

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
AUGUST 7, 1995

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 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, Planning Director Matt Matteson, and Planner Karen Collins,

Absent was Commissioner Bob Eklund who was on vacation.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Edney led the Pledge to the American Flag.

INVOCATION

David Nicholson gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

There was none.

CONSENT AGENDA

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

Consent Agenda included the following:

Review of Minutes - Minutes were presented for review and approval of the following meetings: June 21, 1995; July 3, 1995; July 17, 1995; and July 27, 1995.

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Road Petitions - Road petitions had been received for addition to the State Maintenance System for the following roads:

1. Campground Road Extension (#1311)
2. Bunny Trail
3. Fountain Trace Drive
4. Berry Circle
5. Grouse Lane

Request for Subdivision Improvement Guarantees - Southchase, Section 4 - F.A. Norwood of the Windsor/Aughtry Company submitted an application for subdivision improvements for Section 4 of Southchase Subdivision. The Preliminary Plan for this subdivision was approved by the Henderson County Planning Board on December 20, 1995.

The Windsor/Aughtry Company intends to provide an Irrevocable Letter of Credit from United Carolina Bank in the amount of \$416,732.00 which includes a 25% overhead factor. A draft agreement was provided.

Upon preparation and execution of a formal agreement, approved by the Staff Attorney, the subdivision Final Plat may be approved and recorded and lots subsequently sold.

Request for Subdivision Improvement Guarantees - Cimarron Forest, Section One - David E. Woodard of Carnes & Woodard Builders had submitted an application for subdivision improvements for Cimarron Forest, Section One. The Preliminary Plan for this subdivision was approved by the Henderson County Planning Board on June 27, 1995.

Carnes & Woodard Builders intend to provide an Irrevocable Letter of Credit from Centura Bank in the amount of \$186,606.00 which includes a 25% overhead factor. A draft agreement was provided.

Upon preparation and execution of a formal agreement, approved by the Staff Attorney, the subdivision Final Plat may be approved and recorded and lots subsequently sold.

Property Addressing Report - The Property Addressing Report was presented for information only. The Board has held 21 public hearings to date on naming of roads and 2,389 roads have been named, 274 of those being new roads.

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Notification of Vacancies - The Board was notified of up-coming vacancies for information only. These will appear under "Nominations" on the next agenda:

1. Western Carolina Community Action (WCCA) Board of Directors - 1 vacancy
2. Nursing Home/Domiciliary Home Advisory Committee - 1 vacancy
3. Community Child Protection Team - 5 vacancies
4. Hendersonville Zoning Board of Adjustment - 1 vacancy

INFORMAL PUBLIC COMMENTS

1. H.A. Justus, D.V.M. - Dr. Justus addressed the Board regarding the surplus school property at East Flat Rock and the request by East Flat Rock Methodist Church to operate a Day Care Center at that location.

Dr. Justus stated that the needs of the children in this area are great. One of the Day Care Centers will close August 31 and this will leave about 100 children with no place to go.

Dr. Justus stated that Helping Hand is also looking for a place to locate. They help a number of children with special needs. They would like to go on the same site as the Day Care.

Dr. Justus stated that he has about 100 letters of support and he read one such letter to the Board.

2. Rev./Dr. Tim Porter - Dr. Porter is the Pastor of the East Flat Rock United Methodist Church. He also spoke favorably for the proposed Day Care Center to be run by his Church at the East Flat Rock School Site. Dr. Porter read a portion of a letter from the Rural Economic Center regarding the Church Child Care Initiative. The Church Child Care Initiative seeks to motivate the religious community to take action that responds to the critical child care needs of rural families.

PUBLIC HEARING - Public and Private Road Names

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

Matt Matteson informed the Board that this is the 22nd Public Hearing that has been held for naming roads. The Board will have

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approved over 2,400 road names at the conclusion of this hearing. The road naming project is substantially complete in Henderson County.

Susan Sneed asked that the Board pull two names from the list for approval, Erwin Hill Drive from list "B" and Ashley Place Drive from list "D".

Public Input - there was none.

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

Commissioner Edney made the motion to approve all road names submitted on all lists except Ashley Place Drive and Erwin Hill Drive. All voted in favor and the motion carried.

DESIGNATION OF NON-CONFLICTING STATE ROAD NAMES

Susan Sneed informed the Board of one road name that is in agreement with State Road names and numbers that the Board of Commissioners must re-adopt.

The road in question was Dogwood Drive, SR #1435. It has been reviewed by the Planning Staff for duplication and/or multiple identity. Because there are no conflicts with the street name, a Public Hearing is not required. The Board of Commissioners must adopt the name. Upon approval by the Board, the Planning Staff will order street signs.

