

**MINUTES****STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS  
APRIL 1, 1996**

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 Renee Kumor, Vice-Chair Vollie G. Good, Commissioner J. Michael Edney, Commissioner Bob Eklund, Commissioner Don Ward, County Manager David F. Thompson, Assistant County Manager David E. Nicholson, County Attorney Don H. Elkins, Staff Attorney Angela M. Skerrett, and Clerk to the Board Elizabeth W. Corn.

Also present were: Finance Director Carey McLelland, County Planner Matt Matteson and E-911 Project Coordinator Susan Sneed.

**CALL TO ORDER/WELCOME**

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

**PLEDGE OF ALLEGIANCE**

Commissioner Ward led the Pledge to the American Flag.

**INVOCATION**

David Nicholson gave the invocation.

**DISCUSSION/ADJUSTMENT OF AGENDA**

There were three additions to the Agenda:

1. Professional Telecommunications
2. Resolution - Trooper Cecil Dale
3. HOME Community Care Block Grant

**CONSENT AGENDA**

Chairman Kumor requested that item "C-5" be removed from the consent agenda and added to "Nominations" under Discussion Items.

Commissioner Edney made the motion to approve the consent agenda with the one deletion from above. All voted in favor and the motion carried.

CONSENT AGENDA included:

**Henderson County Financial Report**

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Carey McLelland had submitted the February Financial Report for the Board's review.

**Road Petition - Persimmon Drive**

A road petition had been received to add Persimmon Drive to the State Maintenance System. It has been the practice of this Board to accept road petitions and forward them to NC Department of Transportation for their review.

**Notification of Vacancies**

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

1. Hospital Board of Trustees - 2 vac.
2. Social Services Board - 1 vac.
3. Henderson County Regional Water Forum - 1 vac.
4. EMS Council - 1 vac.
5. Recreation Committee - 1 vac.

**INFORMAL PUBLIC COMMENTS**

**1. Jamesa Selleck** - Ms. Selleck spoke in favor of increasing personnel at the Sheriff Department Dispatch Office. She had sat in on a couple of shifts and observed operations at the Dispatch Office. She stated that they worked in very cramped conditions, were much understaffed, and worked with outdated equipment. She spoke of a real need for more staff, more space, and modern equipment.

**2. Shirley Scott** - Ms. Scott informed the Board of a problem she and her neighbors have with wild chickens. She stated that she and one other neighbor have caught about 200 chickens in the past year and they just keep multiplying. There are approximately 500 wild chickens, roosters, and wild turkeys (but mostly chickens) in the neighborhood. They leave a mess everywhere, scratch up their vehicles, are quite noisy, and roost in their trees. There are some street lights in the area which confuse the roosters, causing them to crow at all hours. Ms. Scott stated that she and her neighbor could not handle this problem alone any longer, that they need some help.

**3. Jim Peterson** - Mr. Peterson came forward and volunteered to kill the chickens with a bow and arrow for \$5.00 each.

David Thompson stated that Ms. Scott has been in touch with the county in the past regarding this same problem. The Health Department got some pigeon traps and took them for the neighbors to try. This didn't work very well, the chickens wouldn't go into the traps. He asked the Assistant County Manager to follow-up with Ms. Scott and see if we can help her with her problem.

**PUBLIC HEARING - Public and Private Road Names**

Commissioner Eklund made the motion to go into Public Hearing. All voted in favor and the

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motion carried.

Susan Sneed, E-911 Coordinator, presented a list (list A) of 123 non-conflicting private streets - new names (undocumented). Of 123, 91 were in the Mills River area.

She also presented a list (list D) of 2 conflicting private streets - existing names (documented). These were all presented for the Board's review and approval.

### **Public Input**

L. Dan Veazey - Mr. Veazey spoke regarding one of the street names from list A, Jefferson Hill Drive. He asked that it be named his first choice which was Jefferson Forest Drive. He preferred Jefferson Forest Drive, even if Forest has to be abbreviated.

Commissioner Edney made the motion to close the Public Hearing. All voted in favor and the motion carried.

Following discussion, Commissioner Edney made the motion to adopt both list A and list D with the exception of Jefferson Hill Drive, and to add Jefferson Forest Drive to list A instead. All voted in favor and the motion carried.

