially self-funded. The County pays a vast majority of claims out of a pool of Henderson County money. The County does buy reinsurance for larger claims or larger aggregates. The cost savings that the County has managed stay in the County rather than going to an insurance company.

It has been found that self-funded programs are less penalized by the Federal Government in the way of fees for providing this healthcare benefit. Should the County purchase insurance from the insurance market including affordable health fees and taxes, it is estimated at an addition cost of \$425,000.

At this time the County is paying transitional reinsurance fees to the Federal Government at a cost of approximately \$89,000. Mr. Wyatt has been unsuccessful in determining what benefit is received for this cost. In research it has been found that some entities or organizations (over 1,000) have been able to secure from the Federal Government a waiver or exemption for some period of time from the mandate of this healthcare legislation. The majority of money for this healthcare plans comes from taxes, property taxes. This is an unfunded mandate to the taxpayer representing a double taxation. This will also apply to all municipalities in the State of North Carolina.

Commissioner Edney arrived at 6:25 p.m.

*Commissioner Young made the motion that the Board adopts the Resolution seeking a waiver for Henderson*

*County Government from the Patient Protection and Affordable Care Act. All voted in favor and the motion carried.*

**IMPORTANT DATES**

**Set Public Hearing for Rezoning Application #R-2013-C-01**

Rezoning Application #R-2013-C-01, which was submitted on December 28, 2012, requests the County rezone approximately 1.71 acres of land. The applicant requests a rezoning from a Residential Two Rural (R2R) zoning district to a Community Commercial Conditional (CC-CD) zoning district. The subject area parcel is owned by Roger Gagnon and the applicant is The Broadway Group, LLC. (PIN: 9539-98-3442).

The Henderson County Planning Board considered rezoning application # R-2013-C-01 at its regularly scheduled meeting on February 21, 2013 and voted unanimously to send a favorable recommendation to the Board of Commissioners. Before taking action on the rezoning request, the Board of Commissioners must hold a public hearing. Staff suggests scheduling the public hearing for April 1, 2013, at 5:30 P.M., or schedule a special called meeting on or after that date.

*Chairman Messer made the motion that the Board schedules a public hearing for rezoning application #R-2013-C-01 for Monday, April 1, 2013, at 5:30 P.M. All voted in favor and the motion carried.*

**Joint meeting with the Hospital Corporation Board of Directors**

Commissioner Edney will be arranging a joint meeting of the Board of Commissioners and the Hospital Corporation Board of Directors.

**CLOSED SESSION**

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

- 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 Thompson made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(4), for the reasons set out in the Request for Board Action in the Board's agenda packet. All voted in favor and the motion carried.*

**ADJOURN**

*Commissioner Thompson made the motion to go out of closed session and adjourn at 8:10 p.m. All voted in favor and the motion carried.*

Attest:

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Teresa L. Wilson, Clerk to the Board

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Charles D. Messer, Chairman





## **RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN**

**WHEREAS**, pursuant to N.C. General Statute §153, Article 18, the Henderson County Board of Commissioners exercises regulations relating to development within the County's jurisdiction; and

**WHEREAS**, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

**WHEREAS**, the Board desires to update and revise the regulations of the LDC; and

**WHEREAS**, the Planning Director and Planning Board provided recommendations regarding the proposed zoning map amendment with case #R -2012-06; and

**WHEREAS**, pursuant to N.C. General Statute §153-323, the Planning Director provided the prescribed public notice and the Board held the required public hearing on March 4, 2013; and

**WHEREAS**, N.C. General Statute §153-341 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

**NOW THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed map amendment (#R -2012-06 – Glassy Mountain Partners, LLC) and finds that it reasonable, in the public interest and it is consistent with the CCP and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed map amendment provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

THIS the 4<sup>th</sup> day of March, 2013.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: Charlie Messer  
CHARLIE MESSER, Chairman

ATTEST:

Ceresa L. Wilson  
Terry Wilson, Clerk to the Board

[COUNTY SEAL]



# HENDERSON COUNTY TAX COLLECTOR

200 NORTH GROVE STREET, SUITE 66

HENDERSONVILLE, NC 28792

PH: (828) 697-5595 | FAX: (828) 698-6153

Henderson County Board of Commissioners  
1 Historic Courthouse Square, Suite 1  
Hendersonville, NC 28792

Friday, February 22, 2013

## Re: Tax Collector's Report to Commissioners – 04 March 2013 Meeting

Please find outlined below collections information through 21 February 2013 for the 2012 bills mailed out on 14 August 2012, 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:

**2012 Beginning Charge:** \$57,948,385.02  
Discoveries & Imm. Irreg.: \$302,572.20  
Releases & Refunds: (\$104,412.16)  
**Net Charge:** \$58,146,545.06  
Unpaid Taxes: \$2,654,486.20  
Amount Collected: \$55,492,058.86  
**Percentage Collected:** 95.43%  
Through: 21-Feb-2013

**2011 Beginning Charge:** \$57,516,609.25  
*Discoveries & Imm. Irreg.:* \$112,275.85  
*Releases & Refunds:* (\$105,881.96)  
**Net Charge:** \$57,523,003.14  
Unpaid Taxes: \$2,809,742.41  
*Amount Collected:* \$54,713,260.73  
**Percentage Collected:** 95.12%  
Through: 21-Feb-2012

