

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
APRIL 7, 1997

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 7:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bob Eklund, Vice-Chairman 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: Finance Director J. Carey McLelland and Planner Karen Collins.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

A Commissioner led the pledge to the American Flag.

INVOCATION

David Nicholson gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Ward added one item to "I"-3, regarding some special dedication to (the late) Senator Bo Thomas.

David Nicholson added one item to "I"-4, softball tournaments.

CONSENT AGENDA

Commissioner Hawkins made the motion to approve the consent agenda. All voted in favor and the motion carried.

CONSENT AGENDA included:

Review/Approval of Minutes - Minutes were presented for review and approval of the March 4, 1997 meeting.

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Henderson County Public Schools Financial Report - The Schools submitted their financial report for the month of February for the Board's review only.

Branch Automation Project - Waiver of Bonds - The Library has received a grant in the amount of \$38,667.00 to provide updated communications to the four branch libraries. This grant will purchase equipment that will use Frame Relay Technology to provide 64K service to each branch. This service will allow up to seven terminals and six personal computers at each location to share the same information, circulation and Internet services as is available at the Main Library.

The proposed bid documents do not include the requirements for bid and performance bonds. Staff requested that the Board of Commissioners waive this formality. State law allows for this waiver with approval of the Board of Commissioners. For some purchases of personal property, these bonds would be recommended. However, for this project the bonds would just increase the cost of this purchase.

Sale of 807 Willow Street Property - At the last Board of Commissioners meeting, the Board declared the property located at 807 Willow Street as surplus property and authorized staff to proceed with taking the steps necessary to sell the property using the sealed bid process. As a first step, the Board must adopt a Resolution outlining the terms and conditions of the sale. A draft Resolution was presented for Board review and approval.

Basically, the Resolution does the following:

1. Confirms that the property is in fact surplus.
2. Names the date, time, and place that bids will be received and opened.
3. Sets out the procedures governing the submission of bids.
4. Contains the standard for award.
5. Sets out conditions of sale.
6. Reserves the right to reject all bids received.

INFORMAL PUBLIC INPUT

1. Timothy Lyda - Mr. Lyda was not present.

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2. Patty Anesi - Ms. Anesi spoke of a "much needed" jail. She expressed that a 2 year period is ample time to plan and build a new jail. She asked two questions of the Board: 1. Are you committed to the project of constructing a new jail or law enforcement facility?, 2. Is this a number one priority amongst all other projects or capital improvements?, 3. Will you arrange to request from the Sheriff and the County Manager working together the development of a plan to be submitted within six months.

The plan to include:

identifying funding sources, local, state, and federal timetable for finding an architect, a contractor for construction and completion. All included in the plan that will be submitted by the Sheriff and the County Manager.

3. Gloria Wright - Ms. Wright recently toured the jail with several other people, arranged by Patti Anesi. She spoke of concern due to liability and also public welfare and human safety for our law enforcement officers. She stated that what she saw at the jail was horrendous and a real threat to the financial viability for the citizens of this community. She asked the Commissioners to find a temporary facility to ease the stress on the jail by overflow.

Ms. Wright said she would work on a committee, along with the Commissioners, to help bring about a new jail facility.

4. Norma Frost - Ms. Frost spoke of a pressing need for a new jail. She also spoke of a need for three EMS Satellite Stations. They also need personnel to man the ambulances. She pleaded with the Commissioners to give some consideration to where the priorities really should be.

5. Rhonda Keretz - Debbie Lyda spoke representing Rhonda Keretz, who due to a job conflict could not be present. She read a prepared statement for Ms. Keretz concerning the utilities proposed for 64 East for the Justice Academy. She asked that the utilities for the Justice Academy be contained on the Justice Academy property. If the wells on the property are not viable, she asked that a water tower be built instead of the water line out 64.

6. Debbie Lyda - Ms. Lyda stated that the residents of the Edneyville area have sent a petition and eluded to the devastation

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that the waterline construction would be to Edneyville. She stated that they want to work with the Commissioners at coming up with something that will be self contained on the property. They don't want their area to change. She spoke of devastation to the farmer during the construction of the proposed waterline.

7. Marion Nix - Mr. Nix asked to go on record that he does not want an outdoor shooting range put in his neighborhood. He also stated that he agreed with everything that Ms. Lyda said.

8. Victor Vierra - Mr. Vierra stated that he felt much of the concerns expressed were due to misinformation or not enough information being given to the citizens. Many people are reacting to fear. He thinks that having the Justice Academy is the best thing that has happened to the Edneyville area in the past 13 year.

9. Fred Pitillo - Mr. Pitillo spoke of "fear of the unknown", stating that that is where Edneyville is right now. They have not been able to get together as a community and discuss the unknowns. He asked the Commissioners not to act too hastily, to give the residents time to find out some answers to their questions.

10. Tom Pace - Mr. Pace spoke of his concern for a temporary sewer system, just to serve the Justice Academy, which would not benefit any residents of the area. He questioned whether a subsurface system had been explored for on site until the line could be built to Clear Creek or to the existing treatment plant.

