

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
NOVEMBER 10, 1998

The Henderson County Board of Commissioners met for a special called meeting at 3:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building at 100 North King Street, Hendersonville, North Carolina. This was a water/sewer summit meeting with the municipalities.

Those present were: Chairman Bob Eklund, Vice-Chair Grady Hawkins, Commissioner Renee Kumor, Commissioner Don Ward, Commissioner Vollie Good, County Manager David E. Nicholson, and Clerk to the Board Elizabeth W. Corn.

Also present were: Hendersonville Mayor Fred Niehoff, Flat Rock Mayor Cy Highlander, Laurel Park Mayor Art Stuenkel, Fletcher Mayor Bob Parrish and the following Council members: Mary Jo Padgett, George Knopf, T. Lee Osborne, Crit Harley, Barbara Volk, Ted VonAlten, John Kidd, Mel Mausolf. Elizabeth Teague, Land of Sky, was present to serve as facilitator of the meeting. Barbara Gilbertson, recorder for LGCCA was also present. County Engineer Gary Tweed was present. Commissioners-elect Bill Moyer and Marilyn Gordon were also present.

CALL TO ORDER/WELCOME

Mayor Cy Highlander called the meeting to order and stated that the meeting would run until 5:00 p.m. The agenda was primarily put together by Mayor Niehoff and Bob Eklund.

Mayor Niehoff stated that at the last LGCCA meeting of October 22, he and Chairman Eklund were asked to develop the agenda for this meeting. Part of the discussion at that meeting dealt with the issue of growth and growth management for a term that is increasingly popular around the country "Smart Growth". There was discussion of whether as elected officials the Mayors and Chairman would take control of our growth or would just let things happen and then try to play catch up. Zoning alone is not the answer, the willingness of elected officials to provide infrastructure will shape where growth goes.

Chairman Eklund stated that he is now a tax paying citizen but in a few short weeks he will become a member of the City of Hendersonville and will be paying a lot more taxes. The outcome he would like to see out of this meeting is working together and come up with a good plan to control growth. He stated that we're not going to be able to stop growth, it's coming.

Elizabeth Teague - facilitator

ET explained that as she understood, Mayor Niehoff and Gary Tweed would give overviews of the water system and the sewer system.

Water System & Sewer System

Mayor Niehoff showed a map of the water system. The sewer system is much more restrictive.

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He then showed the City Sewer System on a map.

Gary Tweed showed the Mud Creek Sewer System on a map as well as the Cane Creek Sewer System. Mr. Tweed distributed copies of the Cane Creek Sewer Rates and the Mud Creek Sewer Rates for review.

Cane Creek Water & Sewer District

The Cane Creek Sewer District is primarily the Fletcher and surrounding area. We have picked up a new area around the Broadpointe Industrial Park. The district feeds into the Metropolitan Sewerage District (MSD) in Buncombe County. That District is a much larger area that encompasses a good portion of Buncombe County.

The Cane Creek District was formed about 1981. The major interceptors were built by MSD which come into the District. In 1988 the county received a combination grant/loan to build collection sewers in the Fletcher area, primarily the Wildwood Subdivision area. We've had several expansions due to development by private developers. Currently we have about 900 residential connections, about 90 commercial and 10 industrial connections. We have currently allocated out about 700,000 gallons of the 1.35 million gallon allocation from MSD. Actual flows of the 700,000 gallons are running about 385,000 gallons. There is a current budget of about \$784,000 per year, of which we have about \$69,000 going toward debt service.

There are various rates in the district, depending on how your business or residence is served, whether it's served by private well or the City of Hendersonville, or the City of Asheville. The basic residential rate is \$16.42 minimum per month and then there is an MSD treatment charge of \$3.40 per 1,000 gallons and a Cane Creek Water & Sewer District charge of \$3.34 per 1,000 gallons.