Commissioner Edney made the motion to approve SR #1435 as Dogwood Drive. All voted in favor and the motion carried.

APPLICATION FOR ZONING MAP AMENDMENTS (#R-18-95)

Submitted by Mr. David H. Matthews

Karen Collins informed the Board of a formal application received from David H. Matthews for a zoning map amendment. Mr. Matthews has requested that the county remove from its zoning jurisdiction about 1.7 acres which is a portion of a 7.35 acre parcel. Mr. Matthews recently purchased this parcel on Hyder Drive located in the Mountain Home community. Heritage Hills Retirement Community is immediately adjacent on the North. The subject property is

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currently zoned R-15, the balance of the parcel is currently unzoned.

Karen Collins stated that the Henderson County Land Use Plan map designates the area as residential however no density is specified. Ms. Collins recognized Luther Smith to present the application, on behalf of the petitioner.

Luther Smith presented the application and showed the site on a map. The applicant requested that the zoning map be amended to move the line on the eastern and southern portion of the property. Mr. Smith showed this on the map. Mr. Matthews has plans to develop the property. It is adjacent to existing development.

Matt Matteson informed the Board that on July 25, 1995, 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. David H. Matthews.

Staff has not conducted a traditional "zoning study" for this application because it is a request to remove existing land use regulation from property in the County's Planning and Zoning jurisdiction. Staff **does not support** the elimination of any zoning from property where it has been in place. However, in offering a favorable recommendation on this application, the Planning Board members felt that moving the zoning line so that the entire property would be unzoned was reasonable in this case because of the relatively small size of the zoned portion of the parcel.

Mr. George Bond requested that the Board help straighten out this zoning line. They do wish to develop the property in a pattern consistent with what is in Heritage Hills.

Following much discussion, Commissioner Edney made the motion to set a Public Hearing for Tuesday, September 5 at 7:00 p.m., here. All voted in favor and the motion carried.

APPLICATION FOR ZONING MAP AMENDMENT (#R-15-95)

Submitted by Mr. David E. Woodard

Karen Collins informed the Board of a formal application submitted by David E. Woodard requesting that the County rezone a 10.79 portion of a 30.59 acre parcel of property from an R-30 zoning to

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an R-20 zoning district. This is so the entire parcel would be in one district. Mr. Woodard is corporate secretary of Carnes & Woodard Builders, Inc. which recently purchased the property located between NC 191 and Mountain Road from the estate of Lena Jamison. The southern portion of the property, about 19.8 acres, is zoned R-20. The remainder, 10.79 acres, is zoned R-30. Both are low density residential zoning districts.

The Henderson County Land Use Plan map designates the area as residential but does not specify density.

Mr. John Jeter made the request to the Board on behalf of Mr. David E. Woodard. Mr. Jeter stated that this is a residential subdivision proposal. Part of the property is zoned R-20 and part is zoned R-30. He agreed with the statements made by Ms. Collins.

Matt Matteson informed the Board that the Planning Board and staff recommended this favorably. The request is not inconsistent with the Henderson County Land Use Plan.

Following discussion, Commissioner Edney made the motion to set a Public Hearing for Tuesday, September 5 at 7:00 p.m., here. All voted in favor and the motion carried.

ACCEPTANCE & APPROVAL OF A LAND DONATION OF 18.01 ACRES FROM THE ETOWAH LIONS CLUB FOR A RECREATION PARK

David Thompson reminded the Board that the Etowah Lions Club, with the help of community donations, purchased 18.01 acres of land on Etowah School Road and have voted to donate the property to Henderson County for use as a Recreation Park. The Lions Club has requested that the land revert back to the Lions Club if it is not used for Recreation.

Mr. Thompson reminded the Board that development of a recreation park in the Etowah community does fit into the Henderson County Parks & Recreation Master Plan is supported by the Henderson County Parks and Recreation Advisory Board.

Staff had prepared a Resolution for the Board's consideration, concerning the development of the Etowah Recreation Park.

David Thompson informed the Board that he had received a request from the Lions Club to wait until September for the transaction

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since some of their Board Members would not be available until then. He felt that the Board should review the Resolution and informed the Board that staff will proceed as quickly as the Lions Club is prepared to do.

William G. Lapsley of Lapsley and Associates, has offered to waive their engineering services fee of approximately \$2,300 as a donation to the park project.

CERTIFICATE OF ACHIEVEMENT

Carey McLelland informed the Board that the Governmental Finance Officers Association of the United States and Canada has awarded Henderson County's Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 1994, the Certificate of Achievement for Excellence in Financial Reporting. This Certificate is the highest form of recognition in the area of governmental accounting and financial reporting.

