MINUTES

STATE OF NORTH CAROLINA COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
APRIL 15, 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 Bob Eklund, Vice-Chair Grady Hawkins, Commissioner Vollie G. Good, Commissioner Renee Kumor, Commissioner Don Ward, County Manager David E. Nicholson, Assistant County Manager/Staff Attorney Angela M. Skerrett, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

Also present were: County Planner Karen Collins, Finance Director J. Carey McLelland, Assistant Staff Attorney Jennifer O. Jackson, and Public Information Officer Chris S. Coulson.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

Captain Siegried Hackbarth, Salvation Army, gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

There was none.

INFORMAL PUBLIC COMMENTS

- 1. Brooke Smith Mr. Smith spoke in opposition of the elimination of the bag for bag program at the landfill. He personally will continue to recycle but feels that \$5.00 is too much for one bag of garbage.
- 2. Ed Miller Mr. Miller spoke on behalf of the residents of Dellwood and others. He also spoke in opposition of the elimination of the bag for bag program at the landfill. He felt that the incentive program increased the volume of recycling tremendously.
- 3. Ken Weitzen Mr. Weitzen spoke as an avid recreational cyclist in opposition to the requested closing of Indian Cave Road. He



presented a petition with 11 signatures in opposition of the closing.

4. Bryan Aleksich - Mr. Aleksich reminded the Board that the audience has difficulty hearing Commissioners and staff. The only people they hear with consistent clarity are Commissioner Hawkins and Assistant Manager Skerrett. He asked that the Board consider the purchasing of lapel microphones in advance of going on Cable TV.

Mr. Aleksich stated that in 1993 the Interim School Board (nine people) chaired by Hardy Caldwell, knew that in addition to the annual county budget at that time they would need an additional \$9 million each year for the succeeding five years. He stated that the merger would have been the perfect time to cut staff and begin laying aside money for school facilities.

He closed by saying that if the School Board is not going to cut back then don't ask the tax payers to cut back to finance their habits.

- 5. William Ramsey Mr. Ramsey spoke in opposition of the elimination of the bag for bag program at the landfill.
- 6. Don Cheatham Mr. Cheatham is a property owner in Champion Hills and spoke in opposition of the requested closing of Indian Cave Road. He does not live in Champion Hills. Mr. Cheatham handed out his two page typed letter of comments.
- 7. Max A. Koontz Mr. Koontz asked "if its gated, will the traffic on Indian Cave Road for construction purposes both personnel, material and equipment be routed through the northern part of Indian Cave to preserve the tranquility of the golf course?" Mr. Koontz is a resident on the northern portion of Indian Cave Road. He felt that there should be some statement that says those gates can only be used for residents and for emergency vehicles not for commercial or construction equipment, materials or personnel.
- 8. Don Mueller Mr. Mueller spoke his objection to the charge of \$5.00 at the landfill for his 1-5 bags of garbage.
- 9. Dennis Justice Mr. Justice handed out several pages of information he had pulled off the Internet regarding modular



buildings and suggested modular buildings for the new schools and extra classrooms for schools. Modular schools are currently being used in southern California and south Florida.

- 10. Bebe Fearnside Ms. Fearnside spoke her objection to the requested closing of Indian Cave Road.
- 11. Andre Parrott Ms. Parrott read a letter she had written to the Commissioners seeking their support in denying the Champion Hills communities' request to close a portion of Indian Cave Road. Ms. Parrott is a resident and property owner in the community.
- 12. Eric Peace Mr. Peace, also a resident of the Champion Hills community, spoke in opposition of the requested closing of Indian Cave Road. Mr. Peace handed the Clerk to the Board a petition with approx. 300 signatures opposing the request.
- 13. Ed Krause Mr. Krause had been delayed and wasn't present yet.

Commissioner Hawkins followed with comments about recycling.

In 1996 - 1997 the cost for recycling at the landfill was \$358,000. The county received revenues of \$20,000 from the resale of recyclables which left us a net cost of \$338,000. This cost is paid from tipping fees.

CONSENT AGENDA

Commissioner Good made the motion to approve the Consent Agenda. All voted in favor and the motion carried. The CONSENT AGENDA included the following:

Tax Refund Requests

A list of 6 tax refund requests was submitted for the Board's review and approval.

Tax Release Requests

A list of 24 tax release requests was submitted for the Board's review and approval.