Mud Creek Water & Sewer District

The Mud Creek District was formed in 1988 and is primarily around the City of Hendersonville, from the Mountain Home area to the south. The sanitary sewer district is served for treatment by the City of Hendersonville. In 1986 an agreement was made with the City of Hendersonville in which they agreed to treat up to 500,000 gallons out of that district. We currently have allocated about 400,000 and our actual flows are running around 155,000 gallons.

Sewer rates in this district are a \$20.80 minimum fee with a Mud Creek District charge of \$8.15 per 1,000 gallons. We currently serve 188 residential customers, 38 commercial, 2 industrial and have an annual budget of \$338,000.

We have a sanitary sewer collection system that comes back to a lift station that's over at Jackson Park that pumps through a force main over to a main interceptor along the Mud Creek. We do have in the North end at the Mountain Home Industrial Park a lift station and force main comes back up to the City system on Berkley Road.

Elizabeth Teague - Ground Rules

Elizabeth Teague wanted to set up some ground rules at this point in the meeting:

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1. One person talk at any time
2. Stay on time
3. Stay on topic
4. Agree to disagree agreeably

Everyone agreed to the ground rules. Elizabeth Teague explained that everyone calls her E.T. She asked everyone to introduce themselves, who they represent and share with the group what they want to see come out of this meeting. Everyone had heard from Bob Eklund and Fred Niehoff already.

Mary Jo Padgett, Hendersonville City Council. She would like to see a plan come out of this meeting or some decisions that would lead us into the future. A cooperative agreement.

Renee Kumor, as part of five Commissioners, she represents all the citizens of Henderson County. She thought that we had reached a point where it's time to say we're ready to go beyond planning and start to take action. Her outcome would be that we appoint a group of 5 - 6 citizens of good will, not elected officials, who can see beyond the forest and come to some conclusions that would best serve the community.

Cy Highlander, Mayor of the Village of Flat Rock. He would hope that when we leave this meeting that we will have a warmer feeling for one another and every other person's problems and see how we can perhaps contribute to the solution to those problems countywide.

Bob Parrish, Mayor of the Town of Fletcher. What he would like to see is for us to really delve into this problem that we all have and to develop some strategies, an action plan to start doing something about it.

Fred Niehoff, Mayor of the City of Hendersonville. He's hung up on a growth issue and how important the infrastructure decisions we make are to shaping that growth and he thinks the two are just very locked together. He agrees with Cy's comment about hopefully at the end of the meeting today we'll understand each other's concerns. We may not come to a unified plan of action but at least we could make sure we understand what each of our concerns and our desires are.

T. Lee Osborne, Hendersonville City Councilman. He hopes that at this meeting, as Fred said, we can better understand how each other feels about this situation. From a business standpoint we definitely need to plan for this growth factor that is coming into this area and we very much want to be able to adjust all of our thinking so that we can include everyone in the county in our plans.

Art Stuenkel, Mayor of Laurel Park. He became Mayor three years ago and we've been discussing this for this three year period. He hopes that after this meeting, we have additional

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meetings to form an action plan to accomplish something to plan for the future and plan to keep this area the lovely place it is and that means controlled growth of open space and a lot of other things.

Barbara Volk, City of Hendersonville. "At the end of this meeting I hope we have some consensus of where we go next."

Marilyn Gordon, newly elected to the County Commission. "One of the questions I would like to have discussed today is our overall concept of what water and sewer is and whether this is a political decision or it should be viewed in another tract as a utility or is it something else. I would like to come out with a better understanding and hopefully a foundation that would be laid leading towards some sort of interlocal agreement."

George Knopf, Commissioner of Laurel Park. "It's easy to talk about controlling growth but the key is really a plan for the infrastructure, sewer, water, and ... schools. To have any kind of orderly growth, you're gonna have to have this infrastructure plan in place. I hope this meeting will lead toward that."

Don Ward, County Commissioner. "I'd like to see a long term plan to help control the rapid growth situations we face in our county through a joint venture or an authority of some sort."

