

DRAFT

4/2/2013

MINUTES

cc: BOC
Steve
David
Christy
Russ

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
MONDAY, APRIL 1, 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 Mike Edney, 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: Senior Planner Autumn Radcliff, Director of Business and County Development John Mitchell, Engineer Marcus Jones, Assessor/Tax Collector Stan Duncan, Fire Marshal Rocky Hyder, Public Information Officer Christina Hallingse, Planner Parker Sloan, Research/Budget Analyst Amy Brantley, Deputy County Attorney Sarah Zambon, and David Pierce as security.

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 Rebecca Lofton of the 4-H Sew-n-Sew Club.

PUBLIC HEARINGS

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

Commissioner Hawkins made the motion to go into public hearing in regard to Rezoning Application #R-2013-C-01. All voted in favor and the motion carried.

Planner Parker Sloan stated rezoning Application #R-2013-01-C, which was submitted on December 28, 2012, requests the County rezone one tract at a total of 1.71 acres. 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. The Broadway Group, LLC is the applicant. (PIN: 9539-98-3442).

The Henderson County Planning Board considered rezoning application #R-2013-01-C at its regularly scheduled meeting on February 22, 2013. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2013-01-C to rezone the Subject Area to a Community Commercial Conditional (CC-CD) zoning district and recommend requiring the applicant meet the conditions outlined in the Staff Report.

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 April 1, 2013, public hearing regarding rezoning application #R-2013-01-C were published in the Hendersonville Tribune on March 14, 2013 and March 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 March 13, 2013 and posted signs advertising the hearing on the Subject Area on March 15, 2013.

After holding the required hearing, Planning Staff recommends that the Board of Commissioners approve the application to rezone the Subject Area to a Community Commercial Conditional (CC-CD) 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.

DATE APPROVED:

