

DRAFT

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
FRIDAY, MAY 5, 2017

The Henderson County Board of Commissioners met and continued the May 1st recessed meeting at 11:50 a.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

Those present were: Chairman Mike Edney, Vice-Chairman Grady Hawkins, Commissioner Tommy Thompson, Commissioner Charlie Messer, County Manager Steve Wyatt, Assistant County Manager Amy Brantley and Clerk to the Board Teresa Wilson.

Present via phone: Commissioner William Lapsley

Also present were: Engineer Marcus Jones, Management Assistant Megan Powell, Director of Business and County Development John Mitchell, Central Services and Construction Manager David Berry, Assistant Engineer Natalie Berry – videotaping, Deputy Ken McCraw as security.

CALL TO ORDER/WELCOME

Chairman Edney reconvened the meeting and welcomed all in attendance. He stated the purpose of this portion of the meeting was to discuss the Hendersonville High School project.

HENDERSONVILLE HIGH SCHOOL PROJECT

Chairman Edney stated last night the City Council voted 3-2 to rezone the combined property and approve the required special use permit, and to close the portion of Ninth Avenue West in the City of Hendersonville between Church Street and Oakland Street. The City's zoning ordinance requires either a 4 vote "super majority" or a unanimous vote to accomplish final passage on first reading. As a result, a second vote was required. As the City Council was already having a separate meeting this morning, they determined to hold the second vote then. Apparently the Board held closed discussions, leading to the seeking of conditions granting the City more assurances from this Board and the Board of Education as to the future of the Stillwell building.

County Manager Steve Wyatt agreed that was the crux of it. County Attorney Russ Burrell and John Mitchell attended the City Council's meeting this morning.

Chairman Edney reiterated that this Board went on record some months ago to do whatever is necessary to at least bring the Stillwell building to a preservation point, until such time that the Board of Education could make some determination of what use they wanted of the building.

Steve Wyatt reminded everyone that in the January work session, it was the consensus of the Board to set aside \$1m in the upcoming budget should the plan move forward to begin the preservation process for the Stillwell building.

Chairman Edney questioned if City Council was looking for a letter, a motion, for conditions...what are they looking for?

Attorney Russ Burrell explained that unlike the vote at last evening's meeting, which imposed no conditions on the special use permit required for the school construction, this morning when City Council came out of closed session they announced they would grant a Special Use Permit subject with a condition that the Board of Commissioners preserve and maintain for public use the Stillwell building. The addition of the condition on the special use permit as a part of the second vote effectively makes this a new vote that starts

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the first reading/second reading process again. Mr. Burrell and the City Attorney conferred in an attempt to be able to provide both boards with a situation where, if the applicants (County and Board of Education) entered into some agreement with the City, no special condition on the special use permit (and therefore not additional vote on the new conditions) would be required. City County intends to reconvene their meeting 1:30 p.m.

After a conference between Russ Burrell and the City Attorney this morning, a draft letter, intended to be sent from the Board of Commissioners and Board of Education to City Council, was sent to Russ Burrell. What it purports to do is set out the Board of Commissioners' agreement in much greater detail and depth as to the preservation of the Stillwell building at Hendersonville High School

The letter is based around the facts of construction financing by Henderson County. When the County borrows money that is secured by collateral, conditions regarding the maintenance of the collateral for the loan are included in the financing package. Effectively the proposed letter would require Henderson County for the period of financing or a period of 20 years, whichever occurs last, to maintain the property.

Commissioner Thompson said it is his understanding that the School Board now owns the block of Hendersonville High School. In order for the County to get financing it must be deeded to us. We own the Boyd Property and the Board of Education owns the Stillwell Building, therefore the property is already split.

Russ Burrell responded to obtain the special use permit the City's ordinance requires the owner combine all properties together. In this construction, the new proposed structure actually sits on the current line between the parcels.

Commissioner Thompson feels the City passed everything last evening and over the evening they decided they wanted to put conditions on there and make sure that they had more control over the situation. He asked Mr. Burrell if the City votes today 3-2 are they able to change their vote or are do they have to go back and start the process again with these conditions.

Russ Burrell responded that if in fact there is a condition placed on this special use permit in today's vote that would be treated as the first vote, not the second vote. Another meeting would be necessary for a second vote.

Commissioner Thompson feels the draft letter is not anything of evidentiary nature, but the City saying that if Henderson County agrees to their conditions that Henderson County agrees and promises for the term of the initial financing (anticipated for 20 years) to maintain the building even if the loan is paid off early. The County is very proactive is trying to refinance, pay off debt, and pay off loans early. If we have a twenty year loan and we pay the loan off in 14 years, agreeing to do what they have asked, we still are subject to continuing to maintain the building for another 6 years. Commissioner Thompson has a problem with this.

Amy Holt, Chair of the School Board, was present in the meeting.

Chairman Edney stated the special use requires the entire parcel to be combined forever for the special use. Therefore the Stillwell building could not be sold without amending the special use permit...even 100 years from now. This also includes the parking lot on Fleming Street. It would all be one parcel. He questioned if the County's practice is that whenever it is paid off everything goes to the Board of Education.

Russ Burrell stated usual practice depends on how the property was initially acquired. If it was acquired by the County prior to a school being constructed on it, the County would retain ownership, and rent it to

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the School Board for one dollar per year. If we acquired the property from the Board of Education, it would be conveyed back to them after the financing was paid in full. How we deal with the property (combining once parcel originally acquired by the Board of Commissioners with one originally acquired by the Board of Education) is an unknown. The two boards will need to meet and discuss this.

Chairman Edney stated in theory we could be in a position where it's paid off and we can't sell it, don't want to do anything with it so it just sits there and rots.

Russ Burrell stated this is a possibility although it is not likely and well out into the future.

