

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
DECEMBER 16, 1998

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Grady Hawkins, Vice-Chair Bill Moyer, Commissioner Renee Kumor, Commissioner Don Ward, Commissioner Marilyn Gordon, County Manager David E. Nicholson, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

Also present were: Finance Director J. Carey McLelland, Planning Director Matt Matteson, Staff Attorney Jennifer O. Jackson, and Fire Marshal Rocky Hyder.

Absent was: Assistant County Manager Angela S. Beeker.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Gordon led the Pledge of Allegiance to the American Flag.

INVOCATION

David Nicholson lead the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Hawkins added one item that was inadvertently omitted from the agenda, under Pending Issues as #4 "Fire and Rescue". The background information had already been presented to the Board members for their review.

David Nicholson added one item as #5 under Pending Issues, "Alliance for Human Services".

Mr. Nicholson also informed the Board that the Tax Collector's Report was received late and it will be on the next meeting agenda

INFORMAL PUBLIC COMMENTS

Chairman Hawkins informed those present that we would try to hear as many of those who had signed up to speak as we could. Our rules of procedure allow for about 20 minutes of public input. He asked that speakers limit their comments to about three minutes. He also asked that the audience refrain from applause as we could proceed with more speakers and hear more people's comments. He asked the Clerk to call the names of those who had signed up.

1. Mike Kirchen - Mr. Kirchen is a resident of Cold Creek Estates just off of Hutch Mountain Road. He spoke in opposition to the proposed racetrack. Mr. Kirchen stated that the Board could fix this

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in five minutes by having a motion to exercise one of the five statutes available to prohibit the racetrack. If the Board can't or won't do this he asked for a reason why not. He handed the Clerk a petition with 550 more signatures opposing the racetrack. (Over 1,000 signatures had been presented previously.)

2. Gene Ronning - Mr. Ronning is a resident of 325 Whispering Hills Drive. He stated that he is President and Chairman of the Board of the Whispering Home Owners Assn. and is also a member of the Steering Committee of the North Henderson County Communities Association. He spoke in opposition to the proposed racetrack. He listed several reasons for not locating the racetrack at this location: Park Ridge Hospital, a Retirement Center, a Seventh Day Adventist Church and Fletcher Academy.

3. Anthony Peranio - Mr. Peranio is a resident of 127 Sir Galahead Drive. Mr. Peranio stated that he is a licensed professional engineer here in North Carolina. His comments were written as an engineer. But he is also a disturbed and questioning citizen. He spoke in opposition to the proposed racetrack. He stated that the Board could use ordinances already in existence to put a stop to the racetrack. If you will not do so, then why not? He had reviewed the draft Noise Ordinance and felt that it is flawed beyond rescue in its ability to protect the public. He offered his assistance free of charge to consult with the Board regarding clearing up this problem.

4. Janis Moore - Ms. Moore is a resident of 574 Howard Gap Road. She is a member of the North Henderson County Communities Assn. Steering Committee. She spoke in opposition to the proposed racetrack. She stated that the number of people who will be adversely affected by this track within a close proximity of two miles, 2,900 residences, 7 Churches, 39 Villas, and 130 residents at the Fletcher Park Inn with another 100 residents at Heritage Hills, 6 assisted living centers and nursing homes, group homes, and the hospital and over 300 children at Captain Gilmer Grade School and Fletcher Academy.

Present with Ms. Moore were three students from Fletcher Academy who all were opposed to the proposed racetrack: Sam Shaffer, Sara Yingling, and Natalie Moore. They discussed their concerns, the primary concern was noise and how it would interfere with school activities including worship and studying.

5. Sam Shaffer - Ms. Shaffer spoke above.

6. Diane McHeffey - Ms. McHeffey owns a business in the area of concern. She informed the Board that there is a NC Statute that gives the Board the right to cancel the whole racetrack project based on the welfare and the concern of the individuals in the area for the safety of individuals, particularly at the hospital. She talked too about the need for much filling of property for the racetrack to be built and the negative impact that would have on homes and businesses adjacent to the property in question.

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7. Pastor Arnold Guedrich - Pastor Guedrich stated he was a 20 year resident of Henderson County. He lives atop Whispering Hills. He spoke in opposition to the proposed racetrack.

Chairman Hawkins stated that we had had a liberal 20 minutes of public input. He asked the Board's pleasure at extending the time period. It was the consensus of the Board to hear the rest of the speakers.

8. Gerald Nash - Mr. Nash is President of Fletcher Academy Corporation. He lives on the campus. He felt that there must be a more reasonable location for the racetrack than the site chosen. Mr. Nash repeated some history of the area. He spoke in opposition to the proposed racetrack. He addressed the business aspects of the project, stating that many other aspects could be considered.