### **REQUEST TO AMEND THE OFFICIAL ZONING MAP OF HENDERSON COUNTY, Proposed New Zoning for the Ray Hill Road/Brannon Road Area Application #Z-31-95 by Danette Zarbnicky**

Matt Matteson informed the Board that on March 26 the Henderson County Planning Board voted unanimously to send a favorable recommendation to the Board of Commissioners on a request by Mrs. Danette Zarybnicky to amend the Official Zoning Map of Henderson County. The request would extend new zoning to approximately 262 acres in the area of Ray Hill Road and Brannon Road. Three districts are proposed: R-40, R-30, and RM-2.

The Board of Commissioners must hold a public hearing prior to taking action on this application. The earliest regular evening meeting at which the Board could hold a hearing and meet the public notification requirements would be Monday, May 6, 1996.

The two petitioners, Danette Zarybnicky and Robert Hyde could not be present. Mr. Hyde is out of town and Ms. Zarybnicky's family has scarlet fever and they are under quarantine.

Commissioner Good made the motion to set a Public Hearing for Monday, May 6 at 7 p.m., to be held here. A vote was taken with the motion passing four to one. Commissioner Ward voted nay. Commissioner Ward felt that the Public Hearing should be held somewhere in the community.

David Thompson stated that we need to remember to give the petitioner a chance to make a presentation at the time of the Public Hearing, since they could not be present tonight.

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**REQUEST TO SET A PUBLIC HEARING FOR PUBLIC AND PRIVATE ROAD NAMES**

Susan Sneed, Property Address Coordinator, anticipates that we will have approx. 100 street names ready for consideration. She requested that the Board set a public hearing for public and private road names for Monday, May 6, 1996.

David Thompson recommended that a special called meeting be set for this since we already have four public hearings scheduled for May 6. He also stressed that every address in the county will change and that the Board should proceed with caution.

Chairman Kumor requested that this be rolled until IMPORTANT DATES for the Public Hearing to be set for this item and the next item.

**REQUEST TO SET A PUBLIC HEARING FOR PROPOSED PROPERTY ADDRESS CHANGES IN THE MILLS RIVER AND FLETCHER FIRE DISTRICTS**

Susan Sneed requested that the Board set a public hearing for proposed property address changes for Monday, May 6, 1996.

This item was rolled until IMPORTANT DATES for any action.

**SET PUBLIC HEARING FOR SECONDARY ROAD PAVING**

Jay Swain from the local office of the North Carolina Department of Transportation requested via the County Manager that the Board of Commissioners set a public hearing for the Secondary Road Paving for 1996. The suggested dates were Thursday, April 18 or Friday, April 19 at 10 a.m.

Following discussion, Commissioner Eklund made the motion to set the Public Hearing for Thursday, April 18 at 10 a.m., here. All voted in favor and the motion carried.

**PROPOSAL FOR ADDITIONAL BASEBALL FIELDS**

Mr. Frank Brown, Henderson County Youth Baseball and Larry Harmon, Director of Henderson County Parks and Recreation were present with a request for additional baseball/softball fields.

Mr. Brown discussed the overcrowded situation with Youth Baseball. They have the largest sanctioned Babe Ruth Baseball in the State of North Carolina.

Mr. Brown introduced Tom Zimmerman, President of Youth Baseball and Gene Clempster, First Vice-President. They both spoke of the need of the fields and the reasons for them to be located at Jackson Park.

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Larry Harmon supported the request from Youth Baseball. He stated that the cost of two new lighted fields with gravel parking would be \$85,000. Youth Baseball has offered to contribute to the project and also the Hendersonville Homebuilders Association (labor and materials). Mr. Harmon stated that with \$65,000 of county funds or grants, these two fields could be built. He has budgeted for this in his 1996-1997 budget. Mr. Harmon stated that the Recreation Advisory Board has recommended these two new fields at Jackson Park and he showed the location on a map.

It was the consensus of the Board of Commissioners for staff to rework this proposal and bring this item back to the Board by budget time.

Chairman Kumor called a five minute recess.

### **ACCEPTANCE OF EAST FLAT ROCK ELEMENTARY SCHOOL PROPERTY**

Angela Skerrett reminded the Board that this Board has previously expressed intent to accept the East Flat Rock Elementary School property from the Henderson County Board of Public Education in two separate parcels for two purposes: 1. For the development of a community park, and 2. For the operation of a day care center by a non-profit corporation.

In order for this project to be completed the following things have to happen:

1. The Board of Commissioner must accept the property from the School Board.
2. The Board must negotiate the terms and conditions, if any, to be placed on the transfer to the non-profit corporation for the operation of a day care center.
3. The Board would then have to adopt a Resolution approving the transfer and publish it for 10 days before the closing could occur.
4. The County would have to proceed with the development of the larger parcel for the community park.

