

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
SEPTEMBER 8, 1992

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 J. Michael Edney, Vice-Chairman Vollie G. Good, Commissioner F. Richard Baker, Commissioner Hugh D. Randall, Commissioner William McKay, County Manager David F. Thompson, Assistant County Manager/Finance Director David E. Nicholson, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner McKay led the pledge to the American Flag.

INVOCATION

Rev. Gordon Corn of Brightwater Baptist Church gave the invocation.

REVIEW OF MINUTES

Minutes were presented for review of the following meetings:

August 10, 1992

August 17, 1992

August 31, 1992

Minutes were approved as presented.

DISCUSSION/ADJUSTMENT OF AGENDA

There was none.

PUBLIC HEARING-Public & Private Road Names

Commissioner Baker made the motion to go into Public Hearing to hear public comment on the Public & Private Road Names. All voted in favor and the motion carried.

Susan Sneed informed the Board that 49 streets were advertised in the Times-News August 29 and were posted prior to that date. A request to name Juniper Lane was withdrawn. Forty-eight (48) state and private roads remain. Mrs. Sneed explained that she had received comment on Connelly Road/Soapstone Road (#1423). The Planning Department recommended that a decision be made on this

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road at this meeting. The Commissioners have been given considerable research and comment on this road.

Mrs. Sneed discussed Allen Road and the need to eliminate duplications on it. There are four sections of Allen Road and the Planning Department recommends:

North Allen Road for Section A - (SR# 1746) from Howard Gap Road to Dana Road.

Mid Allen Road for Section B - (SR# 1893) from Dana Road to Tracy Grove Road.

South Allen Road for Section C - (SR# 1756) from Tracy Grove Road to Upward Road.

Allen Road for Section D - (SR# 1789) from Upward Road to Crest Road.

At the Public Hearing the residents agreed with this idea. These roads have been posted and no negative comments have been received.

PUBLIC INPUT

Mrs. Ruby Zack - Mrs. Zack lives on Merrell Road and spoke in favor of that name.

Harold Wininger - Mr. Wininger lives on Sweetwater Road/Gilreath Loop. He spoke in favor of Sweetwater Road.

Chairman Edney informed Mr. Wininger that Sweetwater Road/Gilreath Loop was not on the list to be addressed at this meeting.

William R. Sheppard - Mr. Sheppard lives on Winding Way Lane in Winding Way Estates and spoke in favor of the name.

Ralph Mackey - Mr. Mackey lives on Winding Way Lane and spoke in favor of the name.

John Caspole - Mr. Caspole lives on Foxwood Drive and spoke in favor of the name.

Jim Breed - Mr. Breed lives on Hillside Lane/Allenwood Circle. He submitted the petition to change Hillside Lane to Allenwood Circle because of a duplication.

Kevin Bentley - Mr. Bentley lives on Connelly Road/Soapstone Road and is opposed to changing Connelly Road to Soapstone.

Gary Willis - Mr. Willis lives on Connelly Road/Soapstone Road and is opposed to changing the name to Soapstone Road.

Vincent Lindgram - Mr. Lindgram lives on Sweetwater Road/Gilreath Loop.

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Richard Schultz - Mr. Schultz lives on Connelly Road/Soapstone Road. He spoke in favor of Connelly Road.

Susan Lyda - Ms. Lyda lives on Connelly Road/Soapstone Road and spoke in favor of Soapstone Road.

Paul Robbins - Mr. Robbins lives on Connelly Road/Soapstone Road and spoke in favor of Soapstone Road.

Carolyn Schermerhorn - Mr. Schermerhorn lives on Connelly Road/Soapstone Road and spoke in favor of Connelly Road.

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

The Postmaster recommended Connelly Road. Mrs. Sneed also checked with the Department of Transportation which had it listed as both Connelly and Soapstone. Land Records maps had it listed as Connelly and the Master Street Address Guide from Southern Bell had it listed as Connelly. The Champion map had it listed as Soapstone.