### Motor Vehicle Bills G01 Only:

**2012 Beginning Charge:** \$3,408,015.24  
Discoveries & Imm. Irreg.: \$2,597.73  
Releases & Refunds: (\$61,447.47)  
**Net Charge:** \$3,349,165.50  
Unpaid Taxes: \$749,055.50  
Amount Collected: \$2,600,110.00  
**Percentage Collected:** 77.63%  
Through: 21-Feb-2013

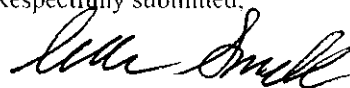
**2011 Beginning Charge:** \$3,141,945.30  
*Discoveries & Imm. Irreg.:* \$772.45  
*Releases & Refunds:* (\$72,247.32)  
**Net Charge:** \$3,070,470.43  
Unpaid Taxes: \$656,174.68  
*Amount Collected:* \$2,414,295.75  
**Percentage Collected:** 78.63%  
Through: 21-Feb-2012

### Fire Districts All Bills:

**2012 Beginning Charge:** \$6,813,296.51  
Discoveries & Imm. Irreg.: \$45,492.95  
Releases & Refunds: (\$23,124.59)  
**Net Charge:** \$6,835,664.87  
Unpaid Taxes: \$431,051.95  
Amount Collected: \$6,404,612.92  
**Percentage Collected:** 93.69%  
Through: 21-Feb-2013

**2011 Beginning Charge:** \$6,712,188.39  
*Discoveries & Imm. Irreg.:* \$12,931.50  
*Releases & Refunds:* (\$18,619.71)  
**Net Charge:** \$6,706,500.18  
Unpaid Taxes: \$414,049.46  
*Amount Collected:* \$6,292,450.72  
**Percentage Collected:** 93.83%  
Through: 21-Feb-2012

Respectfully submitted,



Luke Small  
Collections Specialist

Stan C. Duncan  
Tax Collector



**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**LEASE**

**THIS LEASE**, made and entered into effective the 1st day of January, 2013 by and between Henderson County, having an address of 1 Historic Courthouse Plaza, Suite 5, Hendersonville, North Carolina, 28792, hereinafter referred to as "Lessor", and Carland Farms, Inc. , having an address of 516 North Mills River Road, Mills River, NC 28759 , hereinafter referred to as "Lessee",

**WITNESSETH:**

That the Lessor for and in consideration of the rents, covenants and agreements to be paid, kept and performed by the Lessee as hereinafter provided, have lease and rented unto the Lessee, and the Lessee has rented from the Lessor that following described real property, located in Henderson County North Carolina:

Being all of that tillable land on that tract of land shown as Tract "C" on that plat entitled, "Plat of Survey for Broadpointe Center", dated November 1996, recorded on Plat Slide 2295 of the Henderson County Registry. Tract "C" as shown on the Plat of Survey for Broadpointe Center consists of 27.82 acres. It is estimated that the tillable land, located within the boundaries of said Tract "C" is approximately +/- 26.2 acres. Tract "C" is hereafter referred to as the "Leased Premises".

**TO HAVE AND TO HOLD** said Leased Premises unto the Lessee upon the following conditions:

1. The term of this Lease shall commence on January 1, 2013, or the date that this Lease is fully and properly executed, whichever is later, and shall expire December 31, 2013.
2. The Lessee agrees to pay Lessor the sum of \$1,950.00, as annual rental, less any *ad valorem* property taxes which are due from the Lessee as a result of this lease, which said annual rental shall be paid in full by March 30, 2013. Failure to pay said lease amount by the stated date will be grounds for immediate termination of the Lease by the Lessor without notice to the Lessee.
3. The Leased Premises shall be used solely for conducting thereon farming operations during the term of this Lease, and Lessee covenants and agrees to follow good farming practices to the end that any damage to the Lease Premises or soil by reason of erosion or otherwise shall be minimized. Hunting of any kind is expressly prohibited on the Leased Premises.
4. Lessee covenants and agrees, at its expense, to keep the drainage ditches presently located on the Leased Premises clear and unobstructed throughout the term of the

Lease, and at the expiration of this Lease to surrender the Leased Premises in a good condition as the same shall be at the commencement of said term; provided, however, that in the event it becomes necessary to make any permanent improvements on the Leased Premises such as repairs to underground drainage or the cutting or retraining of hedge row the same shall be done at the Lessee's expense, but subject to the approval of the Lessor.

5. It is agreed that no building, house, barns or other structures are included in the Leased Premises.
6. This Lease may not be assigned; additionally, the Leased Premises may not be subleased.
7. Lessee understands and agrees that the Leased Premises have been donated to Lessor for future use as a public park. Lessee agrees that Lessee will do nothing that will prohibit the future use of the Lease Premises as a public park.
8. Lessor makes no covenant of quiet enjoyment to Lessee with respect to the Leased Premises; however, Lessor agrees not to unreasonably interfere with Lessee's ability to conduct farming operations on the Leased Premises, except as may be connected with the installation of the public sewer across any portion of the Leased Premises. It is understood and agreed that the Lessor or their agents shall not be responsible for any damage to crops or farming operations of Lessee due to the installation of public sewer. The Lessor will notify Lessee thirty (30) days in advance of the installation of public sewer.
9. Lessee agrees to indemnify and save Lessor harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury or damage to property occurring in or about, or arising out of, the demised premises, or occasioned wholly or in part by any act or omission of Lessee, his agents, licensees, concessionaires, customers or employees.
10. Lessee shall at Lessee's own expense comply with all rules, regulations, and requirements of the State, Federal, or Local Governments, or any of the departments or bureaus thereof applicable to the Leased Premises, including but not limited to regulations for the prevention or abatement of nuisances or other grievances arising out of the manner of the occupancy of said premises during said term.
11. Lessor or Lessor's agents or other representative shall have the right to enter upon the Leased Premises at all reasonable hours for the purpose of examining the same.
12. With respect to any pollutants, contaminants, chemicals, or industrial toxic or hazardous substance or material defined as such in (or for purposes of) all applicable



