

**DRAFT**

5-14-14

MINUTES

cc: B.O.C  
Steve  
Amy  
Russ

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
MONDAY, MAY 12, 2014

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, Commissioner Grady Hawkins, Commissioner Mike Edney, Commissioner Larry Young, County Manager Steve Wyatt, Assistant County Manager Amy Brantley, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Senior Planner Autumn Radcliff, Deputy Attorney Sarah Zambon, Engineer Marcus Jones, Director of Business and County Development John Mitchell, Property Appraiser Dee Hill, Finance Director J. Carey McLelland, Planner Parker Sloan, Recreation Director Tim Hopkin, Captain Steve Carter, Director of Communications Lisha Stanley, Budget Analyst Megan Powell, Central Services Manager David Berry, Environmental Programs Coordinator Rachel Hodge, PIO Kathryn Finotti, and Assistant Engineer Natalie Berry – videotaping, Corporal Jeff Banks and Senior Deputy Steve Owen as security.

Absent was: Commissioner Tommy Thompson.

CALL TO ORDER/WELCOME

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

**Remote (electronic) meeting participation by a member of the Board – Add on**

County Attorney Russ Burrell stated a member of the Board has requested this item be added to the agenda.

Participation in a Board meeting by a commissioner at a remote site (via electronic means) can be, but is not required to be, allowed by the Board. The key recommendations are a demonstration that the Board member at the remote site is able to hear and understand what is going on at the meeting (with the meetings now live streamed, that is less likely to be a problem) and to participate in any questioning of speakers and the debate among the Board members.

To quote the School of Government, “North Carolina law is unclear” on this subject, but “the legal risk of allowing remote participation is low if there are enough members who are physically present to constitute a quorum.”

*Commissioner Young made the motion that the Board does not allow the participation of Board members in this meeting from a remote location. The motion passed 3-1 with Chairman Messer voting nay.*

INTRODUCTION OF THE NEW PUBLIC HEALTH DIRECTOR

Commissioner Young introduced the new Health Director Steve Smith. Jim Crafton, Board of Health member, stated that Mr. Smith has over 27 years experience working with county health departments, working through the ranks from Pool Inspections Technician to County Health Director. He has previously served as the Health Director in Stokes County, and has held the position in Transylvania County since 2004. Mr. Smith thanked the Board for the opportunity and noted that he was invested in a broader interest in Henderson County.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Gabriella Torres, of the Leaders in Training 4-H Club.

DATE APPROVED:

**RESOLUTION – DESIGNATING THE EMS TRAINING FACILITY AS THE ‘CRIT’ HARLEY EMS TRAINING CENTER**

Chairman Messer stated the Henderson County Emergency Medical Services (EMS) request the Board designate the EMS Training Facility as the ‘Crit’ Harley EMS Training Center in Honor of Dr. John Crittenden Harley’s thirty years of service as the Henderson County EMS Medical Director. This designation is at 211 1<sup>st</sup> Avenue East, Hendersonville.

*Commissioner Hawkins made the motion that the Board of commissioners adopts the Resolution as presented, proclaiming that the Henderson County EMS Training Facility be designated the ‘Crit’ Harley EMS Training Center at its current or any future location. All voted in favor and the motion carried.*

**RESOLUTION – AMATEUR RADIO RECOGNITION AND APPRECIATION MONTH**

Chairman Messer stated Governor Pat McCrory requests the Board adopt a resolution designating July 2014 as “Amateur Radio Recognition and Appreciation Month” in Henderson County.

*Commissioner Hawkins made the motion that the Board adopts the attached Resolution designating July 2014 as Amateur Radio Recognition and Appreciation Month in Henderson County. All voted in favor and the motion carried.*

**PROCLAMATION – NORTH CAROLINA COOPERATIVE EXTENSION CENTENNIAL**

Chairman Messer stated May 8, 2014 marks the centennial of the signing of the Smith-Lever Act which established the Cooperative Extension. The North Carolina Cooperative Extension is requesting the Board to issue this proclamation to encourage recognition of their 10- year history of service to the citizens of North Carolina.

*Commissioner Hawkins made the motion that the Board adopts the North Carolina Cooperative Extension Centennial Proclamation as presented. All voted in favor and the motion carried.*

**PUBLIC HEARINGS**

**REZONING APPLICATION #R-2014-01**

*Commissioner Edney made the motion to go into public hearing regarding rezoning application #R-2014-01. All voted in favor and the motion carried.*

Parker Sloan stated rezoning Application #R-2014-01, which was submitted on January 16, 2014, requests the County rezone a 4.87 acre tract. The applicant requests a rezoning from an Industrial (I) to a Residential One (R1) zoning district. The subject area is owned by Dyer Properties LLC (PIN: 9652-73-0943).

The Henderson County Planning Board considered rezoning application #R-2014-01 at its regularly scheduled meeting on March 20, 2014. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2014-01 to rezone the Subject Area to a 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 May 12, 2014, public hearing regarding rezoning application #R-2014-01 were published in the Hendersonville Tribune on May 1, 2014 and May 8, 2014. 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 April 28, 2014 and posted signs advertising the hearing on the Subject Area on April 25, 2014.

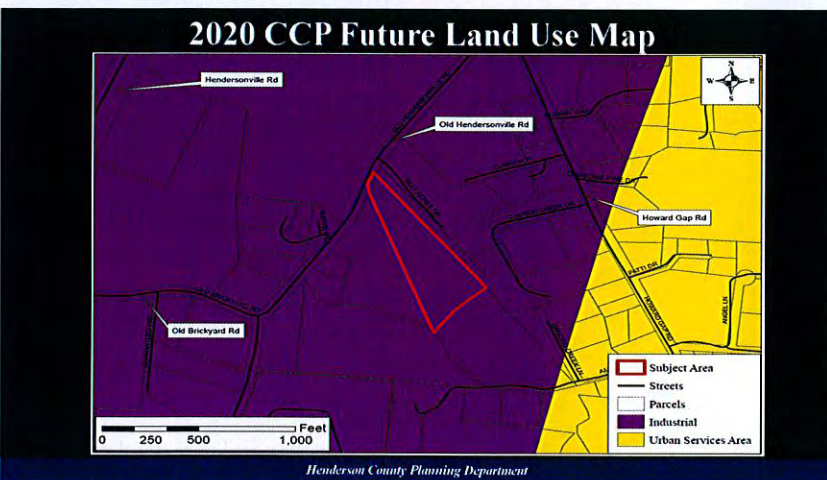
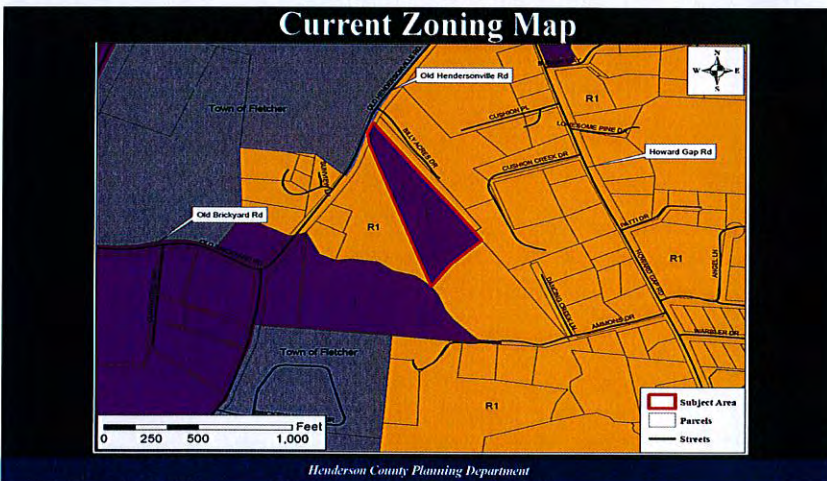
After holding the required hearing, Planning Staff recommends that the Board of Commissioners approve the



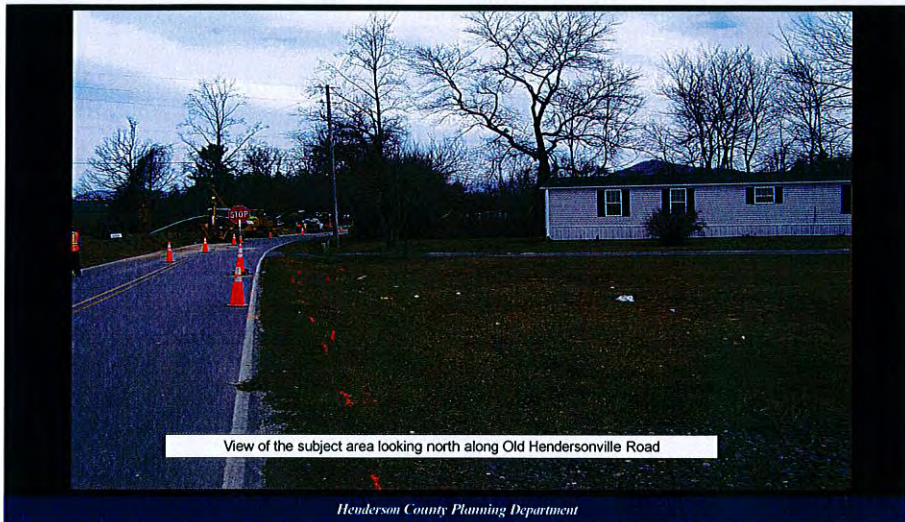
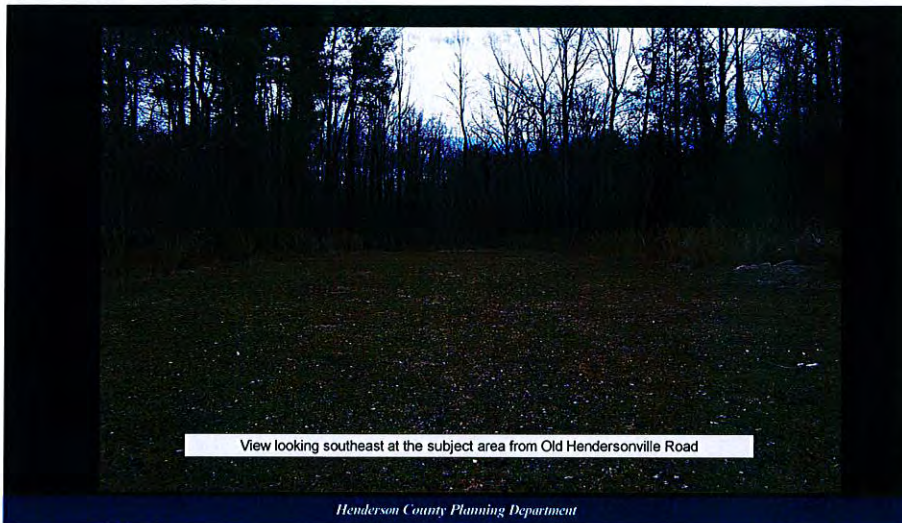
application to rezone the Subject Area to a Residential One (R1) zoning district. State law requires that the Board adopt a written statement of consistency with the County Comprehensive Plan (CCP). A draft resolution was provided.

Public Input

There was none.







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

*Commissioner Edney made the motion that the Board adopts the resolution regarding the consistency with the CCP. He further moved that the Board adopt the proposed map amendment. All voted in favor and the motion carried.*

**REZONING APPLICATION #R-2014-03-C**

Commissioner Edney informed the Board that his wife owns property in the subject area and asked the Board for recusal from voting.

*Commissioner Hawkins made the motion that the Board approves recusal from voting on Rezoning Application #R-2014-03-C for Commissioner Edney due to a possible conflict of interest. The motion passed 3-1 with Chairman Messer voting nay.*

*Chairman Messer made the motion to go into public hearing regarding rezoning application #R-2014-03-C. All voted in favor and the motion carried.*



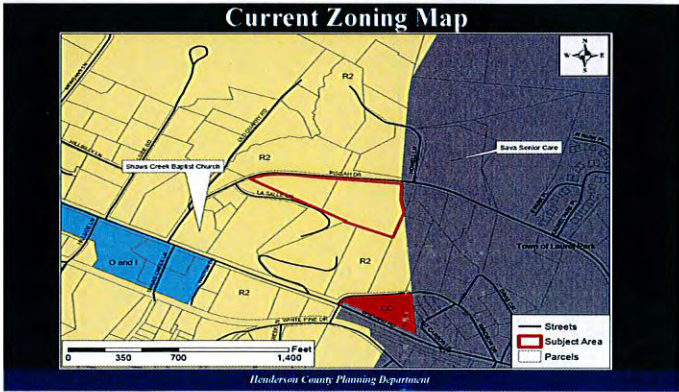
Parker Sloan Stated rezoning Application #R-2014-03-C, which was submitted on February 1, 2014, requests the County rezone approximately 5.6 acres of land. The applicant requests a rezoning from a Residential Two (R2) zoning district to an Office and Institutional Conditional (O&I - CD) zoning district. The subject area parcel is owned by Virginia Beatty and the applicant is Noelle McKay. (PIN: 9559-71-0445 & 9559-71-4280).

Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). Conditional zoning district decisions are a legislative process subject to the same procedures as traditional zoning districts.

