

**MINUTES**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
AUGUST 17, 1994**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Vollie G. Good, Vice-Chair Renee Kumor, Commissioner J. Michael Edney, Commissioner Hugh D. Randall, Commissioner William McKay, County Manager David F. Thompson, Assistant County Manager David E. Nicholson, Staff Attorney Angela M. Skerrett, and Clerk to the Board Elizabeth W. Corn.

Absent was County Attorney Don H. Elkins.

Also present were: County Fire Marshal Rocky Hyder and County Planning Director Matt Matteson.

**CALL TO ORDER/WELCOME**

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

**PLEDGE OF ALLEGIANCE**

Commissioner Edney led the Pledge to the American Flag.

**INVOCATION**

Commissioner McKay gave the invocation.

**EMERGENCY SITUATION UPDATE**

Chairman Good asked Rocky Hyder to update the Board on the current flooding situation in Henderson County. Mr. Hyder stated that emergency shelter was provided for several residents last evening. Several areas of the county were without power last evening and some still remained without power but Duke Power was working to rectify the situation. He gave a listing of the roads in the county that were currently closed due to flooding. He will assess the damages as the flood waters recede.

**VICE CHAIR'S STATEMENT**

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Vice-Chair Kumor reminded everyone that Henderson County Schools start tomorrow. The new kindergarten class will graduate 2007. The class of 2000 is already midway through their public school education. She felt that this pointed out how quickly time passes and how important it is for the Commissioners, as leaders, to plan for and implement action on issues in a timely manner.

#### DISCUSSION/ADJUSTMENT OF AGENDA

David Thompson added item "Q" US Hwy. #25 Improvements.

#### CONSENT AGENDA

Commissioner Edney made the motion to approve the consent agenda as presented. All voted in favor and the motion carried.

The Consent Agenda consisted of the following:

**Review of Minutes** - Minutes were presented for review and approval of the meetings on July 5, 1994, July 20, 1994, and August 1, 1994.

**Tax Collection Order** - As per General Statute 105-321, the Board of Commissioners must order the Tax Collector to collect taxes levied by the County on or before the first day of September each year. A tax collection order was presented for review and approval.

**Tax Release Requests** - A list of two tax release requests was presented to the Board for approval by the County Tax Assessor. The findings appear to be in order and documentation is on file in the County Assessor's Office.

**Tax Refund Requests** - A list of seven tax refund requests was presented to the Board for approval by the County Tax Assessor. The findings appear to be in order and documentation is on file in the County Assessor's Office.

**Road Petitions** - Two road petitions have been received and were presented to the Board. These petitioners request their roads to be added to the State Maintenance System: 1. Battlecreek Road, and 2. Huckleberry Mountain Road.

#### INFORMAL PUBLIC INPUT

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1. Frank Kallaji - Mr. Kallaji is a resident of Hunter's Crossing. He spoke of development run-off and damage to his fish pond.

2. Noel Watts - Mr. Watts spoke regarding Something Special. He thanked the Commissioners for the County contribution to Something Special. He briefly described their newly purchased and renovated headquarters on Hwy. #176 (Spartanburg Highway).

**HEARING on Sewer Use Ordinance Compliance - Budget Motel**  
**Quasi-Judicial Hearing**

Vice-Chair Kumor made the motion for the Board to go into Public Hearing. All voted in favor and the motion carried.

Manjula H. Bhatka, and wife, Harischandra Bhatka, constructed a motel on Underwood Road in the Cane Creek Water and Sewer District of Henderson County. The Bhatkas began operating their motel (the Budget Motel) under a temporary sewer service permit issued by the Henderson County Utilities Department (HCUD). The said temporary sewer service permit expired on February 24, 1994 and the Bhatkas are continuing to discharge wastewater from their said motel without having secured a permanent sewer permit from HCUD.

HCUD therefore respectfully requested that the Board of Commissioners hear the arguments of both sides and determine if sewer services should be terminated and to also set a date for compliance or termination of services.

Commissioner Edney left the room at 9:45 by the official clock on the wall in the meeting room and returned at 9:48 by same clock.

Jim Erwin, Director of the Utilities Department, was sworn in and gave the following testimony:

THIS CAUSE came before the Henderson County Board of Commissioners in accordance with Section 14.03 of the Sewer Use Ordinance for Henderson County pursuant to the Verified Report and Request of the Henderson County Utilities Department for an order requiring MANJULA H. BHATKA and wife HARISCHANDRA BHATKA to appear and show cause why their business establishment, to wit the Budget Motel located on Underwood Road in Henderson County, should not be disconnected from sewer services; and

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The Henderson County Utilities Department having presented to the Henderson County Board of Commissioners a report under oath containing the following allegations of fact:

a. Manjula H. Bhatka, and wife Harischandra Bhatka (hereinafter "the Bhatkas"), are the owners of the Budget Motel, located on Underwood Road. On or about January 6, 1993, the Bhatkas filed a sewer service application with the Henderson County Utilities Department, Application No. A00354CC, a copy of which is attached as Exhibit A. The application requested 1500 gal/day of commercial domestic wastewater discharge to the Cane Creek Water and Sewer District to serve their business establishment, the Budget Motel. The Budget Motel is located on Underwood Road in Henderson County.

b. On or about January 11, 1993, the Henderson County Utilities Department requested an allocation for treatment from the Metropolitan Sewerage District of Buncombe County, North Carolina (hereinafter "MSD"), for the requested 1500 gallons/day. A copy of this request was presented and labeled as exhibit B.