environmental laws, rules, regulations and ordinances now or hereafter in effect, hereafter "Environmental Laws", including without limitation, any waste constituents coming within the definition or list of hazardous substances in 40 C.F.R. Section 261.1 through 261.33, as may be amended or renumbered, hereinafter "Hazardous Material", Lessee represents, warrants and covenants as follows:

- (A) The Lessee agrees to indemnify and hold harmless the Lessor (and its directors, officers, and employees), from and against any and all losses, liabilities, damages, injuries, interest, deficiencies, fines, penalties, costs, expenses, attorneys' fees and disbursements, and costs of investigation and cleanup, including, without limitation, claims, suits and proceedings by federal, state, county and local governmental authorities with respect to, or as a direct or indirect result of (i) the presence on or under or the escape, seepage, leakage, spillage, discharge, emission, discharging or releasing from the property of any Hazardous Material, if such occurs during the term of the Lease, (ii) any other environmental pollution, including, without limitation, any contaminant, waste, irritant or pollutant, discharged into or otherwise contained in the environment at or adjacent to the property if such occurs during the term of the Lease, (iii) noncompliance relating to the Lessee's farming operations or business, or the property with any "Environmental Law or any other federal, state, or local statute, law, ordinance, rule, regulation, order or decree, or (iv) the inaccuracy, misrepresentation or violation or default of or under any matter set forth in this section, unless any such loss, liability, damage, or injury or the like is directly caused by negligent act of the Lessor.
  
- (B) Neither the Lessor, nor to the best knowledge of the Lessor, nor the Lessee, nor to the best knowledge of the Lessee, any other person or entity, has received any notice of (i) the happening of any event involving the misuse, spill, discharge or cleanup of any Hazardous Material affecting the Lessor or the Leased Premises, or (ii) any complaint, order, citation, notice, claim of contribution or claim for payment with regard to any Hazardous Material, the violation or alleged violation of any Environmental Law or for injury to the environment or human health from any person, including without limitation, the United States Environmental Protection Agency, and if any party receives any such notice, then such party will give, within five (5) business days, oral and written notice of same to the other party;
  
- (C) The Lessor shall have the right, but not the obligation, to enter onto the property or to take such other actions as it reasonably deems necessary or advisable to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any of the events described in paragraph (A) which, if true, could result in an order, suit or other action against the Lessor affecting any part of the Leased Premises by any governmental agency or otherwise which, in the sole opinion of the



Lessor, could jeopardize the Lessor's interest in the Leased Premises. All costs and expenses incurred by the Lessor in the exercise of any such right shall be payable by the Lessee upon demand; and

(D) In the event Lessor has reasonable suspicion that any of the events described in Section (A) have occurred, the Lessee shall, promptly upon the written request of the Lessor, provide the Lessor, at the Lessee's expense, with an environmental site assessment, environmental audit report or other report, satisfactory to the Lessor, prepared by an environmental engineering firm acceptable to the Lessor, to assess with a reasonable degree of certainty the presence or absence of any Hazardous Material, the potential costs in connection with the abatement, cleanup, removal or monitoring of any Hazardous Material found on, under, at or within the property and/or the compliance by the Lessee with the covenants contained in this Section.

13. Lessee shall conduct the farming operations at Lessee's own risk, and Lessor makes no guarantees, representations, or warranties with respect to the suitability of the Leased Premises for conducting farming operations.
14. Lessee agrees to not conduct any activities that would create or constitute a public or private nuisance upon the Leased Premises. Lessee agrees to promptly respond to any complaints that may be received by Lessee, or by the Lessor, with respect to any activities conducted by or on behalf of Lessee on the Leased Premises from anyone owning property adjacent to the Leased Premises. Lessee shall be required to notify Lessor of any such complaints received, and Lessee's response to any such complaints.
15. If there be any default made in the stipulations, agreements, and covenants contained herein, and if the Lessee fails to comply with all the provisions of this Lease, then it shall be lawful for the Lessor to reenter the Leased Premises, to repossess and take possession of the same.
16. It is further understood and agreed that the stipulations, agreements, and covenants contained herein are binding upon the parties hereto and their respective successors and assigns.

**IN TESTIMONY WHEREOF**, each of said parties has caused these presents to be duly executed and approved in duplicates, each to have the force and effect of an original as of the date first written hereinabove.

