

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
DECEMBER 6, 2004**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 5:30 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Shannon Baldwin, Commissioner Chuck McGrady, County Manager David E. Nicholson, Assistant County Manager Justin Hembree, County Attorney Angela S. Beeker, and Clerk to the Board Elizabeth W. Corn.

Also present were: Planning Director Karen C. Smith, Budget and Management Director Selena Coffey, Public Information Officer Chris S. Coulson, Fire Marshal Rocky Hyder, and Finance Director J. Carey McLelland. Deputy Clerk to the Board Amy Brantley was present through nominations.

CALL TO ORDER/WELCOME

Elizabeth Corn called the meeting to order and welcomed all in attendance.

PLEDGE OF ALLEGIANCE

Mrs. Corn led the Pledge of Allegiance to the American Flag.

INVOCATION

Rev. Paul Chandler, Oak Forest Baptist Church, gave the invocation.

SWEARING IN

Elizabeth Corn stated that the first order of business was to swear in the newly elected Commissioners, Charlie Messer and Chuck McGrady. She turned the meeting over to Clerk of Court Tommy Thompson to perform this task.

Commissioner Messer made a statement, thanking the people for re-electing him and having confidence in him. He thanked his family for putting up with him and his meetings and travels. His wife, two daughters, and his new grandson were in attendance.

Commissioner McGrady shared the same sentiments, thanking friends and supporters. His mother and wife were both in attendance and he thanked them. His son had held the Bible for him as he was sworn in.

ELECTION OF CHAIRMAN

Mrs. Corn stated that the next order of business was the election of a Chairman. She opened the floor to nominations.

Commissioner Baldwin nominated Chuck McGrady.

Commissioner McGrady nominated Bill Moyer.

Commissioner Young made the motion that nominations cease. All voted in favor and the motion carried.

Mrs. Corn polled the Board for their votes:

DATE APPROVED _____

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Commissioner Baldwin -	Chuck McGrady
Commissioner Moyer -	Bill Moyer
Commissioner Messer -	Bill Moyer
Commissioner Young -	Bill Moyer
Commissioner McGrady -	Bill Moyer

At this time Mrs. Corn turned the meeting over to the newly elected Chairman, Bill Moyer.

Chairman Moyer thanked the Board, stating he would do his best to work with the entire Board to accomplish good things for Henderson County in the coming year. He promised the citizens that the Board would keep our county the wonderful place it is, to keep everybody involved, and to get things done.

ELECTION OF VICE-CHAIRMAN

Chairman Moyer opened the floor for nominations for Vice-Chairman.

Commissioner McGrady nominated Charlie Messer.

There were no other nominations. *Chairman Moyer moved that nominations be closed and that Commissioner Messer be elected Vice-Chair by acclamation. All voted in favor and the motion carried.*

REVIEW OF PUBLIC OFFICIAL'S BONDS

Chairman Moyer stated that the next order of business was for the Board to approve the various bonds for the following public officials:

George H. Erwin, Jr., Sheriff	\$25,000	Fidelity and Deposit Co.
Nedra Whitlock Moles, Register of Deeds	\$50,000	Fidelity and Deposit Co.
Terry F. Lyda, Tax Collector	\$1,000,000	Fidelity and Deposit Co.
Darlene B. Burgess, Deputy Tax Collector	\$250,000	Fidelity and Deposit Co.
J. Carey McLelland, Finance Director	\$200,000	Fidelity and Deposit Co.

Chairman Moyer moved the approval of the public official's bonds as presented. All voted in favor and the motion carried.

DISCUSSION/ADJUSTMENT OF AGENDA

David Nicholson reminded the Board that at the last meeting they were updated on some possibility of some emergency watershed funds. At that point in time we weren't sure where the State was with the match. He received new information as late as this morning and would like to add that to the agenda so he can update the Board.

Chairman Moyer requested that it be added as item "F" under Discussion Items.

Chairman Moyer made the motion to approve the agenda as amended. All voted in favor and the motion carried.

CONSENT AGENDA

Commissioner Baldwin requested that item "L" be pulled from the consent agenda for a separate vote.

Angela Beeker stated that it might be appropriate to pull both items “L” and “N” and vote on them separately. Both were quasi-judicial proceedings. The members that were present at the proceedings are the only ones who will vote on those items.

Chairman Moyer pulled item “W” – a resolution honoring Commissioner Hawkins for his service on the Board. He stated “Normally at the last meeting of the Board when a person leaves, we honor them, give them a plaque and thank them for their service. Unfortunately this time the meeting got cancelled and so we have a resolution on here recognizing and honoring Commissioner Hawkins for his service. There is a plaque that goes with that and we will see that it is presented to him.”

Chairman Moyer pulled item “K” for some comment. “K” was “Mental Health Services Grant Performance Agreements”. Chairman Moyer stated that he was concerned about the performance criteria and how we would measure that. Staff, working with the groups that are getting the money, has done an excellent job of coming up with good performance measurements.

Chairman Moyer moved approval of the consent agenda less items “L”, “M”, and “N”. All voted in favor and the motion carried.

Recognizing that Commissioners Baldwin and McGrady cannot vote, Chairman Moyer moved approval of items “L”, “M”, and “N”. The Board recused Commissioners Baldwin and McGrady from voting. Following some discussion, a vote was taken and the motion carried three to zero or unanimously.

Chairman’s Proposal

Chairman Moyer proposed that the Board start each meeting with the “Informal Public Comments”, following the Pledge of Allegiance and the Invocation. That way if anyone has comment, it will be before the Board takes any action. If people are present for comments and need to leave, they don’t have to wait to get to the item. He requested that the Board give this a try. If there are problems, the Board can discuss this again at a later date.