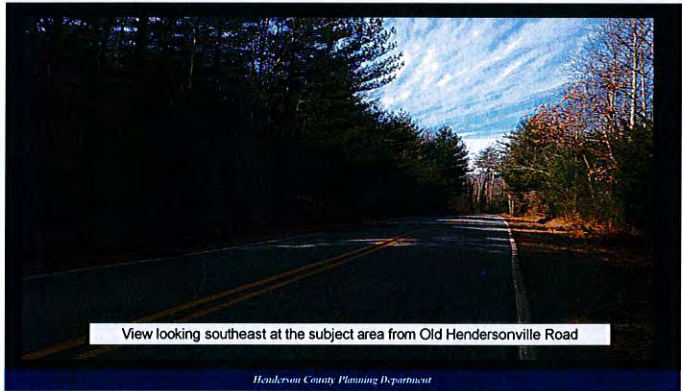
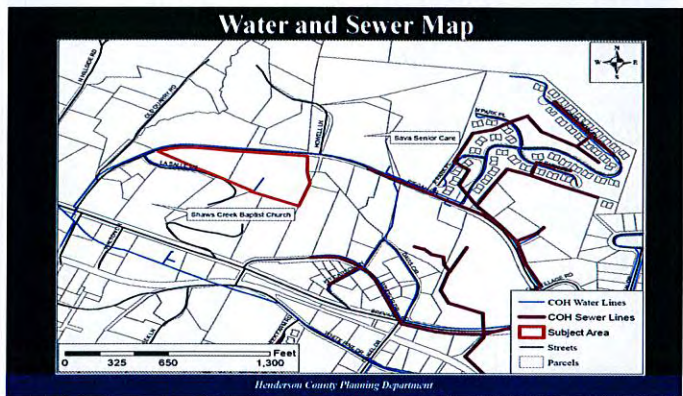
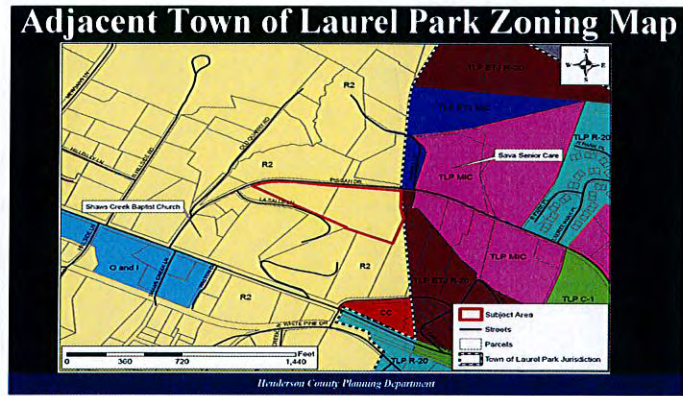
The Henderson County Planning Board considered rezoning application #R-2014-03-C at its regularly scheduled meeting on March 20, 2014. During that meeting, the Planning Board voted unanimously to send forward a unfavorable recommendation on rezoning application #R-2014-03-C to rezone the Subject Area to a Office and Institutional Conditional (O&I - CD) 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 May 12, 2014, public hearing regarding rezoning application #R-2014-01 were published in the Hendersonville Tribune on May 1, 2014 and May 8, 2014. 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 April 28, 2014 and posted signs advertising the hearing on the Subject Area on April 25, 2014.

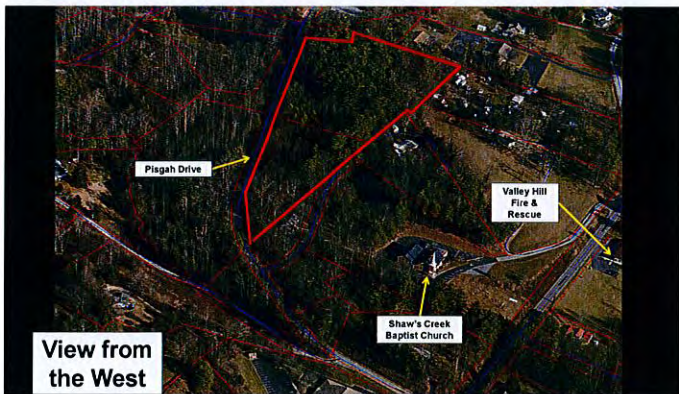
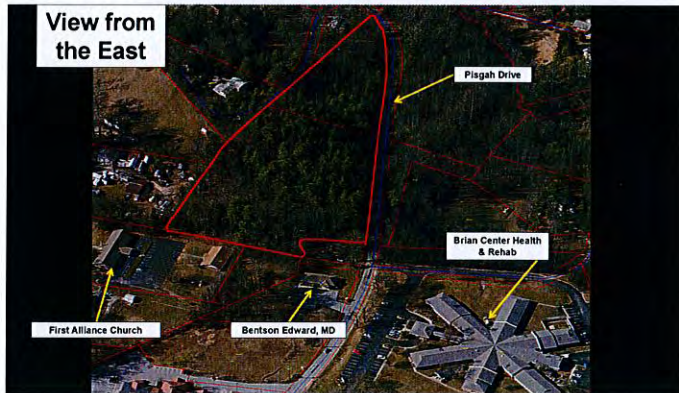
After holding the required hearing, the Board of Commissioners may approve, approve with modifications, or deny the application to rezone the Subject Area to an Office and Institutional Conditional (O&I - CD) zoning district. State law requires that the Board adopt a written statement of consistency with the County Comprehensive Plan (CCP). A draft resolution was provided.



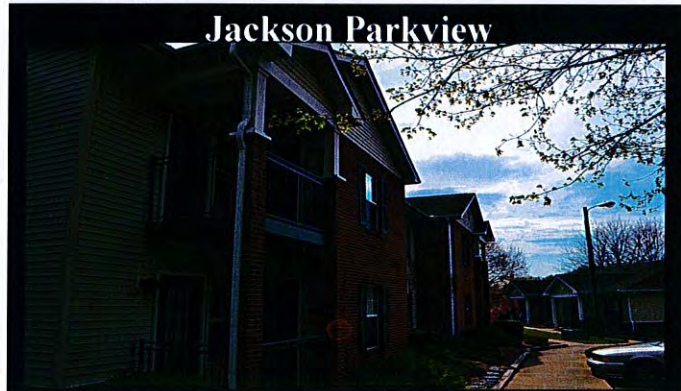
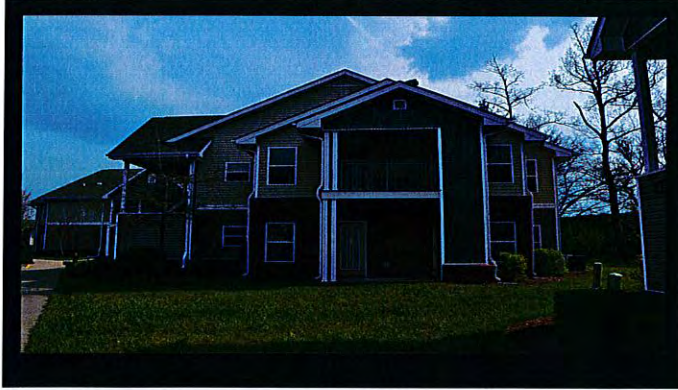














## Site Plan Details

- Approximately 5.5 acres of land
- 8 two story buildings
- Number of proposed units: 64
  - 20 one bed rooms, 28 two bed rooms, and 16 three bed rooms
- Proposed residential density: 11.6 units per acre

*Henderson County Planning Department*



**Applicant’s Statement of Reasonableness for Rezoning Application #R-02013-03-C**

Attorney Angela Beeker, representing the Housing Assistance Corporation, stated when going through the Planning Board materials, there was a limited instruction that may have caused some confusion as to what people could and could not present. Particular attributes about a particular use cannot be considered when you are dealing with a general zoning district. With a conditional zoning district you are zoning for a particular use and you have to hear about it.

The Housing Assistance Corporation is a non-profit organization that began in Henderson County 25 years ago. This is a grass roots organization that originated from church efforts in the community. This is not Hendersonville Housing Authority and is not the provider of public housing or Section 8 vouchers for Henderson County. The primary target for this housing project is work force housing; people who are out in the workforce and need an affordable place to live. The project is being funded primarily through low income tax credits at no cost to the county. It is however a way that the county can fulfill many of its goals and objectives as stated in the plan regarded to affordable housing.

The Rosebay project has qualified for \$425,000 worth of HOME funds by the Asheville Regional Housing Consortium. The Rudnick Endowment of the Community Foundation of Henderson County has pledged \$30,000 to the project if rezoning is granted and funding is approved through the low income Housing Tax Credit Program.

The people who will qualify to live in Rosebay apartments are people earning 60% or less of the area median income. Because it is funded with low income housing tax credits, it must maintain a 30 year period of affordability. Rosebay will be high quality, energy efficient, and designed with neighborhood compatible designs. They are located within a mile of businesses, medical facilities, restaurants, grocery stores, and retail stores, which is a requirement of the low income housing tax credits. Not just any site in Henderson County would qualify for this money.

A poll was taken of the residents of the existing housing developments to show the workforce that needs this type of housing and includes office administrators, health care workers, teacher's assistant, construction trades, minister, lawyer's assistant, farm workers, etc.

There was a concern about this being "Spot Zoning". The biggest reason that Ms. Beeker does not feel that this is spot zoning is because it is not surrounded by an area that is uniformly zoned. The parcel in question is surrounded on three sides by the Town of Laurel Park. It is adjacent to Medical Institutional Care District, Community Commercial, and in the very near vicinity is Office and Institutional. In cases such as this, the Court has specifically ruled that you do take into account the zoning districts of an adjacent municipality, in considering whether the area is uniformly zoned. The subject area is surrounded by municipal boundaries.

Even if the Board did believe that the rezoning would constitute spot zoning, it is not illegal spot zoning. There is a reasonable basis for rezoning parcel to O&I-CD. In order to qualify for LIHTC, the subject property must be located within a mile of a grocery store and other commercial and business areas. The Pisgah Drive property fulfills this requirement. Looking at the land and the services that are available, multi-family housing is an appropriate use of the property.

- Water and Sewer are available.
- Rezoning the subject parcel to O&I-CD meets the requirements to use the low income housing tax credit financing to bring workforce housing to Henderson County.
- Use of the subject parcel for workforce housing is in accordance with the Henderson County Comprehensive Plan.
- The project will benefit the surrounding community and the community at large. There is no specific benefit to HAC other than to fulfill its charitable purpose. HAC is a nonprofit corporation carrying out a public purpose with this rezoning application.

A Traffic Impact Study was completed as many concerns were heard about traffic safety and the applicant wanted to provide the Board of Commissioners with more information.

The Urban Services Area, as stated in the Comprehensive Plan, specifically says that substantial investments in affordable housing development should occur within the Urban Services Area. There is a substantial housing element in the Comprehensive Plan in which recommendations are made to promote a diverse range of home ownership and rental opportunities. Housing, in terms of availability, affordability, and livability in among the most challenging issues a community must face.

Henderson County Government has a unique opportunity to promote a diverse and healthy range of housing options for its citizens and bears a certain responsibility in making sure that the shelter needs of its most vulnerable citizens are met. One of the action steps was to revise County ordinances to allow the private sector to development a broad range of housing choices.

The Lockwood Greene Study identified housing cost as a weakness in the county's appeal to new and expanding employers. Hendersonville has the second highest cost of living index among the comparison cities, even higher than Asheville.

The Regulation Review Advisory Committee made a recommendation to coordinate with relevant organizations to promote affordable workforce housing.

The Board of Commissioners must look at this on a case by case basis while looking at the totality of the circumstance, and weigh the benefit of the in detriments. Case law specifically says that the Board must consider the county as a whole political unit when reviewing.



Public Input

- 1) John Crook – Mr. Crook recognizes the need for affordable housing. He does not feel the area can support the density. There is no recreation in the area. Pisgah Drive opens to Highway 64 which is already congested. This will add an average of 511 vehicles per day. He requested that the units be decreased and further work done on the project.
- 2) David Cook – Mr. Cook is with Interfaith Assistance, which provides relief to Henderson County residents. His experience is that most of their clients live below the poverty level. Affordable Housing is needed by many, and Rosebay will be a safe environment.
- 3) Jean Mooney – Ms. Mooney is a teacher. She feels the Housing Assistance Corporation is a wonderful organization that she herself has utilized. They offer counseling and budgeting. Affordable housing is vital to the community.
- 4) Everett Walker – Mr. Walker is a resident of Laurel Park Place and president of the homeowners association. He is concerned about the density of the project. Many residents of Laurel Park Place were present and opposed the project due to its density.
- 5) David Jacklin – Mr. Jacklin is with United Way. This community will create jobs in Henderson County. Affordable safe housing is not available for low income individuals in Henderson County.
- 6) Cheri Novak – Ms. Novak has been involved with the Housing Assistance Corporation for 20+ years. They provide valuable, quality homes for families struggling to make ends meet. She supports Rosebay.
- 7) Becky Stevens – Ms. Stevens represents Partnership Property Management from Greensboro, North Carolina. They are the managing agent for the Housing Assistance Corporation. It is their policy that unlimited persons are not allowed to occupy an apartment. They only allow 2 + 1, two people per bedroom plus one additional person. Once an application is made, a third party will check credit and criminal records. You must have an income to qualify.
- 8) Angela Fernandini – Ms. Fernandini feels Rosebay should be supported. Residents would include many of our teachers, firefighters, etc. It is a great site for housing with many necessary businesses located in the proximity.
- 9) Gainer Jernigan – Ms. Jernigan's property abuts the subject property. She purchased the property for its tranquility. There is another property just down the road that she feels would work for Rosebay Apartments.
- 10) Brett Shaffer – Mr. Shaffer is the President of the Housing Assistance Corporation. The community needs affordable housing immediately. The site received a perfect site score. It will be well managed and residents will have to complete background checks.
- 11) Sarah Ball – Ms. Ball is in favor of the proposed project. Community is important. Henderson County needs affordable housing and finding sites is very difficult. The only other site that was found would require leveling of a road.
- 12) Bob Williford – Mr. Williford is President of the Henderson County Chamber of Commerce. Affordable housing is a critical issue and this is a great step in addressing that issue. The location is ideal with amenities in the proximity.
- 13) Jes Stafford – Mr. Stafford is an architect. He feels concerns can be addressed through design. This is smart growth in Henderson County. The tax rate is low.
- 14) Elisha Freeman – Ms. Freeman is the Executive Director of the Children and Family Resource Center. State of a child reflects that affordable housing is needed. Sub-standard housing is not acceptable.
- 15) Jane Bilello – Ms. Bilello stated that since the Planning Board denied the zoning request, it should not be supported as it is inconsistent with the development plan. People should look for jobs that pay enough to support housing.
- 16) Barbara Volk – Ms. Volk is the Mayor of Hendersonville. She supports the rezoning due to the strength and quality of the proposal. Funds have been awarded to Rosebay Apartments, and the apartments will make a significant difference in Henderson County.
- 17) Todd Kirby – Mr. Kirby feels housing is needed and Housing Assistance Corporation is highly recommended. The site is ideal. Henderson County does not have sufficient affordable housing. The

Hendersonville Homebuilders Association accepts this project.