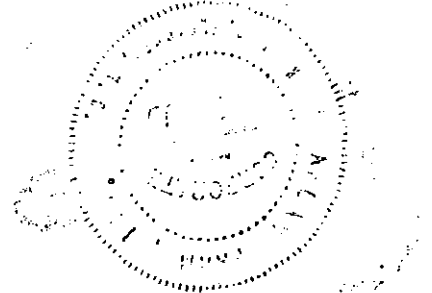
CARLAND FARMS, INC., LESSEE

BY: W. S. Lamb  
President

ATTEST:

Carolyn G. Carland  
Secretary

[CORPORATE SEAL]



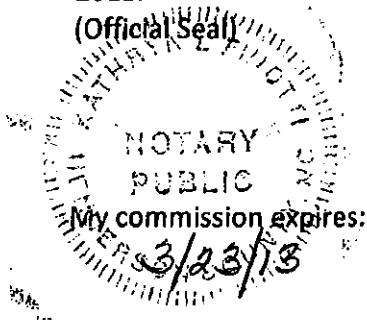
STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, Kathryn L. Finotti, Notary Public for said County and State, certify that Carolyn G. Carland, personally came before me this day and acknowledged that she is Secretary for Carland Farms, Inc., and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by herself as its Secretary.

Witness my hand and official seal, this the 8th day of March

2013.

(Official Seal)



Kathryn L. Finotti  
Notary Public

HENDERSON COUNTY, LESSOR

BY: [Signature]  
Steve Wyatt, County Manager

[OFFICIAL SEAL]

ATTEST:

[Signature]  
Clerk to the Board

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, Kathryn L. Finotti, Notary Public for said County and State, certify that Teresa L. Wilson personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners of Henderson County, a body corporate and politic and that by authority duly given and as the act of Henderson County, the foregoing instrument was signed in its name by its County Manager, sealed with its corporate seal, and attested by herself as its Clerk.

Witness my hand and official seal, this the 16<sup>th</sup> day of March, 2013.



[Signature]  
Notary Public

My commission expires: 3/23/13



**HENDERSON COUNTY**

**LAW**

**ENFORCEMENT**

**OFFICER**

**SERVICE BADGE**

**AND**

**SIDEARM POLICY**

TAB ?? – Administrative Manual  
Initial Sidearm Policy Adopted July 20, 1994  
Revised xx/xx/2013  
3/4/2013

The Henderson County Board of Commissioners recognizes the dedicated service provided to the citizens of our community by the sworn law enforcement officers of the Henderson County Sheriff's Office. Therefore, as allowed by North Carolina General Statute 20-187.2, this policy is established to award the law enforcement officer's badge and service firearm to honor and show gratitude for their service.

### **DEFINITIONS**

**Service Badge:** The shield or badge worn or carried by the officer at the time of his/her separation from office.

**Service Sidearm:** The duty handgun issued to and actually carried by the officer at the time of his/her separation from office.

**Surviving Relative:** Unless otherwise designated in writing by the law enforcement officer, the first person over age twenty-one (21) in the following list: spouse, biological/adopted child, stepchild, parent, grandchild, grandparent, sibling as it pertains to the service sidearm, and the above list at any age concerning the service badge. The eldest is given precedence in any instance.

### **RETIREE ELIGIBILITY**

A retiree shall be considered to be awarded his/her badge and sidearm only if he/she:

- (1) Is employed with Henderson County at retirement and retires from the County under the provisions of the North Carolina Local Governmental Law Enforcement Officers Retirement System (LEORS); and
- (2) Has a total of ten (10) years' actual service with Henderson County; and
- (3) Is recommended by the Sheriff to receive his/her badge and service sidearm.

### **PURCHASE PRICE**

The Board of Commissioners hereby establishes the following purchase prices:

**Badge:** All eligible law enforcement officers shall receive at no cost to the officer his/her badge worn or carried by such officer during service to Henderson County.

**Sidearm:** The purchase price will be the fair market value of the sidearm discounted by twenty-five percent (25%) for every five (5) years served. For example, ten (10) years of service would entitle the retiree or surviving relative to a purchase price of fifty percent (50%) of the fair market value. The total years of service used to calculate purchase price are those years recognized by the North Carolina Local Governmental Law Enforcement Officers Retirement System (LEORS) at the time of retirement or death.

### **OFFICERS APPROVED TO RECEIVE DISABILITY RETIREMENT**

An officer who retires due to disability resulting from an injury sustained in the line of duty may obtain his/her badge and sidearm at no cost regardless of years served with Henderson County and/or years of service with the LEORS. An officer who retires due to disability not associated with his/her duty must meet the "retiree eligibility" requirements above.

### **OFFICERS KILLED IN THE LINE OF DUTY**

The surviving relative of any law enforcement officer killed in the line of duty may obtain the officer's sidearm at no cost regardless of years served with the County and/or years of service according to the LEORS.

### **GUN PERMIT REQUIREMENT**

All officers and surviving relatives must secure a gun permit as required by N.C.G.S. 14-402 prior to being awarded the service sidearm. If the officer or surviving relative is unable to secure a gun permit, the sidearm shall be rendered incapable of being fired before the sidearm is transferred to the individual.