9. Dorothy Freeman - Ms. Freeman talked about the flooding of the property in question and surrounding properties. She presented a written report from TVA (Tennessee Valley Authority). She talked about the flooding that Hendersonville will experience if and when this property is filled for a racetrack to be built, all the way back to Hwy. 25 South and Hwy 176 at the Bi-Lo Plaza (formerly Sky City Plaza).

10. Carl Niemack - Mr. Niemack represents the homeowners at Foxwood, 40 strong. They are residents of Stoney Mountain. He spoke in opposition to the proposed racetrack.

11. Clifton & Donna Sapp - Ms. Sapp stated that she and her husband have been residents of The Ledges for 1 year. She spoke in opposition to the proposed racetrack in the proposed location.

12. Kay Blackwell - Ms. Blackwell stated that NCGS 153A-121 says that a county may by ordinance define, regulate, prohibit, or abate emissions or conditions detrimental to health, safety, or welfare of its citizens and the peace and dignity of the county and may define and abate nuisances. She spoke of her concern also for the environmental situation on this property.

Chairman Hawkins informed Ms. Blackwell and others in the audience that this issue is coming up on today's agenda and told them that they might want to wait to hear the discussion and see what action might be taken. He also asked if everyone got a chance to speak who wished to speak. There were no additional speakers.

CONSENT AGENDA

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

The CONSENT AGENDA included the following:

Minutes

Minutes were presented for review and approval of the November 12, 1998 meeting.

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Notification of Vacancies

The Board was notified of the following vacancies which will appear under "Nominations" on the next agenda:

1. Henderson County Partnership for Children - 1 vac.

Capital Improvements Projects Reports

Monthly progress reports were presented for the Board's review of the following capital improvement projects:

1. Edneyville Library
2. Jail Project
3. Jackson Park Ballfield Repairs
4. Jackson Park Restroom Repairs
5. Tuxedo Community Park
6. Etowah Park Playground Project
7. Edneyville Park Restroom Repairs
8. Edneyville Park Playground Repairs
9. East Flat Rock Park Restroom Construction
10. Justice Academy Sewer Project
11. Mountain Home Industrial Park Sewer Project
12. Naples Interchange Sewer Project

NOMINATIONS

Chairman Hawkins informed the Board of the following vacancies and opened the floor to nominations:

1. Nursing/Adult Care Home Community Advisory Committee - 1 vac.

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

2. Henderson County Zoning Board of Adjustment - 4 vac.

One regular member (Kanuga area)

Three alternate members: East Flat Rock area
 Lake Summit area
 Bearwallow area

There were no nominations at this time so this item was rolled. Mr. Nicholson will ask for print-outs of the areas in question.

3. Hendersonville City Zoning Board of Adjustment - 1 vac. (Alternate)

Commissioner Ward nominated Steve Ambrose to serve as an alternate from the ETJ. Commissioner Kumor made the motion to suspend the rules and appoint Mr. Ambrose. All voted in favor and the motion carried.

4. Henderson County Hospital Corporation Board of Directors - 1 vac.

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Bill Blalock and Charlie Waters were both nominated at the last meeting. The Clerk polled the Board for one vote each from the two nominees:

Commissioner Ward	Blalock
Commissioner Kumor	Waters
Chairman Hawkins	Blalock
Commissioner Moyer	Blalock
Commissioner Gordon	Waters

Bill Blalock got three of the five votes cast. He will be the new member of the Board of Directors for the Henderson County Hospital Corporation.

5. Henderson County Travel & Tourism Committee - 4 vac.

Following discussion, Commissioner Moyer nominated Marilyn Gordon, Dennis Page, and Myra Wood.

Commissioner Gordon nominated Jim Hall.

Commissioner Kumor nominated Connie Backlund.

There was discussion and it was the consensus of the Board that Marilyn Gordon serve as the Commissioner member of the Travel and Tourism Committee.

The Clerk will poll the Board at the next meeting for the other four nominees, three vacancies.

PROPOSAL TO PROHIBIT PROPOSED RACETRACK

Don Elkins distributed several hand-outs from the NC General Statutes and/or case law and discussed each:

Article 2 of Section 24 of the NC Constitution - "The General Assembly shall not enact any local, private, or special act or resolution:

j) Regulating labor, trade, mining, or manufacturing.

Mr. Elkins' interpretation of this provision of the Constitution was that neither the General Assembly or a Local County can regulate labor or trade.

Case Law - Constitutional Law; Counties - Delegation of police power to the counties

Subject to constitutional limitations, the power of the General Assembly to delegate to county commissioners the authority to adopt ordinances in the lawful exercise of the police power is well established.

Mr. Elkins cautioned that any police power the Board has is subject to constitutional limitations. This ties back to the first hand-out.

Case Law regarding racing on a local basis.

Professional automobile and motorcycle racing as an employment or business engaged in for gain or profit within the meaning of Article II, Section 29, of the State Constitution, and therefore a statute applicable to one county alone which attempts to regulate professional racing rather than racing in general, is void as a local act regulating labor or trade.