- 18) Tim Howell – Mr. Howell loves the quiet, peaceful neighborhood and feels the density for the area is incorrect.
- 19) Lou Lunardoni – Mr. Lunardoni is against rezoning and asked the Board to deny the request.
- 20) Evan Bracken – Mr. Bracken is a board member of the Housing Assistance Corporation and asked the Board of Commissioners to approve the request.
- 21) Sam Creech – Mr. Creech feels this is a great project on an appropriate site. Henderson County needs affordable housing.
- 22) Jay Clapp – Mr. Clapp is the traffic engineer hired by the Housing Assistance Corporation. The study was not required but done to cover concerns. The study shows that traffic will increase at 1% per year, with no impact for additional traffic.
- 23) Chuck Greene – Mr. Greene's son Clint Greene shared a statement for his father. In the past month he has seen many articles on Rosebay Apartments. The citizens in that area oppose the rezoning. He doesn't think any neighbors have been contacted. The density is wrong for the location. He asked the Board to deny the request and leave R2 zoning in place.
- 24) Will Hendricks – Mr. Hendricks is a United Way board member and resident of Laurel Park. He applauds the Housing Assistance Corporation for the great plan and would welcome the affordable housing apartments within one mile of him. There is a great need for affordable housing in Henderson County.
- 25) Charles Vaughn – Mr. Vaughn is a resident of Laurel Park. The project may be good but the site is not zoned for it. The density would be over five times what it is currently. He is worried about the current conditions of the street now. Construction will deteriorate the roads even more.
- 26) James Durfee – Mr. Durfee reminded the Board that the Planning Board turned the zoning change request down. He is concerned about traffic. He asked the Board to plan ahead before moving forward and deny the request.
- 27) Steve Dozier – Mr. Dozier is the Chair of the Planning Board. He feels that the Housing Assistance Corporation did not do a good job with their proposal. After receiving additional information the Planning Board feels they voted wrong and is now in favor of the project. Affordable housing is needed in Henderson County. Mr. Dozier shared pictures of current affordable housing in Henderson County and noted that people who live in these homes are the workforce of Henderson County.
- 28) Marilyn Gordon – Mrs. Gordon initially voted no as a member of the Planning Board. She changed her mind quickly with additional information. These are subjective complaints just against affordable housing. The NCDOT will maintain the roads.
- 29) Chris Wright – Mr. Wright has a jewelry business in Laurel Park and would consider it a privilege to serve more people.
- 30) Lisa Gale – Ms. Gale purchased property in Henderson County looking for rural type living. She feels there is a lot of property available in Henderson County. Ms. Gale provided a petition of over 373 signatures that do not want the project. Density is wrong.
- 31) John Hill – Mr. Hill feels the needs of children have not been addressed, happiness and well being. This is not a good area. The traffic is horrible. Affordable housing is needed but in the right environment. He asked the Board to deny the request.
- 32) Noelle McKay – Ms. McKay is the Executive Director the Housing Assistance Corporation. She feels the site is appropriate. A traffic study was completed showing no impact. The density for the area is correct with a well planned community.
- 33) Glen Engram – Mr. Engram had signed the petition. He lives 8/10 of a mile from the subject property. Mr. Engram feels another site would work better and asked the Board of Commissioners to decline the request.
- 34) Rick Merrill – Mr. Merrill is a property assessor for the HUD. He looked at all sites in Henderson County and found a total of 45 in all. All 45 property owners were sent letters with only 1 response. He found 1 additional listing. One of these properties would not work. A light will be installed at Pisgah Drive. He does not consider 64 units high density.



- 35) David Rhoad – Mr. Rhoad is a Laurel Park townhome resident. He feels this site may not be the best as it is not kid friendly. He asked the Board to deny the request.
- 36) Ryan Howell – Mr. Howell grew up in the area and owns property across from the parcel. A change in zoning would change the atmosphere. The purpose of zoning is to protect people and their community.
- 37) Trina Clouse – Ms. Clouse owns property adjacent to the parcel. She asked the Board to reject the rezoning request. Crimes rates will increase and it will no longer be a quiet and peaceful area. Traffic is already an issue.
- 38) Hunter Marks – Mr. Marks feels this is an appropriate use of the property. It is not maximum density.
- 39) Daniel Parker – Mr. Parker asked the Board to deny the request. He is not supportive.
- 40) High Lipham – Mr. Lipham feels this development will contribute to the tax base and the county will benefit with more jobs.
- 41) Bryan Price – Mr. Price is a board member of the Housing Assistance Corporation. This project will positively affect many lives.
- 42) Jan McIntosh – Ms. McIntosh was once a Planning Board member. She has never seen a Planning Board change their minds.

Traffic Engineer Jay Clapp shared additional information with the Board and responded to several questions.

NCDOT District Engineer Steve Cannon shared information regarding requirements by the DOT and noted that the developer was not required to repair Pisgah Drive. The NCDOT had already determined that the road needed work.

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

Commissioner Young is concerned about traffic.

Commissioner Hawkins felt the project was good but maybe in the wrong area. This decision is about zoning and density.

Chairman Messer felt an opportunity was being missed since an organization was trying to build affordable homes.

*Commissioner Hawkins made the motion that the Board accepts the Planning Board recommendation and denies the rezoning request. The motion passed 3-0. Commissioner Edney had been approved recusal from voting.*

#### **INFORMAL PUBLIC COMMENTS**

1. William Cutler – Mr. Cutler informed the Board about a Public Schools Appreciation Rally to be held on Saturday, May 17, 2014 from 11:00 a.m. until noon. Attendees would meet at 10:30 a.m. at the 1995 County Courthouse and walk to the Henderson County Historic Courthouse.
2. Myra Grant – Ms. Grant spoke in regard to family violence. She works for Pisgah Legal Services who handled over 300 cases of family violence last year. She asked the Board to look at increasing funding for Pisgah Legal Services.
3. Jim Barrett – Mr. Barrett is the Director of Pisgah Legal Services. Over 251 cases were closed in Henderson County last year for domestic violence. None of those 251 cases were their clients. They offer many services to their clients. He asked the Board to consider increasing the funding for Pisgah Legal Services.

**DISCUSSION/ADJUSTMENT OF AGENDA**

*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 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):

April 16, 2014 – regularly scheduled meeting

**Tax Collector's Report**

Collections Specialist Luke Small had presented the Tax Collector's Report to the Commissioners dated March 27, 2014 for information only. No action was required.

**Financial Report/Cash Balance Report – March 2014**

The March 2014 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 March:

- Dues/Non-Profit Contributions – payment of 4<sup>th</sup> quarter non-profit contributions to agencies
- Rescue Squad – purchase order encumbered for new ambulance approved in the FY2014 budget and additional funding approved and appropriated by the Board.
- Soil & Water Conservation – purchase grant funded equipment (\$21,976) in January
- Economic Development – payment of scheduled economic development incentive payments
- BRCC – monthly payment for April was paid at the end of March; two payments posted for March

The YTD deficit in the CDBG – Scattered Site Housing Fund is due to the timing difference between the expenditure of grant funds and subsequent reimbursement from the state. This Fund will be balanced at the end of the fiscal year.

The YTD deficit in the Emergency Telephone System (911) Fund is due to the final debt service payment on the financing to expand the current Emergency 911 Communications Center and the payment of annual technology maintenance and support contracts for the 911 communications system. The March 911 PSAP surcharge payment from the state will not be received and posted until April 2014.

The YTD deficit in the Immigration and Customs Enforcement (ICE) Fund is due to lower reimbursements being realized compared to previous years as well as the timing delay/lag in receiving payments – Federal ICE revenues for March will not be received and posted until May 2014.

The YTD deficit in the Emergency Communications Center Relocation Project will be reimbursed from the \$3.6 million dollar grant awarded by the NC 911 Board for this project. The first reimbursement request for this project has been submitted to the NC 911 Board.

The YTD deficit in the Solid Waste Landfill Fund is due to the one-time purchase of capital outlay (\$130,000) and real property purchased (\$160,000) around the landfill perimeter in the first half of the fiscal year. Budgeted debt service of \$190,000 was paid in November on the Landfill Improvements Project. Hauling costs are running approximately \$360,000 ahead of budget through March. A total of \$335,000 of retained earnings is appropriated in the Solid Waste Landfill Fund to balance the FY2014 budget.



The YTD deficit in the Cane Creek Water & Sewer District Fund is due to a scheduled debt service payment made on the Series 2010B Refunding Bonds in December. A total of \$1.5 million of retained earnings was appropriated in the Cane Creek Water & Sewer District Fund to pay for capital expenditures on sewer projects approved by the Board and to also balance the FY2014 budget.

Motion:

*I move that the Board of Commissioners approves the March 2014 County Financial Report and Cash Balance Report as presented.*

#### **Henderson County Public Schools Financial Reports –March 2014**

The Henderson County Public Schools March 2014 Financial Reports were provided for the Board's information.

Motion:

*I move that the Board of Commissioners approves the Henderson County Public Schools March 2014 Financial Reports as presented.*

#### **Smoky Mountain Center – Quarterly Fiscal Monitoring Report (FMR) for the quarter ended March 31, 2014**

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 attached FMR for the Smoky Mountain Center was received by the County Finance Officer on May 1, 2014.

Motion:

*I move that the Board of Commissioners approve the Smoky Mountain Center Fiscal Monitoring Report for the quarter ended March 31, 2014.*

#### **Disposition of Personal Property by Private Sale**

The Board of Commissioners adopted a resolution on April 7, 2014 authorizing the disposition of three (3) sewage pumps no longer used by Cane Creek Sewer & Water District via private sale to Mountain Home Health and Rehabilitation in Hendersonville, NC for a negotiated total price of \$12,000. A legal notice summarizing the adopted resolution was published in the Hendersonville Tribune on April 10, 2014 to satisfy the requirements of N.C.G.S 160A-267. After publication, there was no contact from any other parties expressing interest in purchasing these sewage pumps which were declared as surplus by the Board. Payment for the sewage pumps was received in full from Mountain Home Health and Rehabilitation on April 29, 2014.

The publisher's affidavit from the Hendersonville Tribune to demonstrate Henderson County's compliance with N.C.G.S. 160A-267 was provided.

#### **Quarterly Construction Project Update**

David Berry had provided the Board of Commissioners with an update on Construction projects around Henderson County. This quarterly report is a review of the scope and statuses of assigned construction management responsibilities and includes specific updates in regard to County funded construction activities. This report is a continuation of County construction activity statuses.

#### **Energy Management Update**

Rachel Hodge had provided information to the Board about the County's energy management use in the

areas of electricity, natural gas, fuel and water. The report compared the first quarter with previous years to show historical trends.

**Request to Surplus Vehicles and Equipment**

A resolution was provided for the Board’s consideration declaring the a list of Vehicles and Equipment provided by the Sheriff’s Department and Central Services no longer used by the County as surplus property. The resolution also authorizes the Purchasing Agent to advertise the surplus property for sale by electronic public auction at [www.govdeals.com](http://www.govdeals.com) or [www.publicsurplus.com](http://www.publicsurplus.com) after the required advertisement of the sale.

List of surplus vehicles:

| Department | Year | Make  | Model   | HC#     | VIN#                | Asset# | Mileage | Surplus       |
|------------|------|-------|---------|---------|---------------------|--------|---------|---------------|
| Sheriff    | 2005 | Dodge | Durango | SH-313  | 1D4HB38N65F578934   | 11713  | 125,981 | Rack & Pinion |
| Sheriff    | 2008 | Ford  | Mustang | SH-116  | Z 1ZVHT82H785171075 | 13476  | 102,809 | Transmission  |
| Sheriff    | 2009 | Dodge | Charger | SH-233  | 2B3KA43T19H607828   | 14064  | 84,536  | Wrecked       |
| Sheriff    | 2002 | Chevy | Impala  | SH-107  | 2GIWF55K429221943   | 12088  | 75,329  | Paint/Age     |
| Sheriff    | 2007 | Dodge | Charger | SH- 268 | 2B3KA43G37H736699   | 12492  | 100,081 | High Mileage  |
| Sheriff    | 2008 | Dodge | Charger | SH-204  | 2B3KA43H88H206061   | 13362  | 113,493 | High Mileage  |
| Sheriff    | 2007 | Dodge | Charger | SH-274  | 2B3KA43G67H736700   | 12486  | 98,157  | High Mileage  |

List of surplus equipment:

| Equipment         | Make     | Model  | Asset# | Condition |
|-------------------|----------|--------|--------|-----------|
| Propane Generator | Onan 7.5 | GenSet | 2924   | Unknown   |
| Propane Generator | Onan 7.5 | GenSet | 2925   | Unknown   |

Motion:

*I move that the Board approves the resolution declaring the list of Vehicles and Equipment presented as surplus and authorizes the Purchasing Agent to sell the surplus property by electronic public auction via GovDeals or Public Surplus auction services.*

**Service Badge and Sidearm Request – Lt. Jeff Patterson**

The Henderson County Sheriff’s Office requests that the service badge and sidearm of Jeff Patterson be given to him in recognition of his retirement from the Henderson County Sheriff’s Office.