**Resolution Honoring (Rank) (Officer)**  
**For (#) Years of Law Enforcement Service**  
**and Awarding(Him/Her)(His/Her) Badge and Sidearm**

**WHEREAS**, (Officer) joined the Henderson County Sheriff's Office as a (Classification) on (Date of Employment) and held the ranks of (Ranks); and

**WHEREAS**, (Rank) (Office's Last Name)'s service and dedication to the Henderson County Sheriff's Office and Service, dedication and accomplishments in the field of law enforcement during (his/her) (#) years of total years of service are hereby recognized and commended; and

**WHEREAS**, N.C.G.S. 20-187.2 provides that retiring officers of the Henderson County Sheriff's Office may receive, at the time of their retirement, the badge worn or carried by them during their service with the Henderson County; and

**WHEREAS**, N.C.G.S. 20-187.2 further provides that the Henderson County Board of Commissioners may, in its discretion, award to a retiring officer the service sidearm of such retiring officer at a price determined by the Board of Commissioners, upon securing a permit as required by N.C.G.S. 14-402 et seq; and

**WHEREAS**, (Officer) has served as a member of the Henderson County Sheriff's Office for a period of more than (years) and is retiring from the Henderson County Sheriff's Office on (date); and

**NOW, THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners as follows:

1. Sheriff (Name of Sheriff) is hereby authorized in accordance with the provisions of N.C.G.S. 20-187.2 to transfer to (Officer) the badge worn by (him/her) during (his/her) service with the Henderson County Sheriff's Office; and
2. Sheriff (Name of Sheriff) is hereby authorized in accordance with the provisions of N.C.G.S. 20-187.2 to transfer to (Officer) (his/her) service sidearm (at no cost to the officer/for and in consideration of the sum of xxx received from (Officer)) and upon (his/her) securing a permit required by N.C.G.S. 14-402.

**BE IT FURTHER RESOLVED**, that the Henderson County Board of Commissioners recognizes and thanks (Officer) for (his/her) dedicated service to the Henderson County and its citizens.

Adopted this the (day) day of (month), (year).

CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

CLERK TO THE BOARD

**EXTRACTS FROM MINUTES OF THE BOARD OF COMMISSIONERS**

A regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on March 4, 2013 at 5:30 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman Charlie Messer presiding.

The following members were present:

- Chairman Charlie Messer
- Vice Chairman Thomas Thompson
- Commissioner Larry Young
- Commissioner Grady Hawkins

The following members were absent:

- Commissioner Michael Edney

\* \* \* \* \*

Commissioner Thompson moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE REFINANCING OF EXISTING COUNTY OBLIGATIONS**

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

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

*WHEREAS*, the County has previously entered into an Installment Financing Contract dated as of June 1, 2006 (the "*2006 Contract*") with the Henderson County Governmental Financing Corporation (the "*Corporation*") in order to pay the capital costs to design, acquire, construct, renovate and equip Sugar Loaf Elementary School, the Historic County Courthouse and the Blue Ridge Community College Technology Building (collectively, the "*2006 Projects*") and provided a security interest in the Sugar Loaf Elementary School and the Historic County Courthouse and the sites on which they are located

through a Deed of Trust and Security Agreement dated as of June 1, 2006 (the "2006 Deed of Trust"), from the County to the deed of trust trustee named therein; and

*WHEREAS*, the Board of Commissioners of the County of Henderson, North Carolina (the "Board of Commissioners"), determines that it is in the best interest of the County to enter into an amendment to the 2006 Contract (the "First Amendment") with the Corporation to refinance a portion of its installment payment obligations under the 2006 Contract;

*WHEREAS*, the Board hereby reaffirms each of the findings it made with respect to the 2006 Contract in the resolution adopted by the Board on May 1, 2006;

*WHEREAS*, the Corporation will execute and deliver a Refunding Limited Obligation Bond, Series 2013, Evidencing Proportionate Undivided Interests in Rights to Receive Revenues Pursuant to the 2006 Contract (the "2013 Bond") to a financial institution to be determined by the Finance Director to provide the funds to refinance a portion of the County's installment payment obligations under the 2006 Contract;

*WHEREAS*, there have been described to the Board of Commissioners forms of the First Amendment and an Escrow Agreement to be dated as of April 1, 2013 (the "Escrow Agreement," and together with the First Amendment, the "Instruments") between the County and U.S. Bank National Association, as escrow agent, copies of which have been made available to the Board of Commissioners, which the Board of Commissioners proposes to approve, enter into and deliver to effectuate the proposed refinancing;

*WHEREAS*, it appears that the Instruments are in appropriate form and are appropriate instruments for the purposes intended;

*WHEREAS*, the County has filed an application to the LGC for approval of the First Amendment; and

*WHEREAS*, Parker Poe Adams & Bernstein LLP will serve as bond counsel and Stephens Inc. will serve as structuring agent (collectively, the "Financing Team") to the County;

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

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

*Section 2. Authorization to Execute the First Amendment.* That the County approves the refinancing of a portion of its installment payment obligations under the 2006 Contract in accordance with the terms of the First Amendment, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the First Amendment shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees shall be and they hereby are authorized, empowered and directed to execute and deliver the First Amendment, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or



deletions therein as to them seems necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the First Amendment presented to the Board of Commissioners, and that from and after the execution and delivery of the First Amendment, the Chairman, the Clerk, the County Manager and the County Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the First Amendment as executed.

