

MINUTES

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COUNTY COMMISSIONERS  
OCTOBER 17, 1990

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

Those present were: Chairman William T. Drake, Vice-Chairman F. Richard Baker, Commissioner Troy L. Maybin, Commissioner J. Michael Edney, Commissioner Hugh D. Randall, County Administrator Jerry D. Myers, County Attorney Don H. Elkins, Finance Director David E. Nicholson, Clerk to the Board Elizabeth W. Corn, and the media.

Chairman Drake called the meeting to order.

MINUTES

The minutes of the August 15, 1990 meeting were presented for review. The minutes were approved as corrected.

The minutes of the October 1, 1990 meeting were presented for review. The minutes were approved as corrected.

DISCUSSION/ADJUSTMENT OF AGENDA

There were no additions or adjustments necessary.

PUBLIC HEARING-Property Address Ordinance

Commissioner Baker made the motion to go into Public Hearing to hear public comment regarding the proposed Property Address Ordinance.

Chairman Drake recognized Susan Sneed to address the Board and give a brief overview of the Ordinance.

Mrs. Sneed stated that the Public Hearing has been advertised. To date the Planning Department has not received any comments from the public in regards to the Ordinance, the only comments received have been from the County Commissioners and the County Attorney. Mrs. Sneed said that copies of the Ordinance are on file in the Clerk to the Board's office and also in the Planning Department's office. The comments from the Board are not reflected in the Ordinance.

Mrs. Sneed stated that this Ordinance will allow the County to name, rename, number, or reassign numbers to any public or private streets within the unincorporated areas of Henderson County. The Planning Dept. will have a list of all of these street names that have been approved and no-one else will be able to make changes, they must come through the Board of Commissioners or the Planning Department. The Planning Department will also have an official map of all the streets which have the names and the numbers and the

Planning Department office will be the clearing house for any new street names. In order to name or rename or assign or reassign numbers there has to be a public hearing for both public and private roads. The Planning Department has proposed that any street or driveway which has three or more homes will be designated as a street and will require a name as well as numbers. There will be no duplications allowed.

Some street names which will be prohibited will be any street names which have numbers, names that are difficult to pronounce, names that are over 15 characters in length (including spaces), street names which are duplicated in neighborhoods across county lines or within the same U.S. Postal district, fire dept., or telephone exchange. Street names which use sir names will be prohibited unless the name is well known and generally accepted by the public. No street names will be allowed which are similar to a subdivision name unless the street is within that subdivision.

The owner will be required to post the property numbers on the house. If the house is more than 75 feet off of the road, the number must also be posted at the entrance of the driveway. For single family dwellings the numbers must be a minimum of 4" and for multiple dwelling units a minimum of 6". The numbers must be in a contrasting color to the background color. Notices will be sent to the property owners of the new address and they will be required to post the number.

There was very much discussion.

Chairman Drake stated that the sole purpose of the Property Address Ordinance is in connection with the Enhanced 9-1-1 program and asked Mr. Matteson to explain.

Mr. Matteson explained that the E-9-1-1 system's purpose is to locate telephone customers for emergency purposes and without proper street addresses the emergency response units would have difficulty responding to the calls.

Chairman Drake stated that we would not be considering this Ordinance at all unless we were planning on developing the enhanced 9-1-1 system. When the enhanced 9-1-1 system goes into effect it will display on a computer screen the exact house location and the exact address that is associated with that phone call. He further stated that the sole purpose is to allow emergency personnel to find the address where the phone call is coming from in case it is a heart attack or some other emergency where the person making the phone call cannot speak. All the information will show on the screen that will be necessary for the emergency personnel to find that house. Unless we have proper addresses, the enhanced 9-1-1 system is of no more value than what we have right now.

Public Input

Jean - She lives in Grimesdale. She said that on Sept. 18 she had occasion to call 911 because her husband was unconscious and when she gave her address she was asked by the person exactly how to get to Napier Drive in Grimesdale and they were there immediately, she was very pleased with the response time.