11. Mildred Lyda - Ms. Lyda has been a resident of Edneyville for 48 years. She supported the petition. She informed the Board that there is some property adjoining the Justice Academy property that is for sale where the proposed septic system could be placed to serve the academy for a long time. This could be done until the community has the funds to provide the proper water and sewer for the community. She is in favor of the academy, wants it to have sewer, and wants to work with the Commissioners.

12. Bryan Aleksich - Mr. Aleksich discussed the need for paving the recycling area at the landfill. He spoke of several examples of things that were not included in the budget but were funded. He stated that paving the recycling areas at the landfill was in the

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budget but was removed. He stated that the recycling area is used by hundreds of county residents daily, thousands monthly.

13. Timothy Lyda - Mr. Lyda was not in the room when his name was called as #1. Mr. Lyda had some questions regarding zoning. He passed out copies of his prepared statement. Questions he asked:

1. In regard to the committee that studied economic development plans that the Board appointed - who represented the interests of low income families?

2. One of the proposed guidelines by the proposed study committee, as printed in the March 20, 1997 edition of the Times News, said encourage urban density and discourage indiscriminate development in the rural areas. Using zoning, are the Commissioners wanting to decide what is rural and what isn't from here on out and if so, isn't that discriminating against low income families?

3. What is more important than money? He asked this question to the Board as a whole and to each Commissioner individually.

4. Considering Henderson County's population explosion and the consequent government revenue increase and impending zoning, isn't it only fair that people living in zoned areas should not have to pay full taxes on things they are suppose to own but have limited rights to?

5. Considering Henderson County's exceeding diversity, shouldn't Henderson County be influencing other US towns and cities rather than be molded by them?

6. What is a revenue bond? What does a revenue bond go for, economic growth, housing?

Chairman's Statement re: Jail

Chairman Eklund read a prepared statement, as follows:

"Over the past several weeks, the issue of both the condition of the current and the need for replacement of Henderson County's jail has been discussed by this community. I felt that it was important this evening to clearly state answers and give direction to the County Manager to some of the questions that have been raised:

1. The condition of the current facility - as the community is aware, we have received considerable water damage at the jail. I have and I know that several other commissioners have personally visited the jail to see the damage. The county manager and his staff has been working with Grier-Fripp Architects of Charlotte,

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North Carolina, the firm that designed the new courthouse and is developing the plans for the renovation of the historic courthouse. Today the county manager has informed me that we have received the assessment report from Grier-Fripp addressing the moisture problems in the jail. The architects made seven recommendations including waterproofing the entire exterior face of the building, recaulking and resealing all penetrations into the building, and replace all scuppers and down spouting.

Action requested by the Board of Commissioners - the Board of Commissioners should direct the county manager to hire a consultant who is experienced in moisture infiltration of masonry buildings. This consultant, after additional site investigation, provide Henderson County with specifications for necessary corrective work.

2. Planning for the new facility - during the recent Board of Commissioners' discussion on our capital improvements program for fiscal year 1997-1998, the Board of Commissioners indicated their desire to begin the planning process for a replacement jail. I believe that I can speak for the Board of Commissioners and the Sheriff in saying that this planning process should both begin immediately and be comprehensive in nature. A new jail will be an expensive structure to build and to operate. All approaches to construction and operation must be studied. I realize that some initial steps in this process have been taken such as the county manager and assistant county manager attending the jail planning seminar last fall at the new jail facility at Buncombe County and a site visit last week to Spartanburg County, South Carolina, to their new facility by the Sheriff, several of his staff members, and the county manager. However, with a project of this important size and scope, I am suggesting that we begin this formal planning process now.

Action requested by the Board of Commissioners - The Board of Commissioners is directing the County Manager to work with Sheriff Erwin and his staff to developing both an organized approach and timeline for the replacement of our jail. This suggested procedure and initial schedule should be presented to the Board of Commissioners for our discussion and approval no later than May 21, 1997. Thank you."

Edneyville Update - requested by Commissioner Ward.

David Nicholson reviewed the recommendations he had made to the Board of Commissioners based on the meetings in the Edneyville community.

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1. **Justice Academy** - Mr. Nicholson does feel that the site chosen is the appropriate location for the Justice Academy. He has talked to officials in Sampson County and the town of Salemburg regarding their facility. All of them indicated to him that the academy really is a good neighbor and an asset to their community.

Mr. Nicholson suggested to Marty Stanford, who is the Justice Academy Director, that she establish a community relations committee made up of her staff and community representatives from the area as a formal way of dispersing information to the community as well as addressing the issues raised by either the community or individuals. They seemed to be very open to that discussion.

2. **Water Line** - When the facility was first proposed we held discussion with the State Environmental officials, representatives of the School Board, and professional engineers. Several alternatives were looked at. Two proposals were presented to the Board of Commissioners. The use of wells was not recommended for both environmental reasons as well as because of the required flow necessary to meet the academy's current and future needs. One of the things that we had to address was a 60,000 gallon water tank if we used those wells, which would have to be constructed at a cost of about \$420,000.