Rezoning #R-2013-C-01 The Broadway Group LLC, Applicant



Henderson County Board of Commissioners Meeting
April 1, 2013

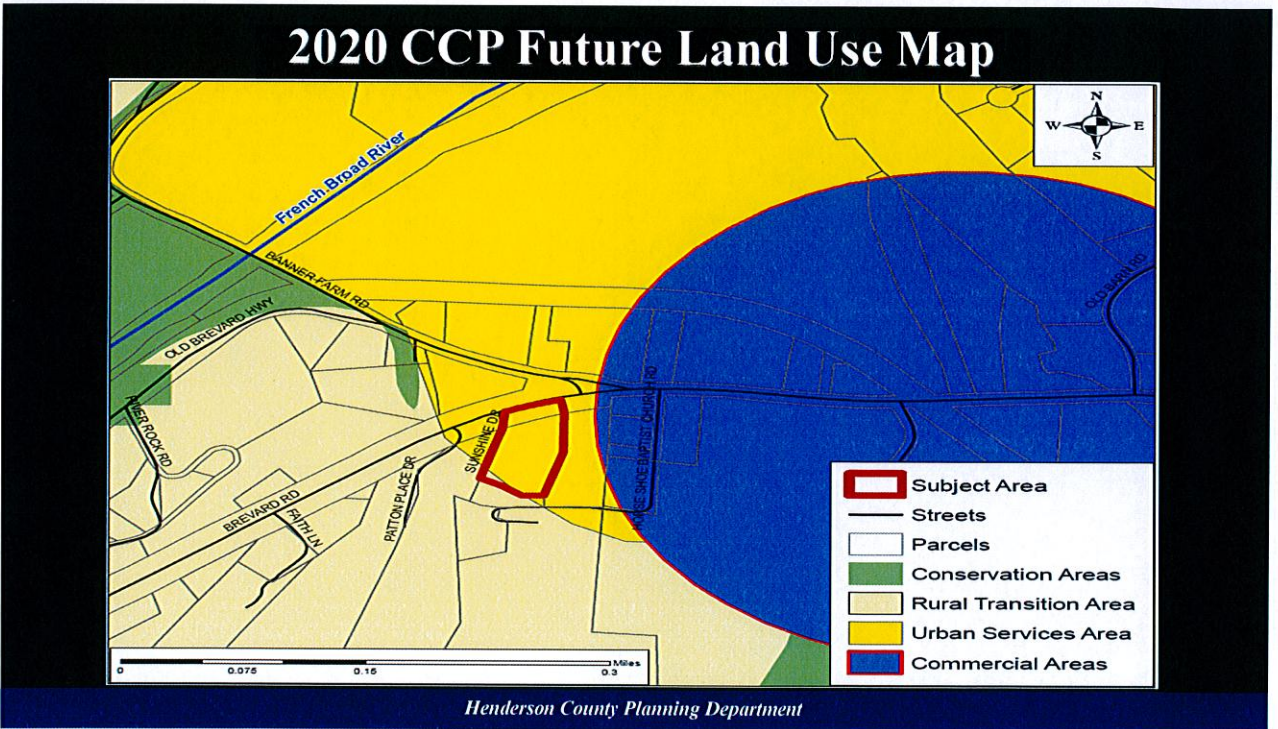
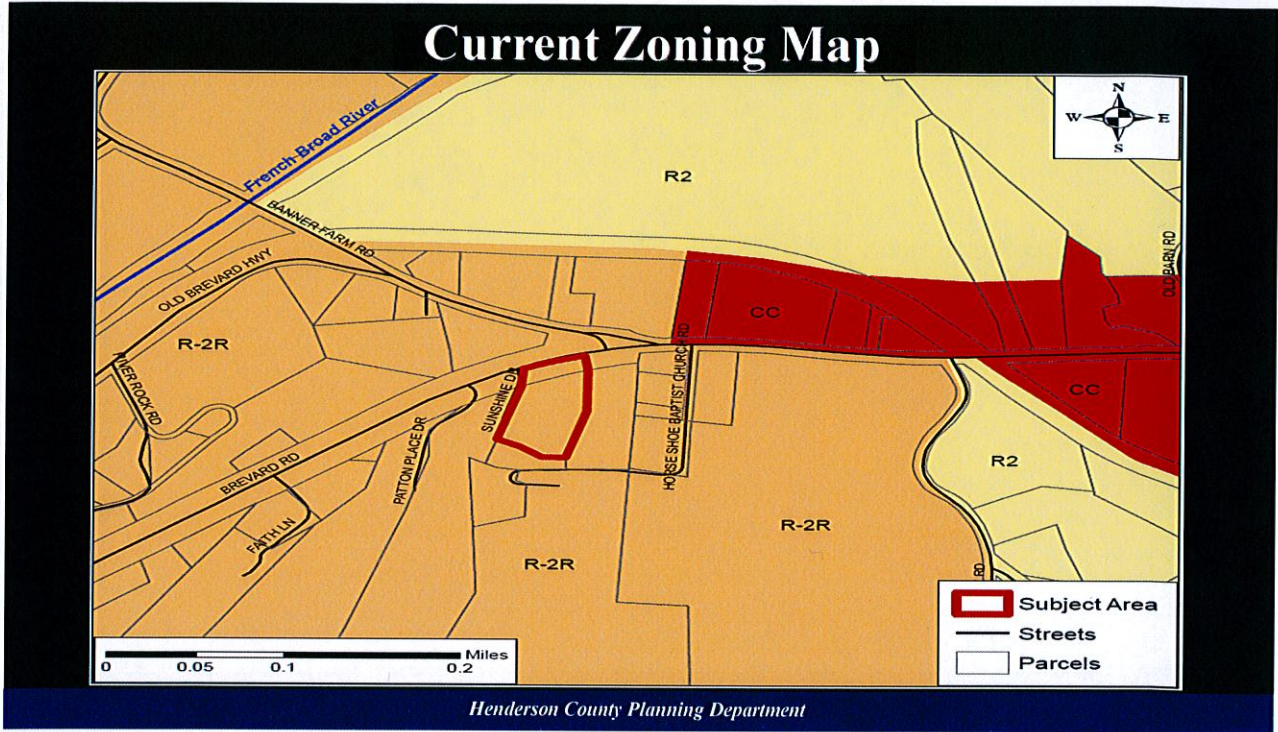
Presented by: Parker Sloan, Planner