Lieutenant Jeff Patterson began employment with the Henderson County Sheriff’s Office on July 26<sup>th</sup>, 1993. Throughout his career he has worked as a Deputy Sheriff, Detective, Corporal, Sergeant and Lieutenant. Lieutenant Patterson has served for a total of 20 years in the Sheriff’s Office. He has spent his adult life serving our community and agency. To honor him and show gratitude the Sheriff’s Department intends to present his service badge and service sidearm to him.

Sheriff McDonald makes this request on behalf of the Henderson County Sheriff’s Office pursuant to North Carolina General Statute §20-187.2(a).

Motion:

*I move the Board allows Sheriff Charles McDonald to present the service badge and sidearm as a token of appreciation to Lt. Jeff Patterson.*

**Resolution Declaring Personal Property as Surplus and Authorizing the Disposition of Personal Property to a Governmental Unit**

Henderson County has received a request from the North Carolina Department of Transportation to purchase two (2) BMW R1200 motorcycles that are no longer in use by the Henderson County Sheriff’s Department. The motorcycles were part of the Governor’s Highway Safety Program (GHSP), which reimbursed Henderson County 75% of the original retail price in 2009. The Department of Transportation has offered to purchase the two (2) motorcycles at a price of \$3,048.75 per motorcycle for a total price of \$6,097.50.

A resolution declaring the motorcycles as surplus and authorizes the sale to another governmental unit as allowed under N.C.G.S. 160A-274 was provided Attached for the Board’s consideration and approval was provided for the Board’s consideration.

| EQUIPMENT   | Fair Market Value | 25% of Fair Market Value |
|---|-------------------|--------------------------|
| 2009 BMW R1200 RTP Motorcycle with Radios, Radar and Helmet with Communication Adapters Serial #WB10388029ZT14800 | \$12,195          | \$3,048.75               |
| 2009 BMW R1200 RTP Motorcycle with Radios, Radar and Helmet with Communication Adapters Serial #WB10388029ZT14801 | \$12,195          | \$3,048.75               |
| Total Check to Henderson County Sheriff’s Office  |                   | \$6,097.50               |

Motion:

*I move that the Board approves the resolution declaring the list of motorcycles presented as surplus and authorizes the sale to another governmental unit as allowed under N.C.G.S. 160A-274.*

**Notification of Vacancies**

Chairman Messer noted the following vacancies and opened the floor to nominations.

1. Child Protection and Fatality Prevention Team – 1 vac.
2. Hendersonville City Zoning Board of Adjustment – 1 vac.
3. Juvenile Crime Prevention Council – 2 vac.
4. Nursing/Adult Care Home Community Advisory Committee – 1 vac.

**Nominations**

1. Child Protection and Fatality Prevention Team – 1 vac.

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

2. EMS Peer Review Committee – 4 vac.

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

3. Juvenile Crime Prevention Council – 4 vac.

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

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

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

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

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

6. Senior Volunteer Services Advisory Council – 2 vac.

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



7. WCCA Board of Directors (Western Carolina Community Action) – 1 vac.  
 There were no nominations at this time and this item was rolled to the next meeting.

**COUNTY MANAGER’S FY2014-2015 RECOMMENDED BUDGET**

The County Manager presented his FY2014-2015 Recommended Budget during this meeting.

**Budget Preparation Framework**

- Property Tax remains at the FY14 rate of \$.5136, with an optional rate of \$.50
  - 1¢ = \$1,196,495
  - 1.36¢ = \$1,627,233
- Sales tax projections increased to reflect actual receipts from the past 12 months (February 2013 – January 2014)
- Expenditures were capped at a base budget amount of \$114,837,000 per Board direction at the January 15<sup>th</sup> Budget Workshop
- Base budget target was \$114,837,000
- Fund balance target was \$6,337,000
- Maintains funding to meet current obligations
- Full funding of County’s Debt Service obligation of \$13,570,026
- Optional Property Tax reduction to \$.50
  - 1 cent TRE = \$1,196,495
  - 1.36 cent TRE = \$1,627,233
- *\$114,619,200 - (0.8% increase) Proposed Budget*

|                                |              |                     |
|--------------------------------|--------------|---------------------|
| <b>County</b>                  |              |                     |
|                                | Operations   | \$75,820,492        |
|                                | Debt Service | \$3,756,267         |
| <b>TOTAL COUNTY GOVERNMENT</b> |              | <b>\$79,576,759</b> |

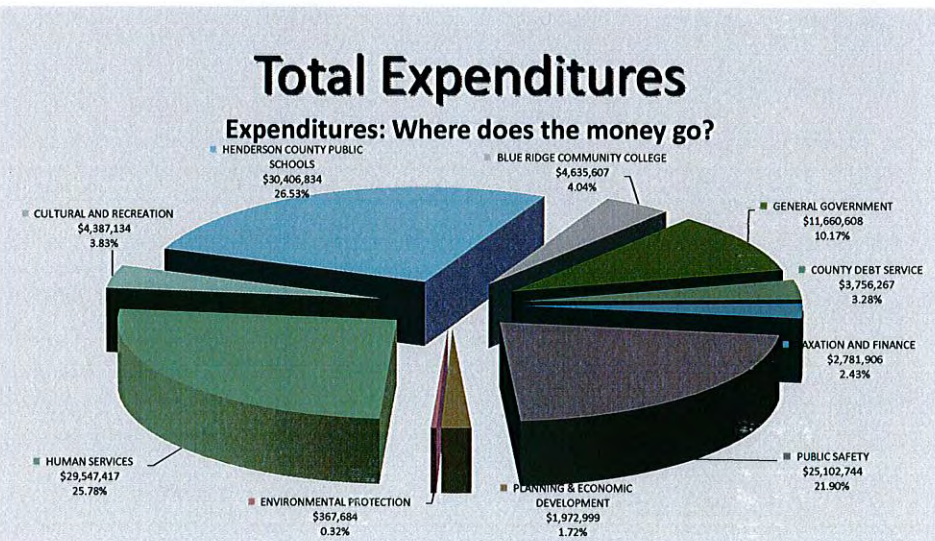
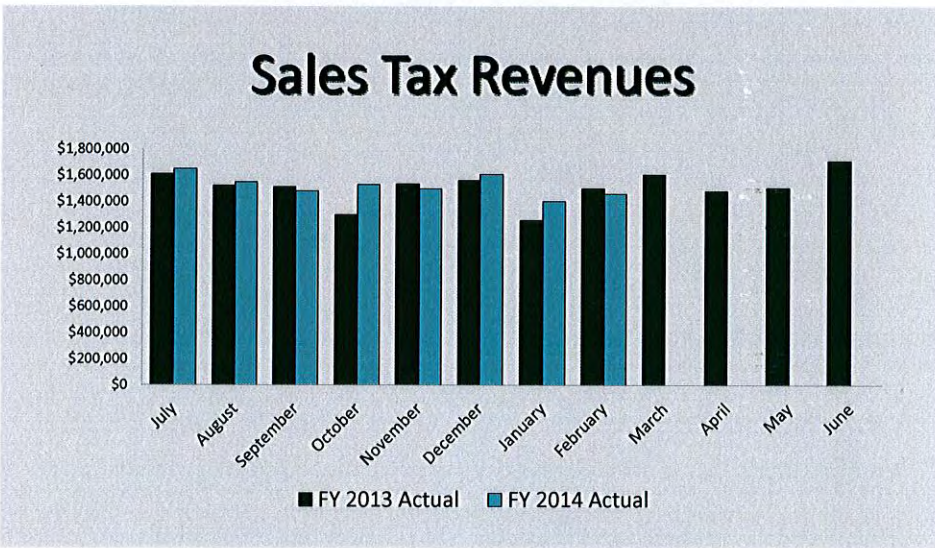
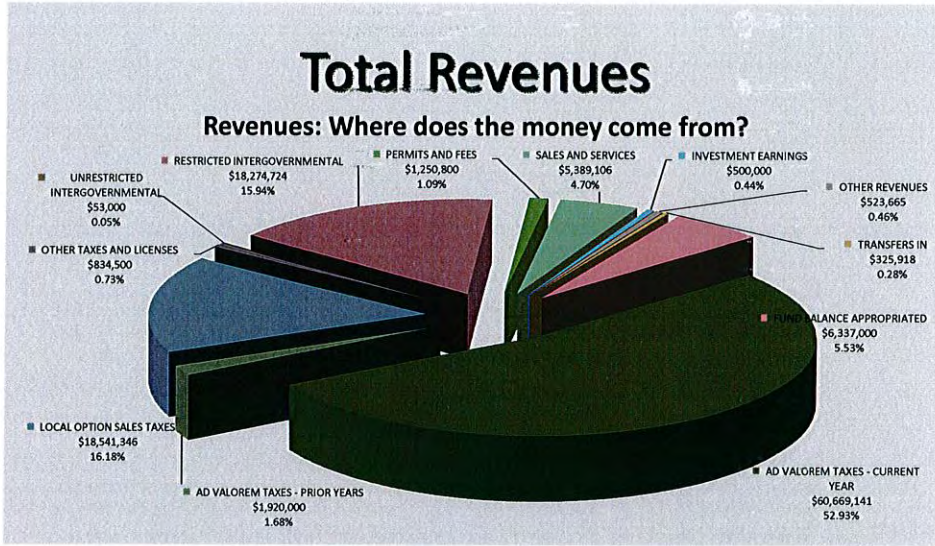
|  |              |                     |
|--|--------------|---------------------|
| <b>Henderson County Public Schools</b>       |              |                     |
|  | Operations   | \$22,070,846        |
|  | Debt Service | \$8,335,988         |
| <b>TOTAL HENDERSON COUNTY PUBLIC SCHOOLS</b> |              | <b>\$30,406,834</b> |

|   |              |                    |
|---|--------------|--------------------|
| <b>Blue Ridge Community College</b>       |              |                    |
|   | Operations   | \$3,157,836        |
|   | Debt Service | \$1,477,771        |
| <b>TOTAL BLUE RIDGE COMMUNITY COLLEGE</b> |              | <b>\$4,635,607</b> |

|              |  |                      |
|--------------|--|----------------------|
| <b>TOTAL</b> |  | <b>\$114,619,200</b> |
|--------------|--|----------------------|

County Manager Steve Wyatt stated that the tax rate was to be determined by the Board. He did not recommend a change with the reevaluation in 2015.





**BLUE RIDGE COMMUNITY HEALTH SERVICES**

Steve Wyatt stated effective May 1<sup>st</sup>, Pardee Hospital closed their outpatient specialty clinic for Psychiatric and Addictions Therapeutic Healing Services (PATHS). PATHS offered consulting and medication management, treating psychiatric and addiction disorders, for about 700 clients. Working in conjunction with Blue Ridge Community Health Services (BRCHS), a transitional plan has been identified that will provide continuity of care for these citizens.

To implement that plan, BRCHS has made a request for one time start-up funding in the amount of \$100,000. These funds will allow BRCHS to recruit a full-time psychiatrist, as well as the case management and nursing support necessary to transition these patients with little disruption in their care. The County does have this level of funding available for distribution, through the MOE Fund Balance held by Smoky Mountain Center.

*Chairman Messer made the motion that the Board requests the appropriation of \$100,000 in Maintenance of Effort Fund Balance currently held by Smoky Mountain Center, to be used as one-time start-up funding by Blue Ridge Community Health Services for the provision of additional psychiatric services. All voted in favor and the motion carried.*

**SMOKY MOUNTAIN CENTER UPDATE**

Shelly Foreman, Senior Director of Planning & Public Affairs for Smoky Mountain Center, discussed the County Commissioner Advisory Council along with background information, and gave an update on regional planning and SMC activities.

Ms. Foreman noted that during the next year they will be working with the County on Maintenance of Effort (MOE) Funding. Smoky Mountain Center is in the process of forming a County Commissioner Advisory Committee with one commissioner appointee from each county. Staff is welcome to attend. They will meet once per quarter in smaller groups. More information will be sent out officially next week.

**CONSTRUCTION CONTRACT AWARD – 911 CENTER RELOCATION**

Marcus Jones stated as directed by the Board with the approval of the \$3.6 Million grant from the State 911 Board, the subject project was bid on March 10, 2014. Bids were opened on April 10, 2014 with the results and recommendation detailed on the attached letter from Delta Three, Inc (DTI) (project architect). The proposed contract includes bid alternates for a back-up AC system (Alt 1), fencing (Alt 3a), gates (3b) and millwork (cabinets, Alt 4). The letter from DTI also recommends a change order for the contract to upgrade the bid alternates for exterior fencing and vehicle gates from chain link and swing gates to a more secure fencing system similar to that behind the Detention Center. With the favorable bid results, the budget can afford the alternates and the upgraded fencing while still including construction contingencies over 5%.

Staff presents for Board approval the low bidder and change order as recommended by DTI. The proposed contract is for \$1,651,967.00 with Cooper Construction Company, Inc, with the proposed change order an additional \$21,814.00.