CONSENT AGENDA consisted of the following:

Minutes

Draft minutes were presented of the following meetings for the Board’s review and approval:

- October 14, 2004, special called meeting
- October 20, 2004, special called meeting
- October 25, 2004, special called meeting
- November 18, 2004, special called meeting

Tax Collector’s Report

Terry F. Lyda, Henderson County Tax Collector, presented the Tax Collectors’ Report dated December 3, 2004, for the Board’s information.

Darlene B. Burgess, Deputy Tax Collector, presented the Deputy Tax Collector’s Report dated November 22, 2004, for the Board’s information.

Reappointment of Deputy Tax Collector for Delinquent Taxes

The Board was requested to re-appoint Darlene Burgess as Deputy Tax Collector for the collection of Delinquent Taxes for an indefinite term. Previously this re-appointment had been done on an annual basis. As the delinquent tax collection program has been successful, it may be appropriate to now make the

appointment for an indefinite term. The Board would retain the right to remove the appointment at any time in the future, in which case Ms. Burgess' role would revert to serving solely as the Paralegal for the Tax Collector.

Tax Discoveries

A list of 401 tax discovery requests was presented for the Board's review and consent approval.

Tax Releases

A list of 50 tax release requests was presented for the Board's review and consent approval.

Tax Refunds

A list of 3 tax refund requests was presented for the Board's review and consent approval.

Plat Review Officer Resolution

NCGS 47-30.2 requires that all persons appointed as plat review officers be so appointed by resolution and that the resolution be recorded in the Office of the Register of Deeds. Plat review officers are charged with the responsibility of ensuring that all plats that are to be recorded comply with the plat requirements set out in the General Statutes. On September 17, 1997, the Board first adopted a resolution appointing certain named persons as plat review officers in accordance with NCGS 47-30.2. The Resolution adopted on September 17, 1997, also sets out certain procedures that all plat review officers must comply with. Copies of that resolution and an excerpt from NCGS 47-30.2 were included for the Board's review. The Board has from time to time updated its list of appointed plat review officers.

The Board should again consider updating the list of those persons appointed as plat review officers. The Planning Director recommended that Matthew S. Card, Autumn M. Radcliff, and Natalie J. Berry be added to the resolution. A proposed resolution was prepared and included for the Board's consideration in order to accomplish this update. This proposed resolution restates all of those persons currently appointed as plat review officers.

As additional staff is hired within the Planning Department the Board will be asked to consider further revisions to the resolution in order to add plat review officers to replace those that have been deleted.

It would be appropriate and advisable, for the Board to take action at this meeting by adopting the proposed Resolution in order to provide the Henderson County Register of Deeds with an updated list of review officers authorized to approve plats for recordation.

Resolution for Fletcher Fire and Rescue

On October 18, 2004, the Board of Commissioners approved the request of Fletcher Fire & Rescue for a letter approving their loan with First Citizens Bank and Trust Company for \$1,400,000 at 3.2% for 16 years to refinance the main station at a lower interest rate and to construct a new substation.

In order to preserve the tax-exempt status of this loan, they have asked that the Board adopt the prepared resolution approving the loan in addition to the letter which had already been issued.

Lease of Property Adjacent to Broadpointe Center

Since April of 1997 the Board has on an annual basis approved a lease for the purpose of agriculture of approximately 28 acres of property known as the future Kunz Farms Park, located adjacent to Broadpointe

Center. A map of the area was included for the Board's information. The most recent lease was effective from January 1, 2004 through December 31, 2004 to Carland Farms, Inc.

Carland Farms requested that the Board consider leasing the tillable land to Carland Farms, Inc. from January 1, 2005 through December 31, 2005 for a rental amount of \$1,834.00. As the plans for the park areas have not been finalized, Staff recommended that the Board lease the property to Carland Farms as outlined in the proposed lease. The lease agreement that is proposed is substantially similar to the current lease executed by the County and Carland Farms, Inc. except payment will be made by January 31, 2005, instead of 10 days after the date the lease is fully and properly executed.

Revenue from leasing this property since 1997 has been set aside in a separate account named Kunz Park Development Fund and totals \$14,008.60. The proposed lease will add an additional \$1,834.00 to the fund. This fund will be used for development of the park when the park plans are finalized.

Pursuant to NCGS 160A-272 (made applicable to counties by NCGS 153A-176) the County may adopt a resolution authorizing the execution of a lease agreement, such as the one proposed, without advance public notice or bidding.

NCGS 160A-272 also authorizes the Board of Commissioners to delegate authority to the County Manager to lease County property for terms of one (1) year or less. The draft Resolution provides for the delegation of authority to be given to the County Manager for the Subject Property lease for a term of one (1) year or less. A draft resolution was included for the Board's consideration.

It would be appropriate for the Board to take action at today's meeting with respect to Carland Farms request by adopting the proposed resolution and authorizing the County Manager to execute the Lease.

Gerton Fire and Rescue Lease Purchase Agreement

At the October 26, 2004 Fire and Rescue Advisory Committee meeting Jay Alley, Chief of Gerton Fire and Rescue, presented a proposal to expand the Fire Department building. The addition will add three new bays and three thousand two-hundred square feet to the facility. The total price of the expansion is one-hundred seventy thousand dollars. Gerton Fire and Rescue plans to finance this project through United Financial at a rate of 4.5% with an annual payment of \$36,470.00 for 20 years.