This case was filed January 10, 1958 in Orange County, NC.

Don Elkins stated that if the proposed Noise Ordinance is to prohibit racetracks or racing as a trade in Henderson County, it was his opinion it would be void. He also believed that a one paragraph ordinance based on general health and welfare would be struck down by the courts.

Following discussion, Commissioner Moyer made the motion to direct staff to draft an ordinance to prohibit racetracks within four miles of a hospital, nursing home, school, or other similar type business or where the population has a density greater than x number of people per square mile, directing placement based on health, safety and welfare under the police powers of the Board of Commissioners. He asked that staff have this ready for the Board's consideration at the next meeting of January 4, 1999. All voted in favor and the motion carried.

LEASE OF PROPERTY ADJACENT TO BROADPOINTE CENTER

Jennifer Jackson reminded the Board that in April of 1997 and 1998, the Board approved a lease to Carland Farms, Inc. of approximately 28 acres of property located adjacent to Broadpointe Center. A map of the area was presented for review. The most recent lease was effective from April 1, 1998 through December 31, 1998 and allowed the Carland Farms, Inc. to continue to farm land it had farmed for many years.

Wayne Carland had requested that the Board consider leasing the tillable land to Carland Farms, Inc. From January 1, 1999 through December 31, 1999, for a rental amount of \$1,834.00. As the plans for the park areas will begin within 1999, Staff recommended that the Board lease the property to the Carlands as outlined in the draft lease. The lease agreement proposed was substantially similar to the current lease executed by the County and Carland Farms, Inc.

Pursuant to NCGS 160A-272 the County may adopt a resolution authorizing the execution of a lease agreement, such as the one proposed, without public notice. A draft resolution was presented and reviewed.

Commissioner Kumor made the motion that the Board adopt the presented Resolution. All voted in favor and the motion carried.

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RESOLUTION - Director Emeritus

The Board had requested earlier that staff develop a resolution appointing Mr. William Jamison as a Director Emeritus of the Henderson County Hospital Corporation. A draft copy of the resolution was presented for review and discussed.

The Board of Commissioners had expressed that they wished to recognize Mr. Jamison's commitment and loyalty to Pardee Hospital as well as many years of continued service.

Commissioner Moyer made the motion to adopt the Resolution with the accompanying cover letter, appointing Mr. Jamison as a non-voting member. All voted in favor and the motion carried.

FIRE INSURANCE DISTRICTS

Rocky Hyder presented a map to the Board, stating that it was the result of an 18 month effort by County Fire & Rescue Departments and the Land Records Office to describe fire districts by property line. Each Fire & Rescue Department has converted their respective district line from a point to point district boundary line to a district defined by property line. In cases where two fire districts meet, both districts approved district boundary lines. He informed the Board that some citizens located along district boundary lines will change fire districts if an adjoining fire district has better access to their property. Also, there will be citizens who were not in a fire district who are now in a fire district due to the conversion from point to point to property line. An appeal process has been established at the Land Records Office for citizens who are concerned with a change in fire district.

The Board was requested to approve the County fire districts by resolution for insurance grading purposes only. This will enable the county fire districts to meet the requirements set forth by the State Fire Marshal's Office (formerly the Department of Insurance).

Commissioner Kumor made the motion to approve the County fire districts by resolution for insurance grading purposes only. All voted in favor and the motion carried.

FIRE AND RESCUE ADVISORY BOARD

Rocky Hyder reminded the Board that they had requested that staff develop a Fire and Rescue Advisory Board. Mr. Hyder has contacted several other counties to solicit by-laws of their advisory committees. Based on this review, Mr. Hyder developed a set of by-laws for a Fire and Rescue Advisory Board.

Based on this suggested approach, this advisory board would have the responsibility to make recommendations to the Board of Commissioners on large capital purchases, legislative issues, annexations, and other administrative issues. The advisory board would also review the fire and rescue departments' annual budget requests and provide a recommendation on their funding to the Board of Commissioners.

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The Board of Commissioners was requested to review the by-laws and provide staff with direction on how to proceed with the development of this advisory board.

It was suggested that a change be made to Section 2, to lower the amount of capital or lease purchase expenditures from \$50,000 to \$25,000. It was the consensus of the Board to make this change. There was one other change made in Article III, Section 2.2 as follows "A member of the County Board of Commissioners or designee will serve on the Fire and Rescue Advisory Board" with the added language being "or designee".

Commissioner Moyer made the motion to accept as principal the establishment of this board pursuant to the draft by-laws presented and welcome comments/input from the public. All voted in favor and the motion carried.

RESOLUTION APPROVING THE RESULTS FROM THE SALE OF GENERAL OBLIGATION REFUNDING BONDS, Series 1998

Carey McLelland informed the Board that the sale of Henderson County's General Obligation Refunding Bonds, Series 1998 is set for Tuesday, December 15th. The Board of Commissioners will need to approve the results from the sale by resolution.