Chairman Drake asked what if she had been unable to speak or if your house is on fire and you cannot stay on the phone, then the enhanced 9-1-1 system gives the information for you.

Chairman Drake called on Commissioner Edney to explain his and Don Elkins' opinions regarding some changes to the Ordinance concerning the appeal process.

Commissioner Edney stated that section 405-A talks about the Planning Department maintaining the right to authorize and approve alternative methods of displaying the numbers. We expressed concern with the language and how it would be implemented. He and Don Elkins have reviewed it and are offering a wording modification.

They basically took the language from the Zoning Ordinance, allowing the Board of Adjustments the power to give a variance on how you would display your numbers.

There were questions as to what Board should be responsible for these appeals. By consensus it was decided to have the Board of Commissioners responsible to hear these appeals.

#### Public Input

Lois Dorsey- Ms. Dorsey is interested in duplicate names. She lives on Price Road and the very next street is Price Street. She is very much in favor of having one name for each road and not having any duplicates.

Commissioner Baker asked if she would be willing to give up her street name if asked to and she answered that she would be.

Carole Dunn- Ms. Dunn lives in Laurel Park. She feels that a compromise is needed and doesn't think that most citizens would object to street names and numbering. The compromise would come in unusual situations such as the homes on corner lots where the house does not face the same road the driveway is on, a software system is needed to allow addition of some special information as the need arises. She stated that if this type software system is available we could probably avoid having to go back and having more hearings, more mailings, and more special situations. If you do it right the first time and allow yourself room to add some information you can probably avoid alot of hassle in the future and probably alot of complaints.

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

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Chairman Drake informed Mr. Matteson that we will proceed with this at a later date, if we get some changes made.

OPERATION YELLOW RIBBON, ARMED FORCES APPRECIATION DAY

Chairman Drake recognized Linda Taylor and Janell Brown to present this item.

Ms. Brown lives in Henderson County, just outside the city limits. Ms. Taylor distributed a hand-out describing what the organization does. These two ladies are responsible for starting Operation Yellow Ribbon. Ms. Brown has a son in the 82nd Airborne who is stationed in the desert of Saudi Arabia. Operation Yellow Ribbon was started as a support group for the military that had deployed to the middle east, their parents and wives. At this time there are about 60 military personnel from Henderson County serving in the middle east in all the branches of the military service.

Two things that the organization has done:

1. The distribution and display of yellow ribbons throughout the county,
2. The Adopt-A-Soldier program in the schools. Classes in the public and private schools in the county are adopting a military person and writing them and sending pictures and/or packages.

Armed Forces Appreciation Day is the next thing they would like to accomplish. This planned activity would be to honor all military personnel, past and present and is scheduled to be held Oct.20 at Jackson Park. Ms. Brown turned the program over to Ms. Taylor at this time.

Ms. Taylor stated that she does not presently have a family member in the military but she has very strong feelings about being a citizen of the United States and the privilege to be a citizen and feels that there has been a lack of that. She stated that in five short weeks the county has pulled together to make Armed Forces Appreciation Day a success. She said that kids don't seem to understand the cost of freedom and aren't really aware of the sacrifices that were and are necessary to make this country what it is. She thinks that it is time to start giving our children real heroes to think about and to know. This county is full of real live heroes and we need to be aware of these people. She said that we can be aware of these people through Armed Forces Appreciation Day.

Ms. Taylor said that she would like to see Armed Forces Appreciation Day become an annual event in Henderson County. She thinks this could easily be accomplished by pulling together the obvious groups such as the Disabled American Veterans, the VFW, the American Legion, the Retired Officers Association, the Red Cross, and the Operation Yellow Ribbon Organization. She would like to see this implemented into the school curriculum a week or so before the event.

Ms. Brown and Ms. Taylor both thanked Doug Moon of the Recreation Dept. (Jackson Park) and Chairman Drake for all their cooperation and help.