Grady Hawkins, County Commissioner. "I think I'd like to see a team approach to maximize all our financial assets to solve a common problem."

Bill Moyer, Chairman of the Henderson County Planning Board and Commissioner elect. "What I'd like to see is to develop a vehicle that would determine the best way to provide sewer and water service in the county, to deal with the growth and be sure that areas that need sewer and water are adequately served."

Vollie Good, "lame duck Commissioner of Henderson County. You all, we've got to decide what we want our county and our community to look like here and we've got to make plans, start thinking about what it will take to get us there. Certainly we need a team effort. Zoning of the entire county has been something that I have been talking about for the past eight years. I hope that we can have sufficient members of the Board of Commissioners during this next term of office to implement something in the way of the zoning cause we now know that growth is here and is going to continue and it can continue haphazardly or we can plan where we want residential, commercial, industrial, farm land, etc. to be and I think that along with the infrastructure is something that we need to take a long look at."

Mel Mausolf, Flat Rock. "I think that we are today about where we were four years ago when I got into this. We sat around a similar table and said what should we do in the water and sewerage area, should we have authority, etc., etc. I think it's time for a fast action plan now to get it over with quicker than these four years, then I think there's enough areas in the county that

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really need sewers badly and I think there's got to be some action plan besides just a plan."

John Kidd, "for six months a member of the Flat Rock Council, before that a member of the Flat Rock Planning Board and also a member of the Henderson County Solid Waste Advisory Committee and before that, before I moved here five years ago, thirty-five years as an urban and county and regional planner as a profession and I feel like I'm back at school again and it's needed and I'm privileged to be here. Specifically a couple of things, some program of intergovernmental growth management for our county and secondly the provision of cost effective utilities which will include water and sewer, that will serve the most possible citizens in the county, however we can deal with that and I think we can."

Ted vonAlten, Village of Flat Rock Councilman. "I have been looking at planning for approximately 3 ½ years to bring some sewer into the Flat Rock area. With all the micro planning that he was involved in he has seen no implementation of actual plans. All the plans which have been made fell apart. We're getting fairly close to it at the present but I think besides all the planning, we haven't been doing. I think we need to put some action and implementation of our plans."

Crit Harley, Hendersonville City Council. "The only thing I want to see is what has recently been echoed and that's progress."

Bob Eklund, Chairman, Henderson County Board of Commissioners. "I think both of mine have been up there. I talked about working together to come up with a good plan for controlled growth and then provide the water and sewer in the most efficient and cost effective manner to the most customers."

Elizabeth Teague had written these comments down on easel pads and taped them up around the room so that everyone could be reminded of them. She asked if everyone had a chance to look at the agenda. She asked if anyone wanted to add anything to the agenda. There were no additions.

Who dictates growth patterns?

Answers given were:

1. Water and sewer service
2. The developer (in the past)

There was discussion that we need to correct our past sins, not allow the developers to dictate growth and to prevent future sins.

E.T. stated that there seems to be some agreement in terms of wanting to form a body or some sort of agreement to handle growth and manage infrastructure.

The question seems to be what do you want to do from this point as local governments?

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There was some discussion of the tools the governments have at their access to help control growth:

- Zoning
- Utilities and rates
- Land Use Plan
- Plan Review
- Tax Rate
- Service Districts
- ABC laws
- Roads

There was some discussion as to whether water and sewer should be looked as a utility or something else. Water & sewer is an urban responsibility but cannot be placed in the same category with electricity and telephone.

Define water and sewer service.

There is a public health issue.

There is a timing issue associated with water & sewer. Some people are in critical need of that infrastructure and that is an urgent need for services.

There was much discussion of a need to revisit the Land Use Plan.

There has been a lot of change since the Land Use Plan was written in 1991.

There is a need to retain some open space and preservation of agriculture use.

Growth boundaries.

How do we come up with a “we”? Some felt that the LGCCA was the beginning of a “we” which would be the four Mayors and the Chairman of the County Commissioners.