Since the results were not known until late on December 15th, Carey presented a resolution drafted by bond council. Mr. McLelland presented a savings report that detailed the results of our sale yesterday in Raleigh. He also distributed copies of the draft resolution which will confer the maturities and rates of interest to be born by the refunding bonds. Yesterday was a very good day for Henderson County in the sale of these bonds. The lowest bidder was First Union Capital Markets at a rate of 3.979%. When you compare that to the coupon rate on our outstanding bond issue for the schools and the community college, which were 6.5%, we're looking at a decline of about 2.5% average in interest that we would pay over the next 12 years. The average savings per year is \$125,205.05 over the next 12 years. The cumulative savings over 12 years is \$1,502,460.59.

Commissioner Moyer moved that the following resolution be adopted:

WHEREAS, the Local Government Commission of North Carolina has informed the Board of Commissioners of the sale of the County of Henderson \$18,570,000 General Obligation Refunding Bonds, Series 1998, dated December 15, 1998 (the "Bonds"), and that the contract of sale contemplates that the Bonds shall be payable and bear interest as hereinafter provided;

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

1. The Board of Commissioners approves the sale of the Bonds to First Union Capital Markets. The Bonds shall mature on June 1 in the years and principal amounts and bear interest

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from their date payable on June 1 and December 1 of each year commencing June 1, 1999 at the rates per annum, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1999	\$ 560,000	3.25%
2000	555,000	4.00
2001	560,000	4.00
2002	2,120,000	4.00
2003	2,085,000	4.00
2004	2,045,000	4.00
2005	2,005,000	4.00
2006	1,960,000	4.00
2007	1,920,000	4.00
2008	1,875,000	4.00
2009	1,825,000	4.25
2010	1,060,000	4.25

The provisions of the Board's resolution adopted on December 7, 1998 respecting principal payments are deemed amended to reflect the following schedule of principal payments.

2. The Chairman and Clerk of the Board of Commissioners, the County Manager and the Finance Director and other officers of the County are hereby authorized and directed to take all other actions necessary in connection with the sale and issuance of the Bonds and the effectuation of the purposes for which the Bonds are being issued.

3. This resolution shall become effective upon its adoption.

Commissioner Kumor seconded the motion, and the motion was adopted. The vote on the adoption of the resolution was as follows:

AYES: all
NAYS none

UPDATE ON PENDING ISSUES

This is an effort to keep the lines of communication open. It gives the Chairman an opportunity to bring the Board up to date on issues that occur between meetings. It also is the time he will ask for direction so that we can develop our public position on current and upcoming topics.

This is also an opportunity for Commissioners to report on related committee work and assignments.

The topics to discuss during this meeting are as follows:

Noise Ordinance Task Force

Jennifer Jackson informed the Board that the Noise Ordinance Task Force had their first meeting yesterday, almost a four hour meeting. They anticipate having a draft ordinance to the Board of Commissioners at the January 4 meeting. The members of the Task Force are:

Nippy Page, Chairman, Environmental Planner
Jennifer Jackson, Secretary
Mac Brittain, Attorney for the Sheriff's Dept.
George Bradshaw
David Purcell, Acoustical Consultant with Quality Environments of Asheville
Jack Lynch, representative from the League of Property Owners
Ken Cobb, Environmental Engineering Director for Park Ridge Hospital
Ken Adams, Chamber of Commerce designee, with SSEACO

Commissioner Moyer asked that a piece of this recommendation to the Board of Commissioners be how this would be enforced and what the cost of that enforcement would be. Mrs. Jackson stated that the Task Force has already started discussing these issues.

Juvenile Crime Prevention Council

David Nicholson had previously given the Board a synopsis of the new legislation which created both the state-wide office of Juvenile Justice as well as a local Juvenile Crime Prevention Council. They are taking bits and pieces out of different parts of state agencies and putting them under one group who has full responsibility for juvenile justice issues. It is not required that a Commissioner serve on this. A Commissioner is welcomed to serve if they would like. The Council must be established by January 1. He stated that a large number of these people are already currently serving that are designee positions. Letters have already gone out to some of these designee positions asking if they wish the Commissioners to appoint them or a designee. This is a brand new committee. There are \$5.4 million both in one-time expenses as well as recurring expenses tied to this program.

Mr. Nicholson explained that the Youth Services Advisory Committee is the group who handles CBA money. In a short period of time that group is going away. That money will be rolled into this money. Those are some of the designated positions.

He explained that the Youth Development Advisory Committee will also be rolled into this new group. This Committee is the Board's advisory committee to help with the operation of the emergency shelter.

He stated that initial letters have been mailed out to the Schools, the Sheriff, the District Attorney, the Court Counselors, Mental Health, Social Services, the Chief District Court Judge and the local Health Director. Once we start getting responses back we will bring this back to the Board on an agenda for responses as well as the other positions.