Ms. Skerrett informed the Board that last Thursday, March 28, the County received two proposed deeds from the School Board for the two parcels of property. There is a 1.82 acre parcel that currently has the old school building and the annex building on it. The open grassy area is the 3.9 acre parcel that would be proposed for a park. She sent both deeds to the County Attorney and also to Dr. Justus, incorporator of the non-profit agency. The smaller parcel is the one for the non profit agency for a day care center.

The County Attorney stated that if the Board accepts the deeds that there should be a stipulation that the Legal Staff be allowed to make some small revisions or clarifications to the deeds. Generally they show the intent of the Board of Commissioners.

Following much discussion, it was the general consensus that the County Attorney carry out the intent of the Board of Commissioners to develop the park as per Larry Harmon's previous

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presentation, to develop one parcel as a park and convey one parcel to a non-profit which has been formed.

Commissioner Eklund made the motion to give the County Attorney authority to carry out the Board's intent and to adopt the Resolution to transfer the two pieces of property, with revisions recommended by the County Attorney and Staff Attorney.

A vote was taken and the motion carried four to one with Commissioner Edney voting nay.

### **INDIRECT COST ALLOCATION PLAN CONTRACT**

Carey McLelland and the Board reviewed a contract proposal from David M. Griffith & Associates, Ltd. (DMG) to prepare and negotiate Henderson County's indirect cost allocation plan. The contract being proposed is for three years at the current fee of \$7,350 which will remain constant through the preparation of the fiscal year ending 1998 cost plan. DMG has prepared Henderson County's cost plan since inception and has done so in a professional and timely manner.

The benefit of having an indirect cost allocation plan prepared is to gain reimbursement of administrative costs of central service departments which are allocated out to departments who have programs which operate with Federal funding. The Federal government and the State will pay a fair share of these costs if supported by an approved cost allocation plan. Henderson County's benefit from reimbursed costs in the current fiscal year is \$499,249 with approximately \$531,545 to be budgeted for fiscal year 1997.

Finance Department Staff recommended that DMG be awarded the contract to continue providing professional accounting services in preparation of Henderson County's Indirect Cost Allocation Plan at a fee of \$7,350 for each of the next three fiscal years.

Finance Director, Carey McLelland recommended that the Board award a one year contract to DMG for \$7,350 with automatic renewal unless the County so cancels.

Commissioner Good made the motion to approve the Indirect Cost Allocation Plan contract with DMG after review by the Staff Attorney as recommended. All voted in favor and the motion carried.

### **APPROVAL OF PLANS AND SPECIFICATIONS FOR LEMANS CORPORATION**

Lemans Corporation purchased Lot #6, a 10.6884 acre lot in Appleland Business Park recently. As required by Paragraph 8 of the Restrictive Covenants, the building plans and specifications were presented to the Board. Pursuant to Paragraph 8, Lemans may not begin construction until the Board has approved the plans. The Economic Development Subcommittee reviewed preliminary plans and issued preliminary approval.

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Mr. Stuart Stepp of Cooper Construction and Mr. Bill Byrnes reviewed the plans with the Board.

Mr. Stepp stated that this location will allow LeMans Corporation to cover an area from North Florida to Washington, D.C. This will be a distribution facility with office space.

Bill Byrnes recommended Board approval of the plans and specifications for LeMans Corporation.

Following much discussion, Commissioner Ward made the motion to approve the plans and specifications as presented. All voted in favor and the motion carried.

### **UPDATE ON PENDING ISSUES**

#### **1. Dates:**

- a. meet with Pardee Hospital Board**
- b. meet with Chamber Board on proposed Economic Development Strategy**

Chairman Kumor asked for possible dates that the Board could have a joint meeting with the Hospital Board. April 17 at 2 p.m. was suggested. Someone will check with the Hospital to see if this date is satisfactory with them. It will be held here.

There was discussion regarding the proposed meeting with the Chamber. Mr. Lapsley is ready with a presentation which the Board elected to receive at the April 17 meeting as a regular agenda item.