Notification of Vacancies

The Board was notified of the following vacancies. They will appear under "Nominations" on the next agenda for action:

1. Solid Waste Advisory Committee (SWAC) - 3 vac.

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- 2. Nursing/Adult Care Home Community Advisory Committee 3 vac.
- 3. Henderson County Planning Board 3 vac.
- 4. Mountain Valleys Resource Conservation & Development Program 3 vac.
- 5. Henderson County Regional Water Forum 1 vac.
- 6. Social Services Board 1 vac.

NOMINATIONS

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

1. Criminal Justice Partnership Board - 1 vac.

Don Elkins asked the Board to delay this until the next meeting. He hopes to have a nominee by that time.

PROPOSED SUBDIVISION REGULATIONS

Karen Collins reminded the Board that on February 2, 1998, the Board of Commissioners discussed the proposed subdivision regulations and received a draft ordinance. Before setting a hearing the Board agreed to allow the Planning Board to reconsider their recommended draft to incorporate some elements of open space design which had been the subject of an earlier presentation by Planner Randall Arendt.

At their March 31, 1998 meeting, the Planning Board, having completed their work on the open space modification as well as refining some other items in the draft, reviewed and approved an updated draft of the proposed subdivision regulations. Copies of the proposed Subdivision Ordinance were distributed for the Board's review. There will be work sessions/public hearings to follow on this item at a later date. Ms. Collins distributed copies of the proposed draft Ordinance.

Chairman of the Planning Board, Bill Moyer, added that the Planning Board only made the changes that they had indicated they would do. Certain changes have been made to encourage cluster housing, to preserve natural resources, and to help with open space. This is not mandatory but a step in the direction to encourage developers and planners toward this new concept. They also removed certain provisions that they felt would be hindrances to that type of development with respect to size of lot, etc. He called attention to a one sheet hand out of the changes they had made.

David Nicholson suggested that the Board take the next couple of weeks to review the proposed Ordinance. This item will be back on the agenda at the May 4 meeting. There was some discussion regarding workshop/public hearing on this issue.

MUTUAL AID AGREEMENT BETWEEN THE COUNTY AND THE CITY OF HENDERSONVILLE

Rocky Hyder, Emergency Management Coordinator, requested that the County execute a mutual aid agreement between Henderson County and the City of Hendersonville. It provides for the coordination of all resource requests made to the Statewide Emergency Management Mutual Aid through the County's Emergency Management Office. This streamlines the process of requesting State Aid in an emergency situation.

David Nicholson informed the Board that the City of Hendersonville has already executed the agreement. He recommended approval of the agreement to assist Mr. Hyder in more efficiently carrying out his responsibilities in a time of crisis. He informed the board that the Town of Laurel Park and the Village of Flat Rock are considering this issue also.

There was a question regarding Fletcher's position. Commissioner Hawkins favored waiting until we hear back from the Town of Fletcher and also asked the Staff Attorney for some legal review. It was the consensus of the Board to roll this to the May 4 meeting. Commissioner Hawkins also raised questions regarding how we would handle FEMA reimbursements.

This will be brought back on the next agenda.

TAX COLLECTOR'S REPORT

Terry F. Lyda, Henderson County Tax Collector, presented an updated report on the tax collections for 1997. He distributed copies of his report and explained it. He informed the Board that Henderson County could have a record year in tax collections this year.

Carey McLelland reviewed the chart which was handed out for the period ended April 13, 1998. Collections as of April 13 were 94.32%.

David Nicholson informed the Board that they will continue to receive tax reports on a monthly basis, as requested.

April 15, 1998

PARDEE HOSPITAL REORGANIZATION

At the last Board meeting, Staff presented a proposed time line concerning the reorganization of Pardee Hospital, having a completion date of August 15, 1998. Staff had advised the Board that the Resolution which approved the reorganization of the Hospital as a public non-profit corporation will have to be updated to include changes which have been approved by the Board of Commissioners, events happening since the date of the original resolution, and compliance with NCGS 131E-8. NCGS 131E-8 requires a 10 day advance published notice before the resolution can be readopted. In order to meet the time line, it will be necessary to advertise the Board's intent to lease the Hospital on April 24, 1998, so that the Board can readopt the resolution on May 4, 1998.

Ms. Skerrett distributed the revised resolution and proposed lease.

Staff requested permission to advertise the Board's intent to approve the leasing of the Hospital to the public non-profit on April 24, 1998.

Commissioner Hawkins made the motion to direct staff to advertise our intent to lease the hospital to a non-profit. All voted in favor and the motion carried.