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Commissioner Moyer made the motion to adopt a resolution establishing the Juvenile Crime Prevention Council in Henderson County. All voted in favor and the motion carried.

School Maintenance

Chairman Hawkins called the Board's attention to a letter from Dr. Yeager to David Nicholson. The Board had been awaiting a reply from the Board of Education on some of the concerns with the maintenance program.

Chairman Hawkins called attention to the third paragraph where Dr. Yeager states he is trying to sort out a bad situation the best he can. The School Board has realized that the Board of Commissioners has a certain amount of monies available; therefore, that will be all the money they can get to spend on maintenance.

Update on Manufactured Home Park Ordinance

Matt Matteson stated that a meeting was held on November 20 when the Planning Board got into the meat of the proposed Manufactured Home Park Ordinance. There has been a lot of public input. The Ordinance has been reviewed from top to bottom by the current Planning Board. Some issues are still being discussed in detail.

Commissioner Moyer stated that his concern is the schedule from here. It doesn't appear that there will be any action on this until at least the end of January. This will allow very little time to get this back and do something. He feels that the process should be expedited, even if it requires special meetings by the Planning Board.

Commissioner Ward made the motion to request the Chairman to send a letter to the Planning Board to hold special meetings as needed, to have a draft to the Board of Commissioners by the Commission meeting of February 1.

Commissioner Kumor asked Mr. Matteson if the residents of Hoopers Creek had submitted a plan to request some zoning. Mr. Matteson stated that they have submitted a plan to the County as well as to the Town of Fletcher.

Commissioner Kumor asked "If Fletcher extends their ETJ and then zones some of this property, will that eliminate the remainder of the property outside the ETJ from being allowed to move through the process to be zoned as they have requested?" Mr. Matteson answered that the area they have submitted is about seven square miles. Somewhere in the neighborhood of two or three square miles would fall within the Fletcher ETJ, however that line has been defined or will be defined. As long as there is a majority of the people in the balance of that area that are interested in continuing with the County, then staff will pursue it as a normal new zoning application. Commissioner Kumor asked "There is no reason, based on the size, that the process will not continue for the remainder of the properties?" Mr. Matteson answered that he saw no reason for it not to continue. Commissioner Kumor - "So people don't have to be worried that if the property is divided from ETJ

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and county property that they still can trust that their process is moving forward in the county. Mr. Matteson - "Absolutely, as long as they meet that statutory one square mile and I think they have that in space". Mr. Matteson further stated that the Planning Board has adopted an informal policy that they would consider any petition for new zoning as long as it meets a 50% in favor formula.

Commissioner Gordon asked Mr. Matteson to explain the process for deciding what the zoning classifications will be in the proposed area. Mr. Matteson stated that they have a very simple petition form that they have used. The petition form asks are you for, against, or unsure and then there is a line that says what zone do you propose. Planning staff would indicate the types of zoning the petitioners want by symbols on a map. Once that is done it is presented to the Planning Board and the Planning Board makes a recommendation.

Commissioner Moyer stated that what has happened in reality is that the people come in and ask for zoning, RM-2 or whatever, and that is what they are given. He thinks that we are getting to the point where one of the rules will have to be if people come in and ask for zoning, staff will have to study it and make a recommendation as to the proper zoning for that area not just go ahead with what the group necessarily wants.

Following much discussion regarding Board of Commission policy, and taking into account the fact that we do have a comprehensive plan, it was the consensus of the Board to add this item of zoning to the agenda for the up-coming retreat for further Board discussion. If citizens ask for zoning, it should be done after study and for the best use of that land consistent with a comprehensive plan and other details.

Chairman Hawkins called a five minute recess.

Alliance for Human Services

The Alliance for Human Services Board requested that the County Commissioners amend the budget ordinance to extend the accreditation deadline for funding non-profit contributions to March 31, 1999 rather than the end of December.

The accreditation process is well underway. The committee has prepared a comprehensive accreditation packet (submitted for review) which was sent to the agencies in November. The first ten agencies to be accredited are those receiving county funding.

These ten agencies attended a training/informational session with the accreditation committee on December 2. The agencies were very positive about the process and potential benefit for our community. However both the agencies and the Alliance recognized that this accreditation cannot be completed by year-end if it is to be done in a realistic and credible manner.

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Mr. Henry Johnson, Accreditation Committee Chair, asked that the Board of Commissioners inform them and the agencies of the decision to extend the deadline as soon as possible.

Commissioner Moyer made the motion to amend the budget ordinance so payment can be made. All voted in favor and the motion carried.

IMPORTANT DATES

Chairman Hawkins stated that we need to add a public hearing for the Schedule of Values. David Nicholson stated that staff was not able to meet the deadline to get this on today's agenda. He suggested that the Board set a Public Hearing for 7 p.m. on January 4 on the Schedule of Values.