The Comprehensive Annual Report, which was judged by an impartial nationwide panel, meets the high standards of full financial disclosure in communicating to the users of the annual report.

The County Finance Department, who were assisted by an independent auditing firm, Hansen, Johnson, & Associates, P.A., prepared this report for submission to the Board of Commissioners, various state agencies, national bond rating agencies and the citizens of Henderson County.

David Thompson stated that this is the sixth consecutive year that Henderson County has received the Certificate of Achievement. This is a fine reflection on our Finance Department and the Board of County Commissioners because it reflects the County's effort to go beyond the legal audit requirements to provide comprehensive financial reports to our citizens.

PRESENTATION OF RANKING RESULTS OF CIP EVALUATIVE CRITERIA

Angela Skerrett handed out a chronology which summarized where the Board was in the implementation of the Henderson County Capital Improvements Program (CIP).

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She presented a prioritized listing of the Evaluative Criteria, based upon group scores given to each criterion by the Board on the tabulation sheets.

Prioritized Evaluative Criteria:

- #1 Demonstrated Community Support
- #2 Risk Management
- #3 Project Cost-Effectiveness
- #4 Conformance with Mission Statement
- #5 Level of Outside Funding Sources
- #6 Life Expectancy Relative to Cost
- #7 Requesting Group(s) Level of Participation
- #8 Possibilities for Privatization
- #9 Conformance with Adopted Plans and Studies
- #10 Initial Two Year Operational Cost Ratio

The Management Team will now come up with some forms for listing capital projects. The data gathering stage is next.

David Thompson stated that staff has a number of projects that the Board discussed during the budget process and during the Board Retreat.

UPDATE ON PENDING ISSUES/Request for Direction to the Chair

CJPP - Grant Award/Acceptance/Space Needs

Chairman Kumor reminded the Board that in July the CJPP received a grant from the State, who accepted the county plan for both a Day Reporting Center and for Video Sentencing.

David Thompson has reviewed the grant and the plan. He requested a formal motion to accept both the implementation grant and the discretionary grant.

Commissioner Edney made the motion that the Board accept both the implementation grant and the discretionary grant. All voted in favor and the motion carried.

David Thompson informed the Board that the next step will be location of the personnel.

Retail Task Force Report - Don Ward

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Commissioner Ward stated that the Retail Task Force held its first meeting August 3. They plan to prioritize each group's list of wants. Their next meeting is scheduled for August 10.

Surplus Property - East Flat Rock School

Chairman Kumor informed the Board of a proposal to divide the East Flat Rock School property into two pieces. One parcel will be developed into a park by the County and the second parcel is the one that East Flat Rock United Methodist Church wants to open a day care program on.

David Thompson reminded all that the property is still owned by the Henderson County School System. They have declared the property surplus. The School System has received an opinion from their attorney that both the day care and the park are legitimate public education purposes which gives them the ability to convey the property for less than the fair market value. The reason for dividing the property is so that the success or failure of one venture or the other won't cause the property as a whole to revert back to the Board of Education.

David Thompson stated that the Recreation Director is working on a plan for the recreation park.

David Thompson read a statement of his concern for relaying the property from the Board of Education to the East Flat Rock United Methodist Church through Henderson County Government. He referred the Board to the County Attorney for advice. It was Mr. Thompson's opinion that the appropriate way to convey this property for the end use of a day care was for the group that wishes to establish the day care center to form a separate non-profit entity.

The County Attorney stated that the Board of Commissioners cannot appropriate money directly to a Church organization, no matter how worthy or how needed the service might be. He could not recommend that the property be deeded directly to the Church without fair market value.

Dr. Herb Justus was recognized at this time. He has spoken to several people at the Institute of Government in Chapel Hill regarding this project and they have no objections to this. They say that it can legally be done.

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Commissioner Good stated that the need is there and that the County should take the risk.

Commissioner Ward agreed with Commissioner Good. He would like to see case law reviewed.

Commissioner Edney stated that as a person he wanted to do it and that it was a risk worth taking. He felt that legally this was probably the wrong decision but morally it was probably the right decision.

Commissioner Eklund was not in attendance but before he went out of town he had concerns about the project unless we were dealing with a non-profit entity.

Chairman Kumor felt that it was a risk worth taking.

There was much discussion concerning excessive entanglement, immunity, etc..

Don Elkins expressed concern that the Commissioners possibly could be held personally liable if they transferred the property directly to the Church.

Commissioner Good made the motion that the property be conveyed to East Flat Rock United Methodist Church contingent upon our County Attorney finding that the Board of Commissioners will not be held liable individually for any monies due to action brought by court. He added that the property be used for a day care center.