There was considerable discussion. Commissioner Good made the motion that the road in question - Connelly Road/Soapstone Road - be known as Connelly Road. A vote was taken and the motion carried four to one with Mr. McKay voting in opposition.

Commissioner Baker made the motion to adopt the list presented and accept the Planning Department's recommendation. All voted in favor and the motion carried.

PUBLIC INPUT

Vivian Hill - Ms. Hill spoke in favor of zoning East Flat Rock.

Evelyn Nichols - Mrs. Nichols spoke in favor of immediate zoning of East Flat Rock. She requested that the mobile home park ordinance be made top priority. She also spoke regarding conflict of interest and ethics.

Clarence N. Stepp - Mr. Stepp spoke in favor of light industry for the area.

Ida Manus - Ms. Manus spoke in favor of a moratorium on mobile home parks until a solution can be reached.

Lucy King - Mrs. King requested that the Board designate the property that they changed to T-15 to residential.

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Craig Justus - Mr. Justus requested a decision be made at this meeting on the zoning issues in East Flat Rock. He spoke in favor of residential zoning for the properties along Bat Fork Creek.

Tom Davis - Mr. Davis spoke regarding his mobile home park on Lamplighter Lane and a barking dog. The barking dog is not owned by anyone in his park but is interrupting sleep for the residents of his park. Some of the park residents work shifts. Mr. Davis is referring to the dog in New Business "A" - Barking Compliance Order.

Sam Neill - Mr. Neill had requested a light industry zoning for his property in East Flat Rock. When a light industry zoning was turned down he requested T-15. He spoke against residential zoning on his property and again requests T-15 zoning. He does not intend to put a trailer park on the property. If MR-15 were available, that would be suitable to Mr. Neill.

Nina Jones - Mrs. Jones spoke against zoning in general in the East Flat Rock area.

EAST FLAT ROCK ZONING

David Thompson reminded the Board that at their last meeting they instructed staff to research several topics. One of those topics was the feasibility of a moratorium on mobile home parks in T-15 districts.

Mr. Thompson reviewed the Staff Attorney's legal opinion regarding a moratorium with the Board which was unfavorable for the use of a moratorium on mobile home parks in T-15 districts. Generally, a county may not do indirectly what it may not do directly; OR the proposed moratorium is in reality a temporary amendment to the zoning ordinance and all of the statutory procedures for the amendment of an ordinance must be followed before such a moratorium may be adopted.

Mr. Thompson stated that the second topic staff researched was a draft of a proposed amendment to the Henderson County Zoning Ordinance. This item will be considered at the next Planning Board Meeting which is scheduled for September 29, 1992. This is a new proposed MR-15 district.

Mr. Thompson stated that the third topic staff researched was a summary of changes made at the August 31, 1992, Board of Commissioners' Meeting. At this point Mr. Thompson discussed the issue of down-zoning. The Institute of Government stated that if you go from an R-15 to an R-40 that could be down-zoning or if the Zoning Ordinance is amended in such a way that that property may be developed less intensively or at a lower density than before then that could constitute down-zoning.

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The Board of Commissioners reviewed a packet in the agenda book including proposed text amendments to the Zoning Ordinance and proposed changes to the Official Zoning Map. There was much discussion.

Chairman Edney called attention to a map in the agenda packet titled East Flat Rock Land Use Study, Phase II Proposed Zoning Districts dated August 31, 1992. He stated that the map has everything identified except for the Kreckovsky property, the Neill property, and the Burrell property. He asked if there were any changes or discussions other than on those three properties.

Commissioner McKay made the motion that this area be zoned (referred to map dated August 31, 1992) as outlined excluding the three properties under discussion: Neill, Burrell, and Kreckovsky. There was some discussion. A vote was taken and the motion carried four to one with Commissioner Baker voting against.