A motion to approve the expansion project was made by Richard Barnwell and seconded by David Johnson with unanimous approval.

Gerton Fire and Rescue respectfully requested the Chairman sign the prepared letter to United Financial.

Mental Health Services Grant Performance Agreements

Per the Board of Commissioners' direction at the last regular meeting on November 1st, staff had developed a performance agreement for each of the three mental health agencies that applied for the County's LME funds for FY 2004-05. These agreements include performance indicators as established by the individual agencies to ensure the accountability for the County's funds.

Staff recommended the approval of the prepared performance agreements and execution of the agreements by the Chairman.

Fox Glen Vested Rights Ordinance

The Board was requested to approve the prepared Ordinance granting a development vested right to Glade Land Fund, LLC, for the development to be known as Fox Glen.

Reschedule Public Hearing on Rezoning Application #R-04-03 as Amended (R-20, R-15, and T-15 to C-2) Henderson County Manager, Applicant

Rezoning application #R-04-03, which was submitted on June 4, 2004, requested that the County rezone multiple parcels of land totaling approximately 150.31 acres, located at and near the intersection of Stoney Mountain Road and Mountain Road, from R-20 (Low-Density Residential), R-15 (Medium-Density Residential), and T-15 (Medium-Density Residential with Manufactured Homes) districts to a C-2 (Neighborhood Commercial) zoning district. Henderson County, the Henderson County Board of Public Education and the North Carolina State Highway Commission own the parcels that are the subject of the rezoning application. Henderson County Manager David Nicholson is the lead applicant.

The Henderson County Planning Board first considered rezoning application #R-04-03 at its regularly scheduled meeting on Tuesday, August 17, 2004, at which time the Board agreed to wait until its regularly scheduled September meeting to set a date to hold a public input session on and revisit the rezoning request. On Tuesday, September 21, 2004, the Planning Board voted to hold the public input session during its regularly scheduled October meeting and requested that staff notify adjacent property owners.

The Henderson County Planning Board held a public input session and reviewed the application at its meeting on Tuesday, October 19, 2004, at which time the County Manager amended the application to include an additional 12.03 acre parcel of land (PIN #9650-83-0296) that was not included in the original application. The Planning Board voted (4 to 3) to send the Board of Commissioners a favorable recommendation on the amended application to rezone the entire subject area, with the exception of two parcels (PIN #9650-83-0296 and #9650-92-0038) to a C-2 zoning district.

Before taking action on the application, the Board of Commissioners must hold a public hearing. The Board of Commissioners canceled the public hearing that was scheduled for November 30, 2004 due to problems with the public hearing notification process. In addition, the November 30, 2004 meeting itself was canceled. Staff proposed that the hearing be rescheduled for Monday, January 3, 2005, at 7:00 p.m.

Approval of Order, Special Use Permit, Camp Riley, Inc.

On November 10, 2004, the Board of Commissioners conducted a quasi-judicial hearing of the request of Camp Riley, Inc., through its agent, Todd Leoni, for a special use permit to allow a planned unit development on certain real estate located in the vicinity of Lake Osceola. The Board of Commissioners granted the special use permit upon certain conditions. This proposed Order makes findings of fact, conditionally grants the special use permit, and states the conditions upon which the permit is predicated.

Vehicle Bids

On September 24, 2004, staff prepared a Motor Vehicle Request for Proposal (RFP) which was made available to interested bidders. The RFP was made available on the County's website as well. An invitation to bid pursuant to the RFP was duly advertised in the Hendersonville Times-News on September 30, 2004. A pre-bid conference for this project was held on September 30, 2004 in the Office of Budget and Finance. On October 15, 2004 at 3:00 p.m., a total of five bids were received by the Finance Director in the Office of Budget and Finance and were reviewed for responsiveness.

The bid package received from Fletcher Motor Company, Inc. was considered to be non-responsive because it did not include the bid specification compliance sheets for any vehicle category that was bid.

As was done in the previous fiscal year, the RFP stated that total cost would be evaluated on the basis of the bid price offered plus the estimated fuel costs for 60,000 miles. Where miles per gallon for city and highway were listed, 40 percent of the 60,000 miles were considered city and the remaining 60 percent considered highway. Each bidder was required to submit the most recent projected gas mileage for each category of vehicle bid. A Bid Comparison Table was included that listed the mileage calculations for the responsive bidders.

Staff recommended that the Board consider approving the prepared resolution which would award the bids to the lowest responsive bidder for the vehicles requested. The resolution authorizes the Finance Director and the County Manager to issue a purchase order for the vehicles awarded.

Vehicle Financing Proposals

In the current year's budget the Board approved the installment contract purchase of new vehicles to replace vehicles in the County's fleet that either had leases expiring during the fiscal year or were requested and approved as new vehicle replacements for certain departments.

Staff requested proposals from financial institutions to do an installment contract purchase financing for twenty-six new vehicles at a total cost not to exceed \$529,000. Included for the Board's review (Exhibit A) were the results of the financing proposals that were received from five financial institutions.

RBC Centura has been certified as the lowest responsive proposal (Exhibit V) to finance the new vehicles for a 3-year term at a bank-qualified interest rate of 2.63%. The total annual debt service payments required would be \$183,959.92. The first quarterly payment of \$45,989.98 would be due in March 2005. Also included for the Board's review were draft copies of the Installment Financing Contract and Escrow Deposit Agreement (Exhibits C and D).

Staff recommended that the Board consider approving the prepared resolution (Exhibit E) accepting and approving the proposal received from RBC Centura and authorizing the Chairman and staff to execute the required financing documents. No formal approval by the Local Government Commission or a public hearing is required to enter into this installment purchase contract financing.