Commissioner Kumor made the motion to set a Public Hearing on the Schedule of Values for 7:00 p.m. on Monday, January 4. All voted in favor and the motion carried.

Mr. Nicholson reminded the Board that the Chamber of Commerce has indicated that they would like to meet with the Board to go over Economic Development guidelines. The Board was not ready to set that date and Mr. Nicholson asked the Clerk to add it as a reminder on up-coming dates on the calendar.

Mr. Nicholson informed the Board that the Jail Committee wished to meet with the Board to make a presentation. It was the consensus of the Board to set a Jail work session for Tuesday, January 19 from 3-5 p.m.

Mr. Nicholson reminded the Board that they should set a work session on the subdivision regulations.

Mr. Nicholson asked that any Commissioners wishing to attend the Legislative Conference at Research Triangle Park on January 14 & 15 let Mrs. Corn know so that she can make the reservations, etc.

Commissioner Kumor made the motion to appoint Chairman Hawkins as the voting delegate for Henderson County for the Legislative Conference on January 14 & 15. All voted in favor and the motion carried.

Chairman Hawkins asked for discussion regarding retreat dates and possible places. It was the consensus of the Board to request Mr. Nicholson to check on the Kellogg Center for the site for the retreat.

RACETRACK MORATORIUM PENDING ENACTMENT OF NOISE ORDINANCE

Jennifer Jackson reminded the Board that on November 18 they had ratified the previous adoption of a 90-day moratorium on the construction or operations of racetracks in Henderson County pending enactment of a noise ordinance. This moratorium ordinance as adopted was presented for review.

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Staff had reviewed the Ordinance and had recommended some amendments to strengthen the moratorium. Mrs. Jackson presented those amendments to the Board for their consideration. The Moratorium is in effect now and is due to expire at midnight on February 9. The items Mrs. Jackson presented were just clean-up items.

The County Attorney had reviewed the newly revised Ordinance and recommended approval as to form.

Commissioner Kumor made the motion to adopt the "Amended and Restated Ordinance Imposing a Moratorium on the Construction or Operation of Racetracks in Henderson County". All voted in favor and the motion carried.

TRAVEL & TOURISM - Memorandum of Understanding

Bill Moyer informed the Board of Commissioners that the Travel & Tourism Committee has been discussing several changes to the Memorandum of Understanding between the City of Hendersonville and Henderson County. Hendersonville Mayor Fred H. Niehoff, Jr. has proposed several changes in the organizational structure including adding membership from the other municipalities. Mayor Niehoff's proposal had been submitted to the Board of Commissioners for their comments.

Also submitted and reviewed was a copy of the 1987 local act which authorizes the Board of Commissioners to establish the room occupancy tax and create the Travel & Tourism Committee.

Mr. Moyer reviewed the Draft Memorandum of Understanding explaining each recommended change. On page 1, #2 (a) addition of "The Council shall consider recommendations by the Town Council of Laurel Park and the Village Council of Flat Rock".

#2 (b) addition of "The Board shall consider recommendations by the Town of Fletcher".

On page 2, #3 add the following after "Members shall serve no more than five consecutive years."
- "The Henderson County Board of Commissioners will appoint one of the nine members to act as Chairman for each one year term or they may delegate that responsibility to the Travel & Tourism Committee".

Commissioner Moyer made the motion that the Board adopt the Memorandum of Understanding with the proposed changes. A vote was taken and the motion carried four to one with Commissioner Kumor voting nay. Commissioner Kumor felt that one year service with consecutive five years creates a very weak board and if it is that board's responsibility to hire and/or fire the director, the Board of Commissioners should change their terms of service to allow for more continuity.

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BEAVER MANAGEMENT PROGRAM

The State's Beaver Management Assistance Program has been expanded to serve all North Carolina Counties. However, each county must contribute \$4,000 towards the program in order to secure state participation.

The North Carolina Wildlife Resources Commission had supplied minutes from the advisory board, their annual report and a copy of Senate Bill 1366. This information should give the Board a sense of the activities associated with this program.

Mr. Nicholson had spoken to Mrs. Joy Staton with the Cooperative Extension Service. According to their apple and ornamental agents, several county farmers have sustained damage to their crops caused by beavers over the past few years. Mrs. Staton provided the Board with a letter of support for this program.

The deadline for applying for this program is December 31, 1998. The Board was asked to decide if they wished to participate in this program by providing the \$4,000 contribution to the Beaver Management Assistance Program.

After much discussion, it was the consensus of the Board to address this issue during budget deliberations. This program had not been available to Henderson County previously. It will likely be available to the County if we wish to participate in the next fiscal year.