Chairman Drake stated that after hearing these ladies and their commitment to this project, he asked them to come today and present their idea to the Board. He felt that the Board might want to endorse the idea of the Armed Forces Appreciation Day as an annual event, without any financial commitment, just to let everyone know that it is okay to be patriotic again.

There was discussion and much endorsement from the Board members.

Chairman Drake made the motion that the Board of Commissioners endorse the concept of an annual Armed Forces Appreciation Day. Commissioner Edney seconded the motion. A vote was taken and the motion carried unanimously.

Ms. Taylor informed the Commissioners that the Organization had asked to have a flag that had flown in Saudi Arabia to raise at the flag raising ceremony at Jackson Park. The Commanding General of the 82nd Airborne is airlifting the only flag that flew in Saudi Arabia to Hendersonville for the ceremony. A private had packed this flag in his duffle bag and had taken it with him, they raised it and it flew for a few days before it had to be taken down.

NBC will cover the event.

#### MOUNTAIN HOME FIRE DISTRICT EXPANSION/Eastern District

Chairman Drake called to the Board's attention a letter that he had sent to Attorney Elkins. Mr. Elkins has reviewed the letter and has okayed it. Chairman Drake stated that according to the statutes these items have been accomplished:

1. The appointment of fire district commissioners
2. Application of the property owners
3. Unanimous recommendation in writing of the fire protection commissioners and a majority of the Board of Directors approving the expansion.

He further stated that we had received (as of the date of the letter he sent to Mr. Elkins) responses from 279 of the 283 property owners and since then has received 22 additional applications, making more than the 2/3 needed.

Chairman Drake said that at this time we can set a date for a Public Hearing.

Commissioner Baker made the motion to set the Public Hearing for expansion of the Mountain Home Fire District for Monday, November 19 at 7:00 p.m. at Mountain Home Fire Department. All voted in favor and the motion carried.

#### CITIZENS FOR RESPONSIBLE WASTE MANAGEMENT

Chairman Drake recognized Carole Dunn, Co-Chair of the Citizens for Responsible Waste Management, to address the Board.

Ms. Dunn is here on behalf of the group requesting discussion and some type of decision on their request for an incinerator moratorium. She stressed that they are not requesting a ban but a 6 month grace period, time to fully review and develop an Ordinance along with the Henderson County Planning Board. They have had a conference meeting with Senator Stanfords' office and are in the process of contacting Senator Helms to ask for their support in seeing that the five amendments are deleted from what is being considered for the Clean Air Act of 1990. These amendments lessen the restraints or requirements on air quality control. The group is asking for the 6 month grace period during which time no proposals would be considered. She is requesting action now, stating that this was originally proposed on September 4, with no real action to date.

Chairman Drake said that this was well discussed at the meeting at which it was first brought up. He asked Mr. Elkins to respond.

Mr. Elkins stated again that yes the Federal and State governments do control and have legislated in this area of air pollution. He personally is not opposed to air pollution regulations and thinks there need to be regulations. However, the question is can the Henderson County Board of Commissioners set up its own air pollution control program and ban commercial incinerators from Henderson County. This is what he feels he must be concerned about as Attorney for the Board. It is his conclusion that anytime you ban a legitimate business activity from Henderson County that you have a problem. Mr. Elkins said that according to the statutes he has read, the Board of Commissioners would not be able to enact an Ordinance without approval from the State. The State must approve it and certify it to the County and the County must show an administrative agency capable of monitoring the pollution and an enforcement agency.

Ms. Dunn was not familiar with the statute Mr. Elkins spoke of and felt that the State would only review the Ordinance but did not have to approve it.

Chairman Drake said that anything that deals with air quality controls is controlled by the statute Mr. Elkins is speaking of and that is why we have sent them to the state for their review. Even the draft copies that we have gotten, we've already sent them to the State for their review.