c. On or about January 12, 1993, the Henderson County Utilities Department received the 3,600 gal/day allocation approval from MSD, labeled as exhibit C. The increase in discharge capacity granted was necessary due to the fact that the proposed facility (the Budget Motel) was planned to have thirty (30) rooms, each requiring a daily discharge capacity of 120 gal/day.

d. On or about February 12, 1993, the Henderson County Utilities Department received notification from the North Carolina Department of Health, Environment, and Natural Resources, Division of Environmental Management, Water Quality Section (hereinafter "DEHNR"), that a State permit was not necessary for the proposed sewer line extension to be constructed to serve the Budget Motel as reflected in the application (exhibit A). A copy of the notification from DEHNR was presented and labeled as exhibit D.

e. On or about February 15, 1993, the Henderson County Utilities Department issued a sewer service permit to the Bhatkas for 3600 gal/day discharge, sewer service permit No. I00341CC, for sewer service to the Budget Motel. A copy of this permit was labeled as exhibit E. Said sewer service permit required a connection to the existing MSD interceptor line at the manhole located across from Holiday Inn on Airport Road (Hwy. 280)

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(hereinafter "the Holiday Inn manhole"0). The increase in discharge capacity granted by said permit was necessary due to the fact that the proposed facility (the Budget Motel) was planned to have 30 rooms, each requiring a daily discharge capacity of 120 gal/day.

f. Subsequent to the February 15, 1993 issuance of a sewer service permit, the Henderson County Utilities Department was notified by Hobson Construction by telephone that the approved location for connection to the MSD interceptor line was not possible due to rock and a high pressure gas line that was encountered in the boring process en route to the approved connection location. In response, the Henderson County Utilities Department notified Hobson that the Bhatkas could connect to the next manhole on the MSD interceptor line, immediately downstream from the Holiday Inn manhole.

g. On or about October 6, 1993, the Utilities Department was notified by telephone that the Bhatkas were proposing to connect a sewer line to the private line owned by Thomas Youngblood, which was then serving Mr. Youngblood's business establishments located on Underwood Road (hereinafter "the Youngblood line"). The Utilities Department responded that such a connection was impermissible. The Utilities Department then conversed with Mr. Ken Pankow, engineer for the Budget Motel project, concerning the proposed connection to the Youngblood line. The Utilities Department informed Mr. Pankow that a separate sewer connection was required by every user of the sewer system.

h. On or about October 7, 1993, the Utilities Department (James S. Erwin and Doyle Freeman) met with Mr. Bhatka, Mr. Youngblood, and Mr. Pankow at the Budget Motel to discuss the possible methods of providing sewer service to the Budget Motel. The Utilities Department agreed that an application for a permanent sewer service permit could be presented to the Henderson County Board of Commissioners for approval to provide sewer service for the Budget Motel if a section of the Youngblood line within which the Bhatkas' proposed connection was to be made were deeded to Henderson County, thereby providing a separate sewer connection for the Budget Motel as required by the Henderson County Sewer Use Ordinance, and the sewer service line constructed by the Bhatkas were deeded to Henderson County.

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i. The Utilities Department agreed to issue a temporary sewer service permit to the Bhatkas to enable them to have sewer service pending the filing of an application for a permanent sewer service permit with the Henderson County Board of Commissioners. A copy of this temporary permit was labeled as exhibit F. This permit was issued and signed by the Bhatkas on October 27, 1993. This permit contained an automatic expiration date of February 24, 1994, and required the Bhatkas to comply with the procedures outlined by the Utilities Department.

j. By way of letter dated October 27, 1993, the Utilities Department notified the Bhatkas of the procedures for securing a permanent sewer service permit. This letter was hand delivered to Mrs. Bhatka on November 9, 1993. A copy of this letter was labeled as exhibit G. One of the procedures stated in the October 27, 1993 letter was "to provide to the Henderson County Utilities Department a copy of a closed-circuit video of the subject portion of the said private sewage collection system (the Youngblood line)." A copy of such video was supplied to the Utilities Department which indicated that the section of the Youngblood line to be deeded to Henderson County was in substantial disrepair.

k. By way of letter dated January 7, 1994, the Utilities Department reminded the Bhatkas that their temporary permit would expire on February 24, 1994, and that to date, the procedures outlined by the October 27, 1993 letter had not been followed. The Utilities Department received no response. A copy of this letter was labeled as exhibit H.

l. By way of a letter dated January 31, 1994, sent certified mail, return receipt requested, the Utilities Department formally notified the Bhatkas that their temporary sewer service permit would expire on February 24, 1994. A copy of this letter was labeled as Exhibit I. A copy of the Certified Mail Receipt and Domestic Return receipt (signed by M.H. Bhatka) was labeled as exhibit J.

m. By way of a letter dated April 25, 1994, the Utilities Department notified the Bhatkas that their temporary sewer service permit for the Budget Motel had expired and that the requirements for a permanent sewer service permit had not been met. In addition, the Utilities Department notified the Bhatkas that the portion of the Youngblood line which was to be deeded to Henderson County was in disrepair and that Henderson County could not accept

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ownership of that line until it was repaired to Henderson County's standards. A copy of this letter was labeled as exhibit K.

n. The Bhatkas have entered into an agreement dated October 18, 1993 with Mr. Thomas Youngblood et. al providing for the conveyance to Henderson County of the relevant section of the Youngblood line "upon completion of the project and acceptance by the governmental unit of component jurisdiction". A copy of this agreement was labeled as exhibit L.

o. To date, the Utilities Department has received no application for a permanent sewer service permit from the Bhatkas for the Budget Motel, and except as otherwise indicated above, none of the required procedures of the October 27, 1993 letter have been met by the Bhatkas.