*Section 3. Authorization to Execute the Escrow Agreement.* That the form and content of the Escrow Agreement shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees shall be and they hereby are authorized, empowered and directed to execute and deliver the Escrow Agreement, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as to them seems necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Escrow Agreement presented to the Board of Commissioners, and that from and after the execution and delivery of the Escrow Agreement, the Chairman, the Clerk, the County Manager and the County Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement as executed.

*Section 4. County Representative.* That the Chairman, the County Manager and Finance Director are hereby designated as the County's Representative to act on behalf of the County in connection with the transaction contemplated by the First Amendment, and the Chairman, the County Manager and Finance Director are authorized to proceed with the refunding in accordance with the First Amendment and to seek opinions as a matter of law from the County Attorney, which County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The Chairman, the Clerk, the County Manager and the Finance Director of the County or their respective designees are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the First Amendment or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

*Section 5. Savings Threshold.* That the Chairman, the County Manager and the Finance Director are hereby authorized to do any and all other things necessary to complete the steps necessary for the execution and delivery of the First Amendment, but the County will not execute and deliver the First Amendment unless the refinancing resulting therefrom results in an aggregate net present value savings to the County of at least 5.0% of the principal amount refinanced, as shown in the financing statistics produced by the structuring agent.

*Section 6. Financing Team.* The Financing Team is hereby approved.

*Section 7. Severability.* That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration does not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

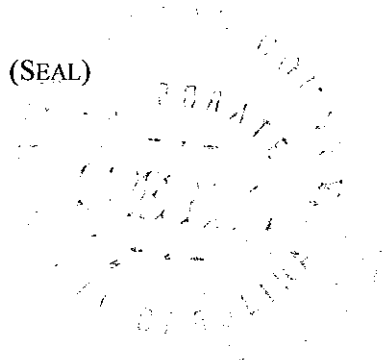
*Section 8. Repealer.* That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

*Section 9. Effective Date.* That this Resolution is effective on the date of its adoption.

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

I, *Teresa Wilson*, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution entitled **“RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE REFINANCING OF EXISTING COUNTY OBLIGATIONS”** adopted by the Board of Commissioners of the County of Henderson, North Carolina in regular session convened on the 4<sup>th</sup> day of March, 2013, as recorded in the minutes of the Board of Commissioners of the County of Henderson, North Carolina.

**WITNESS**, my hand and the seal of the County of Henderson, North Carolina, this the 4th day of March, 2013.



*Teresa L. Wilson*  
\_\_\_\_\_  
Teresa Wilson, Clerk to the Board of Commissioner  
County of Henderson, North Carolina

# HENDERSON COUNTY BOARD OF COMMISSIONERS

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

CHARLES D. MESSER  
Chairman  
THOMAS H. THOMPSON  
Vice-Chairman

LARRY R. YOUNG  
J. MICHAEL EDNEY  
GRADY H. HAWKINS

## RESOLUTION FOR THE APPROVAL OF HENDERSON COUNTY HISTORIC LANDMARK DESIGN GUIDELINES

WHEREAS, The Henderson County Historic Resources Commission (HRC) was established in 2005 by adoption of the Henderson County Historic Preservation Ordinance. Its objective is to preserve the historical, prehistorical, architectural, archeological, and cultural heritage of Henderson County. The HRC serves as the County Board of Commissioners' official advisory body to identify, preserve, and protect historic resources.

WHEREAS, HRC's mission is to identify and nominate local Historic Landmarks that meet selection criteria for local and regional significance. The commission then assists property owners in planning alterations, changes, additions, or new construction at their Historic Landmarks in a manner that will not compromise the historic architectural fabric or data potential of the property.

WHEREAS, In order for HRC to move forward, the Henderson County Board of Commissioners must formally adopt a set of voluntary Design Guidelines for use by the HRC. A proposed set of Guidelines has been presented to the Board of Commissioners, and is summarized here:

Advantages of a Landmark Program. Nominating and promoting local historical landmarks will promote economic growth in Henderson County through the stimulation of heritage tourism. The HRC will develop outreach and marketing tools to promote tours of historic sites and area attractions if agreed to by land owners. Studies have shown that heritage or cultural tourists spend more money per visitor day than other types of visitors. Tourism is vital to our local economy and heritage tourism can play a vital role in this sector of our economy, particularly at slow times in the tourism calendar. Property owners will enjoy significant state and federal tax breaks by nominating their properties as historic landmarks.

Private Property Rights Respected. No property will be nominated unless fully supported by the owner. No property will be advertised or publicly promoted for visitation unless the private property owner agrees. Any plans for public visitation will include strategies to scale back or "demarket" a landmark if public visitation negatively affects the condition of the property or the lifestyle of the inhabitants.

Content of the Landmark Design Guidelines. These guidelines provide detailed standards for the preservation of Setting and Site Features; Building Exteriors; New Construction and Additions; and Relocation and Demolition. An outline of the Design Guidelines includes:

- A. Setting and Site Features
  1. Public Access
  2. Fences and Walls



3. Light Fixtures
4. Garages and Accessory Structures
5. Advertising Signs
6. Landscaping

B. Building Exterior

1. Wood
2. Masonry
3. Metals
4. Roofs
5. Exterior Walls and Trim
6. Windows and Doors
7. Porches, Entrances, and Balconies
8. Utility Structures and Energy Retrofits
9. Accessibility and Emergency Access

C. New Construction and Additions

1. Decks
2. Additions

D. Relocation and Demolition

1. Relocation
2. Demolition

THEREFORE BE IT RESOLVED that the Board of Commissioners affirms its intent to adopt both voluntary design guidelines and an ordinance referencing those guidelines during Fiscal Year 2014.