OFFERS TO PURCHASE/FORECLOSED PROPERTY

Don Elkins presented an Offer to Purchase for final approval on a piece of foreclosed property:

J.L. Barnwell offered \$1,000 Lot 6, Block 10 of Green Meadows Subdivision PIN #99-03965

Mr. Elkins reminded the Board that this offer had previously come before the Board and had been authorized for advertisement for upset bids. No upset bids were received.

Following discussion, Commissioner Kumor made the motion to accept the offer and issue a quit claim deed. All voted in favor and the motion carried.

Chairman Eklund called a 10 minute recess.

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UPDATE ON PENDING ISSUES:

Resolution of Support for Congressman Charles Taylor's WNC Rivers Initiative

David Nicholson informed the Board that Commissioner Ward had requested that this item be put on the agenda for endorsement of support from the Board.

Following much discussion a wording change was suggested and accepted.

Commissioner Hawkins made the motion to adopt the Resolution of Support as amended. All voted in favor and the motion carried.

IMPORTANT DATES

The Commissioners' calendar was reviewed. David Nicholson reminded the Board of a request from Liston Smith (Director of DSS) and Frank Blazey (Chairman of DSS Board) to set a joint meeting between the two Boards. Several dates were discussed. Action was delayed on this item until after item "D" Henderson County Schools.

STONERIDGE ESTATES APPEAL OF PLANNING BOARD DECISION

Jennifer Jackson reminded the Board that Grant Mountain Properties, Inc., is the owner and developer of Stoneridge Estates which is a subdivision located on Tom's Fall Road in Henderson County. On December 23, 1997, the Developer submitted an application for Phase III of Stoneridge Estates. On February 3, 1998, the Planning Board considered the preliminary plan for Phase III and denied the plan. The Planning Board's decision was reviewed as well as minutes from their February 3 meeting. On March 2, 1998, Grant Mountain Properties, Inc. submitted a notice of appeal pertaining to the Planning Board's denial of the preliminary plan.

Grant Mountain Properties and the Planning Department have stipulated to certain facts. The Board heard the arguments of all parties at the April 6, 1998 meeting.

The Board had asked that the County Attorney be prepared to give an opinion at this time regarding this item. Don Elkins' opinion was that the Board had set a precedence previously regarding Stoneridge Estates. He recommended that the original decision be set aside and the Board approve the request of the petitioner.

Commissioner Good made the motion to approve the request, based on comments from the County Attorney. A vote was taken and the motion carried four to one with Commissioner Kumor voting nay. Commissioner Kumor stated that she just could not vote for something that says issues of public health and safety are not relevant.

Staff will prepare a draft order for the Board's review affirming the decision of the Planning Board consistent with previous orders and the stipulated findings of fact.

PETITION TO ABANDON AND CLOSE A PORTION OF INDIAN CAVE ROAD

The County had received a petition from the Champion Hills Homeowner's Association (the "Association") requesting that the County do 2 things:

- 1. Request that the NCDOT abandon and remove from the State maintenance system a portion of Indian Cave Road (SR #1192) [see NCGS 136-63]; and
- 2. Close this same portion of Indian Cave Road [see NCGS 153A-241].

Jennifer Jackson informed the Board that it was staff's opinion that the Board of Commissioners can only petition the Board of Transportation for abandonment, but has no authority to close the road. However, by petitioning the NCDOT for the abandonment, the Board would be consenting to and enabling Champion Hills to proceed through court action before the Clerk of Superior Court to have the road closed.

Abandonment

Before the NCDOT abandons a road in the manner requested by the Association, the Board of Commissioners would have to adopt a resolution requesting that the road be abandoned after making a finding that "the best interest of the citizens of the County will be served thereby" NCGS 136-63. Although no public hearing is required to abandon a public road, it would be appropriate to hear from the interested public, as well as public safety professionals before making such a determination.

Closing of the Road

NCGS 153-241 authorizes a County Board of Commissioners to close a public road that is not part of the State maintenance system.

However, North Carolina case law has declared this statute inapplicable to situations where the public road is abandoned by the NCDOT pursuant to the petition of the Board of Commissioners. In staff's opinion, Indian Cave Road could fall under the definition of a Neighborhood Public Road, which may be closed under a special proceeding before the Clerk of Court. However, the Board of Commissioners would not be able to close the road.

The petition was reviewed. The Board discussed the propriety of abandoning and closing the road in general. It was the consensus of the Board to seek public input prior to deciding whether or not to petition the NCDOT to abandon Indian Cave Road.