Section 16.02 of the Sewer Use Ordinance of Henderson County makes it unlawful for anyone to operate a private wastewater collection system within the Cane Creek Water and Sewer District without the expressed written approval of the District Board of Commissioners. Section 16 of the Sewer Use Ordinance of Henderson County outlines the procedures and requirements necessary for securing the written approval of the District Board of Commissioners.

Doyle Freeman was sworn in.

Commissioner Randall left the room at 9:58 a.m. by the clock on the wall in the meeting room and returned at 10:00 a.m.

Jim Erwin requested that the Board of Commissioners find the Bhatkas in violation of the Sewer Use Ordinance, but that they be given a 45 day timeframe in which to complete the stated requirements.

Commissioner Edney raised some questions to the Staff Attorney regarding the appeal process.

Mr. Pankow was sworn in. He spoke on behalf of the Bhatkas. He stated that he felt the Henderson County Utilities Department had given the Henderson County Board of Commissioners a fair summary of what has gone on with plenty of documentation.

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Mr. Pankow stated that he has issued a certificate of completion as required for the new sewer line construction. Part of the stipulation of being able to connect to MSD was the fact that downstream sewer lines had to be put into good condition and the rights obtained. This seemed to Mr. Pankow to be beyond what should be expected of his clients, the Bhatkas. The Bhatkas will have the damage repaired to the line in question but need some additional time to do so.

Mr. Pankow requested that this matter be tabled for 45 days. He preferred not to see a notice of violation.

There was discussion on the timeframes if the Board acted today on the matter versus if the Board tabled the matter.

#### **CLOSING REMARKS**

Based on the lack of response from the Bhatkas during these many months, Jim Erwin requested that the Board of Commissioners find the Bhatkas in violation of our Sewer Use Ordinance and that the Board of Commissioners order the disconnection of the Budget Motel from our sewer services and that the Board of Commissioners seek to have the property condemned by the Inspections Department based on them not providing sewer services to a public facility. At the time the decision is made, if the Board finds that the Bhatkas are in violation, Mr. Erwin requested that the Board of Commissioners make the decision effective in 45 days if they have not met all the requirements set forth in the hand delivered letter on or about November 11, 1993.

Mr. Pankow stated that the Bhatkas have been responsive. Mr. Pankow said he realizes that he was responsible for only delivering some of this information yesterday. This was an as built project. He felt that tabling of the motion would be fair and would provide a great deal of incentive to get all the work complete within 45 days. He felt that 45 days was a sufficient time to meet all the requirements.

Vice-Chair Kumor made the motion that the Board go out of Public Hearing. All voted in favor and the motion carried.

There was discussion of the alternatives the Board of Commissioners had. They revisited the facts that were presented during the



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Public Hearing so they could determine whether or not the Bhatkas were in violation.

Commissioner Edney proposed that the Board of Commissioners find as facts the allegations listed A - P on the VERIFIED REPORT AND REQUEST FOR ORDER TO APPEAR AND SHOW CAUSE as offered into evidence and find facts based on the documentation. He further proposed that based on those findings of fact the Board of Commissioners conclude that the Bhatkas are in violation of the Sewer Use Ordinance.

Following some additional discussion, Commissioner Edney suggested that the Board of Commissioners make the findings of fact required by our laws, make the conclusion that the Bhatkas are in violation, and enter an order that effective immediately their service and permit is terminated but stay the commitment of that order for 45 days on the conditions that they come into compliance before that time. If they are not in compliance on the 45th day the order is effective and the permit is cancelled on the 46th day.

Chairman Good asked if Commissioner Edney would like to make his recommendation in the form of a motion. Commissioner Edney answered yes he would. A vote was taken and the motion carried unanimously.

Chairman Good informed Mr. and Mrs. Bhatka and Mr. Pankow that the Board of Commissioners found that they are in violation of the Henderson County Sewer Use Ordinance. The Board will allow them 45 days for completion of all the requirements or they will be disconnected from the sewer service.

**SET PUBLIC HEARING ON PROPOSED TEXT AND MAP AMENDMENTS FOR LAKE SUMMIT AREA**

David Thompson reminded the Board that at their June 28, 1994 meeting the Henderson County Planning Board voted 5 to 1 to approve and recommend favorably the following zoning amendments:

1. A text amendment to the Henderson County Zoning Ordinance which would create a Lake and River Residential District;
2. A text amendment to the Henderson County Zoning Ordinance which would create a Lake Summit Surface Water District;
3. A text amendment to the Henderson County Zoning Ordinance to define Public and Private Boat Houses;
4. A text amendment to the Henderson County Zoning Ordinance to set a height restriction for boat houses; and

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5. An amendment to the Official Henderson County Zoning Map to create a satellite zoning area composed of the districts noted in A & B above.

The Planning Board found that there had been no substantial change in the nature and makeup of the study area, and therefore, decided that it would be appropriate to recommend the proposed amendments in the same form as had been previously recommended.

Staff recommended that the Board of Commissioners set a Public Hearing on the zoning test and map amendments for September 6, 1994 at 7:00 p.m.

Following discussion, Vice-Chair Kumor made the motion to set the Public Hearing for September 6, 1994, between the hours of 7:00 and 9:00 p.m. All voted in favor and the motion carried. It was recommended that discussion be limited to the five items (amendments) listed.

There was some discussion regarding the Lake Summit - Lake Access Agreement. One item the Board of Commissioners was interested in was public access to Lake Summit. The Board wanted Staff's opinion regarding how much access to Henderson County residents was available to Lake Summit, not just to the residents of the Tuxedo/Green River community.