Henderson County Planning Department

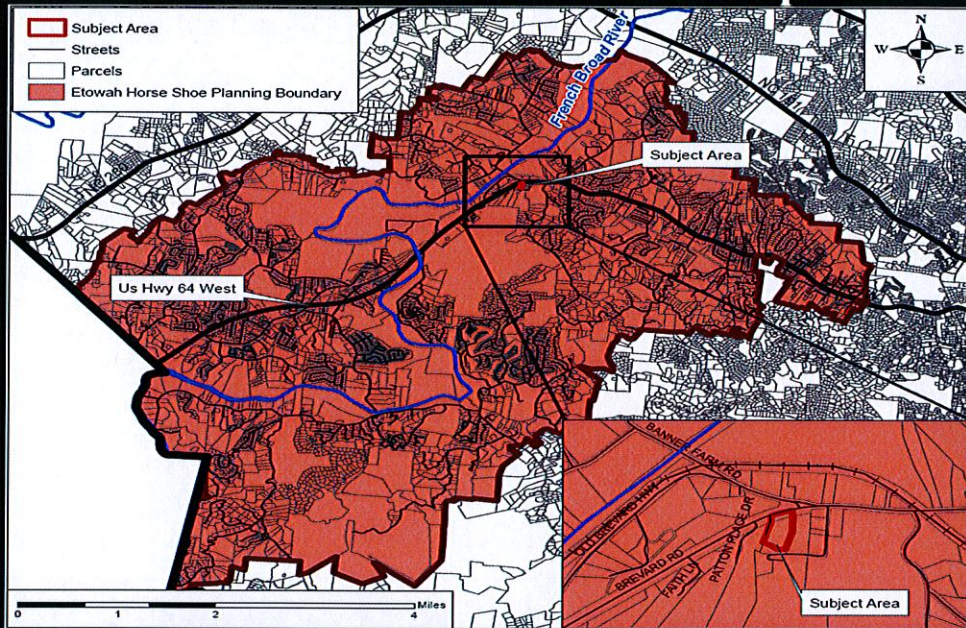
Aerial Photo Map



Henderson County Planning Department



Etowah Horse Shoe Plan Map

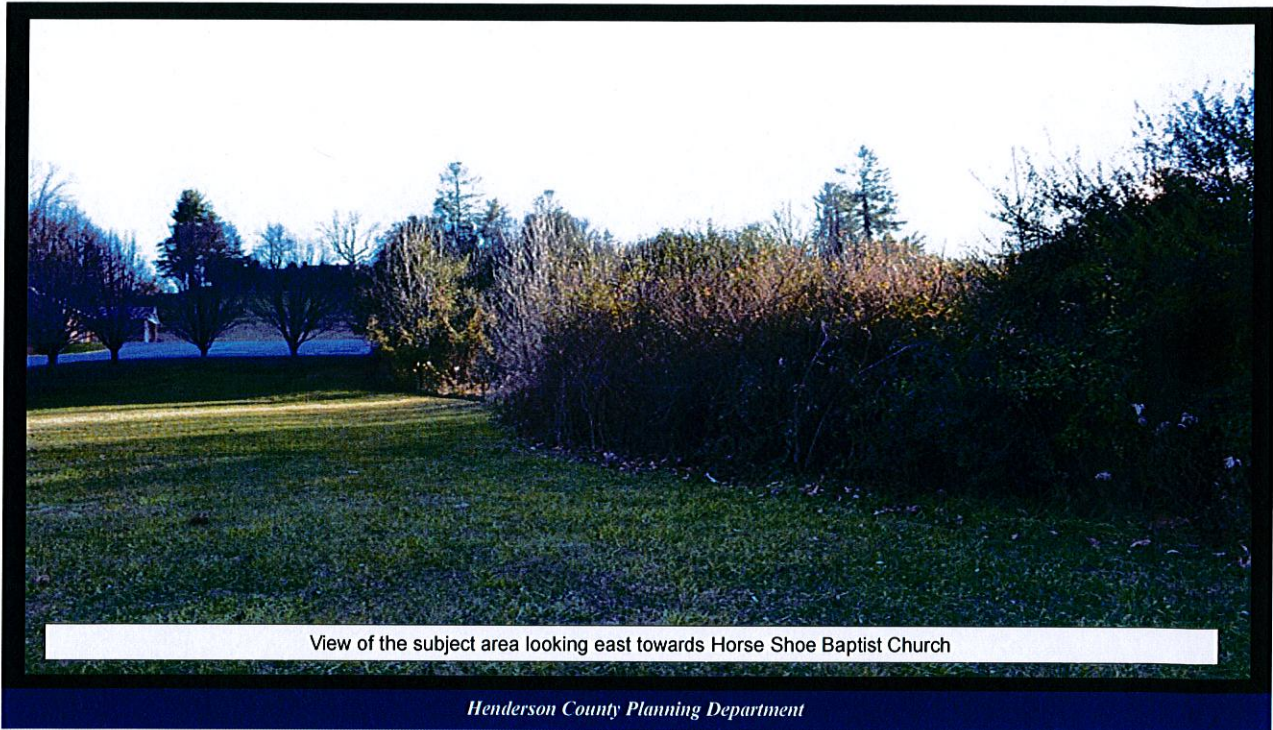


Henderson County Planning Department



View of subject area looking west

Henderson County Planning Department



View of the subject area looking east towards Horse Shoe Baptist Church

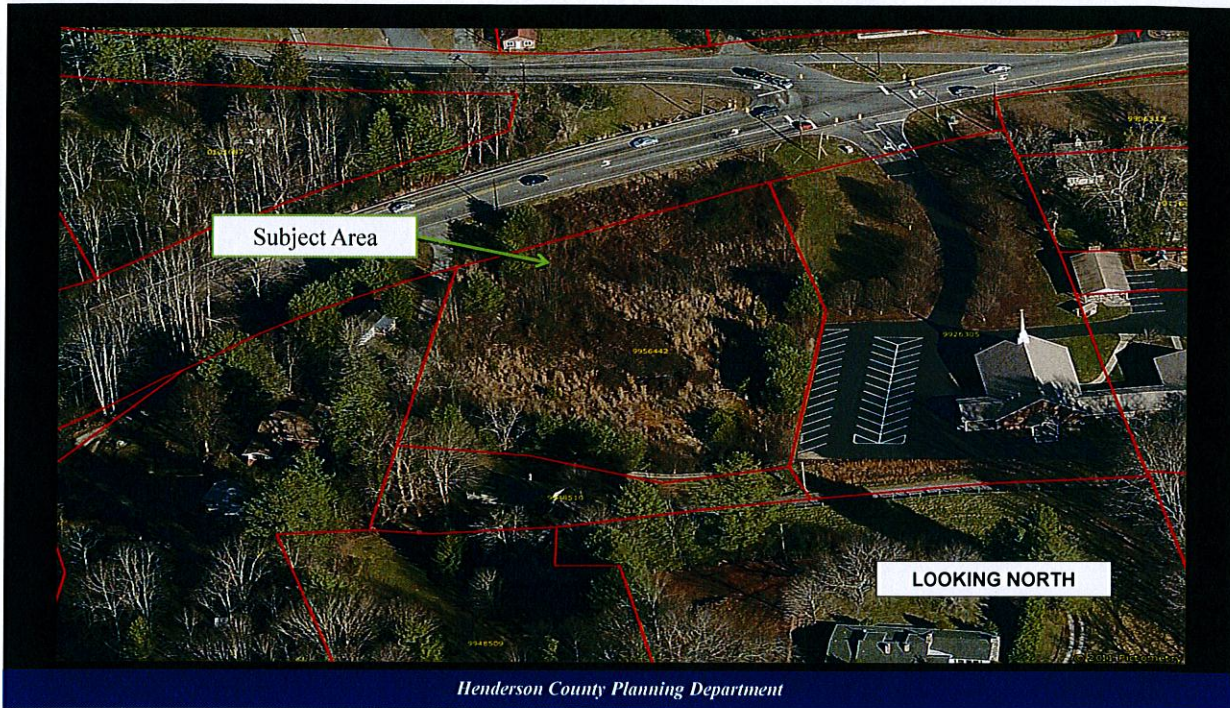
Henderson County Planning Department



Subject Area

LOOKING EAST

Henderson County Planning Department



Public Input

1. David Hadden – Mr. Hadden’s property adjoins the subject property. He is against the change because this is a rural area and should remain that way. Mr. Hadden asked the Board to adhere to the Etowah/Horseshoe Development Plan. He is concerned about the proposed entrance, increase accidents, and the need for cut-off lighting.
2. Tollie Cunningham – Mr. Cunningham is the pastor of First Baptist Church, Horseshoe. Mr. Cunningham said the county had not made contact with him requesting access through the church entrance. He was not the person responsible for making that decision but felt the answer would be no. Mr. Cunningham is concerned with traffic, use of their parking lot, and right for this business to sell alcohol.
3. Marvin Metcalf – Mr. Metcalf is a deacon of Horseshoe Baptist Church, and noted that all members are against this change of zoning. They are afraid of more break-ins at the church, traffic problems, and sell of alcohol is not welcome.