The joint agreement with the City of Hendersonville, we truly believe, will provide public water to the eastern portion of our county. Hendersonville has chosen to run water across a large portion of our county but the eastern part has never had that. We think this will be an asset to their community in providing fire protection, in elimination of many wells and a lot of private water systems. This expense will be paid over a ten year time frame with a portion of the impact fees coming back to Henderson County to assist with the costs.

3. **Sewer Service** - Many members of the community have addressed the issue of Lewis Creek. The community is concerned that Lewis Creek could not handle the flow necessary for the Justice Academy. Based on that, David requested his staff and the engineer review alternatives to Lewis Creek. He will receive those alternatives from the engineer this week. He was given three options:

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- a) To locate the plant somewhere near where Lewis Creek meets Clear Creek, coming down across Lewis Creek down to Clear Creek where the flow is considerably greater than it is at Lewis Creek. This would require a certain amount of additional gravity lines to be built in that area.
- b) To go down Lewis Creek close to the Fruitland Baptist Bible Institute. This would serve the Justice Academy as well as the Fruitland Bible Institute.
- c) To locate the package plant on the site and run a force main to Clear Creek.

4. **Zoning** - Mr. Nicholson recommended to the Commissioners that they rescind their request to the Planning Board for a zoning study of the area surrounding the Justice Academy. He encouraged the Commissioners to postpone that issue until the community decides itself what, if any, land uses it is interested in. They have begun the process of discussing land use issues in the community.

Commissioner Good, upon recommendation of the County Manager, made the motion to rescind the request to the Planning Board for a zoning study of the Edneyville area at this time. A vote was taken and the motion carried four to one with Commissioner Kumor voting nay.

PUBLIC HEARING - Granting of Economic Incentives to Branford Wire and Manufacturing Company

Commissioner Hawkins made the motion for the Board to go into Public Hearing. All voted in favor and the motion carried.

Angela Skerrett reminded the Board that this Public Hearing is required by NCGS 158-7.1 to consider the request of Branford Wire and Manufacturing Company, for assistance from Henderson County in the form of Economic Incentives.

Branford Wire and Manufacturing Company, is a locally owned and operated corporation that has requested Economic Incentives in exchange for the expansion of their facility in Mountain Home Industrial Park. They have requested assistance in the amount of \$23,980.00 as assistance in the extension of a public sewer line to their facility. The total cost to provide public sewer to their facility is \$31,980. The expansion would create 15 new permanent

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employment positions in Henderson County having an average wage of \$10 per hour. In addition, the provision of a public sewer line would result in the retention of approximately 27 additional positions that would have to be relocated if public sewer were not provided. Henderson County has advertised that the Henderson County Board of Commissioners would consider granting Economic Incentives to Branford Wire and Manufacturing Company consisting of reimbursement of up to \$23,980 towards a Public Sewer Line Extension Cost.

Ms. Skerrett reviewed the proposed draft agreement. She informed the Board that it would be appropriate for the Board to take action with respect to the proposed Economic Incentives and attached draft agreement at the close of the meeting.

Ms. Skerrett introduced Richard Harkey, owner and President of Branford Wire. He was present to answer any questions.

Public Input - There was none.

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

Commissioner Good made the motion to approve the draft agreement as presented. All voted in favor and the motion carried.

APPLICATION FOR ZONING MAP AMENDMENT (#R-01097)

Submitted by Roy L. Jamison

Karen Collins reminded the Board that on March 25, 1997, the Henderson County Planning Board voted to send the Board of Commissioners a favorable recommendation on an application to amend the Official Zoning Map of Henderson County submitted by Mr. Roy L. Jamison. Mr. Jamison requested that the County rezone a 9.9 acre portion of a 37 acre parcel of property located on Haywood Road (NC 191) from a R-30 zoning district to a R-20 zoning district.

A Public Hearing is required prior to taking action on this application. Planning staff recommended that the hearing be scheduled for May 5 at 7 p.m.

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Karen Collins recognized Erma Dowdle, who was present on behalf of Mr. Jamison. Ms. Dowdle is the real estate agent involved in the property. She had no further comments, stating that Karen had presented the request very well.

Commissioner Kumor made the motion to set the public hearing for May 5 at 7:00 p.m. All voted in favor and the motion carried.

CARRIAGE PARK PLANNED UNIT DEVELOPMENT -
Request for Amendment to the Research Master Plan

Angela Skerrett informed the Board that Carriage Park Development Corporation has submitted an application requesting an amendment to the Special Use Permit (SP93-13). The proposed amendment involves changing the boundary lines of development parcels 23 and 24 as shown on the Research Master Plan. Detailed plans for each of these development parcels have been previously reviewed and approved, with conditions, by the Planning Board; however, such approval does not reflect the relocation of the development parcel boundary lines as generally depicted in most recently approved Research Master Plan. Such a boundary line change is a substantive change requiring approval of the Board of Commissioners. No changes to the overall number of units in the Planned Unit Development or to any other standards are requested.