#### SET PUBLIC HEARING ON OFFICIAL HENDERSON COUNTY ZONING MAP

At their meeting on July 26, 1994, the Henderson County Planning Board reviewed a new zoning map for the County prepared by the Land Records Office, with assistance from the Zoning Department, using their GIS (Geographic Information System). Sam Laughter, Zoning Administrator, explained to the Board that he would like the GIS map to be adopted as the new Official Zoning Map of Henderson County.

The Planning Board unanimously voted to recommend that the Board of Commissioners adopt the new GIS-based Zoning Map as the Official Zoning Map of Henderson County. Since, technically, this is an amendment to the "Official Zoning Map", a new public hearing would be required.

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Following some discussion, Vice-Chair Kumor made the motion to set the Public Hearing for October 3, 1994 at 7:00 p.m. All voted in favor and the motion carried.

**SET PUBLIC HEARING ON PROPOSED ZONING AMENDMENT**  
**DEFINITION OF LIGHT INDUSTRY**

At their meeting on July 26, 1994, the Henderson County Planning Board voted to recommend to the Board of Commissioners a proposed zoning amendment. The amendment defines "Light Industry", a term which appears in the Zoning Ordinance but which has no formal definition. The amendment was suggested by the Zoning Administrator and the Planning Director to eliminate potential interpretation problems.

Following some discussion, Vice-Chair Kumor made the motion to set the Public Hearing for October 3, 1994 at 7:00 p.m. All voted in favor and the motion carried.

**SET PUBLIC HEARING - RENEWAL OF INDUSTRIAL PARK OPTION**

A public hearing will be held as required by NCGS 158-7.1 to consider the renewal of the option which the County currently has for the development of the Appleland Business Park. The County entered into an option of 69.4 acres of property owned by Mrs. Cynthia Whitted located at the intersection of Upward Road and the I-26 connector. The total purchase price for this property is \$1,500,000.00. The County has partially exercised the option and purchased the Roadway, the Park Property, Lot 8, Lots 1, 1A, 2, 3, and 4, and two lots to be dedicated to NCDOT, for a total acreage purchased of 28.9 acres at the price of \$746,159.54.

The current option will expire on September 30, 1994. The renewal would extend the option for another three-month period to expire on December 30, 1994. The price to renew the option until December 30, 1994 would be the quarterly interest at the Nationsbank prime rate of interest determined as of September 10, 1994 on the unpaid portion of the purchase price of \$753,870.46. (The remaining acreage to be purchased includes Lot 3A, 1.8819 acres, Lot 4A, 0.332 acres, Lot 5, 22.3709 acres, Lot 6, 9.6484 acres, and Lot 7, 6.2508 acres.)

The payment to renew the option for an additional three-month term is due on September 20, 1994.

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Following discussion, Commissioner McKay made the motion to set the Public Hearing for September 6, 1994 at 9:00 p.m. All voted in favor and the motion carried.

**REQUEST FOR EXTENSION OF SUBDIVISION IMPROVEMENT GUARANTEES**  
**Champion Hills, Section 9 (revised)**

Karen Collins, County Planner, reminded the Board that on April 4, 1994, the Board of Commissioners approved a request by the Branigar Organization to post an Irrevocable Letter of Credit in the amount of \$233,295.00 to guarantee the construction of road, drainage, water and sewer improvements in Section 9 (revised) of Champion Hills. The Board set an August 1, 1994 deadline for completion of such improvements. The Letter of Credit expires on September 1, 1994. John Jeter of W. Lapsley and Associates, project engineer, has submitted a request to extend the completion date by 90 days. A new completion date of October 31, 1994 is recommended.

Planning Staff recommended that the request from the Branigar Organization to extend their completion date to October 31, 1994 be approved. The Land Development Ordinance allows the Board of Commissioners to provide an extension of less than two years. The Board should also require that the Branigar Organization extend the Irrevocable Letter of Credit to the required 90 days following completion date.

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

**REQUEST FOR EXTENSION OF SUBDIVISION IMPROVEMENT GUARANTEES**  
**Champion Hills, Section 10**

On April 4, 1994, the Board of Commissioners approved a request by the Branigar Organization to post an Irrevocable Letter of Credit in the amount of \$177,000.00 to guarantee the construction of road, drainage, water and sewer improvements in Section 10 of Champion Hills. The Board set an August 1, 1994 deadline for completion of such improvements. The Letter of Credit expires on September 1, 1994. John Jeter of W. Lapsley and Associates, project engineers, has submitted a request to extend the completion date by 30 days. A new completion date of August 31, 1994 is recommended.

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Planning staff recommended that the request from the Branigar Organization to extend their completion date to August 31, 1994 be approved. The Land Development Ordinance allows the Board of Commissioners to provide an extension of less than two years. The Board should also require that the Branigar Organization extend the Irrevocable Letter of Credit to the required 30 days following completion date.

Karen Collins stated that the inspection has not been completed as yet. The letter of request indicated that they would need 30 days. Ms. Collins talked with the project engineer this morning and said that due to the recent wet weather, they would request 60 days. Ms. Collins, as staff, recommended a 90 day extension, which would cause the extension to expire on October 31, 1994.

Following discussion, Commissioner Edney made the motion to approve the request for the extension on Section 10 for 90 days. All voted in favor and the motion carried.

**APPLICATION FOR COMMUNITY DEVELOPMENT GRANT -**  
**Economic Development Project**

Matt Matteson, Director of the Planning Department, informed the Board that the presented application and its contents must be formally approved by the Henderson County Board of Commissioners. The Application for sewer improvements to serve two industries in the Mountain Home Industrial Park has been previously endorsed by the Board on August 1, 1994.