Can we afford to have more than one organization to control water and sewer.

Let’s take the politics out of this!

What shape or structure will the one entity be that will control water and sewer and influence growth in our county.

An interlocal agreement would give the entity some sustainability.

There was discussion that the water situation really wasn’t a problem but rather the sewer issue. Mud Creek and Cane Creek are two separate drainage areas. The City of Hendersonville included the Mud Creek District in their new water plant plans as well as the county needs. 4.8 million gallons per day should take care of the Mud Creek Water & Sewer District water needs.

Who pays? It’s only fair that the user pays.

It was proposed that the City of Hendersonville take charge of the Mud Creek Water & Sewer District, water and sewer service needs. Mayor Niehoff stated that this City Council is willing to do that.

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Bill Moyer said “You have all the municipalities sitting and the issue you’ve got to resolve are whether all the municipalities want to work together or whether they don’t and if you don’t solve that from out of this meeting, it’s a complete waste of the day.”

There was some discussion of interlocal agreements and whether they are good or bad. The City and County have an interlocal agreement from 1986 that has been the source of disagreements and headaches and lawsuits for the last ten years. At the time of that agreement, we could not look forward and see what’s happening today.

We need to identify where the problems are and look for the money to solve the problems.

The users own the system, not the City of Hendersonville.

Action Steps?

The Mud Creek issue needs to be settled.

The Cane Creek issue needs to be settled.

A work session needs to be set on the Mud Creek Water & Sewer District.

The players would be:

- Henderson County
- City of Hendersonville
- Village of Flat Rock
- Town of Laurel Park

There was some discussion of having two separate work sessions, one for elected officials and one for the managers. Then the two groups would come together.

These discussions will have to be continued to another meeting, time is running short today.

Action Items:

1. City present proposal to the County regarding taking control of MCWSD.(with dollars).
2. Work Session - MCWSD proposal.
3. Water Authority idea as a whole.
4. Regional approach to these water/sewer issues, separate from Water Authority.
5. County wide planning process, tie land use to infrastructure ideal.
6. Funding?

It was decided to hold the continuation of this meeting - dates discussed were

December 10

December 15

December 17

Several people did not have their calendars with them and needed to check their calendars.


Everyone would let Cy Highlander know which dates are good for them for another meeting.

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The meeting was adjourned at 5:10 p.m.

Attest:


Elizabeth W. Corn, Clerk to the Board


Robert Eklund, Chairman

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BOARD OF COMMISSIONERS
NOVEMBER 12, 1998

The Henderson County Board of Commissioners met for a special called meeting at 10:15 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Present: Chairman Bob Eklund, Vice-Chairman Grady Hawkins, Commissioner Vollie Good, and Commissioner Don Ward, Assistant (Acting) County Manager Angela S. Becker, Staff Attorney Jennifer O. Jackson, and Clerk to the Board Elizabeth W. Corn. County Attorney Don H. Elkins arrived during the meeting.

Absent were: Commissioner Renee Kumor and County Manager David E. Nicholson.

CALL TO ORDER/WELCOME

Chairman Eklund called the meeting to order and welcomed all in attendance. He read the following prepared statement explaining the purpose of the meeting:

“ This morning’s specially called meeting is being held to give the Board of Commissioners an opportunity to consider a moratorium on the construction or operations of racetracks in Henderson County pending our consideration of a noise ordinance. We will have no public comments received at this meeting; that is according to our Boards Rule of Procedure. And discussion concerning zoning is inappropriate at this meeting and will not be permitted. The public will be given an opportunity to speak about the racetrack issue in a more general fashion at a subsequent meeting; however, this morning our discussions will be limited to whether the Board wishes to adopt a moratorium on racetracks for a 60-90 day time period while a noise ordinance is researched, drafted, and presented to the Board for review and consideration. At this time I would ask that our staff attorney introduce and review the proposed moratorium ordinance after which the Board will discuss the matter. Mrs. Jennifer Jackson.”