Budget Amendment

The Board approved an installment financing package for \$364,000 in the previous fiscal year for the purchase of 20 new vehicles for the County. There remained \$137,208 of these proceeds unspent at June 30, 2004.

A proposed budget amendment was presented for the Board's review and approval placing these remaining funds into the departmental capital outlay-vehicle budgets for vehicles ordered during the previous fiscal year, but not actually paid for until July through September of the current fiscal year.

It would be appropriate for the Board to approve the presented budget amendment to pay for these vehicles since the remaining financing proceeds would have been included in unreserved fund balance at June 30, 2004.

Henderson County Public Schools Financial Report – October 2004

The Schools Financial Report for October was presented for information only.

Financial Report – October 2004

Cash Balance Report – October 2004

These reports were presented for the Board's information and consent approval.

The YTD costs in the General Fund Non-Departmental line item is the annual property/liability and workers compensation insurance premiums paid to the NCACC Insurance Risk Pools for FY2005. The remaining costs will be allocated out to departmental budgets in succeeding months.

The YTD deficit in the CDBG-Scattered Site Housing Project, the Mills River Watershed Protection Project, the Mud Creek Watershed Protection Project and the Mills River Sewer Capital Project are all temporary due to timing differences in the expenditure of funds and the subsequent requisition of Federal and State funds to reimburse these expenditures.

The County Services Building Project deficit is due to architectural fees, demolition/abatement and utilities relocation work performed at the former Carolina Apparel Building. It is anticipated that these costs will be recouped from financing proceeds for the project.

Governor's Highway Safety Program Grant

A resolution was received from the Henderson County Sheriff's Department for funding under the North Carolina Governor's Highway Safety Program. The grant will allow the Department to purchase supplies and equipment in the amount of \$9,975 and does not require any local match.

This is an annual grant that we received from the State. Mr. Nicholson recommended the Board approve the filing of this application.

Water Line Extension for Proposed Willow Place Subdivision

The City of Hendersonville requested County comments on a proposed water line extension to serve a proposed subdivision to be known as Willow Place, located off Willow Road.

The City of Hendersonville's Project Summary sheet and a County review sheet with staff comments for the project were included for Board review and action.

Set Public Hearing for Road Names

Rocky Hyder had submitted a request for the Board to set a public hearing date for the following road names:

Pansy Ellen Lane – change to Garys Lane

Three previously unnamed roads – Ladyslipper Lane, Gage Lane, and Lone Ridge Trail.

Mr. Nicholson recommended the Board set the public hearing for Monday, January 3, 2005 at 7:00 p.m.

Resolution – Grady Hawkins

A prepared resolution was presented honoring Grady Hawkins's service as a member of the Henderson County Board of Commissioners for the past eight years.

NOMINATIONS

Notification of Vacancies

The Board was notified of the following vacancies which will appear for nominations at the next meeting:

1. Nursing/Adult Care Home Community Advisory Committee – 1 vac.
2. Solid Waste Advisory Committee – 1 vac.
3. Water and Sewer Advisory Board – 1 vac.
4. Western Highlands LME – 1 vac.

Nominations

Chairman Moyer reminded the Board of the following vacancies and opened the floor to nominations:

1. Apple Country Greenway Commission – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

2. Cable Franchise Renewal Advisory Committee – 6 vac.

There were no nominations at this time so this item was rolled to the next meeting.

3. Community Child Protection Team – 3 vac.

Commissioner McGrady nominated Savie Underhill and Betty Roark. There were no other nominations. *Chairman Moyer made the motion to accept these two nominees by acclamation. All voted in favor and the motion carried.*

4. Criminal Justice Partnership Act Task Force – 6 vac.

Commissioner Messer nominated Sharon Orr and Connie Rayfield. There were no other nominations. *Chairman Moyer made the motion to accept these two nominees by acclamation. All voted in favor and the motion carried.*

5. Emergency Communications Committee – 10 vac.

Chairman Moyer made the motion to terminate the committee and thank them for their willingness to serve and to advise them in writing. A vote was taken and the motion carried three to two with Commissioners Messer and Young voting nay.

6. Fire and Rescue Advisory Committee – 2 vac.

Ms. Brantley explained that according to the by-laws for the Fire and Rescue Advisory Committee, the members are only allowed to serve two terms. However, there is a clause in the by-laws that says the Board of Commissioners may, at its discretion, extend a member's term beyond two terms when it finds that it is in the best interest of the citizens of the county. The Fire and Rescue Committee sent Ms. Brantley a letter stating that they felt it was in the best interest of the committee to have Joe Swain continue to serve. Ms. Brantley spoke with Rocky Hyder earlier and found out that the committee also feels it would be in the best interest of the committee for David Johnson to serve another term.

Chairman Moyer made the motion to reappoint David Johnson to position #2 and Joe Swain to position #6. All voted in favor and the motion carried.

7. Henderson County Board of Adjustment – 4 vac.

Commissioner Baldwin nominated Anthony Engel, Keith Shelley, Dale Caldwell, and Kenneth Martin.

Ms. Brantley informed the Board that she had heard from Gary Griffin since the agenda was prepared. He is willing to serve again, if nominated.

Commissioner Young nominated Eric Goodman.

Commissioner Messer nominated Gary Griffin.

There were no other nominations at this time. The Clerk will poll the Board at the next meeting.

8. Henderson County Planning Board – 1 vac.

Commissioner Messer nominated Stacy Rhodes.

Commissioner Baldwin nominated Kim Pheffer.