Ms. Dunn has called the Institute of Government in Chapel Hill and inquired of William Campbell whether the county would be entitled to impose a moratorium for the purpose of studying the Ordinance and working it out and he assured her that there was no reason why the county could not impose a moratorium.

Chairman Drake said that we have a County Attorney that the Board has hired to give legal advice, to keep the County Commissioners out of trouble in order to keep the tax payers out of trouble. We also have an Attorney on the Board other than Mr. Elkins. Mr. Drake stated that he feels confident taking the advice of the County Attorney.

Commissioner Edney stated that he had done some research into this and agrees with Mr. Elkins. He feels that there are serious problems with any type of moratorium. He told Ms. Dunn that what they are asking for is a six month ban on allowing anything to come into Henderson County, whether you call it a moratorium or something else. In Mr. Edney's opinion, we can't do that. Another thing that bothers Mr. Edney is that when each member of the Board took office, they took an oath to uphold the constitution of this State and this country, and they cannot intentionally do something they know is in violation of that oath. Based on his and Mr. Elkins' opinions, if they were to pass a moratorium, they would be violating the oath of office.

Ms. Dunn questioned if there might be a proposal in the works.

Chairman Drake told her that he could assure her that he knows of nothing else in the works. He said he could also assure her that we would not intentionally violate the recommendation of a County Attorney and he is telling us if we do it, it is wrong, that we are in violation of the state constitution and the N.C. Statutes. Mr. Drake said he is not going to intentionally violate these statutes or the constitution or put himself in the position that somebody out there could bring suit for intentional actions and as a result the tax payers of Henderson County would pay a tremendous jury award for violating their constitutional rights. The County Attorney's purpose is to keep us out of those situations and he said for his personal opinion, we have to go along with that.

Ms. Dunn assured the Board that they did not intend to propose anything that would threaten the constitutional position of the Board. She said maybe they need to do a little more homework, maybe they will come up with a little independent council and may come back to talk to the Board again at a later date.

Commissioner Baker stated that he concurs with what Mr. Drake and Mr. Elkins said and told Ms. Dunn that this does not mean that they are not concerned with this problem because they are. He further said that we are concerned with preparing an appropriate Ordinance to deal with this but by the same token it would be inappropriate to make a motion or adopt a moratorium if it is in violation of the state constitution. Mr. Baker said we have to depend on Mr. Elkins opinion and make decisions based on his opinion.

Commissioner Edney stated that we would like to do a moratorium if we could, we just don't think we can legally. He told Ms. Dunn if she could find some evidence, some case laws that we can, to bring that information to the Board.

The Citizens group has contacted Land-Of-Sky Regional Council and there was discussion on the idea of the Land-Of-Sky Regional Council studying this problem and developing a regional plan for the four counties involved. Ms. Dunn said that there was alot of interest there but there was no funding nor anyone on the Council staff that can take on a study like this.

Chairman Drake stated that the exact same type facility that was being proposed for Henderson County is nearing completion in Transylvania County right now.

The Citizens group was under the impression that the one in Transylvania County was a very different operation than what was proposed here.

#### NOMINATIONS

1. Chairman Drake informed the Board of one vacancy on the Land-Of-Sky Advisory Council on Aging and asked for nominations.

Commissioner Baker made the motion to place Liston Smith's name in nomination for this vacancy. Land-Of-Sky Regional Council will make the final decision. Commissioner Randall made the motion to suspend the rules and submit Mr. Smith's name for appointment. All voted in favor and the motion carried.

2. Chairman Drake informed the Board of one vacancy on the Youth Development Committee and asked for nominations. There were no nominations so this item was rolled to the next meeting.

3. Chairman Drake informed the Board of one vacancy on the Land-Of-Sky Retired Senior Volunteer Program (RSVP) Advisory Council. There were no nominations so this item was rolled to the next meeting.

