



HENDERSON COUNTY ENGINEERING DEPARTMENT

Environmental Advisory Committee

Thursday, September 2, 2010

The Environmental Advisory Committee met on Thursday, September 2, 2010 at 3:30 pm at the King Street Meeting Room at 100 N. King St.

Committee members present: Mr. Ron Ehlinger, Dr. Richard DeSimone, Mr. Richard Freudenberger, Mr. Jeff Jennings, Dr. Robert Sweeney, Mr. Jim Fickes. Mr. Richard Naylor, and Ms. Marijane Pell and Mrs. Charlotte Wolf and the County Commissioner Liaison, Commissioner Chuck McGrady

Staff present: Ms. Alexis Baker, Ms. Megan Piner, Mr. Anthony Starr and Mr. Russ Burrell

Guest: Larry Rogers

CALL TO ORDER/WELCOME

Committee chairman Mr. Ron Ehlinger called meeting to order at 3:30 PM.

APPROVAL OF MINUTES

The motion was made to approve the July minutes as amended, Passed.

DISCUSSION

Seven Falls Update from Mr. Russ Burrell

The Seven Falls LLC. bankruptcy was recently dismissed, which what was holding up the process for a while. Now the process is held up by deciding who gets the bond money.

To be able to subdivide property according to the Land Development Code you must do certain things like build roads etc. The ordinance allows you to start to sell lots while the work is being completed (NC law requires this). The county can get a guarantee from the developers that this work will be completed. Collateral may be put up to guarantee this work to be completed, in this case a bond was bought for 125% of the estimated completion cost which was about \$6 million. The subdivision ordinance does not provide for improvements such as the golf course or clubhouse, these are marketing tools for the development. The subdivision ordinance requires

roads, water and sewer, for a subdivision this size. Bankruptcy started before the developer could finish the subdivision work required by the Land Development Code.

When this developer stopped developing a number of environmental concerns developed. At one point the roads were beginning to be constructed and sedimentation traps were installed, current erosion issues formed primarily from neglect of the property.

Currently there is a pool of money (a bond of \$6 million) that can be used for the completion of the required infrastructure. Completion of the roads would prevent the prospective damage from occurring. Past damage would not be fixed, or covered by the bond; but, at least, there would not be further erosion issues. The county hopes that all of the work will be done with the bond funds.

This bond was secured in an unusual way that will likely benefit Henderson County. The bond company (Lexon) also required Seven Falls financing company, Synovas Bank, to submit a \$3.2 million dollar letter of credit. This money has already been paid to the Clerk of Court's office; we are currently in litigation with Lexon, the bonding company, as to who should get the money from the letter of credit. Henderson County's position is simply to receive the full amount of the bond so that the work can be completed and future environmental problems will not ensue. It is also the County's responsibility to the future and current buyers of the property in the Seven Falls Development to finish the development work. About 150 of the 200 lots have been sold.

Stream clean-up would be extremely difficult. The bond money does not cover stream clean up, and the County does not have the money to clean the streams.

Some of the current owners are interested in litigation on what they think is owed to them, and the bank has not yet foreclosed on the property. If the owners want extra things such as a different type of gutters etc. they may be required to contribute to the improvements. Once the infrastructure is in place and property owners obtain permits they can build on their property.

The Army Corps of Engineers have some jurisdiction in this matter because they issued permits to build over the streams. The County does not anticipate having problems receiving future permits to correct the erosion problems from the Army Corps of Engineers. The developer is in violation of permits issued by The Army Corps of Engineers as well.

The County tries to prevent developers that have violated provision of the Land Development Code in one development from forming a new LLC and violating the code in other areas of Henderson County. The property has continued to incur property taxes and at some point if they are not paid there will become liens on the property. The Synovas Bank will pay taxes on the property at some point once they become owners of the property. Synovas Bank is probably slow to move on this property because they want to stay out of the legal problems that are currently being faced.

The County is ready to fix the roads and infrastructure problems in the development as soon as the money is received. Either the bonding company will come in and start work repairing the infrastructure or the County will come in and do the same. Engineering will also have to be done so this is not a quick process. The county has also contacted the original engineer of the property to possibly contract with the County at a reduced rate so that the work can be completed because of the limited amount of funds.

Natalie Berry and Tim Fox (Henderson County Erosion Staff) have always been involved in this project. They assessed fines and did everything that they could to enforce the erosion issues.

This litigation process and foreclosure process could take years to complete but talks with Lexon, the Bonding Company have begun.

The County's interest is 1) Environmental protection and 2) Consumer protection; they do not have an obligation to the developer's property. They do not have the ability to go in and correct erosion issues related to the golf course; however it is estimated that 90% of the erosion issues are related to the road construction.

Stormwater Update from Mr. Anthony Starr

New County Stormwater regulations went into effect yesterday (September 1). The regulations are Countywide, in the unincorporated areas as well as Flat Rock, Laurel Park and Fletcher. Hendersonville already has a stormwater system in place and The Town of Mills River will remain with the State and will not participate in our program. According to the Times-News they did not want to participate in the County program because in the future the Commissioners could make the regulations stronger. Municipalities can rescind their participation in the program at any time.

Small Area Plan Update from Mr. Anthony Starr

Etowah/ Horseshoe Plan- zoning has been proposed and will go before the planning board later this month. It will rezone about 7,400 acres affecting about 3,000 property owners. If the planning board approves this zoning plan it will go to public hearing.

Edneyville Plan-adopted by the Board of Commissioners, the implementation schedule will be discussed at the next meeting of the BOC.

Dana Plan- is about 75% through with the process; planning staff is likely to have a draft by the end of the calendar year.

Further information can be found at hcplanning.org. There is a link to the small area plans that shows the current zoning plans and the proposed zoning changes.

Reintroduction of New Members and Assignments

Marijane Pell- Small Area Plans
Rich DeSimone - Stormwater and Erosion
Robert Sweeny- Water Quality
Jim Fickes- Fire Prevention
Richard Naylor- Energy Management
Richard Freudenberger - Air Quality
Charlotte Wolf- County Commissioner's Meetings

EECB Lighting Retrofit plan from Ms. Alexis Baker

The Lighting retrofit grant will begin shortly. We have ordered all of the supplies and will be hiring two temporary employees shortly. This project will retrofit lights in most of the County buildings from T12 to T8 lights.

Water Quality Update

The Town of Mills River asked that classifications that were proposed by DENR (as discussed in past meetings) be rejected. At the close of the most recent General assembly session the GA extended the time that they could disapprove the classification; to set in place a process for public meetings and further discussions of the impacts of the reclassification. If this had not been done the DENR classifications would have gone into effect.

The committee has decided to invite Mr. Shaun Moore to the next meeting to discuss pesticide problems in Mills River.

Air Quality Report

The Air Quality reports that had been discussed in previous meetings have not been released; they are now expected to be released in October.

Compressed Natural Gas Station Update from Mr. Anthony Starr

The work on the CNG station is continuing. The current plan is for the fixed route buses (WCCA/Apple Country) to be replaced by CNG buses. Other vehicles of the County Fleet will be replaced, such as the Building Inspectors and vehicles that mostly remain in Henderson County for use.

The next meeting will be October 7, 2010 at 3:30 pm.

Meeting Adjourned at 4:55 PM

Minutes submitted by Ms. Megan Piner, MPA

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