There were no other nominations at this time. The Clerk will poll the Board at the next meeting.

9. Hendersonville Board of Adjustment – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

10. Hospital Corporation Board of Directors – 4 vac.

Commissioner Young nominated Priscilla Betty Strickland, Cam Boyd, and Jack Swanson for reappointment.

Commissioner McGrady nominated Bill Blalock and Dr. John Bell.

Commissioner Baldwin nominated Grady Hawkins.

There were no other nominations at this time. The Clerk will poll the Board at the next meeting.

11. Juvenile Crime Prevention Council – 4 vac.

Commissioner Messer nominated Matt Russell to position #18. *Commissioner Messer made the motion to appoint Mr. Russell by acclamation. All voted in favor and the motion carried.*

Commissioner Baldwin made the motion to fill position # 21 with Gwen Rice and to do so by acclamation. All voted in favor and the motion carried.

12. Laurel Park Planning Board – 1 vac.

Commissioner McGrady nominated Tim Cochran for reappointment.

Chairman Moyer made the motion to accept Mr. Cochran by acclamation. All voted in favor and the motion carried.

13. Library Board of Trustees – 1 vac.

Chairman Moyer serves on that Board. Commissioner Young serves on #17 – Travel & Tourism Board. Chairman Moyer stated that he would distribute a sheet later for the Commissioners to express which Boards they were interested in serving on for the coming year. He requested that the Library and Travel & Tourism be deferred until those sheets are completed.

14. Mountain Area Workforce Development Board – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

15. Planning for Older Adults Block Grant Advisory Committee – 7 vac.

Commissioner McGrady nominated Cal Titus, Betty Jean Webber, Pat Strickland, and Barbara Henshaw.

There were no other nominations at this time. *Chairman Moyer made the motion to accept these four nominees by acclamation. All voted in favor and the motion carried.*

16. Senior Volunteer Services Advisory Council – 1 vac.

Chairman Moyer nominated Polly Heaton. There were no other nominations at this time. *Chairman Moyer made the motion to accept Ms. Heaton by acclamation. All voted in favor and the motion carried.*

17. Travel and Tourism Committee – 4 vac.

Please see discussion above where Chairman Moyer requested that action be deferred at this time regarding the Commissioner seat on this committee.

Commissioner McGrady nominated Scott Surrette to position #1, Mehmet Ozelsel to position #2, and Lucy King to position #3.

Commissioner Young nominated Kathy Griffin to position #3.

Chairman Moyer made the motion to approve the appointment of the nominees to positions # 1 and #2 by acclamation. All voted in favor and the motion carried.

Position #3 was rolled as there were two nominees for one position. The Clerk will poll the Board at the next meeting.

There followed some discussion regarding the Chairman to the Travel & Tourism committee.

Commissioner McGrady nominated John Sheiry as Chairman.

Chairman Moyer made the motion to approve Mr. Sheiry as Chairman by acclamation. All voted in favor and the motion carried.

HENDERSON COUNTY COMPREHENSIVE ANNUAL FINANCIAL REPORT for the Fiscal Year Ended June 30, 2004 (CAFR)

Carey McLelland, Finance Director and Roger Graig from our CPA firm were in attendance to present the Comprehensive Annual Financial Report.

Carey McLelland narrated a PowerPoint presentation which covered the following:

- **General Fund Activity**

Revenues and Transfers totaled \$82 million which was an increase of 12.3% over fiscal year 2003. The leading sources of revenue were property taxes (50.3%), sales taxes (22.9%), and restricted intergovernmental (16.4%). The additional ½ cent sales tax generated \$3.3 million July 1 through June 30. This was the first full year for that tax.

Property Taxes – The 2004 assessed valuation was \$8.7 billion which was an increase of 16.5% over the previous fiscal year. The primary reason for that was that it was a revaluation year in Henderson County and FY 2004 was the first year of that cycle. We had 96.9% of our current year levy collected. That remains one of the State's best collection rates.

General Fund Expenditures and Transfers – Expenditures and transfers totaled \$79.6 million which was an increase of 5.4% over the last fiscal year. Leading expenditures included education, human services and public safety which made up 80.1% of the general fund budget.

Expenditures for Public Schools – Expenditures for schools made up 28.5% of the general fund budget last year or \$22.7 million for schools. Current expenses were \$15.4 million, capital was 2.0 million, and debt service was 5.3 million. That ranked 28 out of 100 counties in total resources per student. Current expense funding alone ranked us 22nd out of 100 counties.

- **Capital Projects**

We spent \$3.9 million in School Capital Projects, primarily to finish Hendersonville Middle School (\$3.5 million). Flat Rock and Rugby Middle School Projects were completed last year (\$400,000). We've spent \$306,000 on the County Services Building Project, primarily demolition costs and architectural fees. We spent \$115,000 on the Mills River Sewer Project consisting of three phases.

We will get reimbursed from the EPA Grant and the North Carolina Clean Water Management Trust Fund Grant for the sewer project.

- **General Fund Balance Position**

The total general fund balance was \$14.9 million which was an increase of \$2.4 million over the previous fiscal year or 19%. Of that \$14.9 million, \$7.6 million was unreserved at the end of the fiscal year which represents 9.65% of our total General Fund Expenditures. \$400,000 of that was appropriated in this year's budget to balance the budget. Our fund balance remains sound, surpassing the 8% Local Government Commission recommendation for the minimum in unreserved funds. The new ½ cent sales tax was a key factor in the total fund balance growth in the previous year.