The allocated budget for facilities construction in the grant budget is \$1,782,938.00 and is currently allocated in the FY14 budget. The project is 100% funded by the State 911 Board grant. Staff recommends establishing the following allocation with the approval of the contraction contract:

|  |                |  |
|--|----------------|--|
| Cooper Construction Contract w/ Alt 1, 3a, 3b, and 4 | \$1,651,967.00 |  |
| Cooper Construction Change Order for fence upgrade   | \$21,814.00    |  |
| Project Contingency (6.1%)                           | \$109,157.00   |  |



|  |  |                       |
|--|--|-----------------------|
| <b>Total Construction Grant Budget</b> |  | <b>\$1,782,938.00</b> |
|--|--|-----------------------|

*Commissioner Hawkins made the motion that the Board of Commissioners awards the construction contract and change order for the 911 Center Relocation project with the low bidder Cooper Construction for \$1,673,781.00, approve the proposed project budget and authorize the County Engineer to execute the required documents. All voted in favor and the motion carried.*

#### **MEETING INVOCATION POLICY**

Russ Burrell stated with the announcement of the United States Supreme Court decision in *Town of Greece v. Galloway*, the previous prohibition (at least within the area encompassed by the Fourth Circuit Court of Appeals) on meeting invocations is no longer in effect.

A proposed resolution was provided, in essence re-commencing the Board's Invocation Policy which was in effect prior to the Fourth Circuit's Decisions.

*Commissioner Young made the motion that the Board adopts the Resolution regarding Invocations at meetings of the Board of Commissioners. All voted in favor and the motion carried.*

#### **HENDERSON COUNTY FLAG PRESENTATION**

Amy Brantley stated at the Board's March 17, 2014 meeting, the Board officially adopted a new Henderson County Flag. The flags had arrived and were officially presented to the Board at this meeting.

Ms. Brantley informed the Board that Megan Piner is now Megan Powell. She recently got married.

#### **COUNTY MANAGER'S REPORT**

Steve Wyatt informed the Board that Christine Hallingse had resigned and Kathryn Finotti would be taking on the responsibilities of Public Information Officer. Rachel Hodge has taken the position as Environmental Programs Coordinator. Both were in the AV room training on equipment for Audio/Video recording along with back-up Natalie Berry.

#### **IMPORTANT DATES**

##### **Reschedule June 18<sup>th</sup> meeting**

The Board is requested to reschedule the June 18, 2014 meeting for Monday, June 16, 2014 at 9:00am.

*It was the consensus of the Board to hold off on rescheduling of this meeting until Commissioner Thompson returned.*

##### **Set Public Hearing for Rezoning Application #R-2014-04**

On April 3, 2014 the City of Hendersonville approved a request to remove thirty-four (34) individual parcels of land (40.09 acres) from the City of Hendersonville's Extra Territorial Jurisdiction (ETJ) through Ordinance #14-0426. Henderson County has 90 days, or until July 2, 2014 to determine and apply a county zoning designation for the Subject Area. Henderson County Planning Department recommends rezoning the Subject Area from a City of Hendersonville R-15 (COH R-15) zoning district to a Residential One (R1) and Industrial (I) zoning district.

The Henderson County Planning Board will consider the rezoning application #R-2014-04 at its regularly scheduled meeting on May 15, 2014.

Before taking action on the rezoning request, the Board of Commissioners must hold a public hearing. Planning Staff recommends that the Board of Commissioners schedule the public hearing for Monday, June 2, 2014, at 5:30 P.M.

*Chairman Messer made the motion that the Board schedules a public hearing for rezoning application #R-2014-04 for Monday, June 2, 2014, at 5:30 P.M. All voted in favor and the motion carried.*

**CANE CREEK WATER AND SEWER DISTRICT/CLOSED SESSION**

The Board of Commissioners is requested to go into closed session 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.

Another agenda item also requests the Cane Creek Board go into closed session. The motion below is intended to deal with both matters.

*Commissioner Hawkins made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a), to discuss a matter of economic development incentives. I further move that at the conclusion of that closed session, the Board adjourn this meeting as the Board of Commissioners of Henderson County, then go into session as the Cane Creek Water and Sewer District Board, and immediately go into closed session to discuss matters protected by attorney client privilege, and at the conclusion of that closed session, to adjourn. All voted in favor and the motion carried.*

A General Account of Closed Session for Cane Creek was documented and filed.

**ADJOURN**

*Commissioner Hawkins made the motion to go out of closed session and adjourn at 9:35 p.m. All voted in favor and the motion carried.*

Attest:

\_\_\_\_\_  
Teresa L. Wilson, Clerk to the Board

\_\_\_\_\_  
Charles D. Messer, Chairman



**Applicant's Statement of Reasonableness for Rezoning Application #R-2014-03-C\*\*\*  
Henderson County Board of Commissioner's Meeting, May 12, 2014, 5:30 p.m.**

1. Who is the Henderson County Housing Assistance Corporation?
- 2.

Housing Assistance Corporation is a non-profit organization that began in Henderson County 25 years ago. This is a grass roots organization that originated from church efforts in the community. Housing Assistance has developed over 280 units of multi-family housing and has won a 2012 Business Growth Award through the Chamber of Commerce and a STARS award through the NC Home Builder's Association of North Carolina for their partnership with the Hendersonville Home Builder's Association on the Team Day Project.

We are not Hendersonville Housing Authority – there has been much confusion on this matter, Housing Assistance Corporation is not the provider of public housing or Section 8 vouchers for Henderson County.

3. How is Rosebay being funded?

Rosebay is not a Section 8 housing development and is not public housing.

No county funds are being used in the development or the operation of Rosebay Apartments.

The primary source of funding for Rosebay Apartments is through the **Low Income Housing Tax Credit Program**. The LIHTC Program, which is based on **Section 42 of the Internal Revenue Code**, was enacted by Congress in 1986 to provide the private market with an incentive to invest in affordable rental housing. Federal housing tax credits are awarded to developers (both for profit and non-profit) of qualified projects. Developers then sell these credits to investors to raise capital (or equity) for their projects, which reduces the debt that the developer would otherwise have to borrow. Because the debt is lower, a tax credit property can in turn offer lower, more affordable rents.

Residents are responsible for their own rent payments, unless rent subsidies are available from other programs

**HOME funds.** Federal HOME funds are awarded through the Asheville Regional Housing Consortium to the member counties of Buncombe, Henderson, Madison, and Transylvania through a competitive process. Rosebay has been awarded \$425,000 in HOME funds.

**The Rudnick Endowment** of the Community Foundation of Henderson County has pledged \$30,000 to the project if rezoning is granted and funding is approved through the Low Income Housing Tax Credit Program.

**Waiver of Sewer and Water Impact Fees** – unanimously approved by City Council.

4. Description of the Development – WORKFORCE HOUSING

**A. Rosebay Apartments**

When completed, Rosebay Apartments will provide 64 units of affordable workforce rental housing available to people earning 60% or less of the area median income.

- 1 person household - \$23,550
- 2 person household - \$26,888
- 3 person household - \$30,263
- 4 person household - \$33,600

Rosebay Apartments will consist of one office building and eight two-story walk-up apartment buildings that will have 20 one-bedroom apartments, 28 two-bedroom apartments, and 16 three-bedroom apartments. The site is designed with the needs and lifestyles of families in mind. There will be a playground, picnic area, and covered gazebo and the office includes a covered mailbox area, a multi-purpose gathering and activities room, laundry facilities, public restroom, and kitchenette.

**B. Rental Costs and Client Requirements**

Proposed rents, including utility costs, for Rosebay are as follows: 1BR \$397 to \$589, 2BR \$476 to \$698, 3BR \$548 to \$824. Because Rosebay will use Low Income Housing Tax Credits (LIHTC), the property will maintain a 30 year period of affordability as required by the LIHTC program. The creation of new affordable housing stock is an effective strategy for fulfilling the organization’s mission to provide safe and affordable housing to people of Henderson County.

Applicants are subject to a credit and criminal background check. Applicants must be below 60% of the median income to qualify but must also demonstrate that they have enough income to support their rental payment.

**C. Quality and Convenience**

Rosebay Apartments will also provide quality housing that emphasizes high quality, energy efficient, and neighborhood compatible designs. The development will be constructed to Energy Star v.2 standards, will be designed to integrate into the existing neighborhood, and will be constructed of high quality material and use energy efficient appliances. The apartments are also centrally located to accommodate a growing workforce that needs more affordably-priced housing that minimizes home-job spatial mismatches so that households may live in and enjoy the amenities of the communities where they work. Affordable rentals stabilize residential mobility patterns that lead many households to “chase a lower rent.” Fewer moves can minimize and prevent disruptions in children’s lives and education. Rosebay Apartments are located within a mile of businesses, medical facilities, restaurants, grocery stores, and retail stores.

**D. Tenants of Rosebay Apartments: The Workforce. Please see Attachment 1, Occupation of Residents, May 1, 2014.**

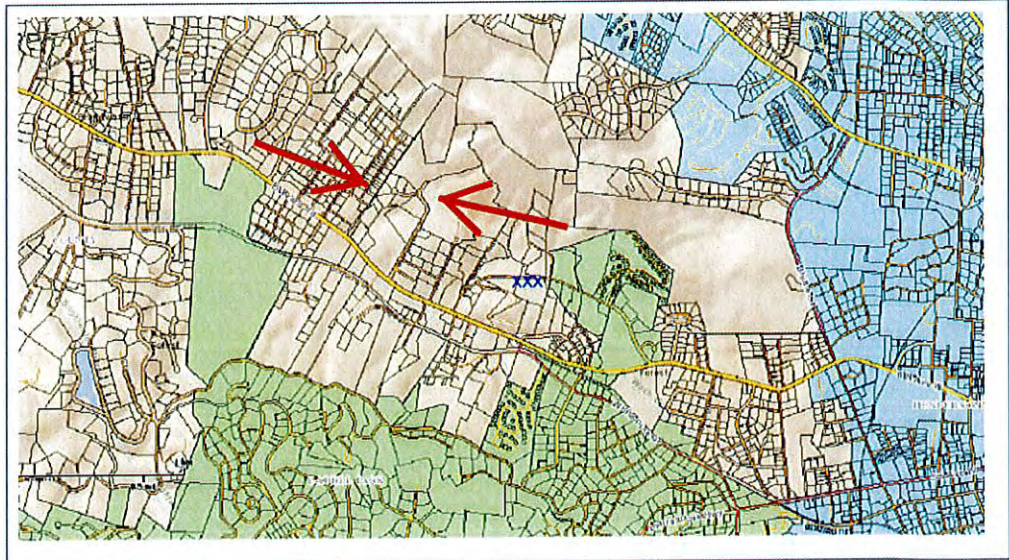
5. What are we asking for? Conditional District Zoning from R-2 (Residential 2) zoning to O&I-CD (Office and Institutional Conditional) zoning. **See Attachment 2: Overview of Conditional District Zoning and Spot Zoning**
6. Is this spot zoning?

**A. Rezoning the 5.6 acre Pisgah View Drive property from R-2 to O&I-CD is NOT spot zoning.**



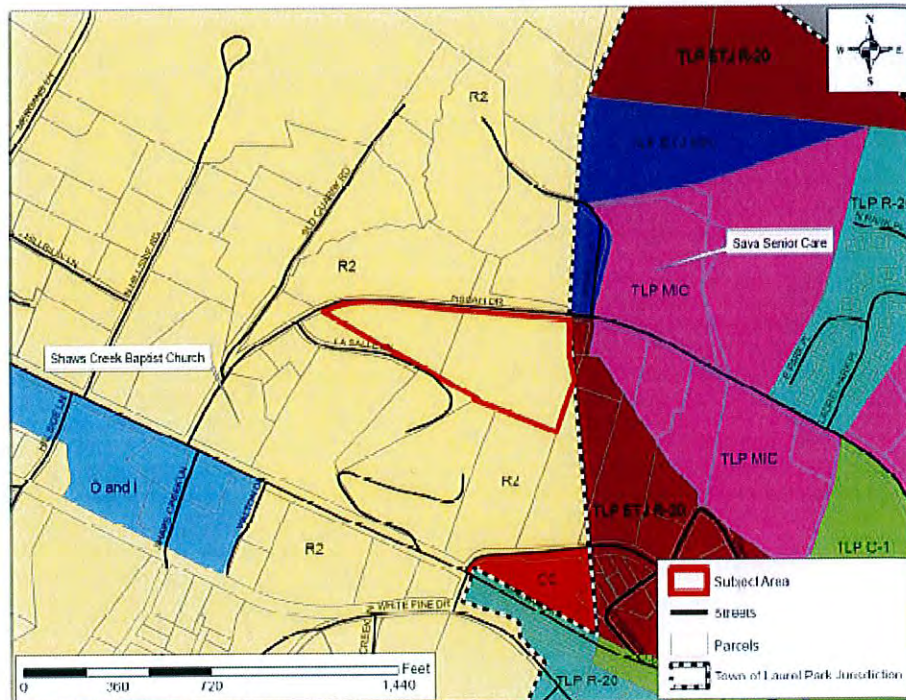
1. In order to constitute spot zoning, the parcel must be surrounded by a much larger area that is uniformly zoned. **See Attachment 2.**

a. The parcel in question is “surrounded” on three sides by the Town of Laurel Park.



**Figure 1. Map showing boundaries of the Town of Laurel Park in Relation to Subject Parcel.**

b. In determining whether an area surrounding a parcel is uniformly zoned, you must look at ALL areas, including those in a municipality.