Commissioner Good made the motion to zone the Kreckovsky property R-15. There was discussion. Mr. McKay stated that he would work to push through the MR-15 designation and then pursue having this property changed from R-15 to MR-15. Chairman Edney agreed and will work toward the MR-15 designation and then use all means at his disposal to rezone this property MR-15. A vote was taken and the motion carried unanimously.

Commissioner Baker made the motion to zone the Burrell property R-15. Commissioner McKay and Chairman Edney voiced the same position as on the Kreckovsky property. A vote was taken and the motion carried unanimously.

Commissioner Good made the motion to zone the Neill property R-15. Commissioner McKay and Chairman Edney voiced the same position as on the Kreckovsky and the Burrell properties. Commissioner Baker voiced the same position on this property as Commissioner McKay and Chairman Edney. Chairman Edney hopes that this property will be changed to MR-15 zoning within the next few months. A vote was taken and the motion carried unanimously.

ADA GRIEVANCE PROCEDURE

David Thompson informed the Board that Ms. Skerrett, Staff Attorney, could not be present. This item was presented to the Board previously on August 3. Mr. Thompson reminded the Board that one of the major concerns was regarding the last rite of appeal, whether the Board wants the County Manager to be the last rite of appeal before court (similar to the Board of Adjustment) or does the Board want to reserve those appeals to the County Commissioners. There was discussion.

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Commissioner McKay made the motion to adopt the Grievance Procedure as presented. All voted in favor and the motion carried.

YOUTH DEVELOPMENT REORGANIZATION

David Thompson reminded the Board that on two previous occasions the County Commissioners have discussed the reorganization of Youth Development. After some discussion, Commissioner Baker made the motion to combine the two programs into one at the Willow Street Group Home. All voted in favor and the motion carried.

ANNOUNCEMENT - Elizabeth Macdonald announced that on October 16 there will be a STATE OF THE CHILD CONFERENCE sponsored by KIDS COUNT. She invited all the Commissioners to attend.

LANDFILL TIPPING FEE

David Nicholson reminded the Board that at their last meeting (August 19) they discussed various landfill issues including a review of the current tipping fee. While considering an increase in the fee, the Board reviewed several factors. Some of the items which will influence the establishment of the new fee include:

1. A 22% reduction in the waste flow.
2. The financial deficit in the Landfill Enterprise Fund caused by beginning the fee in the middle of the previous fiscal year.
3. Closure costs which were included in the FY 92-93 budget.
4. Reserving a dollar amount for the purchase of a new landfill site.

David Nicholson informed the Board that the most important element in reviewing the rate is the purchase of property. This is a philosophy question. Should the County reserve funds to assist in this purchase or simply borrow the total amount needed through special obligation bonds?

If the Board wishes to have funds on hand, it then becomes a matter of time and money. When do we expect to make the land purchase and what is our projection of the total dollars needed? Mr. Nicholson reviewed a chart showing several tipping fees and their effect on funds available to purchase land at the end of each fiscal year.

After much discussion, Commissioner Good made the motion to increase the tipping fee to \$26 per ton, to become effective January 1, 1993. A vote was taken and the motion carried four to one with Commissioner Baker voting against.

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VALLEY HILL VOLUNTEER FIRE & RESCUE REQUEST

Chairman Edney informed the Board that Valley Hill has established a second district out Kanuga Road. They are requesting that the Board adopt a Resolution adopting this second Fire District for insurance purposes only. Once they have a petition they will return and ask the Board to hold a general election regarding a tax district.

David Thompson stated that he has tried to contact the Department of Insurance unsuccessfully. He has left several messages. The Resolution would state that it is a district for insurance grading purposes only.

Commissioner McKay made the motion to adopt the Resolution establishing the Valley Hill # 2 fire insurance district. All voted in favor and the motion carried.