4. Jean Marie Patton – Ms. Patton lives adjacent to the proposed property. Currently it is a nice rural setting. She is not opposed to a Dollar Store and has heard there will be a wall on the church side of the property. Ms. Patton questions if there will be a wall on the side adjacent to her property. She is concerned about the vegetation currently alongside the property.
5. Dan Pendergast – Mr. Pendergast does not live near the property. He shared information in regard to accidents and is concerned of traffic backup. Mr. Pendergast feels NCDOT must widen the road for a left turn entrance.
6. Fred Diehn – Mr. Diehn is concerned that the area marked Unban Services is completely on farmland. He feels this should be residential only and the proposed store should be put in a more adequate area already zoned for business. Mr. Diehn is concerned with traffic, getting in and out of his driveway, and more accidents. He does not feel the site plan matches the Etowah/Horseshoe plan.
7. Michael Myers – Mr. Myers is concerned about traffic as he already has a problem getting in and out of his driveway. He asked that consideration be made for moving the traffic light.
8. Dean Patton – Mr. Patton is concerned with traffic, crime, and litter. He asked that things remain as they are.

Melissa Ballard, spokesperson for the Broadway Group, LLC, stated that her tenant cannot find anything in the business zoned area within their budget. NCDOT has reviewed and approved the site plan as filed. She

had made several attempts to reach anyone at the church, without success, in regard to a shared drive entrance. In regard to alcohol sells, the tenant must make application for permit prior to any sell of alcohol. Her client has agreed to a full cutoff lighting plan and the building will be brick. This business will create jobs, convenience, and revenue for the county.

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

County Attorney Russ Burrell stated this application would warrant conditional zoning for a particular use. It would be proper to ask the applicant to do a traffic study within a reasonable timeframe.

- Commissioner Thompson felt a traffic study would be necessary before a final decision could be made.
- Commissioner Hawkins stated the Etowah/Horseshoe Plan was approved September 2009, and amended November 2010, and did not affect this area. He is not in favor of changing zoning for a little piece of a big area.
- Commissioner Edney requested a copy of the site plan prior to making a decision.
- Chairman Messer felt that any changes regarding traffic light placement or entrance should be at the expense of the developer.

Commissioner Hawkins made the motion to table Rezoning Application #R-2013-C-01 until a traffic study of sufficient quality could be completed, and the Board reviews the site plan. All voted in favor and the motion carried.

It was consensus of the Board that if the developer was not willing to have a traffic study completed, the application would be denied.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Young made the motion to adopt the Agenda with the addition of a closed session. All voted in favor and the motion carried.