Previous development parcel review notwithstanding, at their meeting on Tuesday March 25, 1997, the Planning Board voted 5 to 4 in favor of recommending approval of the proposed permit amendment. A public hearing under the quasi-judicial procedure is required to review this request.

Staff recommended the Q-D Public Hearing be scheduled for May 5 at 7:00 p.m.

Commissioner Kumor made the motion to set the Q-D Public Hearing for May 5 at 7:00 p.m. All voted in favor and the motion carried.

RIGHT OF FIRST REFUSAL IN APPLELAND BUSINESS PARK

Angela Skerrett reminded the Board that on March 17, 1997, Henderson County received notice from Die-Tronic Metal Castings, Inc., a local tool and die manufacturing facility located on Lot 7

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(revised) of Appleland Business Park, that they wished to sell their facility to Atlas Bolt and Screw, an outputs purchaser of Die-Tronic (located in Ashland, Ohio). Paragraph 4 of Appleland Business Park gives Henderson County a right of first refusal for any portion of Appleland Business Park that is sold, excluding the commercial areas. The value of Lot 7 (revised) with the associated improvements is appraised to be \$872,000.00. Paragraph 4 grants to the County 30 days in which to decide whether or not to exercise the right of first refusal. Die-Tronic has requested that the County waive the 30 day time frame and decline to exercise the right of first refusal. Staff recommended approval. A proposed Resolution was reviewed.

Commissioner Kumor made the motion to adopt the Resolution with the wording that the Board of Commissioners declines to exercise its right of first refusal. All voted in favor and the motion carried.

AWARD OF CONTRACT FOR BROADPOINTE SEWER PROJECT

Angela Skerrett reminded the Board that Henderson County committed to provide public sewer to Broadpointe Center, specifically to ITT Automotive, currently under construction within Broadpointe Center. On Thursday, March 27, 1997, Henderson County received sealed proposals for the sewer system to be constructed. A total of eight bids were received. A bid tabulation summarizing the bids received was reviewed. The apparent low bidder was T & K Utilities, Inc., bidding \$282,854.00 for the entire project. This bid falls well within the project budget. References for T & K have been checked and T & K appears to be a responsible bidder as required by NCGS 143-129.

Staff & the Engineer recommended that the Broadpointe Sewer Project be awarded to T & K Utilities, Inc., in the amount of \$282,854.00.

Commissioner Ward made the motion to accept the bid as presented and as recommended by staff. All voted in favor and the motion carried.

COUNTY MANAGER - Public Announcement!

David Nicholson formally introduced Gary Tweed as Henderson County's first County Engineer. Mr. Tweed has almost 20 years of

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experience with the State of North Carolina. As an Environmental Engineer he has worked for the last 4-5 years with Mr. Lapsley of William Lapsley & Associates. He has spent a majority of his time doing Henderson County work. He starts with Henderson County April 28.

ACCEPTANCE OF PROPERTY

Angela Skerrett reminded the Board that the developers of Broadpointe Center have generously donated, on behalf of the county, to Community Foundation 27.82 acres.

On December 30, 1996, the Community Foundation of Henderson County received a gift of 27.82 acres from Marie-Jeanne Elizabeth Cadgene and Narcisse Suzanne Cadgene. This property adjoins the ITT property on Hwy. 280 in Henderson County. The stipulation of this gift is that it must be used for a park.

The Community Foundation Board of Directors has discussed this gift and determined it would be in the best interest of our community and still abide by the donors' wishes, to deed the property to Henderson County to be developed as a park.

Community Foundation requested by letter that the County Commissioners accept this property and guarantee that it will be developed according to the donors' wishes as a park for the residents of this area. The Board of Directors also requested that a timeline for this development be given by the county.

There was much discussion.

Commissioner Kumor made the motion to accept the property for a park as long as everyone concerned is in agreement with the timeline Henderson County will develop. All voted in favor and the motion carried.

LEASE OF PROPERTY ADJACENT TO BROADPOINTE CENTER

Angela Skerrett informed the Board that the property just discussed in the previous agenda item, 28 acres of property located adjacent to BroadPointe Center, has been farmed by Carland Farms, Inc. for several years. Mr. Wayne Carland, owner of Carland Farms is

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desirous of leasing this land from the County for the remainder of the calendar year of 1997, April through December. Mr. Carland made an offer to rent the said acreage at \$70 per acre for a total amount of \$1,834 per year. With payments being made in two equal payments of \$917 on July 1 and December 1 of this year. The lease may not be executed until the County has received deed for the property from the Community Foundation.

Commissioner Ward made the motion to direct the money from any lease of this property to an escrow account to be used for development of this park. All voted in favor and the motion carried.

Commissioner Hawkins made the motion to approve the lease contingent upon receiving the deed from the Community Foundation. All voted in favor and the motion carried.