- **Debt Position**

At June 30, 2004 we had \$51.1 million in outstanding debt which was evidenced by bonds of \$10.6 million and installment contracts/COPS of \$40.5 million, primarily for schools, our old jail/1999 new jail financing and a county services building. \$13.7 million of school debt was refinanced last year which generated an annual savings of \$191,000.

Debt levels – Actual outstanding debt is 0.58% of our total assessed value. Actual debt service payments are 8.87% of the General Fund operating expenditures.

Debt Subsequent Year – We plan to issue debt of approximately \$38 million for schools, community college, and county projects. The projected tax increase would be about 2.5 cents to pay the debt serve on \$38 million.

- **Fiscal Highlights**

We increased funding for Education, putting an extra 1 cent on the tax rate for education.

Funding for the Central Permitting System in the budget.

CCP and Hwy. US#25 Study funding.

Replacement of our Y2K computers, this was a three year cycle.

CIP projects funded – EMS Substation, Animal Shelter, and the Historic Courthouse Project.

Refinanced the outstanding school debt to gain savings.

Mr. Graig covered Audit Results.

- **Positive Audit Results**

This was the second year of the GASB 34 requirements. This was a successful audit process with a new CPA firm. He stated that our internal control structure is extremely strong, as good as he has seen in any county that they have been involved with. There were no material audit adjustments whatsoever. The audit process was very smooth. Staff was very knowledgeable, very cooperative. There were no questioned costs whatsoever on federal grants. They were able to give the county an unqualified opinion which is the best of all opinions. Mr. Graig stated that Carey McLelland and his staff as well as the grant administration personnel deserve accolades for their performance. He offered no material recommendations for improvement.

Chairman Moyer congratulated the Finance Director and thanked the CPA firm for the job well done and asked Mr. McLelland to pass along a thanks to his staff also.

PUBLIC TRANSIT FUNDING ANALYSIS

Justin Hembree reminded the Board that the French Broad River MPO had contracted URS (a transportation consulting firm) to conduct a funding analysis of the Apple Country Transit (ACT) System to address changes in the System's funding structure as a result of the expansion of the Asheville Urbanized Area. The 2000 US Census established a new Urbanized Area for the Asheville Region, which has triggered a number of changes to the method of funding transit systems in the region. Henderson County is now a part of the Asheville Urbanized Area and, therefore, the method for funding public transit in Henderson County will change dramatically.

The Public Transportation Division of NCDOT agreed to continue funding ACT through the State's rural transportation funds for the current fiscal year (FY 04/05). However, NCDOT has required that the County submit, prior to January 1, 2005, a plan detailing how the County will fund public transit services for the next fiscal year (FY 05/06) and beyond.

The Board was presented a draft report from URS. In order for this report to be complete, two additional items are required: a financial capacity analysis and an implementation plan. Before a financial capacity analysis and an implementation plan can be developed, two major decisions must be made by the Board and, to some extent, the municipalities. First, does the County wish to participate in the federal transportation funding program (5307)? Second, what level of local funding will be allocated to the public transit system? Other attachments provided several funding scenarios (participation and non-participation/local funding for Blue Route) and listed advantages and disadvantages of both participation and non-participation.

Staff questioned the value of the Blue Route (Asheville Regional Airport and transfer to Asheville Public Transit System). The Blue Route was "pushed" by NCDOT in order to allow for an inter-system transfer and regional connectivity. The NCDOT funds this route primarily through special inter-mobile funds. Staff strongly felt that if NCDOT is truly interested in maintaining the service level currently offered by the Blue Route, the State should continue funding this portion of the system.

In terms of participation in the 5307 program, staff had determined that the benefits of participation greatly outweighed the additional costs (approximately \$9,014 per year). Funds available through the 5307 can be used to implement a capital improvement plan to meet the long-term needs of the public transit system and, equally important, can be used for transportation planning efforts including paying a portion of the costs for a transportation planner.

Specifically, staff recommended the following:

1. The County commit to funding the local public transit system no more than \$65,603 for FY 05/06 and request that NCDOT continue to fund costs associated with the operation of the Blue Route.
2. The County agree to participate in the 5307 Program.

Following discussion, *Commissioner Baldwin made the motion to approve up to \$65,603 for FY 05/06 and that we participate in the 5307 program. All voted in favor and the motion carried.*

INFORMAL PUBLIC COMMENTS

There were none.

CEMETERY – Action Plan

At the last Board of Commissioners meeting, the Board requested that staff develop an action plan to deal with cemeteries. This request was based on a report prepared by the County Attorney and a follow up memo from the County Manager concerning the Board's responsibility in the area of cemeteries. The Action Plan was presented for Board review.

David Nicholson stated that the Board requested staff provide an action plan for dealing with Henderson County's responsibilities in the area of cemeteries. This plan is based on the report provided to the Board on October 28, 2004 by County Attorney Angela Beeker and Mr. Nicholson's follow up memo. The first goal of

this plan was to ensure that Henderson County is in compliance with the laws of the State of North Carolina. Mr. Nicholson had broken the Action Plan into three years. Please see the plan attached as a part of these minutes.

Mr. Nicholson recommended that the Board consider his prepared plan as his recommendation as how to proceed with addressing Henderson County's responsibilities in the area of cemeteries. He felt our first step should be to make certain that Henderson County has the necessary information and standards to ensure that we are in compliance with the laws of the State of North Carolina. He recommended that an advisory committee be established with its goal being to assist staff in assuring that we have a complete listing of all cemeteries in Henderson County and to identify any abandoned public cemeteries according to standards set forth by the Board.