Mr. Matteson reminded the Board that two Public Hearings have been held on this grant application. At the second Public Hearing the project itself was publicized. The project Henderson County will be applying for is a six inch force main and pump station. The project total is \$335,128. The grant we will be applying for is \$292,133 which includes the construction, system development fees, a fee for administration of the grant, engineering, and a 10% contingency.

Following considerable discussion, Commissioner McKay made the motion, seconded by Vice-Chair Kumor, to approve an application to the N.C. Department of Economic and Community Development for CDBG-Economic Development Funds to provide for the extension of sewer lines and construction of sewer lift station to serve two

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industries in the Mountain Home Industrial Park. All voted in favor and the motion carried.

#### PRESENTATION OF MASTER SEWER PLAN

Jim Erwin, Director of Utilities, informed the Board that the Master Plan was prepared by Bill Conner of Hendon Engineering. He introduced Mr. Bill Conner.

Bill Conner presented the completed Henderson County Wastewater Master Plan. The directive and purpose of the plan is to identify existing sewer facilities within the county, outline future sewer needs, and discuss a phased approach whereby the county in conjunction with others, could begin a sewer system to serve the county and begin the process to provide a county-wide sewer system.

Within the county we presently have two water and sewer districts. In the north end of the county we have the Cane Creek Water and Sewer District (CCWSD). The CCWSD was formed in 1981 and has 25 miles of sewer with two pump stations. It covers approximately 4300 acres. Wastewater from CCWSD is treated by MSD. Currently about 53% of the residences in this district have public sewer service.

The other district in Henderson County is the Mud Creek Water and Sewer District (MCWSD). It is a larger district covering approximately 27,000 acres. MCWSD has 9 miles of sewer and two pump stations. Wastewater from MCWSD is treated by the City of Hendersonville. Only about 2% of the residences in this district have public sewer service.

He showed a map of the county and pointed out the private and public treatment plants within the county. There are 79 State discharge permits issued within Henderson County with a total of 6.3 mgd for Henderson County. Some of the tools he used to project what future sewer needs will be were population trends and projections and topography.

The outcome of this study was that the N. Mud Creek area is an area that is in desperate need of sewer service.

David Thompson stressed the need for work sessions on the Henderson County Master Sewer Plan. The Board should review all options and make a decision as to which direction the county will go regarding

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sewer service. If the Board decides to supply sewer service to all the county alone, the cost projection is \$27 million for a waste-water treatment plant on the French Broad River.

**REQUEST FOR SUBDIVISION IMPROVEMENT GUARANTEES - Sharon's Crossing, Section I**

Matt Matteson presented a request from Gerald Harris of Sharon's Crossing Partnership for approval of an improvement for road, water, and sewer improvements in Section I of Sharon's Crossing. The Partnership intends to provide a Deed of Trust Agreement from Blue Ridge Savings Bank in the amount of \$33,262.00 which includes a 25% overhead factor.

Following discussion, Vice-Chair Kumor made the motion to approve the Subdivision Improvement Guarantee, subject to approval by our Staff Attorney. All voted in favor and the motion carried.

**PROPOSED HOLIDAY SCHEDULE FROM THE EMPLOYEES ADVISORY COMMITTEE (EAC)**

The Employees Advisory Committee (EAC) has requested that Henderson County amend the Personnel Resolution to provide three working days at Christmas. These days would be Christmas Eve, Christmas Day, and one floating holiday. The EAC felt that employees should have a constant number of holidays each year.

Following considerable discussion, Commissioner Edney made the motion to approve the request and adopt the Resolution to amend the Personnel Resolution. All voted in favor and the motion carried.

**YOUTH SHELTER SITE AND CONSTRUCTION RECOMMENDATIONS**

Elizabeth Macdonald, Director of the Youth Development Department, reminded the Board that in November 1993 the Board of Commissioners approved the request by Youth Development to build a nine-bed emergency shelter on property located on US 64 West, purchased in the County in 1990 to establish a multi-purpose campus setting for Youth Development. Approval for the new facility was based on documentation that the current five-bed emergency shelter was not able to meet the demand in Henderson County for at-risk youth. William G. Lapsley & Associates and Emory Jackson & Associates were approved as the engineer and architect for the project, respectively, by the Board. Since that time, plans and

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specifications have been drawn up and approved by the respective local and state departments to proceed with the project. Solicitations to bid on site development and construction were advertised with a closing date of July 19, 1994 for both. The lowest responsive bid for site improvements was Cooper Construction at \$146,988. The lowest responsive bid for construction was H & M Contractors at \$308,502. (This does not include renovations to the existing building, which was bid as an alternate. Actual bids received exceeded monies budgeted for renovations and thus, renovations to this building have been postponed.)

Project Budget: Total project budget before bids was \$454,698. The revised total project budget, based on bids received, is \$455,490.

The County Manager updated the Board on the project budget at the July 5, 1994 meeting, stating that current site development estimates exceeded the original planned budget. When the initial project was proposed to the Board in November 1993, the Engineer's estimate for site development was \$68,475. Staff requested an updated budget upon getting ready to prepare bids. The revised budget as of July 9, 1994 was \$125,552. However, the final revised budget based on the lowest, responsive bid is \$146,988. Therefore, due to unanticipated work required in site improvements, funds originally budgeted are not sufficient to cover the actual cost of the project.

Funds Available: Total funds available for the project include: \$87,084 cash on hand; \$300,000.00 bank loan; and \$15,320 in fees/services already paid out. This comes to a total of \$402,404 monies committed. Total project cost is \$455,490, leaving a balance of \$53,086 needed to fund the project.

Bank Financing: \$50,000 was set aside in this year's budget to cover debt service payments from September 1994 to June 1995. However, when financing proposals were finally awarded, the fixed monthly payment for these ten months was set at \$5,748, for a total of \$57,483. Therefore, an additional \$7,483 is needed to cover the ten debt service payments for this year.