Chairman Eklund called a 10 minute recess.

AMENDMENT TO APPLELAND BUSINESS PARK RESTRICTIVE COVENANTS

David Nicholson reminded the Board that Henderson County recently renewed the option for Appleland Business Park for a three month term to expire June 30, 1997. The option applies to Lot 5 of Appleland, a +/-22 acre parcel located adjacent to Upward Road and Commercial Boulevard. The Board of Commissioners directed staff to propose options with respect to Lot 5. Recently staff proposed to the Board subdividing Lot 5 into two parcels, one containing the land abutting Upward Road, the second containing the remainder. Staff proposed designating the portion of Lot 5 adjacent to Upward Road as Office/Institutional areas. In order to accomplish this, an amendment to the Restrictive Covenants would be required. Staff prepared a draft amendment to Paragraph 3 of the Restrictive Covenants, creating an Office/Institutional Lot.

Also included in the amendment is a revision to paragraph number 13 of the Covenants allowing signs within the Commercial Areas to be higher than 35 feet. The Board had previously directed staff to prepare this particular amendment.

To amend the covenants, the Board must give all persons owning property within the park written notice by certified mail of the

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proposed changes at least 30 days in advance of taking action. As the amendment process is lengthy, staff felt it best to combine the two proposed amendments into one process. If the Board is desirous of considering one or both proposed amendments, it would be appropriate to set a public hearing to consider them at the May 21 meeting and to direct staff to notify all owners within Appleland Business Park of the proposed amendments in accordance with paragraph 7(B)(5) of the Restrictive Covenants.

There was much discussion. No action was taken. This item was rolled to the next meeting.

REVISIONS TO THE HENDERSON COUNTY BOARD OF COMMISSIONERS RULES OF PROCEDURE

At the last Commissioners' meeting, staff presented the Board with some proposed revisions to the existing Henderson County Board of Commissioners Rules of Procedure. The revisions are to update the Rules in accordance with today's environment. Also, staff suggested that this might be the appropriate time for the Board to consider any changes to the Rules that individual Commissioners would like to bring forward.

Revisions recommended by staff:

1. In the title and in Rule #1. The Rules applied to the Board as they sit as the Henderson County Board of Commissioners and it was assumed that they applied to the Board as they sit as the Cane Creek Water & Sewer District Board and the Mud Creek Water & Sewer District Board but it wasn't explicitly stated in the rules. This was corrected
2. In Rule #3. The Rules had not been amended to conform to the changes in the NC Open Meetings Laws in regards to Closed Session rather than Executive Session.
3. In Rule #6. Some wording changes were made to bring this rule in compliance with the General Statutes regarding regular and special meetings of the Board.
4. In Rule #7. The Statute allows two additional reasons why the Board may meet outside the county, which had not been in the Rules of Procedure. This change was made in the Rules.

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5. With regard to Quasi-Judicial Proceedings. Ms. Skerrett recommended some general language to allow the Board to act in a Quasi-Judicial capacity which would not be pursuant to procedures outlined in an Ordinance already.

There were no proposed changes offered by Commissioners.

Commissioner Hawkins made the motion to accept the revisions presented. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

Justice Academy

David Nicholson had updated the Board on this item earlier in the meeting (page #5). Commissioner Kumor requested that the Commissioners receive monthly reports on the progress of this project. It was the consensus of the Board to receive reports.

Solid Waste Master Plan

David Nicholson informed the Board that the Solid Waste Advisory Committee met on March 6 to begin the process of writing the 10 year comprehensive Solid Waste Management Plan for Henderson County. At that time, the SWAC members decided to form a new committee which would include representatives from our 4 municipalities who had indicated they wanted to be included in the County Plan rather than write their own. The Solid Waste Planner and Solid Waste Director would act as staff to the committee.

The newly formed PAC met for the first time on Monday, March 24. It was decided at that meeting that a new chairman should be elected since a new committee had been formed. Bob Cathey was nominated and elected by unanimous vote.

State Law says that each unit of government may submit a plan or a plan can be done for the entire county. The committee is working on one document for the entire county. They are meeting and working on the Solid Waste Master Plan. As it progresses, the Board will be updated.

Bo Thomas

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Commissioner Ward has been approached by several people asking if the Board was planning to do something to honor former Senator Bo Thomas because of his contributions to Henderson County.

Following some discussion, David Nicholson suggested that a plaque be placed in the courthouse honoring Senator Bo Thomas for his forethought in development of the courthouse.

Softball

David Nicholson informed the Board that he had been approached regarding the use of our facilities for softball tournaments on several occasions. The current adopted policy prohibits the parks and facilities from being used for any purpose of individual, private, or commercial gain. Any fund raising has to be approved by the advisory board.

Mr. Nicholson requested a wording addition for Henderson County Parks and Recreation Department Facility Use Policy: "Notwithstanding the foregoing, the Henderson County Manager shall be authorized, after consulting with the Parks & Recreation Director, to enter into contracts with any individual, non-profit or for-profit entity or group to allow such individual, group or entity the use of any ballfield(s) and/or park owned, leased or maintained by Henderson County."