EXCESSIVE BARKING COMPLIANCE ORDER APPEAL

David Thompson informed the Board of a compliance order appeal received from Dottie Zimmerman. The written citation was issued on July 31, 1992 by Brenda Miller.

Brenda Miller informed the Board that the Animal Shelter started receiving complaints from neighbors who live in a trailer park on Lamplighter Lane in East Flat Rock in reference to barking dogs. Complaints were received on two different individuals who own dogs in the area. Trips were made to both properties and she worked things out with one of the dog owners. She continued to receive complaints on the Zimmerman dogs.

When Ms. Miller visited, there were four hounds tied up and a red and white mixed breed tied up. The day she visited the red and white mixed breed was tied up on the run and did bark the whole time she was there. The hounds didn't make much noise. She spoke with Mrs. Zimmerman, the dog's owner, and told her that she would have to issue the compliance order based on the complaints received. The temper of the neighborhood was getting out of hand. One of the Zimmerman dogs was shot while it was tied up on her property.

Mrs. Zimmerman came forward stating that it isn't just her dogs barking, there are others in the neighborhood that bark. She said that her dog is a watchdog and lets her know when someone is around. Mrs. Zimmerman said that when her dogs bark she goes out to check and if no one is around she tells her dogs to shut up and they do. She then hears other dogs barking.

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Steve Zimmerman then addressed the Board. He hunts his dogs six nights a week. He brings them home at 2 or 3:00 a.m. He also trains people's pups for them to hunt.

After much discussion, Commissioner Baker made the motion to support (affirm) the compliance order. All voted in favor and the motion carried.

GUARANTEE FOR SUBDIVISION IMPROVEMENT - Champion Hills, Section 4

Chairman Edney questioned Matt Matteson whether the change on the letter had been made to reflect Henderson County instead of Hendersonville. Mr. Matteson said that they have notified the bank but they have not returned the new letter of credit. It will not be approved until the letter of credit is properly titled to the County instead of the City.

Commissioner Baker made the motion to approve this request subject to receipt of a properly worded letter of credit. All voted in favor and the motion carried.

DESIGNATION OF NON-CONFLICTING STATE ROAD NAMES

A list of 104 public roads was presented to the Board that are in agreement with State Road names and numbers that the Board of Commissioners need to re-adopt at this time. The list of non-conflicting state roads has been reviewed by the planning staff for duplication and/or multiple identity. Because there are no conflicts with the street names, a Public Hearing is not required although the Board of Commissioners still has to take action to adopt these street names. Upon approval by the Board, the planning staff will order street signs.

Commissioner Good made the motion to approve the non-conflicting state road names as presented. All voted in favor and the motion carried.

SET PUBLIC HEARING - Public & Private Road Names

Planning Staff informed the Board that pursuant to Section 302 of the Henderson County Property Address Ordinance, a public hearing must be called to name or rename both private and public roads in Henderson County.

A notice of hearing will be placed in the Times-News. Once the hearing has been held, the street names may be adopted with whatever changes the Board may wish to make. If another name is suggested, a new public hearing must be scheduled.

The earliest evening meeting that this public hearing can be held is October 5 at 7:00 p.m. To meet the public notice requirements,

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advertisements must be placed in the newspaper and the notices be posted ten (10) days prior to the hearing date.

Commissioner McKay made the motion to set the Public Hearing for October 5, 1992 at 7:00 p.m. All voted in favor and the motion carried.

NOTIFICATION OF VACANCIES

1. Chairman Edney informed the Board of one vacancy on the Hendersonville City Zoning Board of Adjustment. Mr. Ellison's term is expiring 8/1/92. He came by the office and stated that he is very interested in serving another term.

Commissioner Baker nominated Mr. Ellison for reappointment. There were no other nominations. Commissioner Good made the motion to suspend the rules and appoint Mr. Ellison. All voted in favor and the motion carried.

2. Chairman Edney informed the Board of one vacancy on the Nursing Home/Domiciliary Home Advisory Committee due to a resignation. This was rolled to the next meeting.