Commissioner Good made the motion to first accept the property of the East Flat Rock School from the Henderson County School Board for \$1.00 for a day care and recreation park as educational purposes.

Don Elkins, County Attorney, recommended deferring action until the next meeting, especially on the liability issue. He suggested that the Board could make their intent known but delay a vote.

Commissioner Good withdrew his motion and asked that the item be put on the mid-month agenda, August 16.

Annual Appreciation Banquet

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The Clerk to the Board had called Tommy Shipman regarding holding the banquet at the Chariot and had three tentative dates. She asked if any of the Commissioners already had commitments for:

Thursday, September 28,
Tuesday, October 3, or
Tuesday, October 5.

There were no conflicts. The Clerk was asked to check with Mr. Eklund and then set a date with Mr. Shipman, then relay this information back to the Board.

Veteran's Monument - Theron Maybin

Theron Maybin addressed the Board regarding the proposed Veteran's Monument and requested that it be erected at the new Courthouse rather than being erected in Jackson Park as originally planned. These men were selected for service from the courthouse, not from Jackson Park.

July 18, 1990, the Commissioners voted to give \$10,000 toward establishing the monument.

Road Names

Chairman Kumor had talked with the County Manager about how to handle the naming of some of the controversial roads in the county. They discussed the use of the Dispute Settlement Center in this process. Representatives of the Dispute Settlement Center were in attendance at the meeting to see how the Public Hearing on Road Names went.

Courthouse Inventory

Chairman Kumor stated that David Thompson now has a complete inventory list of items in the historic courthouse. There has been discussion about what to keep and what to contribute to the county archives and/or what to destroy. Chairman Kumor requested that Commissioner Edney be on the committee to review artifacts and make decisions regarding their disposition.

Trust Building Lease

Chairman Kumor stated that the lease with Dr. George Jones (Genealogical & Historical Society) for the Trust Building has been discussed. This item will be on the mid-month meeting for action (August 16).

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David Thompson requested Board direction. The County Attorney has prepared a lease and forwarded it to Dr. Jones. Dr. Jones had had some questions about substantial changes. Mr. Thompson addressed the changes so that decisions could be made and the County Attorney could be directed regarding the lease. The County Attorney was directed to make some changes in the lease and bring the lease back to the Board at the mid-month meeting, August 16. Mr. Elkins was also directed to forward a copy of the revised draft lease to Dr. Jones for review.

NOMINATIONS

Chairman Kumor reminded the Board of vacancies that need to be filled and opened the floor to nominations:

- 1. Hendersonville City Zoning Board of Adjustment - 1 vac.**
Commissioner Good nominated Raymond J. LeStrange. Because there was not a full board in attendance, the vote was rolled to the next meeting.
- 2. Land Of Sky Regional Council - Advisory Council on Aging - 1 vac.** There were no nominations at this time so the item was rolled to the next meeting.
- 3. Nursing Home/Domiciliary Home Advisory Committee - 3 vacancies**
At a previous meeting Claire Boo, Tina Trimboli and Fred Peters were nominated to fill these vacancies. A vote was taken and these three persons were appointed unanimously.
- 4. Hendersonville City Zoning Board of Adjustment - 1 vacancy**
There were no nominations at this time so this item was rolled to the next meeting.
- 5. Hendersonville City Planning Board - 1 vacancy**
Commissioner Good nominated Larry M. Parmele. A vote will be taken at the next meeting.
- 6. Child Fatality Prevention Team**
There were no nominations at this time, this item was rolled to the next meeting.
- 7. CJPP - Criminal Justice Partnership Program Committee**
Chairman Kumor nominated Gwen Rice and Carolyn Justus. A vote will be taken at the next meeting.

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IMPORTANT DATES

Chairman Kumor reminded the Board that we had set two Public Hearings tonight for September 5.

David Thompson discussed the Board's intent to cancel the breakfast meeting for August 22 and instead hold a breakfast reception on the same morning. The Board will recognize the winners of the Finance Award and the NACo Award and then hold a work session on the "Mission Statement".

MUD CREEK WATER & SEWER DISTRICT

Commissioner Ward made the motion for the Board to go into the Mud Creek Water & Sewer District. All voted in favor and the motion carried.

Commissioner Edney made the motion for the Board to go out of Mud Creek Water & Sewer District. All voted in favor and the motion carried.

CLOSED SESSION

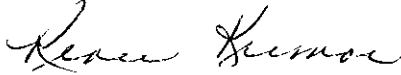
Commissioner Edney made the motion for the Board to go into Closed Session as allowed under NCGS 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

All voted in favor and the motion carried.

There being no further business the meeting was adjourned.

ATTEST:


Elizabeth W. Corn, Clerk


Renee Kumor, Chairman