**Figure 2. Map of Zoning Surrounding Subject Parcel**

Immediately surrounding the subject parcel there is R-2, O&I, Community Commercial (County zoning); there is also MIC, R-20, C-1 (Laurel Park zoning). Just like in the case of Childress v. Yadkin County, 186 N.C. App. 30 (2007)(See Attachment 2), there are several different zoning districts within the area immediately surrounding the subject parcel. **This is not spot zoning.**

**B. Even if the Board believes that the rezoning would constitute spot zoning, it is NOT illegal spot zoning. There is a reasonable basis for rezoning the parcel to O&I-CD. (See Attachment 2)**

1. Rezoning the subject parcel to O&I-CD meets the requirements to use the low income housing tax credit financing to bring workforce housing to Henderson County.
  2. Rosebay Apartments is an appropriate use of the subject parcel.
  3. Use of the subject parcel for workforce housing is in accordance with the Henderson County Comprehensive Plan.
  4. The project will benefit the surrounding community and the community at large. There is no specific benefit to HAC other than to fulfill its charitable purpose. HAC is a nonprofit corporation carrying out a public purpose with this rezoning application.
  5. As pointed out by the Henderson County staff in their Request for Board Action, including attachments, there is not a great disparity between the proposed use (Rosebay Apartments) and the adjacent land uses. Applicant incorporates the staff's comments herein.
7. Is there a reasonable basis for the rezoning requested? **Yes, there is a reasonable basis.**

**A. LIHTC Requirements**

In order to qualify for LIHTC, the subject property must be located within a mile of a grocery store and other commercial and business areas. The Pisgah Drive property fulfills this requirement.

**B. Appropriate Use of the Property**

If you look at the land and the services that are available, multi-family housing is an appropriate use of that property.

1. Availability of sewer line and city water – sewer availability is extremely limited and necessary for high-density development. Between the costs of land, limited sewer availability and the necessary proximity to services few options are available and when identified should be used for their best use.
2. Development of Pisgah Drive. Medical facilities, higher density residences, churches, and office spaces surround this property. A multifamily housing development is appropriate for this area. There are 10 parcels on Pisgah Drive (not including HAC's piece) that are zoned residential and 14

parcels that are commercial. The east entrance is completely commercial and Housing Assistance's property is an extension of the current trend in development.

Some neighbors on Brevard Road and directly across from Pisgah Drive have rezoned their property O&I.

There are only 4 single family homes that actually border the property Housing Assistance Corporation has optioned on the same side of Pisgah Drive. One appears to have some sort of auto repair business associated with it.

### 3. Traffic Impact Analysis

Development of Rosebay Apartments does not trigger any requirements by DOT. A representative of the DOT sat on the Technical Review Committee and didn't have any recommendations.

Housing Assistance was not required to complete a traffic impact analysis, but based on some of the concerns voiced by the community elected to contract with Ramey Kemp & Associates to have an assessment completed. Their findings: The additional traffic generated by the Rosebay Apartments is not expected to have a significant impact on the unsignalized intersections of Brevard Road and Pisgah Road; therefore, no improvements are recommended. Based on the results of the traffic impact assessment, the stop-controlled approach of the intersections are expected to continue operating at an overall LOS or better during the weekday AM and PM peak hours. These levels of service are acceptable considering the delays increase by less than a second at each approach from "no-build" to "build" conditions.

Road Quality: There is also concern about the quality of Pisgah Drive, DOT has said they will consider repaving the road when construction is completed.

Traffic Light: Concern has also been expressed about the need for a traffic light at the east end intersection. According to the listing agent for a commercial parcel on Brevard Rd and across from Pisgah Drive (eastern intersection), a traffic signal has been approved by DOT upon development of the commercial property. The signal won't necessarily be required, but it has been approved.

Pedestrian Traffic: Housing Assistance is willing to provide sidewalks on our property. Sidewalks are currently along the opposite side of Pisgah Drive beginning at the Brian Center.

### 4. Sprawl Reduction

The apartments are also centrally located to accommodate a growing workforce that needs more affordably-priced housing that minimizes home-job spatial mismatches so that households may live in and enjoy the amenities of the communities where they work. A bus line already runs to the nearby Ingles.

Central location minimizes future traffic congestion.

### 5. Spot Zoning - **The rezoning of the Pisgah Drive Property does not constitute spot zoning**



6. NCHFA – perfect site score – Rosebay Apartments received a perfect site score from the North Carolina Housing Finance Agency in the LIHTC preapplication.

7. Increased tax base – Rosebay Apartments contribute to the local tax base

**C. Alignment with Henderson County’s 2020 Comprehensive Plan and the Regulation Review Advisory Committee Recommendations**

**1. Henderson County staff in their report to the Commissioners has listed several ways in which the rezoning is in accordance with the Comprehensive Plan. The applicant incorporates those statements herein.**

2. In addition to those comments by staff, Applicant offers the following:

- a. The subject parcel lies within the Urban Services Area, as defined in the Comprehensive Plan. Item 7 of the Comprehensive Plan for the Urban Services Area states: “Substantial investments in affordable housing development should occur within the USA.”
- b. Henderson County’s 2020 Comprehensive Plan clearly identifies diversify and affordable housing as a critical need and specifically commits our Planning Board and Board of Commissioners with the charge of addressing this community challenge actively.

**Recommendation H-01: Promote a diverse range of home ownership and rental opportunities.**

*Housing – in terms of availability, affordability, and livability – is among the most challenging issues a community must face.* Economic expansion requires the availability of adequate housing options for employees. As a result of the considerable power that it has to shape the real estate market through its regulations and other policies, *Henderson County Government has a unique opportunity to promote a diverse and healthy range of housing options for its citizens and bears a certain responsibility in making sure that the shelter needs of its most vulnerable citizens are met.*

**# A. Revise County ordinances to allow the private sector to develop a broad range of housing choices.**

*The County will ensure an adequate supply of land zoned for dense housing.* The County will work through the countywide sewer and water master plan recommended in Section 3, Sewer and Water Element to ensure that sewer and water services are provided at appropriate locations to support that objective. Appropriate areas for dense housing will be identified as part of the Community Planning Process established in Section 4. *The Growth Management Strategy Element generally directs such housing to the Urban Services Area and Community Service Centers. The following changes will be made to the County’s land development ordinances:*

a) Incorporate new zoning districts that allow for higher density development to be applied in areas where services are provided.

# C. Develop a countywide affordable housing plan.

Appendix III, Affordable Housing Analysis establishes that housing affordability is an emerging problem. A countywide affordable housing plan (hereafter, "housing plan") is necessary to fully define the range of needed affordable housing measures and to coordinate housing programs among local non-profits, private organizations, the County, and the municipalities contained therein. Funding for such plan may be available through the Asheville Regional Housing Consortium through planning grants. The County will develop this plan in cooperation with the municipalities within Henderson County.

Rental units are an important component of housing stock because they provide much needed affordable housing. Single-family rental units are permitted wherever site-built homes are permitted within the County's jurisdiction. Multi-family rental complexes (apartments, condominiums, etc.) are also permitted in most residential districts with special standards. However, development of multi-family units is generally limited by the absence of sewer and water. The County should consider designating additional areas for high-density residential development and targeting such areas for sewer and water. New zoning districts that permit greater densities may be required.

# The Lockwood Greene Study identified housing cost as a weakness in the county's appeal to new and expanding employers:

- **Hendersonville has the second highest cost of living index among the comparison cities, even higher than Asheville. The high cost of living is driven in part by high land and housing costs in Henderson County.**
- **Several business executives stated that the high cost of housing and living in the area makes it more difficult to recruit lower skilled workers and middle managers.**

**REGULATION REVIEW ADVISORY COMMITTEE  
FINAL RECOMMENDATIONS – JULY 11, 2013**

The Henderson County Regulation Review Advisory Committee (RRAC) was formed by the Henderson County Board of Commissioners to advise it on how County regulations could be modified to make the County more business-friendly, with an eye toward employment growth. The Committee held meetings on a bi-weekly basis, beginning in April 2013.

The committee sought input from a number of sources. First, business and community groups that have an interest in the Henderson County Code were invited to address the RRAC, with specific issues. Groups that addressed the committee were: Henderson County AgriBusiness, The Henderson County Chamber of Commerce, the Hendersonville Homebuilders Association, the Henderson County Partnership for Economic

Development, the Partnership for Economic Progress, and E.C.O.. Second, a community survey was conducted using the county's website, and email lists from partnering organizations. Finally, County staff reported on the use and functionality of the current code.

These recommendations were prepared using the meeting summaries, and feedback from members of the committee and after a lively discussion accepted by a majority vote to present to the Board of Commissioners in a future meeting. They are intended as recommendations for the Board of Commissioners to direct staff in addressing, as the Board sees fit. The recommendations are as follows:

**Recommendation: coordinate with relevant organizations to promote affordable workforce housing**

**\*\*\*THE HENDERSON COUNTY STAFF'S REQUEST FOR BOARD ACTION, INCLUDING ATTACHMENTS IS INCORPORATED BY REFERENCE INTO THIS STATEMENT OF REASONABLENESS.**



## Attachment 1: Occupations of Residents

May 1, 2014

Jackson Parkview (36 units)

Highland View (28 units)

### Health Care/CNAs

Rainbow Pediatrics

Spring Arbor

Mission Hospital

Golden Living

Emeritus @ Pine Park

Bayada Health Care

Carolina Village

Carrilon Assisted Living

Brian Center

### Education and Childcare

Teacher's Assistant

Atkinson Elementary

Cafeteria Employee

Henderson County Public Schools

Daycare

Children's World Day Care

Mt. Pisgah Lutheran Church Day

Alice's Playground

Abby's Academy

### Housekeeping

Pardee Hospital

Hendersonville Health & Rehabilitation

### Construction Trades

Painter – Royal Paints LLC

Painter – Gonzalez Painting

Shipping Clerk – GBS Lumber

Mason – Blackstone Masonry

Lawn Service – Champion Hills

Roofer – Jay's Roofing

Daves Country Marble

### Manufacturing

Factory Supervisor – Manual Woodworkers & W.

Worker – Manual Woodworkers & Weavers

Assembly Line – Adecca

### Office Administrator

Mountain Podiatry

Spring Arbor

### Food Service

Server - Pizza Hut

Server – Cracker Barrel

Cook – Cracker Barrel

Cook – Binions

### Management

Floor Manager – Sam's Club

### Agricultural

Vegetable Warehouse – Flavor First

Farmworker

### Other

Minister

Lawyer's Assistant

Deli Server – Wal-mart

Land of the Sky Regional Council

Forklift Driver – Minute Man Anchors

Truck Driver – GB Enterprises

More Space Place

Sales – Claire's Boutique Dress Shop

Sales – self-employed (Mark Kay products)

## Attachment 2: Overview of Conditional District Zoning and Spot Zoning

- **Conditional District Zoning**
  - Explicitly authorized by N.C.G.S. § 153A-342.
  - **Is NOT**
    - Is NOT conditional USE zoning, which would involve a quasi-judicial process.
    - Is NOT a general use district in which there is a range of permissible uses.
    - Is NOT always spot zoning
  - **IS**
    - IS for a specific use
    - IS legislative – must be in accordance with a comprehensive plan.
    - IS used when a *general use district* would be inappropriate because not all of the uses would be compatible with the surrounding area, but one use, could, with proper planning, could be appropriate and consistent with the objectives of the HCLDC, the Comprehensive Plan, and adopted district. HCLDC § 200A-45
    - IS subject to conditions and site specific standards
      - To address the conformance of the development and use of the site to county ordinances and an officially adopted comprehensive plan or other plan (N.C.G.S. § 153A-342)
      - To address the impacts reasonably expected to be generated by the development or use of the site (N.C.G.S. § 153A-342)
      - To ensure compatibility of the use with the use and enjoyment of neighboring properties (HCLDC § 200A-45)
- **Spot Zoning** – “An essential element of spot zoning is a small tract of land owned by a single person and surrounded by a much larger area uniformly zoned.’ [citation omitted][emphasis added]” Musi v. Town of Shallotte, 200 N.C. App. 379, 383 (2009). A fourth element considers whether the zoning imposes greater or lesser restrictions on the tract being rezoned than the surrounding properties. See Childress v. Yadkin County, 186 N.C. App. 30, 650 S.E.2d 55 (2007).
  - Elements of Spot Zoning:

- Small Tract of Land – determined relative to the size of the surrounding area. Fifty acres has been held to be spot zoning, whereas 3.5 acres has been held not to be spot zoning. Owens, David, Land Use Law in North Carolina, 2011, pp. 115-118.
- Owned by a single person – Musi, supra.
- Surrounded by a much larger area
  - No precise definition of “much larger area”. Musi, 200 N.C. App. At 384.
    - Musi focused on one-mile radius.
    - Musi court determined “several” zoning categories in the 1 mile radius, and considered those in both town and County to determine that there was no “much larger area uniformly zoned” surrounding the subject tract, and thus no spot zoning.
  - Courts tend to look to immediately surrounding area. Owens, David, Land Use Law in North Carolina, 2011, pp. 115-118.
- **Not all spot zoning is illegal.** Spot zoning requires a clear showing of a reasonable basis in order to be legal. Childress, supra, citing Chrismon v. Guilford County, 322 N.C. 611, 627 (1988).
  - Factors to determine reasonableness – “the criteria are flexible, and the specific analysis used depends on the facts and circumstances of a particular case.’[citation omitted]” Childress, 186 N.C. at 37.:
    - Size of tract in question
    - Compatibility with comprehensive plan
    - Benefits and detriments resulting for owner, neighbors and surrounding community.
      - “As we review this case *de novo*, we look at all relevant facts and the impact they will have on the entirety of the County, not just the immediate area.” Childress, 186 N.C. at 39.
      - “[I]t is important, in our view, to consider this in the added context of both the benefits of the rezoning for the surrounding community *and* for the public interest.’[emphasis added by Childress court]” Childress, 186 N.C. at 38, quoting Chrismon, 322 N.C. at 630. “The standard is not the advantage or detriment to particular neighboring landowners, but rather the effect upon the entire community as a social, economic and *political unit*.’[emphasis added by Childress court]” Childress, 186 N.C. at 38, quoting Chrismon, 322 N.C. at 629.