#### **2. Report on Sewer discussion with City of Hendersonville**

Chairman Kumor stated that she and David Thompson had met with Mr. Willis. Mr. Willis then met with the City of Hendersonville and met with them again. Mr. Willis then presented all concerned parties with a letter that suggests that as the City moves forward with a 4.8 million gallons a day wastewater treatment plant, that Henderson County would have designated to use part of our designnated capacity or .5 million gallons to serve the needs of Henderson County Mud Creek Water and Sewer District. Mr. Willis has evaluated both the City's needs and our needs and has proposed that the county's contribution would be 10.417% of the overall project cost or approx. \$885,000. The County's contribution will be made at the time the City arranges for its financing for the overall project. The County prefers that the contribution be made as a guaranteed repayment of the City debt equal to 10.417% of the City's debt service cost for this project over the life of debt. The city will accept this contribution and in return waive system development charges or similar fees that might be levied against other users for the new treatment plant who have not participated in up-front capital financing, waiving such charges would be to the county or its designee up to a total average daily usage of .5 million gallons a day.

Chairman Kumor asked that Henderson County participate at a 10.4% limit, that the City go ahead and set their borrowing schedule in a method that will be most advantageous to the users. If there is going to be an impact on the user fee, she suggested that we allow the City to find the most appropriate means that has the lesser impact on the user fees. Henderson County would work with the City and would be paying back at the same rate over time that the city would be paying debt. Henderson County is willing to allow the City to move that forward because it was determined as a question that we all asked. Henderson County is not driving the need for this plant. It is both the need of the current users and if the City and this whole community desires to grow that this debt is not necessarily being driven by the county users but by the demands and technical limitations of their current facility.

Chairman Kumor also informed the Board that Mayor Niehoff proposed that the City and County develop a sewer line extension plan. She requested the Board of Commissioners accept the proposal she presented.

Commissioner Edney felt that ownership in the operation was a minimum must, at 10.417%, based on the history of the last 30-40 years with the City of Hendersonville.

Following much discussion, Chairman Kumor made the motion to follow Mr. Willis' recommendation to go in with the City and participate with the City at 10.4%.

Commissioner Edney made the motion to table Chairman Kumor's motion until the next meeting. A vote was taken on Commissioner Edney's motion and the motion carried three to two with Chairman Kumor and Commissioner Good voting nay.

This item will be on the agenda for action at the next meeting, April 17, 1996.

David Thompson interjected here that the permit on the existing facility located at 101 E. Allen Street in Flat Rock has expired and the State has said that they will not let us renew it because we have another option. That option is going to the City of Hendersonville's plant. The Board has until April 11 to comment or to oppose their decision. It was the consensus of the Board to comment that we would like to keep the permit active.

### **3. Letter from Dr. Lunsford regarding housing lots**

Chairman Kumor reminded the Board that she sent a letter to the Board of Education with regard to some additional property that is adjacent to the proposed East Flat Rock Park. The School Board returned a suggestion to the Board of Commissioners that they would entertain the idea if the Commissioners would help them find some additional property. Mrs. Kumor received a letter from Dr. Lunsford suggesting that they were interested in knowing where the property would be. Mrs. Kumor sent them a letter with a copy of a letter from Dot Moyer, the President of Habitat, suggesting that Habitat was looking at going into a partnership with the Schools to help them out by using the youngsters to build some Habitat homes and that Habitat would take the responsibility for all the permitting, for investing in the property, etc.



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It was the consensus of the Board that this was a reasonable avenue to pursue, that this sounded like a win/win situation for all involved.

#### **4. Land Use Plan Priorities**

Chairman Kumor reminded the Board that at our last meeting the Board discussed and determined the following land use priorities for the remainder of 1996:

1. Come to conclusion on issues below in 1996:

LUGS

Floodplain Ordinance

Land Development Ordinance

2. Formalize our working relationship with the municipalities.

Mrs. Kumor hosted a meeting with the Mayors last week. A presentation was given by Sheriff Erwin on telecommunications, discussed the Emergency Ordinance, and will be meeting with Robert Baird to demonstrate our GIS system.

3. Direct Parks and Recreation Advisory Board to develop greenways. We determined that this issue could be delayed.

This department is already pursuing a number of projects.

4. Direct Agricultural Advisory Board to Evaluate farmland

preservation options. The Board determined that we would continue to work with our Agriculture Advisory Committee and seek their recommendations.