CONSENT AGENDA

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

CONSENT AGENDA consisted of the following:

Minutes

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

March 20, 2013 – regularly scheduled meeting

Tax Collector's Report

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

Financial Report/Cash Balance Report – February 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 February:

- Rescue Squad – payment of 3rd quarter non-profit contribution
- Economic Development – payment of economic development incentives due to various companies
- Interfund Transfers – approved transfer of funds to purchase the former Hendersonville Christian School

property and to fund various capital projects approved by the Board

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 February will not be received and posted until April 2013.

Motion:

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

Henderson County Public Schools Financial Reports – February 2013

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

Motion:

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

Pending Tax Refunds and Releases

The pending releases and refunds have been reviewed by the County Assessor and as a result of that review, it is the opinion of the Assessor that these findings are in order. Supporting documentation is on file in the County Assessor’s Office.

These pending release and refund requests are submitted for the approval by the Henderson County Board of Commissioners.

<u>Type</u>	<u>Revenue Amount:</u>
Refunds	\$ 1,792.11
Releases	\$36,731.11

Proclamation – Declaring Friday, April 19, 2013 as “Strive Not to Drive Day” in Henderson County

ECO, the Environmental and Conservation Organization, will be hosting its third Strive Not To Drive Event on April 19th, 2013. Many people travel from place to place in one car by themselves. This is not the most efficient way to travel and with depleting fuel sources causing gas prices to rise, now is the time to learn about more sustainable forms of transportation. This event is going to focus on alternative forms of transportation that include the Apple Valley Transit, walking, and carpooling.

Last year over 300 residents found another way to get around on foot, through carpooling or just staying home. Six major employers played a key role in encouraging their employees to commute without solo driving including Pardee Hospital, Park Ridge Hospital, Henderson County, City of Hendersonville, Henderson County Schools, and Blue Ridge Community College. This year Park Ridge Hospital, Henderson County Schools, and the Hendersonville Community Co-Op have already committed to participate.

Strive Not To Drive is a chance for people around the area to learn about alternative modes of transportation and to save money on gas and travel.

Motion:

I move the Board adopts a Proclamation declaring Friday, April 19, 2013 as "Strive Not To Drive Day" in Henderson County.

Henderson/Rutherford Mutual Aid Agreement

The growing popularity of Chimney Rock State Park and the Broad River has increased the interaction between Henderson and Rutherford County emergency personnel. The attached agreement is intended to formalize interaction across county lines, effectively providing a mutual benefit to both parties.

Motion:

I move to approve the Rutherford / Henderson County mutual aid agreement as presented.

Resolution – Child Abuse Prevention Month

The Department of Social Services Board has requested the Board of Commissioners adopt a Resolution, designating April as Child Abuse Prevention Month in Henderson County.

Motion:

I move that the Board adopts a Resolution, designating April as Child Abuse Prevention Month in Henderson County.

Letter of Resolution – NC Forest Service County Ranger

On December 14, 2012, the NC Forest Service's Henderson County Ranger resigned to accept another job position. Since that time, the County has been without a county ranger. Due to the wide array of services provided by the Ranger, which are vital to the residents of Henderson County, the Board is requested to approve the attached letter requesting that the filling of this position be expedited and moved to the top of the priority list.

Motion:

I move the Board authorizes the provided letter of resolution in regard to hiring a N.C. Forest Service Ranger position for Henderson County.

Notification of Vacancies

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

1. Child Protection and Fatality Prevention Team – 1 vac.
2. Government Financing Corporation – 1 vac.
3. Henderson County Planning Board – 3 vac.
4. Library Board of Trustees - 1 vac.
5. Nursing/Adult Care Home Community Advisory Committee – 2 vac.