- Relationship between proposed and uses on adjacent tracts. The greater the disparity, the less likely zoning will be determined reasonable.
  - Heavy industrial adjacent to agricultural held not reasonable. Good Neighbors of S. Davidson v. Town of Denton, 355 N.C. 254 (2002).
  - Restricted residential adjacent to rural agricultural held reasonable. Childress, supra.

# Office of the 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

Thursday, May 01, 2014

## Re: Tax Collector's Report to Commissioners - Meeting Date 12 May 2014

Please find outlined below collections information through 30 April 2014 for the 2013 real and personal property bills mailed out on 08 August 2013, as well as registered motor vehicles billed and collected by our office. As a point of reference, we also have included collections information as of the same date last year.

### Annual Bills G01 Only:

**2013 Beginning Charge:** \$58,589,100.53  
Discoveries & Imm. Irreg.: \$284,041.60  
Releases & Refunds: (\$219,418.14)  
**Net Charge:** \$58,653,723.99  
Unpaid Taxes: \$1,529,278.06  
Amount Collected: \$57,124,445.93  
**Percentage Collected:** 97.39%  
Through: 30-Apr-2014

**2012 Beginning Charge:** \$57,948,385.02  
*Discoveries & Imm. Irreg.:* \$309,581.92  
*Releases & Refunds:* (\$120,890.24)  
**Net Charge:** \$58,137,076.70  
Unpaid Taxes: \$1,500,842.17  
*Amount Collected:* \$56,636,234.53  
**Percentage Collected:** 97.42%  
Through: 30-Apr-2013

### Motor Vehicle Bills G01 Only:

**2013 Beginning Charge:** \$2,668,093.76  
Discoveries & Imm. Irreg.: \$1,815.92  
Releases & Refunds: (\$57,455.92)  
**Net Charge:** \$2,612,453.76  
Unpaid Taxes: \$256,347.48  
Amount Collected: \$2,356,106.28  
**Percentage Collected:** 90.19%  
Through: 30-Apr-2014

**2012 Beginning Charge:** \$4,117,435.11  
*Discoveries & Imm. Irreg.:* \$3,260.70  
*Releases & Refunds:* (\$78,285.58)  
**Net Charge:** \$4,042,410.23  
Unpaid Taxes: \$695,315.67  
*Amount Collected:* \$3,347,094.56  
**Percentage Collected:** 82.80%  
Through: 30-Apr-2013

### Fire Districts All Bills:

**2013 Beginning Charge:** \$6,878,210.09  
Discoveries & Imm. Irreg.: \$45,334.18  
Releases & Refunds: (\$34,403.14)  
**Net Charge:** \$6,889,141.13  
Unpaid Taxes: \$238,484.12  
Amount Collected: \$6,650,657.01  
**Percentage Collected:** 96.54%  
Through: 30-Apr-2014

**2012 Beginning Charge:** \$6,901,848.78  
*Discoveries & Imm. Irreg.:* \$46,962.65  
*Releases & Refunds:* (\$27,327.00)  
**Net Charge:** \$6,921,484.43  
Unpaid Taxes: \$277,190.97  
*Amount Collected:* \$6,644,293.46  
**Percentage Collected:** 96.00%  
Through: 30-Apr-2013

Respectfully submitted,



Luke Small

Collections Specialist

Stan C. Duncan

Tax Collector

# Office of the 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

Monday, May 12, 2014

## Re: Tax Collector's Report to Commissioners - Meeting Date 12 May 2014

Please find outlined below collections information through 11 May 2014 for the 2013 real and personal property bills mailed out on 08 August 2013, as well as registered motor vehicles billed and collected by our office. As a point of reference, we also have included collections information as of the same date last year.

### Annual Bills G01 Only:

|                               |                        |                               |                        |
|-------------------------------|------------------------|-------------------------------|------------------------|
| <b>2013 Beginning Charge:</b> | <b>\$58,589,100.53</b> | <b>2012 Beginning Charge:</b> | <b>\$57,948,385.02</b> |
| Discoveries & Imm. Irreg.:    | \$284,041.60           | Discoveries & Imm. Irreg.:    | \$309,581.92           |
| Releases & Refunds:           | <b>(\$219,419.98)</b>  | Releases & Refunds:           | <b>(\$120,893.30)</b>  |
| <b>Net Charge:</b>            | <b>\$58,653,722.15</b> | <b>Net Charge:</b>            | <b>\$58,137,073.64</b> |
| Unpaid Taxes:                 | \$1,445,965.61         | Unpaid Taxes:                 | \$1,441,789.32         |
| Amount Collected:             | \$57,207,756.54        | Amount Collected:             | \$56,695,284.32        |
| <b>Percentage Collected:</b>  | <b>97.53%</b>          | <b>Percentage Collected:</b>  | <b>97.52%</b>          |
| Through: 11-May-2014          |                        | Through: 11-May-2013          |                        |

### Motor Vehicle Bills G01 Only:

|                               |                       |                               |                       |
|-------------------------------|-----------------------|-------------------------------|-----------------------|
| <b>2013 Beginning Charge:</b> | <b>\$2,675,010.72</b> | <b>2012 Beginning Charge:</b> | <b>\$4,459,821.87</b> |
| Discoveries & Imm. Irreg.:    | \$1,815.92            | Discoveries & Imm. Irreg.:    | \$3,446.99            |
| Releases & Refunds:           | <b>(\$57,663.60)</b>  | Releases & Refunds:           | <b>(\$82,444.61)</b>  |
| <b>Net Charge:</b>            | <b>\$2,619,163.04</b> | <b>Net Charge:</b>            | <b>\$4,380,824.25</b> |
| Unpaid Taxes:                 | \$251,068.76          | Unpaid Taxes:                 | \$903,564.85          |
| Amount Collected:             | \$2,368,094.28        | Amount Collected:             | \$3,477,259.40        |
| <b>Percentage Collected:</b>  | <b>90.41%</b>         | <b>Percentage Collected:</b>  | <b>79.37%</b>         |
| Through: 11-May-2014          |                       | Through: 11-May-2013          |                       |

### Fire Districts All Bills:

|                               |                       |                               |                       |
|-------------------------------|-----------------------|-------------------------------|-----------------------|
| <b>2013 Beginning Charge:</b> | <b>\$6,878,771.58</b> | <b>2012 Beginning Charge:</b> | <b>\$6,943,749.92</b> |
| Discoveries & Imm. Irreg.:    | \$45,334.18           | Discoveries & Imm. Irreg.:    | \$46,994.75           |
| Releases & Refunds:           | <b>(\$34,423.66)</b>  | Releases & Refunds:           | <b>(\$27,970.97)</b>  |
| <b>Net Charge:</b>            | <b>\$6,889,682.10</b> | <b>Net Charge:</b>            | <b>\$6,962,773.70</b> |
| Unpaid Taxes:                 | \$226,687.21          | Unpaid Taxes:                 | \$293,806.83          |
| Amount Collected:             | \$6,662,994.89        | Amount Collected:             | \$6,668,966.87        |
| <b>Percentage Collected:</b>  | <b>96.71%</b>         | <b>Percentage Collected:</b>  | <b>95.78%</b>         |
| Through: 11-May-2014          |                       | Through: 11-May-2013          |                       |

Respectfully submitted,

Luke Small  
Collections Specialist

Stan C. Duncan  
Tax Collector



# 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

CHARLIE MESSER  
Chairman  
THOMAS H. THOMPSON  
Vice-Chairman

J. MICHAEL EDNEY  
GRADY HAWKINS  
LARRY YOUNG

## RESOLUTION

### IN HONOR OF DR. JOHN CRITTENDEN HARLEY FOR THIRTY YEARS OF SERVICE AS THE HENDERSON COUNTY EMS MEDICAL DIRECTOR

**WHEREAS**, Dr. John Crittenden Harley served for thirty years as the Henderson County EMS Medical Director; and

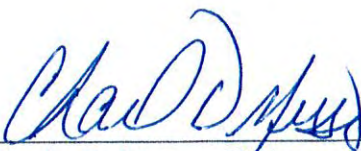
**WHEREAS**, Dr. Harley also served the community throughout his life as a physician, as a member of Pardee Hospital's Ethics Committee, and two time member on the Hendersonville City Council; and

**WHEREAS**, Dr. Harley passed away in February, 2014; and

**WHEREAS**, it is the desire of the Board of Commissioners, and Henderson County Emergency Medical Services to remember Dr. Harley for his dedicated service;

**NOW, THEREFORE, BE IT RESOLVED**, that the Henderson County Board of Commissioners, hereby designates the Henderson County EMS Training Facility as the 'Crit' Harley EMS Training Center at its current or any future location in honor of Dr. John Crittenden Harley's thirty years of service as the Henderson County EMS Medical Director.

This the 12<sup>th</sup> day of May, 2014.



Charles D. Messer, Chairman  
Henderson County Board of Commissioners

Attest:



Teresa L. Wilson, Clerk to the Board

# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1  
Hendersonville, NC 28792  
Phone (828) 697-4808 • Fax (828) 698-4443

CHARLIE MESSER  
Chairman  
TOMMY THOMPSON  
Vice-Chairman

[www.hendersoncountync.org](http://www.hendersoncountync.org)

GRADY HAWKINS  
LARRY YOUNG  
J. MICHAEL EDNEY

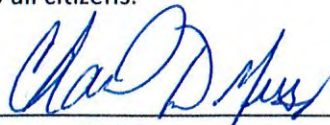
## RESOLUTION

### AMATEUR RADIO RECOGNITION AND APPRECIATION MONTH

- WHEREAS,** North Carolina is home to nearly 18,000 licensed Amateur Radio operators of all ages, known as hams; and
- WHEREAS,** in 1914, amateur radio operators organized across the nation by creating the American Radio Relay league and the National Association of Amateur Radio , for the purpose of providing communications support and service, especially during emergencies when all else fails; and
- WHEREAS,** for the past 100 years, ham radio operators have experimented with and perfected technologies we all enjoy today; including television, high fidelity FM, cellular telephones, integrated circuits and more; and
- WHEREAS,** White House and Congressional reports on disaster response such as Hurricane Katrina praised amateur radio for its role in providing emergency communications when normal telephone and internet service failed; and
- WHEREAS,** since 1949, North Carolina amateur radio operators have been meeting over the air every evening on the Tar Heel Emergency Net to test skills and equipment; and
- WHEREAS,** North Carolinians continue to benefit from the dedication of these unpaid, volunteer communicators;

**NOW, THEREFORE, BE IT RESOLVED,** that we, the Henderson County Board of Commissioners, do hereby proclaim July, 2014, as "AMATEUR RADIO RECOGNITION AND APPRECIATION MONTH" in Henderson County, and commend its observance to all citizens.

Adopted this 12th day of May, 2014.



CHARLES D. MESSER, CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:



TERESA L. WILSON, CLERK TO THE BOARD



# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1  
Hendersonville, NC 28792  
Phone (828) 697-4808 • Fax (828) 692-9855  
[www.hendersoncountync.org](http://www.hendersoncountync.org)

CHARLIE MESSER  
Chairman  
THOMAS THOMPSON  
Vice-Chairman

LARRY YOUNG  
J. MICHAEL EDNEY  
GRADY HAWKINS

## PROCLAMATION

### North Carolina Cooperative Extension HENDERSON COUNTY Centennial Proclamation

**WHEREAS,** May 8, 2014 marks the Centennial of the signing of the Smith-Lever Act which established Cooperative Extension, the nationwide transformational education system operating through land grant universities in partnership with federal, state and local governments; and

**WHEREAS,** U. S. Senator Hoke Smith of Georgia and U.S. Representative A.F. Lever of South Carolina authored the Smith-Lever Act to expand the “vocational, agricultural and home demonstration programs in rural America” by bringing the research-based knowledge of the land-grant universities to the people where they live and work; and

**WHEREAS,** the North Carolina Cooperative Extension in Henderson County is a critical component of the three part land-grant university mission and works collaboratively with research and academic programs associated with the North Carolina State University and North Carolina A&T State University to reach traditional and underserved audiences in all communities across North Carolina; and

**WHEREAS,** the Cooperative Extension System continues to receive federal programmatic leadership and support enabled by the Smith Lever Act and other legislation through the U.S. Department of Agriculture’s National Institute of Food and Agriculture; and

**WHEREAS,** the Smith-lever Act requires a partnership between county, state and federal governments and encourages priorities be established locally to meet the needs of each county; and

**WHEREAS,** North Carolina Cooperative Extension education disseminated through Henderson County for agriculture producers has helped establish North Carolina as a leading agriculture producing state; 4-H youth development has reached millions of youth and helped prepare them for responsible adulthood by equipping them with citizenship and leadership skills; family and consumer sciences has prepared people for healthy, productive lives and breaking the cycle of poverty; and



**WHEREAS,** North Carolina Cooperative Extension in Henderson County engages with rural and urban learners through practical, community-based and online approaches, resulting in acquisition of knowledge, skills and motivation to strengthen the profitability of animal and plant production systems, protect natural resources, help people make healthful lifestyle choices, ensure a safe and abundant food supply, encourage community vitality and prepare the next generation of leaders;

**NOW, THEREFORE, BE IT RESOLVED,** that we, the Henderson County Board of Commissioners:

Recognize the significance of the Smith-Lever Act to the establishment of Cooperative Extension nationwide; and

Encourage the people of Henderson County to observe and celebrate the centennial with a focus on congratulating the accomplishments of the past 100 years and ensuring a thriving future for Cooperative Extension; and

Honor the local Extension Agents and university faculty who dedicate careers to providing trusted education to help people, families, youth, businesses and communities solve problems, develop skills and build a better future; and

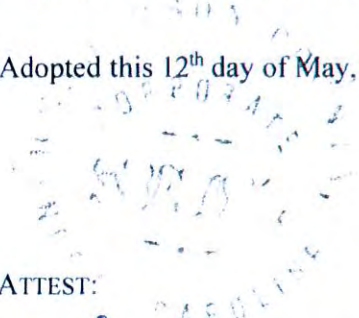
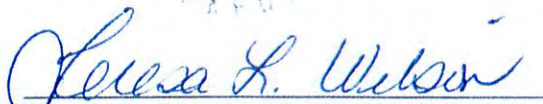
Thank Cooperative Extension volunteers who provide thousands of hours to promote excellence for 4-H, Master Gardeners, family and consumer sciences and other programs in their communities; and

Encourage continued collaboration and cooperation among federal, state and local governments to ensure Cooperative Extension's sustainability as the nation's premiere non-formal educational network; and

Celebrate millions of youth, adults, families, farmers, community leaders and others who engage in Cooperative Extension learning opportunities designed to extend knowledge and change lives.