THIS is the 4<sup>th</sup> day of March 2013.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

BY:   
Charles Messer, Chairman

Attest: 

Teresa L. Wilson, Clerk to the Board

[Official Seal]



# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1  
Hendersonville, NC 28792  
Phone (828) 697-4808 • Fax (828) 698-4443  
TDD: (828) 697-4580  
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CHARLIE MESSER  
Chairman  
THOMAS THOMPSON  
Vice-Chairman

LARRY YOUNG  
J. MICHAEL EDNEY  
GRADY HAWKINS

## PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) RESOLUTION


- WHEREAS,** the Patient Protection and Affordable Care Act (PPACA) of 2010 has been passed into law and has begun to go into effect; and
- WHEREAS,** Henderson County Government provides a substantial healthcare benefit for its employees and covered dependents at a substantial cost to the taxpayers of Henderson County; and
- WHEREAS,** Henderson County Government has diligently worked to provide these benefits while managing the costs in an effective manner thereby complying with the intent of the law to “provide affordable care”; and
- WHEREAS,** Henderson County Government will now be subject to extraordinary costs for which no tangible value is obtained due to the imposition of this unfunded mandate by the Federal Government; and
- WHEREAS,** the taxpayers of Henderson County are subject to double taxation due to the “fees” imposed on local governments that provide healthcare benefits to its employees and covered dependents that must be covered by local taxes as well as the federal taxes they will be subject to under the PPACA as individuals and/or businesses;

**NOW, THEREFORE BE IT RESOLVED,** that the Henderson County Board of Commissioners formally petitions the Federal Government for relief from this unfunded mandate by waiver, exemption or other appropriate method as applicable, and respectfully requests Senator Richard Burr, Senator Kay Hagan and Congressman Mark Meadows to take appropriate action to relieve the tax payers of Henderson County from this unfunded mandate and unwarranted double taxation.

Adopted this the 4<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
CHARLIE MESSER, CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

  
\_\_\_\_\_  
TERESA L. WILSON, CLERK TO THE BOARD

**UNANIMOUS WRITTEN CONSENT OF BOARD OF DIRECTORS**

**OF**

**HENDERSON COUNTY GOVERNMENTAL FINANCING CORPORATION**

**TO ACTION IN LIEU OF MEETING**

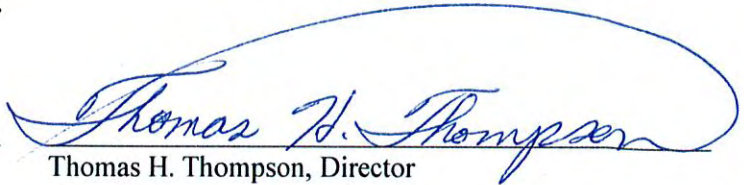
Pursuant to Section 55A-8-21 of the North Carolina Nonprofit Corporation Act, the undersigned, being the board of directors of Henderson County Governmental Financing Corporation, a North Carolina nonprofit corporation (hereinafter called the "*Corporation*"), do hereby adopt, consent to and approve in writing the resolution attached hereto in lieu of holding their annual meeting for 2013 in December of each year, and waive any notice requirements for a meeting as permitted by the North Carolina Nonprofit Corporation Act.

The undersigned, by executing this Written Consent, hereby direct that this document be filed with the minutes and proceedings of the Corporation and agree that the actions set forth in the attached resolution have the same force and effect as if taken at a duly constituted meeting of the Board of Directors of the Corporation. This consent may be executed in one or more counterparts, each of which is to be deemed an original, but all of which together constitute one and the same consent.

Effective the 12<sup>th</sup> day of March, 2013.



Charles D. Messer, Director



Thomas H. Thompson, Director



Steven D. Wyatt, Director



**RESOLUTION AUTHORIZING THE EXECUTION, DELIVERY AND SALE OF A REFUNDING LIMITED OBLIGATION BOND IN A PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000 PURSUANT TO AN INSTALLMENT FINANCING CONTRACT DATED AS OF JUNE 1, 2006, BETWEEN HENDERSON COUNTY GOVERNMENTAL FINANCING CORPORATION AND THE COUNTY OF HENDERSON, NORTH CAROLINA; AND APPROVING THE FORM AND SUBSTANCE, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF AN AMENDMENT TO THE INSTALLMENT FINANCING CONTRACT AND CERTAIN OTHER DOCUMENTS AND INSTRUMENTS NECESSARY TO CARRY OUT THE REFINANCING**

The undersigned, being all of the Directors of Henderson County Governmental Financing Corporation, a nonprofit corporation duly incorporated and validly existing under the laws of the State of North Carolina (the "*Corporation*") do hereby adopt the following Resolution by signing our written consent thereto.