Total Additional Funds Needed: Total additional funds needed to fund the project include \$53,086 for site development/construction costs plus \$7,483 in debt service payments. This comes to a total of \$60,569 staff is requesting the Board appropriate towards funding the new emergency shelter project.



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\$22,920 is built into the budget as contingency funds that may be applied if not needed to fund the project.

Engineer Services Fees: In the November 1993 meeting, the Board approved a maximum of \$5,500 to be committed toward fees for Engineer Services for the project. This was based on a budget of \$68,475. However, due to the expanded scope of the work required for site improvements, the revised budget for site improvements, based on the lowest responsive bid is \$146,988. Therefore, Staff recommends that the fee for Engineer Services be increased by \$1,205 from \$5,500 to \$6,705 to reflect the increased cost of this component of the project.

Staff requested the Board of Commissioners to take the following actions:

- 1) Award the site development contract to Cooper Construction at \$146,988.
- 2) Award a single prime contract for construction to H & M Contractors at \$308,502 (which does not include renovations to existing building).
- 3) Appropriate \$60,566 towards funding the total project budget out of Contingency.
- 4) Appropriate an additional \$1,205 towards the engineering services fee.
- 5) Set up a separate capital account and designate any project contingency funds not utilized for renovations of existing building.

Following considerable discussion, Commissioner McKay made the motion to approve recommendations #1-4. All voted in favor and the motion carried.

#### **EXECUTIVE SESSION**

Commissioner Edney made the motion for the Board to go into Executive Session as allowed under General Statute 143-381.11 to discuss the following matters:

1. To consult with the County Attorney to the extent that confidentiality is required.

All voted in favor and the motion carried.

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

#### CODIFICATION OF COUNTY ORDINANCES

Angela Skerrett informed the Board that staff has been in contact with three codification companies. A copy of the proposals was reviewed. No formal request for proposal (RFP) was sent. Staff has used these proposals to become acquainted with the codification process so that existing services available could be determined. Staff recommended sending out formal RFPs to the three companies outlining the exact services desired in the County's codification process.

All the County's minutes books (all records) from day one would be searched and anything of a general and permanent nature would be brought forward and organized into a draft. At that point in time their Attorney would work with the County Attorney and the Staff Attorney reviewing the existing ordinances and then would make recommendations as to things that they feel are outdated or unconstitutional, etc. The Board would have work sessions to go through each proposed change to our ordinances. Ms. Skerrett expects us to have lengthy work sessions during this process. They would print up the final Code.

Samples of Codes were examined and some discussion followed regarding preferences. Following much discussion, Commissioner Edney made the motion to instruct staff to begin negotiations with General Code Publishers for Codification of our County Ordinances. All voted in favor and the motion carried.

#### OFFERS TO PURCHASE/Foreclosed Property

1) Michael Case and Lynn White have offered \$500.00 for property formerly owned by Judith Johns, and described as PIN #04-00649. This Offer to Purchase was advertised and no upset bids were received. It was presented for final approval by the Board.

2) Norman F. Bell and wife Kathy R. Bell offered \$500.00 for property formerly owned by H. Lee Cargill & Wife and described as Lot 31, High Peak Lake, PIN #04-00792. This Offer to Purchase was advertised and no upset bids were received. It was presented for final approval by the Board.

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3) Samuel Stephen McGraw has offered \$650.00 for property foreclosed in the name Carrie Yvonne McGraw/Samuel Stephen McGraw, II and described as Lot #1 allowed to M.B. Jones Deed Book 94, page 317, PIN #02-01061. This Offer was advertised once. No upset bids were allowed since this was family (private sale). It was presented for final approval by the Board.

Following discussion, Commissioner McKay made the motion to approve all three Offers to Purchase as presented. All voted in favor and the motion carried.

#### BOARDS AND COMMITTEES

Vice-Chair Kumor reminded the Board that several months ago the Board accepted a proposal by Commissioner Kumor to organize a "Board Training" for our appointees to Boards and Committees.

One of the first areas that needed attention was a method of developing an organized presentation of possible areas of service. Ms. Corn and Ms. Kumor began to explore ways of organizing that information. As we worked we found that we could address another issue, that of reducing the amount of paper that is placed in our Agenda Book relating to nominations.

Part of our solution was in the form of a database program that allows us to effectively organize and manage information relating to vacancies and current board memberships. We spent several weeks organizing this information to be entered into the computer. This information has been organized, updated, and entered.

That information is swamping this office and it is time to inform the Commissioners about what is available and make decisions on handling this facet of our responsibility. Ms. Kumor showed examples of what this program can do, asked for further input on altering the way we handle nominations, asked for guidance on handling the additional information we received; and asked for the Board's input on how best to prepare nomination information to the Commission using our new capabilities.

Samples were shown of the information stored in the database and explanation was given of some of the things we can now accomplish with the new database program.

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Public Notice - The program includes a public notice option for vacancies. Ms. Kumor suggested that we not use a "public notice", but adapt a "News Release" format that would be sent to the media several weeks before we must consider the vacancy.

The Board agreed that this was a good idea.

Expiration letter - The program includes a letter regarding term expiration. It is similar to our current letter of expiration. Following discussion, the Board agreed that they preferred to continue to use our current letter of expiration rather than the letter included in the program.

Application forms - There is an application form in the program that is automatically printed out with the expiration letter. It asks for updating information on the re-appointee. It was the consensus of the Board to send this out so we could keep more current updated information on each appointee.