Adopted this 12<sup>th</sup> day of May, 2014.

ATTEST:

  
  
TERESA L. WILSON, CLERK TO THE BOARD

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



## **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 -2014-01; 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 May 12, 2014; 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 -2014-01– Dyer Property LLC Rezoning) 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 November, 2013.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: Charlie Messer  
CHARLIE MESSER, Chairman

ATTEST:

Terry Wilson  
Terry Wilson, Clerk to the Board

[COUNTY SEAL]







Fletcher Warehousing Co

Howard Gap Rd

Old Hendersonville Rd



Rezoning Application  
R-2014-01  
Matthew Dyer, Applicant



**RESOLUTION DECLARING PERSONAL PROPERTY AS SURPLUS  
AND AUTHORIZING THE SALE OF SURPLUS PROPERTY  
BY ELECTRONIC PUBLIC AUCTION**

**WHEREAS**, Henderson County owns the Vehicles and Equipment itemized on the attached Exhibit B, hereinafter referred to as "surplus property", that is either obsolete or no longer needed for any governmental use by the County; and

**WHEREAS**, the Henderson County Board of Commissioners is desirous of declaring the Vehicles and Equipment as surplus and selling at a public auction as authorized by NCGS 160A-270; and

**WHEREAS**, it is the intent of the County to sell said surplus Vehicles and Equipment by electronic public auction at [www.govdeals.com](http://www.govdeals.com) or [www.publicsurplus.com](http://www.publicsurplus.com).

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

1. The Vehicles and Equipment itemized on the attached Exhibit B is hereby declared to be surplus property.
2. The Purchasing Agent is hereby authorized to sell by electronic auction at [www.govdeals.com](http://www.govdeals.com) or [publicsurplus.com](http://publicsurplus.com) the surplus property described above to the highest bidder.
3. All surplus property will be sold "as is", all sales final, cash, certified check or money order only. Henderson County makes no express or implied warranties of merchantability of any surplus property, or part thereof, or its fitness for any particular purpose regardless of any oral statements that may be made concerning the surplus property or any part thereof.
4. A notice summarizing this Resolution and the sale of the surplus property by electronic public auction shall be advertised by the Purchasing Agent on the County's website at [www.hendersoncountync.org](http://www.hendersoncountync.org) at least ten (10) days prior to the public auction.

THIS the 12th day of May, 2014.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

BY: \_\_\_\_\_

Charles Messer, Chairman

ATTEST:

  
\_\_\_\_\_  
Teresa L. Wilson, Clerk to the Board

[OFFICIAL SEAL]

**Exhibit B**

**List of surplus vehicles:**

| <u>DEPARTMENT</u> | <u>Year</u> | <u>Make</u> | <u>Model</u> | <u>HC#</u> | <u>VIN#</u>       | <u>Asset#</u> | <u>Mileage</u> | <u>Surplus Info</u> |
|-------------------|-------------|-------------|--------------|------------|-------------------|---------------|----------------|---------------------|
| Sheriff           | 2005        | Dodge       | Durango      | SH-313     | 1D4HB38N65F578934 | 11713         | 125,981        | Rack & Pinion Bad   |
| Sheriff           | 2008        | Ford        | Mustang      | SH-116     | 1ZVHT82H785171075 | 13476         | 102,809        | Transmission Issue  |
| Sheriff           | 2009        | Dodge       | Charger      | SH-233     | 2B3KA43T19H607828 | 14064         | 84,536         | Wrecked             |
| Sheriff           | 2002        | Chevrolet   | Impala       | SH-107     | 2GIWF55K429221943 | 12088         | 75,329         | Paint/Age           |
| Sheriff           | 2007        | Dodge       | Charger      | SH-268     | 2B3KA43G37H736699 | 12492         | 100,081        | High Mileage        |
| Sheriff           | 2008        | Dodge       | Charger      | SH-204     | 2B3KA43H88H206061 | 13362         | 113,493        | High Mileage        |
| Sheriff           | 2007        | Dodge       | Charger      | SH-274     | 2B3KA43G67H736700 | 12486         | 98,157         | High Mileage        |

**List of surplus equipment:**

| <u>Equipment</u>  | <u>Make</u> | <u>Model</u> | <u>Asset#</u> | <u>Condition</u> |
|-------------------|-------------|--------------|---------------|------------------|
| Propane Generator | Onan        | 7.5 GenSet   | 2924          | Unknown          |
| Propane Generator | Onan        | 7.5 GenSet   | 2925          | Unknown          |





## Resolution Honoring Lt. Jeff Patterson For 25 Years of Law Enforcement Service and Awarding Him His Badge and Sidearm



**WHEREAS**, Lt. Patterson joined the Henderson County Sheriff's Office as a Deputy on July 26, 1993 and held the ranks of Corporal, Sergeant, and Lieutenant; and

**WHEREAS**, Lt. Patterson's service and dedication to the Henderson County Sheriff's Office and service, dedication and accomplishments in the field of law enforcement during his 25 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**, Lt. Patterson has served as a member of the Henderson County Sheriff's Office for a period of more than 20 years and is retiring from the Henderson County Sheriff's Office on April 10, 2014; and

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

1. Sheriff Charles McDonald is hereby authorized in accordance with the provisions of N.C.G.S. 20-187.2 to transfer to Lt. Patterson the badge worn by him during his service with the Henderson County Sheriff's Office; and
2. Sheriff McDonald is hereby authorized in accordance with the provisions of N.C.G.S. 20-187.2 to transfer to Lt. Patterson his service sidearm at no cost to the officer and upon his 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 Lt. Patterson for his dedicated service to Henderson County and its citizens.

Adopted this the 12th day of May, 2014.

Handwritten signature of Chad McDonald in blue ink.

CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

Handwritten signature of Terasa K. Wilson in blue ink.

CLERK TO THE BOARD

**RESOLUTION DECLARING PERSONAL PROPERTY AS SURPLUS  
AND AUTHORIZING THE DISPOSITION OF PERSONAL PROPERTY  
BY PRIVATE SALE**

**WHEREAS**, Henderson County owns the Motorcycles itemized on the attached Exhibit B, hereinafter referred to as "surplus property", that is either obsolete or no longer needed for any governmental use by the County; and

**WHEREAS**, the Henderson County Board of Commissioners is desirous of declaring the Motorcycles as surplus and selling via private sale to the NC Department of Transportation as authorized by NCGS 160A-274; and

**WHEREAS**, it is the intent of the County to sell said surplus Motorcycles

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

1. The Motorcycles itemized on the attached Exhibit B are hereby declared to be surplus property.
2. The Purchasing Agent is hereby authorized to dispose by private sale, the surplus property described above in the amount of \$6,097.50.
3. All surplus property will be sold "as is", all sales final. Henderson County makes no express or implied warranties of merchantability of any surplus property, or part thereof, or its fitness for any particular purpose regardless of any oral statements that may be made concerning the surplus property or any part thereof.

**THIS** the 12th day of May, 2014.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

BY:   
Charles Messer, Chairman

**ATTEST:**

  
Teresa L. Wilson, Clerk to the Board

[OFFICIAL SEAL]



Exhibit B

List of surplus motorcycles:

| <u>DEPARTMENT</u> | <u>Year</u> | <u>Make</u> | <u>Model</u> | <u>HC#</u>  | <u>VIN#</u>       | <u>Asset#</u> | <u>Mileage</u> | <u>Surplus Info</u> |
|-------------------|-------------|-------------|--------------|-------------|-------------------|---------------|----------------|---------------------|
| Sheriff           | 2009        | BMW         | R1200<br>RTP | SH-<br>414M | WB10388029ZT14801 | 14153         | 5,894          | Fair                |
| Sheriff           | 2009        | BMW         | R1200<br>RTP | SH-<br>415M | WB10388029ZT14801 | 14152         | 11,771         | Fair                |



**Before the  
Board of Commissioners  
Of Henderson County**

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**A RESOLUTION REGARDING  
INVOCATIONS AT MEETINGS  
OF THE BOARD OF COMMISSIONERS**

**Adopted 12 May 2014**

1           **WHEREAS**, Henderson County, the State of North Carolina, and the United States of America all have a  
2 rich religious heritage deserving of celebration and observance; and,

3           **WHEREAS**, opening meetings of the Board of Commissioners and other legislative bodies with an  
4 invocation seeking guidance from the Divine has become over the United States' history a part of the fabric of our  
5 society in Henderson County and elsewhere, and generally has a salutary effect on such meetings and its participants;  
6 and,

7           **WHEREAS**, the United States Supreme Court has determined recognition "that, since this nation was  
8 founded and until the present day, many Americans deem that their own existence must be understood by precepts  
9 far beyond the authority of government"; and,

10           **WHEREAS**, the purpose of such invocations has not been, is not and should not be to proselytize or  
11 advance or any one faith or belief, nor to disparage any faith or belief, but rather to focus the participants of meetings  
12 of the Board of Commissioners on their greater purposes, and to invoke guidance from a source other than the  
13 immediate concerns at hand; and,

14           **WHEREAS**, the United States Supreme Court, in *Town of Gree v. Galloway*, has given indication that such  
15 invocations are permitted and proper, in circumstances where an elected body invites religious leaders from its area  
16 to provide invocations without any preference to their denomination, in a manner "designed to foster widespread



1 participation throughout the community” while solemnizing the occasion of the meeting, “expressing confidence in  
2 the future, and encouraging the recognition of what is worthy of appreciation in society”; and,

3 **WHEREAS**, the Board of Commissioners does not desire to require participation by those who attend its  
4 meetings in its invocation should such those in attendance not wish to participate, does not desire to inhibit the  
5 expression of any of the diverse religious views held by congregants within Henderson County.

6 **NOW, THEREFORE, IT IS RESOLVED** as follows:

7 A. At or immediately prior to the call to order for the conduct of public business of regular meetings  
8 of the Board of Commissioners, there shall be held an invocation, followed by the pledge of allegiance to the United  
9 States of America, inviting only those in attendance who wish to do so to participate.

10 B. The invocation shall be led by leaders of religious congregations worshipping in Henderson County,  
11 according to their beliefs, within the parameters set out in this paragraph. Such congregational leaders shall be  
12 invited by the Board to provide such invocations for Board meetings as stated below, in order to celebrate the rich  
13 and diverse religious heritage of Henderson County. The only guidance provided to such congregational leaders in  
14 their invocation shall be:

15 (1) Invocations should be intended to focus the participants of such meetings on their greater  
16 purposes, and invoke guidance from a source other than the immediate concerns at hand; and

17 (2) Invocations should be relatively brief, and should not be directed to any particular issue  
18 pending before the Board; and

19 (3) Invocations must not be intended to advance or any one faith or belief, or to disparage any  
20 other faith or belief.

21 C. No one attending such meeting, whether member Board, county employee, or any other person,  
22 shall be required to participate in any prayer that is offered, or to recite the pledge of allegiance.





1           D.       Annually after the establishment of the regular meeting schedule for this Board, the Clerk to the  
2 Board shall send an annual invitation letter to the congregations worshipping within Henderson County. Such  
3 invitation shall include a copy of this Resolution. The listing of such congregations shall be obtained from sources  
4 reasonably available to the Clerk, including telephone listings, and shall also include Henderson County congregations  
5 which have informed the Clerk of their desire to participate. The invitation will request that the congregational  
6 leader contact the Clerk to schedule their participation. Participation shall be on a "first to respond, first to be  
7 scheduled" basis, and shall be scheduled by the Clerk in such a manner.

8           E.       The list of congregations to whom the invitation letter is sent, and the list of scheduled invocations  
9 kept by the Clerk, shall be available for public inspection.

10          F.       Should a person scheduled to provide an invocation not be present at the scheduled time and place  
11 for the same, or should no person be scheduled for a particular meeting, a member of the Board or other person  
12 designated by the Board may provide such invocation on the same terms as stated above.

13          G.       This resolution is effective upon adoption.

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Made by adopted motion of the commission, the 12<sup>th</sup> day of May, 2014.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: Charles D. Messer  
CHARLES D. MESSER, Chairman

By: \_\_\_\_\_  
THOMAS H. THOMPSON, Vice Chairman

By: \_\_\_\_\_  
LARRY YOUNG, Member

By: \_\_\_\_\_  
J. MICHAEL EDNEY, Member

By: \_\_\_\_\_  
GRADY HAWKINS, Member

ATTEST:

Shirley L. Wilson  
Clerk to the Board