Staff is still working on a proposed tournament policy. This change would only be an interim policy. Commissioners requested a report at the end of the summer season on how the park has been used and how the policy has worked.

Following discussion, Commissioner Ward made the motion to approve the request. All voted in favor and the motion carried.

IMPORTANT DATES

The Board discussed dates for a Special Called Meeting, to meet with the School Board and discuss the MGT of America report. Mr. Nicholson will contact Dr. Lunsford and suggest some dates and get back to the Board.

NOMINATIONS

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

1. Western Carolina Community Action Board of Directors - 1 vac.
There were no nominations at this time. This item was rolled until after the joint meeting with WCCA and the Board of Commissioners.

2. Nursing/Adult Care Home Community Advisory Committee - 4 vac.
At the last meeting John Reed was nominated for reappointment and Betty Merrell, Sarah Ann Parks, and Helen Butts were nominated for appointment.

Commissioner Ward made the motion to appoint the four nominees. All voted in favor and the motion carried.

3. Blue Ridge Community College Board of Trustees - 2 vac.
Commissioner Hawkins nominated Mary Ann Ingle. Commissioner Ward nominated Dick Baker. Commissioner Good nominated Gene Kopf. The Clerk will poll the Board at the next meeting.

4. EMS Council - 2 vac.
Terry Layne was nominated for reappointment at the last meeting. David Nicholson requested that this be rolled to the next meeting.

5. Hospital Board of Trustees - 2 vac.
At the last meeting Dick Shuffstall and Jim Maher were nominated for appointment and Joe Tolbert was nominated for reappointment. Commissioner Good nominated Dan Waddell for appointment.

Commissioner Good made the motion to suspend the rules and request the Clerk to poll the Board. All voted in favor and the motion carried.

A vote was taken as follows:

Commissioner Ward	Shuffstall and Tolbert
Commissioner Kumor	Maher and Waddell
Chairman Eklund	Waddell and Shuffstall
Commissioner Good	Maher and Waddell
Commissioner Hawkins	Maher and Shuffstall

Another vote was taken as follows:

Commissioner Ward	Shuffstall and Waddell
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Commissioner Kumor	Maher and Waddell
Chairman Eklund	Waddell and Shuffstall
Commissioner Good	Maher and Waddell
Commissioner Hawkins	Shuffstall and Maher

Dan Waddell was appointed.

Another vote was taken as follows:

Commissioner Ward	Shuffstall
Commissioner Kumor	Maher
Chairman Eklund	Shuffstall
Commissioner Good	Maher
Commissioner Hawkins	Shuffstall

Dr. Dick Shuffstall was appointed.

6. Library Board of Trustees - 2 vac.

At the last meeting there were three nominees: Bryan Aleksich, Frank Fitzsimmons, and Stan Shelley.

The Clerk polled the Board as follows:

Commissioner Ward	Aleksich and Shelley
Commissioner Kumor	Fitzsimmons and Shelley
Chairman Eklund	Aleksich and Shelley
Commissioner Good	Fitzsimmons and Shelley
Commissioner Hawkins	Aleksich and Shelley

Stan Shelley and Bryan Aleksich were appointed.

7. Henderson County Planning Board - 3 vac.

Marilyn Gordon and Mary Jo Padgett were nominated at the last meeting. Commissioner Kumor made the motion to appoint Ms. Gordon and Ms. Padgett. All voted in favor and the motion carried.

Commissioner Good nominated William Patterson. Commissioner Ward nominated Elizabeth Enloe. Commissioner Kumor nominated Raymond Ward. The Board will be polled at the next meeting.

8. Solid Waste Advisory Committee (SWAC) - 4 vac.

James Shelton, John Humphrey, Chuck McGrady and Robert Cathey were nominated at the last meeting. Commissioner Kumor made the motion to appoint Mr. Shelton, Mr. Humphrey, Mr. McGrady, and Mr. Cathey. All voted in favor and the motion carried.

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9. Henderson County Regional Water Forum - 1 vac.

Don Ward was nominated at the last meeting. Commissioner Good made the motion to suspend the rules and appoint Mr. Ward. All voted in favor and the motion carried.

10. Youth Services Advisory Committee - 2 vac.

Ellen Moss was nominated at the last meeting.

David Nicholson reminded the Board that Ms. Moss currently serves on the Youth Development Advisory Board. Ms. Moss has resigned from the Youth Development Advisory Board, preferring to serve on the Youth Services Advisory Committee.

Commissioner Kumor made the motion to appoint Ellen Moss to the Youth Services Advisory Committee and accept her resignation from the Youth Development Advisory Board. All voted in favor and the motion carried.

Commissioner Ward nominated Scott Shelton. Commissioner Kumor made the motion to suspend the rules and appoint Mr. Shelton. All voted in favor and the motion carried.