In addition, Ms. Kumor and Ms. Corn have designed a revised application form for people showing interest in being appointed to one of our Boards or Committees. Following discussion of the current application form and the revised form, the Board approved the revised application.

Organizing Information - Ms. Kumor asked how the Commissioners would like to keep all this new information handy? Following much discussion, it was decided that Ms. Corn would keep all the manuals, etc. that have been received recently on Boards and Committees in an accessible spot for quick reference by the Commissioners, the public, or herself. It was also decided to make individual notebooks for each Commissioner and store them in the Board Meeting Room for the Commissioners use when we discuss nominations/appointments. This would eliminate the need to copy all the Nomination information for each agenda packet each meeting date.

What's next - The program does not do everything that we want, or maybe does not do them our way. We have requested David Thompson to allow us to request the use of a DP person's time to work on altering the alterable parts of the program. We want the ability to run an alphabetical listing of all who serve on boards and committees. This would allow us to print labels and to verify whether someone sits on several boards. We also want to be able to

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select certain fields to be printed out, this is especially necessary to include in our manual. Presently we only want to print out board name and function to be included in the training manual, but there may be other combinations of information that we might want that would demand this type of flexibility.

Board Training - Ms. Kumor briefly discussed the actual "Board Training" program that started all this. David Thompson and Angela Skerrett are working on parts of the program and we are planning to develop a small manual to include their information, Ms. Corn's abbreviated board information, and an application form.

#### NOMINATIONS

1. Chairman Good reminded the Board of 1 vacancy for an alternate on the **Motor Vehicle Valuation Review Board (MVVRB)**. There were no nominations so the item was rolled to the next meeting.

2. Chairman Good reminded the Board of 1 vacancy for the **Nursing Home/Domiciliary Home Advisory Committee**. This term expires 9/94. There were no nominations so the item was rolled to the next meeting.

#### IMPORTANT DATES

David Thompson informed the Board that the Commissioners have been invited to join the BRCC Board for a **joint meeting on September 13 at 12:00 Noon at Blue Ridge Community College**, so the Board of Trustees of BRCC can share their plans with the Board of County Commissioners. This would be a luncheon meeting. Following some discussion, the Board of Commissioners agreed to this date and time.

Chairman Good noted that today is Mayor Niehoff's birthday. He suggested that Commissioners might want to call or send a card to the Mayor of Hendersonville.

David Thompson brought up the idea of an **employee picnic at Jackson Park. September 18** was discussed for **1:00 p.m.** There was much discussion but it was the consensus of the Board to agree to this time and place. This will all be done by volunteers, no paid employees. Larry Harmon and the Recreation Department are planning and taking care of details for this.

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David Thompson reminded the Board of the suggestion to have a Breakfast Reception to present the NACo awards and the Ralph Ketner award. Dates were discussed. It was the consensus of the Board to have the **breakfast reception at 8:00 a.m. on September 7 at the Library.**

There was discussion of the Wild & Scenic River classification. If our Board wishes to comment on the river classification, the cut off date is September 20. Land Of Sky Council of Governments serves as the clearinghouse for comments. There was discussion that the Board wished to have a meeting before that date so that the river classification could be discussed. It was decided that we would need to **continue the September 6 evening meeting**, the date was set for **September 7 at 9:00 a.m. and the Wild and Scenic River Classification** will be discussed at that time.

There was discussion of the need for a workshop to discuss issues such as consolidation, annexation, etc. (City/County Issues) Numerous dates were discussed. It was decided to hold an **Issues Work Session on Monday, September 12 at 7:30 p.m.**

Commissioner Edney informed the Board that our existing Courthouse is 90 years old this year. He suggested that the county should do something to commemorate the 90 years of service. There was some discussion but nothing definite was set.

There was some discussion of whether to have the annual appreciation banquet for our volunteers and it was unanimously agreed that we should. Next, there was discussion as to where and when to have it. Dates were discussed and Ms. Corn was directed to contact Tommy Shipman to see when he could accommodate us at The Chariot. (Monday, Tuesday, or Thursday were suggested) The Board will be notified of the upcoming date and time.

**ALTERNATIVE TRANSPORTATION COMMITTEE/ U.S. Hwy.#25 N.  
Beautification Project**

David Thompson informed the Board that the City of Hendersonville's Alternative Transportation Committee is preparing an application for D.O.T. funds for the beautification and enhancement of the U.S. 25N project. The Alternative Transportation Committee is working to improve the safety and aesthetic quality of our community's roads and highways. They are requesting funds to cover the following three main requests: 1. Landscaped islands to be placed

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at the intersections at 191 and Stoney Mountain Road and at the entrance to Patton Park. Two landscaped islands at Patton Park would serve to increase the safety to pedestrians trying to cross a five lane highway. An artist's conception of these landscaped islands at Patton Park was reviewed. 2. A pedestrian crosswalk at the entrance to Patton Park. 3. Landscaping funds to be used to implement a unified landscaping project. These funds would be available to any property owner affected by the 25N widening project in the form of landscape design services and planting materials.

The Alternative Transportation Committee specifically requested a letter of support from the County Board of Commissioners.

Vice-Chair Kumor made the motion that the Chairman send a letter of support from the county, contingent upon the City's approval at their meeting tomorrow.

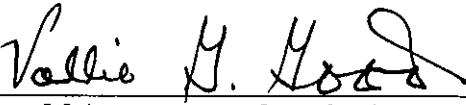
#### OLYMPIC COMMITTEE

Vice-Chair Kumor attended a meeting last evening, representing the Board of Commissioners. The Olympic Committee has been successful in attracting the New Zealand Swim Team to come to Hendersonville for practice prior to the '95 Olympics in Atlanta, Georgia. There may be a forthcoming request for some funding.