4. Chairman Drake informed the Board of one vacancy on the Henderson County Zoning Board of Adjustment for an alternate member. There were no nominations so the item was rolled to the next meeting.

5. Chairman Drake informed the Board of one vacancy on the Youth Services Advisory Committee (CBA Task Force), this is a statutory position. Ken Lanning has voiced his willingness to serve.

Chairman Drake nominated Ken Lanning to fill this vacancy. Commissioner Maybin made the motion to suspend the rules and appoint Mr. Lanning to the Youth Services Advisory Committee (CBA Task Force). All voted in favor and the motion carried.

6. Chairman Drake informed the Board of one vacancy on the Nursing Home/Domiciliary Home Advisory Committee.

Commissioner Baker nominated Nancy Kurtts to fill this vacancy. Commissioner Maybin made the motion to suspend the rules and



appoint Ms. Kurtts to the Nursing Home/Domiciliary Home Advisory Committee.

7. Chairman Drake informed the Board of four vacancies on the Travel & Tourism Committee.

Commissioner Baker nominated June Rhodes, Fred Niehoff, and Ken Hulick but stated that he would not nominate himself. Chairman Drake asked Mr. Baker if he was willing to serve again if nominated and he stated he was. Chairman Drake placed Mr. Baker's name in nomination for one of these vacancies.

Commissioner Edney made the motion to suspend the rules and appoint these four people to fill the four vacancies on the Travel & Tourism Committee. All voted in favor and the motion carried.

#### REGION B REQUEST

Chairman Drake recognized Jerry Myers to present this grant request.

Mr. Myers stated that for the past several years the General Assembly has allocated funds to Land-Of-Sky and to the 17 or 18 other regional organizations throughout the state to provide technical assistance to local units of government within their respective region. The funds are allocated to the region through the member units of government and are available only to the region upon the adoption of a local resolution approving their use. Mr. Myers submitted a resolution for the Board's consideration. This resolution is similar to the ones adopted in previous years and allows Land-Of-Sky to take advantage of the state funds for the coming year. He also informed the Board that there is an annual report in the agenda packet of Land-Of-Sky activities for the previous year using these funds.

Commissioner Randall made the motion to approve this resolution and release our share of the funds, \$14,170.10, to Land-Of-Sky Regional Council. All voted in favor and the motion carried.

#### DEPARTMENT OF PARKS & RECREATION/Grant Request

Chairman Drake recognized Doug Moon to address this item.

Mr. Moon stated that they are not requesting any money, just the approval to apply for some state money. He is requesting approval to submit application for another Adopt-A-Trail grant, it is a non-matching grant. They have gotten two of these grants in the past. The purpose of this grant would be to extend their nature trail in Jackson Park to go along Johnson Creek and hook up into Mud Creek out at Four Seasons Blvd. at the bridge, purpose being to eventually hook up the Green Meadows Nature Trail with the Jackson Park Nature Trail.

Commissioner Maybin made the motion to approve the application for the Adopt-A-Trail grant in the amount of \$5,000, with no matching funds. All voted in favor and the motion carried.

#### ALZHEIMER'S DISEASE AWARENESS PROCLAMATION

Chairman Drake stated that this is the same proclamation that we have adopted the past 3-4 years. He then asked the pleasure of the Board in again proclaiming October as Alzheimer's Disease Awareness Month.

Commissioner Randall made the motion to adopt the proclamation proclaiming October as Alzheimer's Disease Awareness Month, urging all citizens to learn more about the disease. All voted in favor and the motion carried.

#### TAX RESOLUTION/foreclosed property

Chairman Drake informed the Board that Mr. Clarence N. Stepp has paid off his back taxes on property he owns and wants a tax deed.

Commissioner Baker made the motion to grant this request. All voted in favor and the motion carried.

#### PAWNBROKERS ORDINANCE

Chairman Drake stated that at the last meeting we approved issuing a pawnbrokers license and added some county definitions and requirements in the form of an ordinance. He called on Jerry Myers to present this item.