CLOSED SESSION

Commissioner Ward made the motion for the Board to go into Closed Session pursuant to NCGS 143-318.11 to discuss the following:

1. (a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to the following judicial action:

Multimedia Publishing of North Carolina, Inc., d/b/a Asheville Citizen Times Publishing Company, a North Carolina Corporation v. Henderson County and Henderson County Board of Commissioners (Henderson Co. File No. 98-CVS-1630).

All voted in favor and the motion carried.

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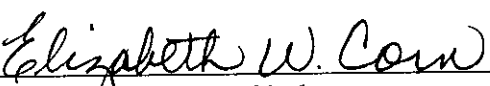
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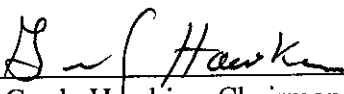
Commissioner Kumor made the motion for the Board to go out of Closed Session. All voted in favor and the motion carried.

There was no action following Closed Session.

Chairman Hawkins adjourned the meeting at 1:02 p.m.

ATTEST:


Elizabeth W. Corn, Clerk


Grady Hawkins, Chairman

HENDERSON COUNTY BOARD OF COMMISSIONERS

100 North King Street
 Hendersonville, North Carolina 28792-5097
 Phone 828-697-4808 • Fax: 828-698-6183

TDD: 828-697-4580
 www.henderson.lib.nc.us/county

GRADY HAWKINS
 Chairman
 BILL MOYER
 Vice-Chairman

RENEE KUMOR
 DON WARD
 MARILYN GORDON

RESOLUTION**STATE OF NORTH CAROLINA****COUNTY OF HENDERSON**

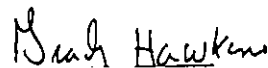
Upon motion by Commissioner William Moyer, **BE IT RESOLVED** that the Henderson County Board of Commissioners approves the boundary lines of all the following Fire Districts for insurance grading purposes only.

Bat Cave	Blue Ridge	Dana	Edneyville
Etowah-Horse Shoe	Fletcher	Gerton	Green River
Mills River	Mountain Home	Saluda	Valley Hill
Vally Hill II			

The boundaries of the above referenced Fire Insurance Districts follow tax property lines described in the Henderson County Land Records Office.

NORTH CAROLINA**HENDERSON COUNTY**

This is to certify that the foregoing is a true and accurate copy of an excerpt from the Minutes of the Board of County Commissioners of Henderson County, adopted this the 16th of December 1998.



Grady Hawkins, Chairman

ATTEST:



Avalina B. Merrill, Acting Clerk

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**AMENDED AND RESTATED
ORDINANCE IMPOSING A MORATORIUM ON THE
CONSTRUCTION OR OPERATION OF RACETRACKS
IN HENDERSON COUNTY**

4008

BE IT ORDAINED by the Henderson County Board of Commissioners:

PURPOSE. Concern has been expressed by citizens of Henderson County about potential effects caused by the excessive noise of racetracks which would be detrimental to the health, safety, or welfare of the citizens and the peace and dignity of the County. The purpose of this Ordinance is to prohibit the construction or operation of racetracks, as defined below, for a definite and reasonable period of time to enable the Henderson County Board of Commissioners to consider an ordinance having an unlimited duration which shall regulate noise in the unincorporated areas of Henderson County.

AUTHORITY. This Ordinance is enacted pursuant to the authority of NCGS 153A-121.

DEFINITION. As used in this Ordinance, "racetrack" means any racetrack, raceway, speedway, drag strip, or other facility designed or used for the racing of motor vehicles, including but not limited to automobiles and motorcycles, and related accessory structures and facilities such as grandstands, concession stands, and restroom facilities.

JURISDICTION OF ORDINANCE. This Ordinance shall apply to all unincorporated areas of Henderson County.

MORATORIUM. There is hereby imposed a moratorium on the construction or operation of racetracks within the County of Henderson. No permits pertaining to the construction or operation of racetracks may be issued by any County department under the control of the Board of Commissioners during the moratorium. This moratorium shall continue in full force and effect for ninety (90) days expiring at until midnight on February 9, 1999.


SEVERABILITY. If any portion of this Ordinance is deemed unconstitutional, or unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.

ENFORCEMENT. This ordinance may be enforced by any legal and equitable remedies including by not limited to injunctive relief.

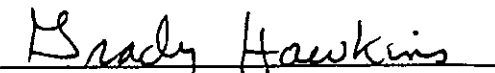
EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after adoption.

ADOPTED THIS the 16th day of December, 1998.