**WHEREAS**, the Corporation has been duly created and organized pursuant to and in accordance with the provisions of the North Carolina Nonprofit Corporation Act, N.C.G.S. Chapter 55A-1-01 *et seq.*, as amended (the "*Act*"), to carry out the purposes stated in its Articles of Incorporation, among which is assisting the County of Henderson, North Carolina (the "*County*") in the financing of the purchase of real and personal property used, or to be used, for public purposes; and

**WHEREAS**, the Corporation has previously executed and delivered \$41,610,000 Certificates of Participation (Henderson County Projects), Series 2006A (the "*2006A Certificates*"), pursuant to an Installment Financing Contract dated as of June 1, 2006 (the "*2006 Contract*"), between the Corporation and the County, under and pursuant to an Indenture of Trust dated as of June 1, 2006 (the "*2006 Indenture*"), between the Corporation and First-Citizens Bank & Trust Company, the successor to which is U. S. Bank National Association (the "*Trustee*"); and

**WHEREAS**, it has been proposed and deemed desirable that the Corporation execute and deliver a principal amount not to exceed \$25,000,000 of its Refunding Limited Obligation Bond, Series 2013 (the "*2013 Bond*"), evidencing a proportionate undivided interest in rights to receive certain revenues pursuant to the 2006 Contract, as amended by Amendment Number One to the 2006 Contract dated as of April 1, 2013 (the "*First Amendment*," and together with the 2006 Contract, the "*Contract*") between the Corporation and the County under and pursuant to the 2006 Indenture, as supplemented by Supplemental Indenture, Number 1 dated as of April 1, 2013 (the "*First Supplement*," and together with the 2006 Indenture, the "*Indenture*") between the Corporation and the Trustee, in order to (1) pay the costs of refunding a portion of the 2006A Certificates and (2) pay the costs of executing and delivering the 2013 Bond; and

**WHEREAS**, the Board of Directors of the Corporation (the "*Board*") finds and determines that it is advisable and in the best interests of the Corporation to direct and approve the execution and delivery of the 2013 Bond to provide funds to permit the County to lower its installment payments with respect to the 2006A Certificates; and

**WHEREAS**, arrangements have been made for the placement of the 2013 Bond with STI Institutional & Government, Inc (the "*Lender*"); and

**WHEREAS**, there have been presented to the Board the following documents, which the Corporation proposes to approve, execute and deliver, as applicable, to effectuate the financing contemplated by the First Amendment:



- (1) The form of the First Amendment;
- (2) The form of the First Supplement;
- (3) The form of the Escrow Agreement dated as of April 1, 2013 between the County and U. S. Bank National Association, as escrow agent; and
- (4) The form of the 2013 Bond as set forth in the First Supplement; and

**WHEREAS**, it appears that each of the instruments referred to above which have been presented to the Board is in appropriate form and is an appropriate instrument for the purposes intended;

***NOW, THEREFORE, BE IT RESOLVED BY THE BOARD, AS FOLLOWS:***

**Section 1.** That all actions of the Corporation in effectuating the proposed refinancing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Contract.

**Section 2.** That the execution and delivery of the 2013 Bond, in the principal amount of not more than \$25,000,000, in substantially the form and content set forth in the First Supplement presented to the Board, be and the same hereby are in all respects approved and confirmed, and the provisions of the First Supplement with respect to the 2013 Bond (including, without limitation, the maturity dates and rates of interest) be and the same are hereby approved and confirmed and are incorporated herein by reference.

**Section 3.** That the form and content of the First Amendment be and hereby are in all respects authorized, approved and confirmed, and the President or Vice President and the Secretary of the Corporation be and they hereby are authorized, empowered and directed to execute and deliver the First Amendment prior to or simultaneously with the execution and delivery of the 2013 Bond, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the Corporation's approval of any and all changes, modifications, additions or deletions therein from the form and content of the First Amendment presented to the Board, and that from and after the execution and delivery of the First Contract Amendment, the President or Vice President and the Secretary of the Corporation are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the First Amendment as executed.

**Section 5.** That the form and content of the First Supplement be and hereby are in all respects authorized, approved and confirmed, and the President or Vice President and the Secretary of the Corporation be and they hereby are authorized, empowered and directed to execute and deliver the First Supplement, prior to or simultaneously with the execution and delivery of the 2013 Bond, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the Corporation's approval of any and all changes, modifications, additions or deletions therein from the form and content of the First Supplement presented to the Board, and that from and after the execution and delivery of the First Supplement, the President or Vice President and the Secretary of the Corporation are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the First Supplement as executed.

**Section 5.** That the placement of the 2013 Bond with the Lender is hereby approved and confirmed.

**Section 6.** That the President or Vice President and the Secretary of the Corporation be and they hereby are authorized to execute and deliver for and on behalf of the Corporation any and all additional certificates, documents, opinions or other papers and perform all other acts, including, without limitation, the filing of any financing statements or any other documents to create and maintain a security interest in the properties and revenues pledged under the Indenture as may be required by the documents contemplated above or as they may deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.


**Section 7.** That if any section, phrase or provision of this Resolution is declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

**Section 8.** That this Resolution is effective on the date of its adoption.



I, STEVEN D. WYATT, the Secretary of Henderson County Governmental Financing Corporation (the "*Corporation*"), hereby certify that attached hereto is a true and correct copy of a Resolution adopted by the Board of Directors of the Corporation at a duly called meeting on March 12<sup>th</sup> 2013, and said Resolution is now in full force and effect as of the date set forth therein and has not been modified or revoked.

This 12<sup>th</sup> day of March, 2013.



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Steven D. Wyatt, Secretary and Treasurer  
Henderson County Governmental Financing Corporation