ROAD PETITIONS

Chairman Edney informed the Board of four road petition requests to be added to the state maintenance system:

1. Woodcrest Lane
2. Oak Gate Drive
3. Mountain Springs Drive
4. Short Street Extension

Commissioner Baker made the motion to accept these petitions and forward them to North Carolina Department of Transportation for their consideration. All voted in favor and the motion carried.

EXECUTIVE SESSION

Commissioner Good made the motion for the Board to go into Executive Session as allowed under General Statute 143-118.11 to discuss the following matters:

- A. To discuss a personnel matter.
- B. To discuss the acquisition of real property.
- C. To consult with the County Attorney to the extent that confidentiality is required.

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

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There being no further business to come before the Board, the meeting was adjourned at 10:45 p.m.

ATTEST:

Elizabeth W. Corn
Elizabeth W. Corn, Clerk

J. Michael Edney
J. Michael Edney, Chairman

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

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WILLIAM MCKAY

RESOLUTION

NORTH CAROLINA

HENDERSON COUNTY

Upon motion by Commissioner McKay, seconded by Commissioner Good, **RESOLVED** that the Board of Commissioners of the County of Henderson, approve the boundary lines of the Valley Hill Fire District #2 for insurance grading purposes only in accordance with the maps and description filed this date with the Board of County Commissioners and recorded in the minutes of the meeting. Said Valley Hill Fire District #2 being described as follows:

Beginning at point (1) on Road 1124 (Lake Falls Road), 1.3 miles south of its intersection with Road 1123; thence westerly to point (2) on Road 1114 (Pinnacle Mountain Road), 0.1 mile east of its intersection with Road 1109 (Cabin Creek Road); thence northwesterly to point (3) on Bear-Rock Road, a private, accessible sub-division road, 1.3 miles southwest of its intersection with Road 1125 (Walnut Cove Road); thence westerly to point (4) on Road 1128 (CCC Road), 2.2 miles south of its intersection with Road 1127 (Crab Creek Road); thence northwesterly to point (5) at the intersection of Roads 1127 (Crab Creek Road) and 1130 (Shoals Creek Road); thence northerly to point (6) on Road 1133 (Jeter Mountain Road), 2.5 miles west of its intersection with Road 1244 (Jeter Mountain-Terrace Road); thence northeasterly to point (7) at the intersection of Roads 1196 (Evans Road) and 1191 (Willow Mountain Road); thence southeasterly to point (8) on Road 1196 (Evans Road), 0.2 mile west of its intersection with Road 1123 (Kanuga Lake Road); thence southerly to point (9) on Road 1134 (Hidden Lake Road), 0.1 mile southwest of its intersection with Road 1196 (Evans Road); thence southeasterly to point (10) on Road 1127 (Crab Creek Road), 0.2 mile west of its intersection with Road 1196 (Evans Road); thence southeasterly to point (11) on Road 1125 (Walnut Cove Road); 0.3 mile south of its intersection with Road 1127 (Crabe Creek Road); thence easterly to point (12) on Road 1125 (Walnut Cove Road), 0.6 mile south of its intersection with Road 1126 (Berea Church Road); thence northeasterly to point (1), the beginning.

NOTE: This description describes an area of Henderson County pursuant to General Statute 153A-233 for Insurance Grading Purposes Only.

NOTE: Points 1, 8, 9, 10, 11 and 12 are adjoining points with the Valley Hill Fire Insurance District #2.

NOTE: Points 1, 2 and 3 are adjoining points with the Green River Fire Insurance District.

NORTH CAROLINA

HENDERSON COUNTY

This is to certify that the foregoing is a true and accurate copy of excerpt from the Minutes of the Board of County Commissioners of Henderson County, adopted this the 8th day of September, 1992.


Elizabeth W. Corn, Clerk to the Board