Commissioner Thompson explained that at no time has this Board ever said the word we want to sell. We have always said we were going to keep the Stillwell building.

Commissioner Messer had a problem with the conditions in the draft letter. The Board has always stated we want to keep the Stillwell building and have the School Board determine the use of the building.

Chairman Edney stated at the City's meeting last night, Councilman Smith was offended that Henderson County has not asked his opinion as to the design of the Hendersonville High School facility.

Commissioner Hawkins responded it is not the City Council's charter to design the building the County is working on. The only thing the County asked them to do was the rezoning and closing of the street. Mr. Hawkins does not understand why the City Council continues to be jerked around by a small group of people and start sticking stipulations in on the meeting after they had already had it last night, and today there are more stipulations on what they feel like needs to happen with the building that has nothing to do with the construction of a new high school. Mr. Hawkins is not in favor of Henderson County making a commitment for twenty to preserve a historic building. If the City wants the Stillwell building so bad, let them buy it from the Board of Education, they are the ones who own it, and put their (City) money where their mouth is rather than sitting down there delaying a project that doesn't have anything as a purpose other than this Stillwell building. There are 13,000 students in the school system that we need to be concerned about having a facility to get an education in. As far as Mr. Hawkins is concerned this request can be sent back to the City Council and tell them to either vote the thing up or vote it down and quit delaying the project.

Commissioner Lapsley agrees with the other commissioners. He does not support any kind of motion to put any stipulation on the special use permit. The City needs to vote it up or down and the project needs to move on.

Commissioner Lapsley had to end his telephone connection to the meeting.

Chairman Edney asked Russ Burrell if there were stipulations, would the Board of Education and the third party property owner (owner of parking lot) have to concur.

Russ Burrell stated affectively if this were a stipulation and a condition to the permit, yes they would have to concur. Given the way this is framed here they would not. The Board of Education would have to concur.

Commissioner Messer asked the County Manager if Henderson County is 5 years out on finishing the project.

County Manager Steve Wyatt responded we are probably 2.5 to 3 years out on finishing the project. We have suspended the architectural design at this point. If we start right now you are looking at fall of 2020.

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The pertinent issue is the cost. The numbers we are getting from folks in the construction field are saying that construction costs are increasing "10 % is a nice round annual number," so delays in a project of around \$52m cost us an additional \$5m. Delaying the project even by a matter of months has the potential to make us either pair back the scope some or it could be more expensive.

Chairman Edney offered the floor to Chair of the Board of Education Amy Holt for comments.

Chair Holt stated she is uncomfortable with the terms and binding of the stipulations. Having to go through another entity to get approved and they want to do in the future is not acceptable, whether it be her or another new board member. It is not fair for us to tie future board members to a decision right now. Mrs. Holt is comfortable with the commitment the Board of Commissioners has already given the Board of Education to help preserve the Stillwell building. Mrs. Holt explained that the School Board had not had a meeting and she was speaking for herself. If down the road the School Board decided to get rid of the Stillwell building, they would have to depend on another board (City Council) to agree with the School Board's decision to do whatever they want to do with it is not right. It is the School's building.

Chairman Edney asked Russ Burrell if there is a standard set of financing conditions that could be shared with the City.

Russ Burrell responded the City has them as well already. They are subject to them in their own financing...almost identical.

Chairman Edney stated it sounds like the City is wanting to become a player without putting any skin in the game.

Commissioner Hawkins made the motion that the Board return this stipulation to the City Council and tell them that we don't see any correlation between the Stillwell building's future use and the construction of a new high school that we have already set a course on and make adequate commitments to the Board of Education to work with them for the future of the Stillwell building.

As the County Manager has pointed out we have over \$1m earmarked in the budget this year to preserve the building, particularly while construction is ongoing. The Board of Commissioner would appreciate it if the City Council would get on with the business that deals with the granting of the special use permit and rezoning rather than try to figure out what to do with the Stillwell building.

Russ Burrell translated the motion to...A motion not to accept further conditions on this special use permit application.

Commissioner Hawkins amended his motion that the Board not accept further conditions on this special use permit application.

Commissioner Thompson feels that the community as whole doesn't care what happens other than the fact that they want the commission to spend money wisely and provide the children with a proper education. The Commissioners represent everyone in Henderson County. No matter how the Commissioners vote they are voting against the desire of the overall populous since the majority of people really don't care. When you get outside the boundaries of the City of Hendersonville, the alumni of Hendersonville High School and those presently attending the school, the majority of the County thinks that this is comical and again don't care what is done. Quite frankly many of them would love to see the whole thing just fall apart.

Commissioner Messer agrees with the motion with no strings attached.

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Chairman Edney agrees with the motion because he doesn't feel it is proper to add a condition.

Commissioner Thompson asked Chair Holt what her vote would be if she were a commissioner.

School Board Chair Amy Holt agrees the stipulations are wrong. The Stillwell building is their building should they decide to take out the auditorium, it is their decision. There are no plans for any demolition. They should just not have to go to another entity for permission. Mrs. Holt would vote in favor of the motion.

Commissioner Thompson called to question.

All voted in favor of the motion (4-0) and the motion carried.

Chairman Edney reiterated the same commitment the Commissioners have made to the School Board in the past that we intend to preserve and protect the Stillwell building and work hand and glove with the School Board for the uses of that building.

Commissioner Thompson asked that Chairman Edney and Vice-Chairman Hawkins represent the Commissioners at the City Council meeting at 1:30 p.m. (along with any necessary staff) this afternoon and make them well aware of the Board's intent and let the Commissioners know how the meeting went at their earliest convenience.

Chairman Edney noted he would be present at the 1:30 meeting of the City Council.

Commissioner Hawkins made the motion to adjourn at 12:45 p.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

J. Michael Edney, Chairman