11. Recreation Advisory Board - 1 vac.

Commissioner Hawkins nominated Don Ward to serve as the Commissioner member on this board (ex-officio). All voted in favor and the motion carried.

CLOSED SESSION

Commissioner Ward made the motion for the Board to go into Closed Session as allowed by 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)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of

April 7, 1997

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initial employment of an individual public office or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

All voted in favor and the motion carried.

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

ATTEST:


Elizabeth W. Corn, Clerk


Robert D. Eklund, Chairman

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

WHEREAS, Henderson County is the developer of Appleland Business Park, as shown on that plat slide 2042 of the Henderson County Registry; and

WHEREAS, as developer of Appleland Business Park, Henderson County caused certain restrictions governing development within Appleland Business Park, entitled, "Appleland Business Park Restrictions", to be recorded in Deed Book 838 Page 155 of the Henderson County Registry;

WHEREAS, Henderson County is currently the Appleland Business Park Property Owner's Association pursuant to Paragraph 7 of the Appleland Business Park Restrictions in that Henderson County has a valid option for Lot 5 of Appleland Business Park; and

WHEREAS, Die-Tronic Metal Castings, Inc., purchased Lot 7 (Revised) as shown on Plat Slide 2042 from Henderson County, and is now desirous of selling said Lot 7 (Revised) to Atlas Bolt and Screw Company, a Delaware Corporation, headquartered in Ashland Ohio; and

WHEREAS, the appraised value of Lot 7 (Revised) and improvements thereon is \$872,000.00; and

WHEREAS, Paragraph 4 of the Appleland Business Park Restrictions grants to the Henderson County Board of Commissioners as the Appleland Business Park Property Owner's Association a right of first refusal upon Lot 7 (Revised); and

WHEREAS, Paragraph 4 of the Appleland Business Park Restrictions gives the Henderson County Board of Commissioners acting as the Appleland Business Park Property Owner's Association a period of 30 days after receipt of written notice of an intent to sell from a property owner in Appleland Business Park to consider whether or not to exercise the right of first refusal; and

WHEREAS, Henderson County received written notice of intent to sell Lot 7 (Revised) and improvements thereon to Atlas Bolt and Screw Company on March 17, 1997; and

WHEREAS, Die-Tronic Metal Castings, Inc., has requested that the Henderson County Board of Commissioners waive the 30 day time frame for consideration of the right of first refusal granted by Paragraph 4 of the Appleland Business Park Restrictions and the Henderson County Board of Commissioners is desirous of doing so;

NOW THEREFORE BE IT RESOLVED by the Henderson County Board of Commissioners that the 30 day time frame for consideration of the right of first refusal granted by Paragraph 4 of the Appleland Business Park Restrictions is hereby waived, and the Henderson County

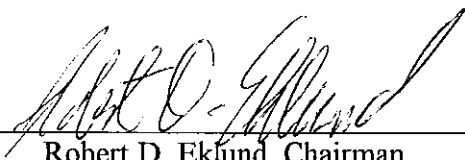
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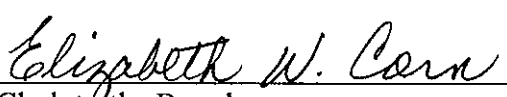
Board of Commissioners hereby declines to exercise its right of first refusal on Lot 7 (Revised) for the sale of Lot 7 (Revised) by Die-Tronic Metal Castings, Inc., to Atlas Bolt and Screw Company as described hereinabove.

This the 7th day of April, 1997.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: 
Robert D. Eklund, Chairman

ATTEST:


Clerk to the Board

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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

WHEREAS, Henderson County owns that certain real property located at 807 Willow Street, Hendersonville, NC having a property identification number 9568-64-3437-55, being that property described in Deed Book 702 Page 651 of the Henderson County Registry, hereinafter "Willow Street Property"; and

WHEREAS, the Willow Street Property consists of +/- 0.33 acres, a +/- 1512 sq. ft. two story residential structure with four bedrooms and 4 bathrooms, having wood siding, built in 1940, and a detached garage and storage building, and is zoned R-15; and

WHEREAS, the Willow Street Property formerly housed the Henderson County New Horizons Group Home, but as the County no longer operates the New Horizons Group Home the Henderson County Board of Commissioners is desirous of declaring the Willow Street Property Surplus, selling the Willow Street Property, and returning the Willow Street Property to the tax rolls; and

WHEREAS, the Henderson County Board of Commissioners is desirous of selling the Willow Street Property by sealed bids as authorized by N.C.G.S. 160A-268;