Jennifer distributed copies of the proposed ordinance. She explained that staff had drafted an ordinance imposing a moratorium on the construction or operation of racetracks in Henderson County. She then reviewed the draft ordinance with the Board.

The first section states the purpose of the moratorium and that is that there has been concern expressed by citizens of Henderson County about the 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, 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.

This Ordinance would be enacted under the police power of the County which is under NC GS 153-A-121. Ms. Jackson read the definition of “racetrack” as any racetrack, raceway, speedway or other facility designed or used for the racing of motor vehicles, including but not limited to, automobiles and motorcycles. The jurisdiction of the Ordinance would be all unincorporated areas of the County.

A 90 day moratorium had been drafted which would be due to expire at midnight on February 9, 1999. There is a severability clause in it which states that if any portion of the Ordinance is deemed

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unconstitutional or unenforceable, the rest of the Ordinance would continue in full force and effect. Mrs. Jackson stated that it would be appropriate for the Board to consider the Ordinance as drafted or as they wished to amend.

Chairman Eklund asked if there was any discussion on the Moratorium.

Commissioner Hawkins explained that the Board of Commissioners had been working on a variety of "quality of life" issues that they began in August of last year. One of those "quality of life" issues was a noise ordinance. Subsequent to that time they have been studying some of the ramifications of regulating noise. The Board has had a fairly close look at Buncombe County's Noise Ordinance. A Noise Ordinance has been an item of concern for quite some time for the Board of Commissioners and they have been trying to arrive at a noise ordinance that would be equitable to those people that are involved in activities that create noise, whether they be at a high school football game which has a lot of noise associated with it or whether it be any kind of industrial machines that create noise. Trying to regulate noise gets to be a little bit more of a challenge than you might otherwise think. They have been working diligently to produce a noise ordinance that's fair to all the citizens of the County and are still working on it.

A draft copy of an ordinance is currently being reviewed by the Sheriff's Department to determine the feasibility and cost of enforcement. To regulate levels of noise, decibels may be gauged. Hours of enforcement must be determined. Of these two elements, time would be the easiest.

Commissioner Hawkins stated he felt it is appropriate to have a moratorium to give us a little more time to work on the ordinance that we've almost completed anyway. Commissioner Hawkins made the motion that the Board of Commissioners adopt this ordinance for a 90 day moratorium.

Commissioner Good stated "Commissioner Hawkins before we act on your motion, our Attorney has arrived and I would like to make a motion that we go into Closed Session to consult with our Attorney prior to the decision."

Commissioner Hawkins stated he would withdraw his motion until we have a short Closed Session with our Attorney for legal advise.

Chairman Eklund then called for a vote on Commissioner Good's motion. All voted in favor and the motion carried.

CLOSED SESSION as allowed pursuant to NCGS 143-318.11 (a)(3).

ACTION FOLLOWING CLOSED SESSION

When Chairman Eklund reconvened the meeting after Closed Session he asked Mrs. Jackson to read the revised moratorium.

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Mrs. Jackson explained that the County Attorney had suggested a couple of amendments to the draft Ordinance that she had previously presented:

- 1) added a sentence under the Moratorium paragraph so that paragraph would read as follows: "There is hereby imposed a moratorium on the construction or operation of racetracks within the County of Henderson. No permits 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 midnight on February 9, 1999.
- 2) an additional paragraph was added entitled 'Enforcement' which reads 'This Ordinance may be enforced by any legal and equitable remedies including but not limited to injunctive relief'"

Commissioner Hawkins stated that in view of the public safety item involved here, he would make a motion that the Board accept the Resolution with the changes just presented. All voted in favor and the motion carried.

There being no further business to come before the Board, Chairman Eklund adjourned the meeting.


 Elizabeth W. Corn, Clerk


~~Grady Hawkins~~, Chairman *Robert D. Eklund*,
 Approved 12/16/98

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