Mr. Nicholson reminded the Board that the County paid for a book several years ago by the Geneological and Historical Society called "Henderson County North Carolina Cemeteries". It gives a lot of information but we keep hearing of other cemeteries that may not be documented in there. He suggested asking the committee to review the book and to assure that any other cemeteries that need to be added to that, that we document that and present those back to the Board of Commissioners and issue a supplement. Then by law it actually has to go to a couple of places but we in county government want to be sure that we have it documented. In the meantime, staff will be working on a brief ordinance that will outline the Board's responsibilities under the current law talking about abandoned public cemeteries plus what standards the Board of Commissioners would use should they be approached about moving graves in abandoned cemeteries. Staff would then work with the Advisory Committee to identify any cemeteries they believe are abandoned public cemeteries, based on the ordinance the Board of Commissioners would adopt. If the committee feels that there are cemeteries that should be considered, they would bring those to the Board of Commissioners. Staff would go in from a legal standpoint and determine if they qualify and develop a plan for the Board of Commissioners to consider the possession, control as well as the maintenance of those cemeteries. Afterwards, we would be in a position of then taking them on a case by case basis with the standards that are set so far. In the future we want to improve our layer, we already have a G.I.S. layer but it is pretty general in nature and we would like to do an improvement to our G.I. S. layer that the committee could help us prepare and that would provide much more information about where cemeteries are located in Henderson County. In the year 2007/08 – the County Comprehensive Plan states in Recommendation N-05 that Henderson County should work to protect key sites of historical and cultural significance from development. The first step in this process is an inventory of these sites and structures. This inventory would already be completed for cemeteries. The Board of Commissioners could consider several alternatives to protect these sites based on the information contained within the inventory. Some local governments have utilized tools such as zoning overlays and subdivision restrictions to protect historical sites. Alternatively, the Board could seek local legislation to clarify the Board's authority to assume ownership of these historical and cultural sites and structures.

Commissioner Baldwin expressed that the time table was entirely too long.

Commissioner McGrady expressed that he would not be in favor of significantly accelerating the plan.

Commissioner Messer expressed that he would like the Board to go ahead and appoint a committee.

Chairman Moyer suggested approving the Action Plan for 2005, get the committee established, and then get the committee's recommendation on an Action Plan for going forward, and then revisit that after the committee has been established. He suggested that when the six month report is given to the Board, it would be an appropriate time to revisit the issue.

Following discussion, *Chairman Moyer made the motion to approve the Action Plan for 2005, get the committee established, and then revisit this along with other priorities as part of the Strategic Planning*

Session, as well as amend the Charter to increase up to nine members. A vote was taken and the motion carried four to one with Commissioner Baldwin voting nay.

Chairman Moyer suggested the Board go back to the Notification of Vacancies and indicate that there are nine vacancies for this Committee so that the Board could nominate persons at the next Board meeting. Following Ms. Beeker's recommendation, *Chairman Moyer made the motion to amend the agenda to add the nine member vacancies to Notification of Vacancies on this agenda. All voted in favor and the motion carried.*

P.I. STORAGE – Ordinance to Grant a Development Vested Right

Chairman Moyer made the motion to recuse Commissioner McGrady from voting on this item because he was not part of the proceedings. All voted in favor and the motion carried.

Angela Beeker reminded the Board that on October 13, 2004, the Board of Commissioners held a quasi-judicial public hearing to consider the request of WFWA, LLC, aka P.I. Storage, Inc., by and through the owner and manager William Barnwell, for a development vested right for Phase 3 of a mini-storage facility being constructed on U.S. 25 North. At that meeting the Board voted to grant the vested right, but held open the approval of the site specific development plan until the Grantee could bring back a revised plan for the Board's review. The Board voted to allow alternative site plans but wanted to actually see them before giving final approval.

The Grantee has submitted revised, alternative site plans for the Board's consideration. Additionally, a proposed ordinance, incorporating those plans, was provided for the Board's consideration. The revised alternative site plans are Exhibit c, Pages 1 and 2, of the proposed ordinance.

Ms. Beeker stated that in the conditions in the Order there were a couple of things that came to mind as she was drafting the order that were not specifically discussed by the Board as proposed conditions and she wanted to bring them to the Board's attention as possibilities:

Page 5 of the order, # 3 – The use of the Storage Facilities. This vested right is only for phase 3. The grantee asked to be able to build out phases 1 and 2. He felt that it would take three years to build out phase 1 and 2 so he wanted the additional two years to be able to develop phase 3. She proposed that in the meantime that the grantee would not be allowed to use that property for any of those purposes until all the conditions had been meant but also he would not be able to use that property for any other purpose or he would forfeit his vested right. She also put in the Order that the grantee would have to notify the Planning Department – on page 4, #1, within three years of the date of the ordinance as to which plan he is going to develop for phase III so that three years into this there would be some certainty and that if he did not do that he would forfeit the alternative site plan but not the site plan that the Board actually saw and approved at the quasi-judicial proceeding.

Ms. Beeker asked the Board to look back at the fencing plan and compare it with exhibit B – exhibit B was the hand-drawn sketch and on the original this will be in color (red and highlighted). Point C is actually at that culvert and on the plan he has moved point C just below the culvert due to not being able to put the fence post in on top of the culvert. That is a concession that he has asked for through the submission of this plan. Short of that, Ms. Beeker thought it met everything that the Board had asked of the grantee at that quasi-judicial proceeding.

Chairman Moyer moved that the Board approve the proposed ordinance in the form presented to the Board at this meeting. All voted in favor and the motion carried.