Mr. Myers stated that according to Board direction, he attempted to write an Ordinance which incorporates the state requirements set forth with chapter 91A and also with the additional requirements that the Board directed be included in the Ordinance. He presented the Ordinance for the Board's consideration.

Chairman Drake stated that this type of Ordinance does not require a Public Hearing or notice of adoption. We can adopt it at this time if the Board so desires.

Commissioner Baker made the motion for the Chairman to sign on behalf of the Board, and approve the Pawnbrokers Ordinance. All voted in favor and the motion carried.

#### TAX REFUNDS

Chairman Drake informed the Board of five refund requests received from the County Tax Assessor, Mr. Robert Baird. There is a letter from the County Assessor and a request from the tax payer on each of these.

Mr. Issac S. Allison	\$ 79.82
Mr. & Mrs. L.E. Ritchie	63.72
Ms. Charlene DiBlasi	47.74

Western Development Co.	51.78
Edna Pace, DBA Pace Partnership	11.54

Commissioner Maybin made the motion to grant these five requests. All voted in favor and the motion carried.

#### ROAD PETITIONS

Chairman Drake informed the Board of a road petition to add Justin Drive to the state maintenance system. The recommendation from the Planning Dept. is attached.

Commissioner Maybin made the motion to receive this petition and forward it on to N.C. Department of Transportation for their consideration. All voted in favor and the motion carried.

Chairman Drake informed the Board of a road petition for Pink Laurel Drive and Nelson Road. Chairman Drake stated that this one is on the State Road System with the name listed as Nelson Road, it is #53 on the paving priority list. This is SR#1313. He stated that he did not talk with the people who brought the petition in so he is not sure what they are asking for other than paving. He said if they are wanting to change the name and get it paved, that is a different process. Mr. Drake recommended sending this one to the Planning Board and letting them inquire as to what they want done here.

Chairman Drake informed the Board of a road petition to add Sunlight Ridge Drive to the state maintenance system.

Commissioner Baker made the motion to forward this petition on to N.C. Department of Transportation for their consideration. All voted in favor and the motion carried.

#### CANE CREEK WATER & SEWER DISTRICT

The Board of Commissioners recessed as Henderson County Commissioners and took up as Cane Creek Water & Sewer District Commissioners.

The Cane Creek Water & Sewer District Commissioners adjourned and reconvened as Henderson County Board of Commissioners.

#### RECESS

The Board recessed for lunch and will return at 1:00 p.m. for Executive Session.

#### EXECUTIVE SESSION

Commissioner Maybin made the motion for the Board to go into Executive Session to discuss legal and personnel matters.

Commissioner Baker made the motion for the Board to go out of Executive Session.

MUD CREEK WATER & SEWER DISTRICT

The Board recess as Henderson County Board of Commissioners and reconvened as Mud Creek Water & Sewer District Commissioners.

The Board adjourned as Mud Creek Water & Sewer District Commissioners and reconvened as the Board of Commissioners.

EXECUTIVE SESSION

Commissioner Baker made the motion for the Board to go into Executive Session to discuss legal and personnel matters.

Commissioner Baker made the motion for the Board to go out of Executive Session.

Chairman Drake stated that the Board had discussed the property boundary between the Davis property and the Henderson County Library property.

Commissioner Maybin made the motion to stay back off of the property line. All voted in favor and the motion carried.

Chairman Drake stated that the Board had discussed temporary locations for the Henderson County Public Library.

Commissioner Baker made the motion to accept the City's offer to use the Gray Hosiery Mill building for approx. 12 months for a temporary location of the Henderson County Public Library. All voted in favor and the motion carried.

There being no further business, the meeting was adjourned at 2:50 p.m. by Chairman Drake.

ATTEST:

Elizabeth W. Corn  
Elizabeth W. Corn, Clerk

William T. Drake  
William T. Drake, Chairman