ATTEST:


Elizabeth Corn, Clerk to the Board

**BOARD OF COMMISSIONERS FOR THE
COUNTY OF HENDERSON**


Grady Hawkins, Chairman

APPROVED AS TO FORM:

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RESOLUTION

WHEREAS, William Edward Jamison became Administrator of Margaret R. Pardee Memorial Hospital on December 20, 1953 and served in this capacity for twenty-eight years, until August 1981 when he began supervising the completion of the Jamison Wing, named in his honor; and

WHEREAS, During Mr. Jamison's years as Hospital Administrator, Margaret R. Pardee Hospital grew from a seventy-bed hospital to a 273-bed health center; from an employer of 87 to 600 persons; and

WHEREAS, Mr. Jamison never took credit for the successes of Margaret R. Pardee Hospital but credited an outstanding Board of Trustees, Board President, Auxiliary and Medical and Dental Staff; and

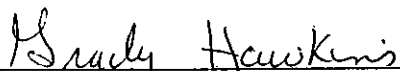
WHEREAS, as Administrator, Mr. Jamison was "on call" seven days a week, twenty-four hours per day, and Mr. Jamison's fund-raising success played a major part in the hospital's debt-free financial position; and

WHEREAS, Mr. Jamison retired from Margaret R. Pardee Memorial Hospital fully in January 1983 and since that time has served as Trustee of the Hospital Board until the present; and

WHEREAS, Mr. Jamison is a life member in the following organizations: North Carolina Hospital Association; District Hospital Association; American College of Hospital Administrators; Veterans of Foreign Wars, Elks Club and Rotary; and

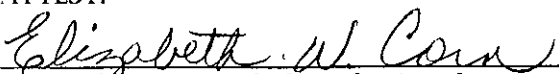
THEREFORE, BE IT RESOLVED, that the Henderson County Board of Commissioners wishes to recognize Mr. Jamison's valuable service to the citizens of Henderson County as the Administrator and member of the Board of Trustees of Margaret R. Pardee Memorial Hospital. The Henderson County Board of Commissioners hereby appoints William Edward Jamison as Director Emeritus of the Margaret R. Pardee Memorial Hospital and requests Mr. Jamison's continued service on behalf of the citizens of Henderson County. The Henderson County Board of Commissioners extends its appreciation to Mr. Jamison for his dedication to serving our community.

Adopted this the 16th day of December 1998.



 Grady Hawkins, Chairman
 Henderson County Board of Commissioners

ATTEST:


 Elizabeth W. Corn, Clerk to the Board

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STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, ELIZABETH W. CORN, Clerk to the Board of Commissioners of the County of Henderson, DO HEREBY CERTIFY as follows:

1. A regular meeting of the Board of Commissioners of the County of Henderson, located in the State of North Carolina, was duly held on December 16, 1998, proper notice of such meeting having been given as required by North Carolina statutes, and minutes of said meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purpose of recording the minutes of said Board.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened and the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said County, this 17th day of December, 1998.

Elizabeth W. Corn
Elizabeth W. Corn, Clerk to the Board of Commissioners

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EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. [on December 16, 1998] in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Grady Hawkins, Vice-Chairman Bill Moyer, Commissioner Renee Kumor, Commissioner Don Ward, Commissioner Marilyn Gordon, County Manager David E. Nicholson, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn

Also present were: Finance Director J. Carey McLelland, Planning Director Matt Matteson, County Engineer Gary Tweed, Public Information Officer Chris Coulson, Staff Attorney Jennifer Jackson.

* * * * *

Commissioner Moyer moved that the following resolution be adopted:

WHEREAS, the Local Government Commissioner of North Carolina has informed the Board of Commissioners of the sale of the County of Henderson \$18,570,000 General Obligation Refunding Bonds, Series 1998, dated December 15, 1998 (the "Bonds"), and that the contract of sale contemplates that the Bonds shall be payable and bear interest as hereinafter provided; and

WHEREAS, the Board of Commissioners desire to take such actions as are necessary to approve the terms of such sale, and to authorize and/or confirm such other documents and actions contemplated by such sale: NOW THEREFORE,

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

1. The Board of Commissioners approves the sale of the Bonds to First Union Capital Markets. The Bonds shall mature on June 1 in the years and principal amounts and bear interest from their date payable on June 1 and December 1 of each year commencing June 1, 1999 at the rates per annum, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1999	\$ 560,000	3.25%
2000	555,000	4.00
2001	560,000	4.00
2002	2,120,000	4.00
2003	2,085,000	4.00
2004	2,045,000	4.00
2005	2,005,000	4.00
2006	1,960,000	4.00

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2007	\$	1,920,000	4.00%
2008		1,875,000	4.00
2009		1,825,000	4.25
2010		1,060,000	4.25

The provisions of the Board's resolution adopted on December 7, 1998 respecting principal payments are deemed amended to reflect the foregoing schedule of principal payments.

2. The Chairman and Clerk to the Board of Commissioners, the County Manager and the Finance Director and other officers of the County are hereby authorized and directed to take all other actions necessary in connection with the sale and issuance of the Bonds and the effectuation of the purposes for which the Bonds are being issued.

3. This resolution shall become effective upon its adoption.

Commissioner Kumor seconded the motion, and the motion was adopted. The vote on the adoption of the resolution was as follows:

AYES: all

NAYS: none

* * * * *

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