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

1. The Willow Street Property is hereby declared to be surplus property.
2. The Willow Street Property shall be advertised for sale in the Henderson Times News using the sealed bid method authorized by N.C.G.S. 160A-268. The advertisement shall be advertised once, not later than April 14, 1997. The County Attorney is directed to prepare an advertisement for sale consistent with the terms of this Resolution and applicable laws. The County Attorney shall have the discretion to include such other proper matters as may, in his opinion, be necessary so long as such matters do not conflict with the intent of this Resolution.
3. The County Attorney shall prepare an Offer to Purchase and Contract consistent with the terms of this Resolution. All Bidders shall be required to submit their bid using the Offer to Purchase and Contract prepared by the County Attorney. All Bidders shall be required to state the offered purchase price in the Offer to Purchase and Contract, and to execute the Offer to Purchase and Contract and submit the same in a sealed envelope, clearly identifying the purchaser, and clearly stating that the envelope contains an "Offer to Purchase the Property Located at 807 Willow Street, Hendersonville, NC, described in Deed Book 702 Page 651 of the Henderson County Registry. All Offers to Purchase and Contract must be received by the Henderson County Clerk to the Board of Commissioners not later than 3:00 p.m., May 16, 1997, in Room 140 of the Henderson County Administration Building located at 100 N. King Street, Hendersonville, NC

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- 28792, at which time the Offers to Purchase and Contract shall be opened and read publicly. All Offers to Purchase and Contract must be timely submitted. Failure to meet the submission deadline shall render a Offer to Purchase and Contract ineligible for consideration.
4. The County Attorney is directed to prepare a Request for Offer to Purchase and Contract package containing Instructions to Bidders, a Non-Collusion Affidavit, an Offer to Purchase and Contract to be executed and submitted by the Bidder, and any other proper documentation to be received or submitted by the Bidder which, in his opinion, is necessary for inclusion, so long as such other proper documentation is not inconsistent with the terms of this Resolution.
 5. All nonresponsive Offers to Purchase and Contract shall be ineligible for consideration. A nonresponsive Offer to Purchase and Contract is an Offer that does not contain all of the requested information, is submitted in a manner or form that is inconsistent with the terms of this Resolution or the Request for Sealed Offers to Purchase and Contract, or seeks to alter the terms of this Resolution or the Request for Sealed Offers to Purchase and Contract.
 6. The standard of award shall be the highest responsive Offer to Purchase and Contract.
 7. Henderson County reserves the right to reject any and all Offers to Purchase and Contract and to waive informalities.
 8. No Facsimile transmissions or communications will be accepted related to the Offers to Purchase and Contract.
 9. Markings on the envelope containing the Offer to Purchase and Contract not required to be written on the envelope such as numbers, changes to the proposal, etc., will be disregarded.
 10. Any corrections or strike throughs on the Offer to Purchase and Contract must be initialed by the person signing the Offer to Purchase and Contract.
 11. All Offers to Purchase and Contract must be signed by one with authority to bind the purchaser to the terms and conditions of the Offer to Purchase and Contract.
 12. The closing shall occur not later than July 16, 1997. Time shall be of the essence with respect to all matters contained herein and in the Offer to Purchase and Contract.
 13. Upon acceptance of an Offer to Purchase and Contract by Henderson County, the Offeror of such Offer to Purchase and Contract shall be legally bound to close on the Willow Street Property in accordance with the terms and conditions of this Resolution and the Offer to Purchase and Contract.
 14. All Bidders shall be responsible for all costs associated with the submission of an Offer to Purchase and Contract. The successful bidder shall be required to procure the survey, title insurance, and title opinion with respect to the Willow Street Property. Henderson County will be responsible for preparation of the deed to the successful bidder.

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15. The Willow Street Property will be sold "as is". Henderson County makes no express nor implied warranties with respect to the Willow Street Property, its fitness for any particular purpose, nor its habitability. The principal of "caveat emptor" shall be in full force and effect with respect to the Willow Street Property.
16. Henderson County makes no warranties nor guarantees with respect to any environmental conditions with respect to the Willow Street Property.
17. All Bidders shall be required to include with their Offer to Purchase and Contract an earnest money deposit in the amount of ten (10) percent of the proposed purchase price of the Willow Street Property. The earnest money deposit shall be in the form of a bank certified or official check made out to the Don H. Elkins Trust Account.
18. The County Attorney shall tabulate all Offers to Purchase and Contract received, and shall present them to the Henderson County Board of Commissioners in open session for consideration not later than June 2, 1997, or within such reasonable time thereafter. Notwithstanding the foregoing, the Henderson County Board of Commissioners reserves the right to go into closed session for consideration of any proper matter with respect to the Offers to Purchase and Contract received authorized by N.C.G.S. 143-318.11.
19. It shall be the Bidder's sole responsibility to ensure that the Offer to Purchase and Contract is submitted to Elizabeth W. Corn, Clerk to the Henderson County Board of Commissioners at the date, time, and place for submission of Offers to Purchase and Contract indicated in Paragraph 3 above. Henderson County assumes no responsibility with respect to any Offers to Purchase submitted to any other person, or submitted at any other date, time, or place than indicated in Paragraph 3 above.
20. The County Attorney is authorized to take such further actions as may be necessary to put the Willow Street Property for sale in accordance with the intent of this Resolution.

THIS the 7th day of April, 1997.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____


Robert D. Eklund, Chairman

ATTEST:


Clerk to the Board

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