Nominations

1. French Broad River MPO/Transportation Advisory Committee – 1 vac.

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

2. Henderson County Board of Health – 1 vac.

Chairman Messer nominated Kristine Peters for position #11. *Chairman Messer made the motion to accept the appointment of Kristine Peters to position #11 by acclamation. All voted in favor and the motion carried.*

3. Home and Community Care Block Grant Advisory Committee – 1 vac.

Commissioner Hawkins nominated Mark Haines for position #8. *Chairman Messer made the motion to accept the appointment of Mark Haines to position #8 by acclamation. All voted in favor and the motion carried.*

4. Juvenile Crime Prevention Council – 7 vac.

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

5. Land-of-Sky Regional Council Advisory Council on Aging - 1 vac.

Chairman Messer nominated Everett Sauer for position #1. *Chairman Messer made the motion to accept the appointment of Everett Sauer to position #1 by acclamation. All voted in favor and the motion carried.*

6. 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.

7. Nursing/Adult Care Home Community Advisory Committee – 2 vac.

Commissioner Thompson nominated Barbara Cromar for position #2 and Michelle Longthon for position #19. *Chairman Messer made the motion to accept the appointments of Barbara to position #2 and Michelle Longthon to position #19 by acclamation. All voted in favor and the motion carried.*

8. Senior Volunteer Services Advisory Council – 2 vac.

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

9. Smartstart – 1 vac.

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

ABC BOARD – BUDGET AMENDMENT

County Manager Steve Wyatt stated at the Board's March 20, 2013 meeting, the Board voted to have staff prepares a supplemental Fiscal Year 2013 budget for the ABC Board. The request was to have the budget incorporate the \$9,000 requested by the ABC Board at the March 20th meeting specific to the market study by Martin-McGill, as well as other required funds.

Commissioner Young made the motion that the Board fund a \$25k FY2013 budget for the Henderson County ABC Board, subject to adoption of a budget (as required by statute) by the ABC Board." The motion passed 4-1 with Commissioner Hawkins voting nay.

RESOLUTION – IMPACT OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT ON HENDERSON COUNTY EMS

Fire Marshal Rocky Hyder stated based on the amount of information currently published, the impact of the Patient Protection and Affordable Care Act at the local EMS level is ambiguous at best. Even though specific EMS related components were seldom mentioned in the health care reform legislation, anything evoking a major change to the overall health care system will ultimately affect local EMS systems. In order to properly understand the effects of the Patient Protection and Affordable Care Act on emergency medical services we need time for a comprehensive study of the intended and potential unintended consequences.

Commissioner Hawkins made the motion that the Board defers any changes to the EMS system until a comprehensive study of the Patient Protection and Affordable Care Act can be completed. He further moved that the Board adopt the Resolution as presented. All voted in favor and the motion carried.

COUNTY MANAGER'S REPORT

County Manager Steve Wyatt had received a letter from Senator Richard Burr in regard to the Resolution passed by Henderson County Commissioners on March 4, 2013, regarding the issue of the Affordable Care Act, and uncertainties and burdens that are placed on Henderson County Government. Senator Burr's response is basically that he is co-sponsoring Senate Bill 177, introduced by Senator Ted Cruz, repealing ObamaCare entirely. If Congress cannot enact a straight repeal, then we must do what they can to defund the health care law.

Mr. Wyatt also shared a copy of a letter to Kathleen Sebelius, Secretary of the U.S. Department of Health and Human Services, sent by Congressman Mark Meadows, on behalf of the Henderson County Board of Commissioners, submitting a formal petition seeking a waiver for Henderson County Government from all unfunded mandates and unwarranted double taxation imposed under the Patient Protection and Affordable Care Act (PPACA).

IMPORTANT DATES

Steve Wyatt stated that staff's plan is to present a recommended budget at the May 15, 2013 meeting asking for consideration of work sessions and a public hearing. The target dates for budget adoption are June 3, 2013 or June 19, 2013.

Commissioner Hawkins feels House Bill 488 will need to be on a future agenda.

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:

1. (a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to a claim.
2. (a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease; or (II) the amount of compensation and other material terms of an employment contract or proposed employment contract.
3. (a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

Commissioner Thompson made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3), (a)(5) and (a)(6), for the reasons stated above. All voted in favor and the motion carried.

ADJOURN

Commissioner Thompson made the motion to go out of closed session and adjourn at 8:00 p.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

Charles D. Messer, Chairman