There was much discussion and it was the consensus of the Board to place this item on the next agenda for further public input. The association will be present to present their request and some new information prior to the Board's consideration of the petition request.

EMS SUBSTATION

David Nicholson reminded the Board that at the last meeting the Board received updated proposals from both Pardee and Park Ridge Hospitals concerning the construction of an EMS substation in Mills River.

Pardee Hospital - The Board received a letter dated April 1 from Frank Aaron offering to build an EMS substation at their Mills River site where Hwy. #191 and #280 intersect. They are willing to fund up to \$100,000 for the substation.

Park Ridge Hospital - The Board received a letter dated April 6 from Mike Gentry which indicates that they would be willing to give Henderson County acreage in the Mills River area, near the Hwy. # 280 and #191 north intersection. They are willing to give \$100,000 for construction, \$10,000 toward any equipment necessary to operate the station and would be willing to give \$10,000 towards an additional EMS substation within the next three years.

Mr. Nicholson stated that the two sites are about a mile apart. EMS did not have a preference of one site over the other.

There was some discussion as to whether one or the other hospital would fund an EMS substation elsewhere; therefore, the county would

April 15, 1998

be getting two new substations in Henderson County. There currently is not a need for two substations in the northern end of the county. The number one need is for a substation in the northwest part of the county. Current staffing would be utilized for that one substation. Additional funding would have to come from the county as \$100,000 is not sufficient to build an EMS substation (per CIP).

No vote was taken at this time. Letters will be sent to Pardee and Park Ridge prior to this item being scheduled back on the agenda for the mid-May meeting.

HENDERSON COUNTY SCHOOLS:

1. ADM funding (carry over from 4/6/98 agenda)

Carey McLelland reminded the Board that at the last Board meeting (4/6/98) the Board discussed the proposed use of ADM funding to meet immediate capital needs of the schools. The Board by consensus, confirmed that the Board's intent was to reimburse the School system up to \$1.2 Million for the Architectural and Engineering fees incurred prior to the referendum and to apply for an additional \$1.2 Million after July 1, 1998 to further address immediate school capital needs. The schools are requesting that the Board reconsider this position and reimburse the A/E fees, apply for \$1.2 Million this fiscal year, and an additional \$1.2 Million in next fiscal year. The Board requested that this item be rolled to todays meeting and that staff compile minutes and correspondence for their review in the meantime. Staff had previously placed copies of minutes and correspondence in each Commissioners' box.

Carey McLelland took the information submitted to him by the Finance Department for the school system and put it into chart form. He handed out the chart and reviewed it. For each of the five schools listed, he reviewed the invoices paid, amount of money reimbursed from ADM funds @ 75%, the local match requirement (capital reserve funds @ 25%), and the total reimbursed for each of the five schools listed in the application.

Carey McLelland referred to item A, a deduction of \$567,956 or the total amount of invoices that were paid for A & E costs prior to the ADM funds being available on July 1, 1997. The procedures for

the ADM fund state that no state monies can be used to reimburse You must use local dollars to pay for those costs. those costs. Those dollars can be used as your match requirement toward what you spend in ADM funds. The total amount that can be reimbursed, based on the invoices that were submitted, out of ADM funds is \$469,423 and the local match of \$259,299 for a total of \$728,722. Depending on what the Board decides to do on the \$308,657 that cannot be paid for with ADM state funds, this will change the draft application to draw down the additional \$1.2 million presented in this agenda item. Initially in that application there was \$1.2 million that was approved out of ADM funds and the match requirement would be \$400,000 for a total of \$1.6 million in the May application. we can only reimburse ADM funds of \$469,423 for the A & E the difference between \$1.2 million and the \$469,423 or roughly \$731,000 would revert back to the allocation account for future school capital projects that may be approved which could be used towards the next \$1.2 million on the application.

Commissioner Hawkins stated that there is a finite amount of money to be drawn down from the ADM funds. He requested the Chairman to correspond with the Chair of the Board of Education and ask them what they think is the best use of the funds would be, see if they want to draw down all the funds and expend all the capital reserves on safety issues. The Board of Commissioners needs to know the thinking of the Board of Education.

The current amount of money sitting in the allocation account is over \$1.6 million, not counting the \$1.2 million sitting in the disbursing account.