COUNTY ATTORNEY POSITION

This item was placed on the agenda to give the Board a chance to discuss how it wished to go about selecting a County Attorney since Ms. Beeker recently submitted her letter of resignation.

Mr. Nicholson had submitted his recommendation for reorganization of our legal function and stated that he would be glad to assist the Board in anyway in recruiting a County Attorney.

Mr. Nicholson had given the Board a memo of how he felt the legal affairs of the county should be organized.

Chairman Moyer expressed that he felt the Board should get a comparable memo from Mrs. Beeker with her version of how the legal department should be structured and what her recommendations would be. He asked that this be placed back on the agenda for the December 15 meeting and that the Board make a decision at that time as to how to structure the department.

The Board will plan to discuss both options at the next meeting and decide how to resolve it.

WATERSHED FUNDS UPDATE

Justin Hembree reminded the Board that about the first week in November we found out that Federal Funds had been made available through the emergency watershed protection program, through a USDA Program. The purpose of this program is to restore natural watershed function back to, hopefully, the way it was prior to the flooding from Hurricanes Frances and Ivan that occurred during this past September. The Program provided 75% in Federal money with 25% match required.

In the memo in the Commissioners' mailboxes there was new information that Justin received Friday. He got more new information this morning. The folks with emergency management in Raleigh had a conference call with the County Manager and the Emergency Management people and the State has committed to provide the 25% match for this program. At this point Staff recommended that the Board go ahead and agree to participate in the program and authorize Chairman Moyer to sign the letter requesting that a project agreement with Henderson County be drafted. Staff hopes to get that letter drafted by the 15th and then on the 15th the Board could revisit that project agreement on the next agenda for full approval.

Mr. Hembree stated that when these funds were first allocated in North Carolina, approximately \$65 million, they were allocated because a lot of folks (local level) were contacting their Federal Representatives expressing a real need for this money. The majority of it will go to folks for use in the agriculture business in the county. The Federal Government allocated the money, \$65 million to the State of North Carolina. When the money came down there were only about three counties in the State that had signed the project agreement. The rest of the counties did the same thing this Board did, sent a letter of interest and the USDA know that we were interested in participating in the program but we weren't at a point to make a formal commitment until we knew if the State was going to match that 25% funds.

Chairman Moyer stated that the feeling is that once we indicate a definite commitment to the plan, the funds are locked in and the Federal Government can't transfer them as easily as otherwise.

Chairman Moyer made the motion for the Board to authorize the Chairman to request that a formal project agreement be drafted. All voted in favor and the motion carried.

IMPORTANT DATES

Chairman Moyer reminded the Board of a **Legislative Goals Conference** January 13 and 14 in High Point. He serves on the Legislative Goals Committee and feels that they have accomplished a lot. At the meeting on the 13 and 14 the Association will adopt their Legislative Goals. He reminded the Commissioners that this is an excellent opportunity to talk to other Commissioners.

The proposed Schedule of Regular Meeting Dates was presented for 2005. *Chairman Moyer made the motion to approve the schedule as presented. All voted in favor and the motion carried.*

Status Report on the US Hwy. 25 North Zoning Study – The memo from Karen Smith stated that they are moving along on this, they have a recommendation but they plan to produce a staff report which the Planning Dept. wants to review before forwarding it to the Board of Commissioners. The Planning Committee will meet on the 21st. Chairman Moyer expressed the need for the Board to set a workshop to discuss the report. Following discussion, *Chairman Moyer made the motion to set a special called meeting for a workshop on this Zoning Study for Wednesday, January 12 at 6:00 p.m.* He asked that the Board be prepared to take action to set another workshop or to set a public hearing, if appropriate. *All voted in favor and the motion carried.*

Strategic Planning Retreat – Mr. Nicholson recommended that the Board set either Friday, January 21 or Friday, January 28 as a date for the retreat. Last year, the Board set the overall goals and then staff drafted the Plan including the action steps and the completion dates. He offered that this year staff provided the Board with a first draft of a Strategic Plan based on the current Plan, the County Comprehensive Plan and other important issues that he believes the Board should consider for the next two years.

Following discussion, *Commissioner McGrady made the motion to set a special called meeting for Tuesday, January 25 at 6:00 p.m. to begin the Strategic Plan Retreat for about 3 hours (here). All voted in favor and the motion carried.*

Commissioner McGrady made a motion to set a second day (follow-up) for Saturday 12th at 9:00 a.m. at a satellite location to be announced at a later date. All voted in favor and the motion carried.

Cane Creek Advisory Board – Commissioner Messer stated the need to have a Cane Creek Advisory Board meeting. He will need to contact the Town of Fletcher because they normally use Fletcher Town Hall for the meetings. They will have to work with Fletcher on a date. David Nicholson offered to call Fletcher tomorrow and see if the room is available on the 30th.

CANE CREEK WATER & SEWER DISTRICT – no business

CLOSED SESSION

Chairman Moyer made the motion for the Board to go into closed session as allowed pursuant to NCGS 143-318.11 for the following reasons:

1.(a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to a claim or the following lawsuits:

Appeal of Hull Storey Retail Group LLC
Henderson County – 03-PTC-485

December 6, 2004

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Appeal of Clifton J. Shipman
Henderson County 03-PTC-580

Robert D. Jones v. Henderson County Department of Public Health
04-OSP-2081

All voted in favor and the motion carried.

ADJOURN

Chairman Moyer made the motion to adjourn the meeting at 8:06 p.m. All voted in favor and the motion carried.

Attest:

Elizabeth W. Corn, Clerk to the Board

William L. Moyer, Chairman