5. Begin preparation to update Land Use Plan (LUP) in 1997.

#### **NOMINATIONS**

Chairman Kumor reminded the Board of the following vacancies. It was the consensus of the Board, because of the lateness of the hour, to roll these nominations to the next meeting:

1. Henderson County Board of Health - 1 vacancy
2. Senior Companion Program Advisory Council of Land of Sky - 3 vacancies
3. Motor Vehicle Valuation Review Board - 4 vacancies
4. Nursing/Adult Care Home Community Advisory Committee - 3 vacancies
5. Board of Equalization & Review - (all members)
6. Henderson County Industrial Facilities & Pollution Control Authority - 4 vacancies
7. Recreation Committee - 5 vacancies
8. Solid Waste Advisory Committee (SWAC) - 3 vacancies
9. Henderson County Planning Board - 3 vacancies

#### **PROFESSIONAL TELECOMMUNICATIONS**

This was an add-on. Due to the lateness of the hour, Commissioner Edney requested that this be set as an agenda item for the next meeting, April 17, 1996. He suggested that Sheriff Erwin be invited to come to the meeting to address this issue. Commissioner Edney raised the question of whether the Board wants to spend the money that is in this year's budget to bring in telecommunicators, go with Commissioner Good's idea of looking at privatization, or nothing.

Mr. Edney's feeling was to get more telecommunicators in place as soon as possible.

**RESOLUTION - commending Trooper Cecil Dale**

This was also an add-on. Commissioner Edney made the motion that the Board adopt a Resolution commending and thanking Trooper Cecil Dale for his 28.5 years service to the people of North Carolina and Henderson County as a trooper with the N.C. Highway Patrol. All voted in favor and the motion carried.

**HOME COMMUNITY CARE BLOCK GRANT**

David Nicholson explained some of the services provided by the Home Community Care Block Grant. He recommended the Board appoint the County Manager's office as the lead agency. The Board had previously appointed co-lead agencies between the Henderson County Council on Aging and the Henderson County Dept. of Social Services. Basically the Council on Aging did the coordination and the Dept. of Social Services did the accounting.

This year the Council on Aging has submitted a proposal to provide some services and immediately questioned their role and whether or not they could continue to be a lead agency in this process.

Mr. Nicholson also stated that when you look at the Federal rules and regulations, the issue came up of the Dept. of Social Services Director, whose wife is employed by the Council on Aging. There is some discussion in the federal regulations over the issue of a family member being involved. It became very clear to the members of the Planning for Older Adults Committee that new decisions should be discussed regarding the lead agency/agencies.

David Thompson stated that basically he would delegate the duties to the Finance Director. He also stated that he has resigned from the Council on Aging so that he can perform this role.

David Nicholson also stated that because of the process and how it has been so far, that all received bids should be returned at this point in time and go into a sealed bid process, using the state service levels and working with the Planning for Older Adults Committee.

Commissioner Good made the motion to name the County Manager as the administrator for the Community Block Grant. All voted in favor and the motion carried.

**IMPORTANT DATES**

The Board was reminded that the NC DOT Public Hearing on Secondary Roads would be here on Thursday, April 18 at 10:00 a.m.

The Board set a Public Hearing for May 20 at 7 p.m. to be held somewhere in the Mills River Community. This public hearing will be for proposed property address changes in the Mills

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River and Fletcher Fire Districts.

The Board set a Public Hearing on May 6, here, on the Request to amend the Official Zoning Map of Henderson County, proposed new zoning for the Ray Hill Road/Brannon Road Area (application #Z-31-95 by Danette Zarybnicky).

### **CLOSED SESSION**

Commissioner Edney made the motion for the Board to go into Closed Session as allowed under NCGS 143-318.11 for the following:

1. (a)(2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
2. (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.
3. (a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
4. (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.
5. (a)(6) To consider the qualifications, competence performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer 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 Edney made the motion for the Board to go out of Closed Session. All voted in favor and the motion carried.

### **ACTION FOLLOWING CLOSED SESSION**

There was discussion in closed session regarding Ian Trace & wife's property next to the Henderson County Landfill and compensation for damages caused by Methane Gas. Negotiations had gone on for months.

Commissioner Good made the motion to:

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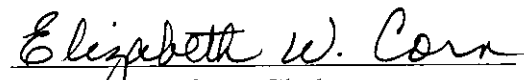
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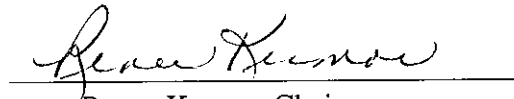
1. Accept the contract with Ian Trace and wife,
2. Authorize payment of \$400,000.00,
3. Authorize the Chairman and the Clerk to execute the contract on behalf of the County and deliver same to the sellers,
4. Authorize the County Attorney to deliver a trust account check to the sellers and/or their Attorney for said purchase price.

All voted in favor and the motion carried.

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

ATTEST:

  
Elizabeth W. Corn, Clerk

  
Renee Kumor, Chairman