Again, there is a finite amount of money in the ADM funds. The Commissioners have made a couple of proposals of how to use the funds. If the Board of Education has a counter proposal, it needs to be reviewed. The two Boards must agree on how to draw down the remaining monies. The Board of Commissioners has suggested two \$1.2 million packages that left about \$1 million in reserve for contingencies, etc. If the Board of Education has a different plan it must be reviewed and a consensus reached by both Boards on the draw down and how it will be spent. Commissioner Hawkins moved the above. All voted in favor and the motion carried.

2. Process for Review of School Budget

April 15, 1998

Commissioner Ward had also asked that the following be proposed relating to the schools:

- 1. Request a schedule of the School's Budget Work shops.
- 2. Request the school system to arrange a tour of the facilities in conjunction with their submission of their capital needs as part of their FY 98-99 budget request.
- 3. Require the Board of Education to submit its budget in a detailed, line-item format, by purpose and function in order to facilitate a better review by the Board of Commissioners.

Commissioner Ward suggested two people who have agreed to serve on a committee to view the capital needs and maintenance needs of the school system (Fielding Lucas and Bill Barnwell). He recommended others serve on the same committee. Commissioner Ward reminded the Board that their job is "funding after investigation" regarding school needs.

Commissioner Ward made the motion to request the schedule of the school board budget work shops, ask for their budget to be submitted on purpose and function and capital purposes on projects and establish a committee to work with the Commissioners on reviewing the capital requests. This will act as Notification of Vacancy for the committee. All voted in favor and the motion carried.

REVISIT IMPORTANT DATES

The Commissioners set Tuesday, April 21 at 5:30 p.m. for the joint meeting with the DSS Board.

CLOSED SESSION

Commissioner Hawkins made the motion for the Board to go into Closed Session as allowed pursuant to NCGS 143-318.11 for the following reasons:

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

2.(a)(4) To discus matters relating to the location or expansion of industries or other businesses in the area served by the public body.

3.(a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (1) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease, (11) the amount of compensation and other material terms of an employment contract or proposed employment contract.

All voted in favor and the motion carried.

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

There being no further business to come before the Board, Commissioner Hawkins made the motion to adjourn at 12:42 p.m. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn. Clerk

Robert D. Eklund, Chairman

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HENDERSON COUNTY BOARD OF COMMISSIONERS

100 North King Street Hendersonville, North Carolina 28792-5097 Phone: 704-697-4808 • Fax: 704-698-6183

TDD: 704-697-4580

BOB EKLUND CHAIRMAN GRADY HAWKINS

VOLLIE G. GOOD RENEE KUMOR DON WARD

RESOLUTION of Support for Congressman Charles Taylor's WNC Rivers Initiative

Whereas, Congressman Charles Taylor has brought forth the WNC Rivers Initiative; and

Whereas, the WNC Rivers Initiative is a comprehensive plan to solve water quality and flooding problems; and

Whereas, each component of the program is locally managed and approved by the U.S. Congress; and

Whereas, the WNC Rivers Initiative has measurable goals and specific funding levels without intention of any threat to private property rights.

Let it be resolved that on this the 15th day of April, 1998, this commission does fully endorse and support Congressman Charles Taylor's WNC Rivers Initiative.

Robert D. Eklund, Chairman Henderson County Board of

Commissioners

Attest:

Elizabeth W. Corn, Clerk to the Board

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE:

April 15, 1998

SUBJECT:

Tax Refunds

ATTACHMENTS:

Refund Requests

The enclosed refund requests (6) have been reviewed by the County Assessor and as a result of that review, it is the opinion of the Assessor that these findings are in order. The supporting documentation is on file in the County Assessor's Office.

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

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TOTAL REFUNDS >>>

\$231.63

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE:

April 15, 1998

SUBJECT:

Tax Releases

ATTACHMENTS:

Release Requests

The enclosed release requests (24) have been reviewed by the County Assessor and as a result of that review, it is the opinion of the Assessor that these findings are in order. The supporting documentation is on file in the County Assessor's Office.

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

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e e	WHITLOCK, RANDALL EUGENE WHITLOCK, MARTHA ANNE	97A8804550	\$83.06	BILLED UNDER #164098 N,A, WHITLOCK
♦	WILLIAMS, DOLLIE JEAN	97A8803755	\$50.00	MH BILLED UNDER ACCT #25019
6	WILSON, MARCUS EDWARD WILSON, JEAN JOHNSON	97A141823.04	\$42,35	UNCORRECT VALUE ON 1990 GLASSMASTER
0	ZAHN, BERNARD ZAHN, ROSLYN	97A9939449	\$183.52	LISTED ACCT #184015
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TOTAL RELEASES >>>

\$2600.86