As there was no further business, the meeting was adjourned at 3:13 p.m.

ATTEST:

  
Elizabeth W. Corn, Clerk

  
Vollie G. Good, Chairman

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STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

**TO THE TAX COLLECTOR OF THE COUNTY OF HENDERSON**

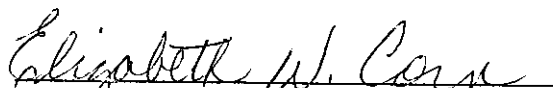
You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of Henderson County Tax Assessor and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Henderson, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 22<sup>nd</sup> day of August, 1994.

  
Vollie G. Good, Chairman  
Henderson County Board of  
Commissioners

VGG/ewc

ATTEST:

  
Elizabeth W. Corn, Clerk  
to the Board of Commissioners  
of Henderson County

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Taxpayer Name	Taxbill	Total	Reason
BLUE RIBBON CUSTOM FRAME SHOP MAURER, MELISSA D/B/A	89A62949.01	\$61.39	OVERSTATED SUPPLIES FOR 1989 DISCOVERED DURING AUDIT PROCESS
NATURE'S PARTNERS INC.	93A82608.01	\$137.25	REFUND DUE TO AUDIT OVERLISTED IN 1993
NATURE'S PARTNERS INC.	92A82608.01	\$183.17	REFUND DUE TO AUDIT OVERLISTED FOR 1992
TILLMAN, JAMES A & WIFE	90A0113420	\$91.83	SQUARE FOOTAGE OF DWELLING INCORREC
TILLMAN, JAMES A & WIFE	91A0113420	\$93.52	SQUARE FOOTAGE OF DWELLING INCORREC
TILLMAN, JAMES A & WIFE	92A0113420	\$96.86	SQUARE FOOTAGE OF DWELLING INCORREC
TILLMAN, JAMES A & WIFE	93A0113420	\$101.87	SQUARE FOOTAGE OF DWELLING INCORREC CORRECTED FOR 1994

TOTAL REFUNDS >>> \$755.89

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RELEASE. NNT  
09/08/94

COMMISSIONER'S REPORT 09/17/94  
RELEASES

REL. REPORT:  
PAGE 1

Taxpayer Name	Taxbill	Total	Reason
C C SHORES INC	93A9941761	\$526.72	PARCEL SHOULD HAVE BEEN INACTIVE FOR 1993

LOBDELL, MARTHA K	93A13669.01	\$64.15	93*MH WAS TRADED FOR A 92*MH THAT IS LISTED TO ACCT 100490
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TOTAL RELEASES >>> \$590.87

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8-17-94

# PUBLIC INPUT SIGN UP SHEET

PUBLIC INPUT SHALL BE LIMITED TO  
THREE (3) MINUTES PER PERSON.

EACH PERSON SHOULD:

- (1) STATE YOUR NAME
- (2) IN WHAT AREA OF THE COUNTY YOU LIVE
- (3) SPEAK IN A CLEAR AND COURTEOUS MANNER.

NAME

ADDRESS

ISSUE

- Please Print*
- |     |                        |                 |                    |
|-----|------------------------|-----------------|--------------------|
| 1.  | FRANK KALLATI          | 25 HUNTERS LANE | DEVELOPMENT RUNOFF |
| 2.  | Noel watts, Exec. Dir. |                 | Something Special  |
| 3.  |                        |                 |                    |
| 4.  |                        |                 |                    |
| 5.  |                        |                 |                    |
| 6.  |                        |                 |                    |
| 7.  |                        |                 |                    |
| 8.  |                        |                 |                    |
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## **RESOLUTION TO AMEND THE PERSONNEL RESOLUTION**

**WHEREAS**, there currently exists a Personnel Resolution for Henderson County, originally adopted on September 21, 1988 and amended on August 2, 1993, which governs all personnel policies and procedures for the employees of Henderson County; and

**WHEREAS**, the current Personnel Resolution allows for a varying number of holidays each calendar year; and

**WHEREAS**, the Employee Advisory Committee has recommended that the Board of Commissioners establish a standard number of holidays to be taken by County Employees each year at eleven; and

**NOW, THEREFORE BE IT RESOLVED** by the Henderson County Board of Commissioners adopts the following change in their holiday schedule:

### **ARTICLE 6. LEAVES OF ABSENCE**

#### **Section 6.0 Holidays**

The following days and such other days as the Board of Commissioners may designate are holidays with pay for employees and officers of the County working the basic work week:

New Year's Day  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Friday after Thanksgiving  
Christmas - The last business day preceding Christmas Day; Christmas Day; the first business day following Christmas Day.

When a holiday falls on a Saturday or a Sunday, Monday shall be observed as the holiday.

Holiday leave earned by employees having a work week with greater or fewer hours than the basic work week shall be determined in accordance with the formula set forth in Section 6.2 of this Article.

Employees required to work on a holiday shall be compensated by receiving eight hours holiday pay in addition to their regular pay.

Employees whose weekly work schedule differs from the standard Monday through Friday/37.5 (40) hour work schedule shall receive

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eight hours holiday pay regardless of whether or not the employee actually worked the holiday. Therefore, if an employee's regular scheduled day off falls on the holiday, the employee shall receive eight hours holiday pay.

In order to be eligible for holiday pay, a temporary or new County Employee must have worked a full regularly scheduled work day before and after the holiday, unless excused by the County.

Adopted on this the 17<sup>th</sup> day of August, 1994.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

Vollie G. Good  
Vollie G. Good, Chairman

Attest:

Elizabeth W. Corn  
Elizabeth W. Corn, Clerk to the Board

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