

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
OCTOBER 3, 2005**

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 Russell Burrell, and Deputy Clerk to the Board Amy Brantley.

Also present were: Budget and Management Director Selena Coffey, Public Information Officer Chris S. Coulson, Development and Enforcement Services Director Toby Linville, Fire Marshal Rocky Hyder and Housing Planner Nippy Page.

### CALL TO ORDER/WELCOME

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

### PLEDGE OF ALLEGIANCE

Commissioner McGrady led the Pledge of Allegiance to the American Flag.

### INVOCATION

David Nicholson gave the invocation.

### DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer stated that as part of the continued celebration of the 100<sup>th</sup> anniversary of the Historic Courthouse, there had been a production written and directed by Tom Orr and Jeannie Gooch put on over the weekend. Chairman Moyer stated that it had been extremely well done, and was well attended. David Nicholson noted that the production had been recorded, and would be aired on Channel 11.

### INFORMAL PUBLIC COMMENTS

1. **Joyce Beddingfield** – Ms. Beddingfield spoke with regards to the Tuxedo Park and Library. She discussed the fact that the County Comprehensive Plan (CCP) called for the Tuxedo community to have a community facility in Tuxedo. She stated that as a taxpayer in the County, she wished for her community to have the same services that other communities of the same size have. She stated that they need a park and a library to bind the community together. If it were feasible to keep the existing building that would be fine, but if that were not an option the building should be torn down.
2. **Judy Heatherly** – Ms. Heatherly stated that she lives in the Tuxedo area, as do five of her grandchildren. She stated that all the surrounding communities have a park, but she has to go to the East Flat Rock Park because it is the closest. They would like to have a similar park in Tuxedo. She also stated that they would like to have a new library, because they stand to lose theirs. She stated that she hoped they would not allow the past to get in the way of the future.
3. **Katherine Taylor** – Ms. Taylor questioned whether there was still money in the budget for the Tuxedo community site, since she had heard that the money was going to another library. The Board assured her that money was in the budget. She stated that there is a need for a library in the community.

DATE APPROVED: \_\_\_\_\_

4. **J. B. Osteen** – Mr. Osteen discussed problems he had experienced with the Inspections Department with regard to receiving electrical service on construction sites. He stated that he was an electrical contractor, and there were very often times when they needed to be able to have power turned on at construction sites prior to the building finished. He also expressed concern about problems with finding out whether a site had passed inspection, stating that it took far too long to find out whether a job site had passed or not following the inspection.
5. **Fielding Lucas** – Mr. Lucas discussed the financial health of Pardee Hospital. He distributed to the Board two documents entitled “Summary Income Statement” and “Income Statement Overview of Entities”, and discussed those with the Board. In 2000, Pardee earned slightly over \$8,000,000, exclusive of non-recurring expenses. In 2004, Pardee had a loss of \$171,998. He also discussed the rising cost of the property, plant and equipment. Mr. Lucas then stated: “I made a series of recommendations, and I think the first ones are addressed to you. I think that at least eight of the last twelve years that I have been a resident of Henderson County, I have stood before you and said the same thing, you should establish an internal audit function. If ever a situation demanded it, it is the one in which you now find yourself with Pardee. This is not micromanagement, it’s called complete effort, and satisfying your role in government’s necessary to meet your obligations to the County Tax Payer. Number two, you must immediately change your role on the Pardee Board to that of a party and a voting member. You are the only elected member, which means that currently the people of Henderson County have no vote in the deliberation, decisions of the trustees. I recommend that you publish the hospital’s monthly financial reports and approve them in the consent agenda, just as you now do, in today’s agenda, with your own, and the Board of Education’s. Pardee does not have a choice in this matter. The public’s right to examine is established by law. In some ways it is actually great for you to do it, in that the interested taxpayer in effect can have one stop shopping for all the important financial data of the County.

For Pardee, and I will repeat these directly to a future Pardee Board meeting if I’m given the opportunity. Number one, it is currently important that you establish a clean, clear financial history of the corporation. I recommend that you have the current auditors do it, as one of their tasks in connection with this year’s audit. Once done, leave it alone. There are far too many differences in accounting formats, philosophy, re-statings, corrections and what-all from three different audit firms in the five reports I studied. Without any further delay, set up task forces with tight time schedules and review the non-hospital entity business plans from their inception. You, Pardee, have allowed negative budgets on the grounds that the entities are serving a marketing function so to speak, in bringing referral business. If you total the performance of the, to date, of the non-hospital entities, it would require an additional hospital performance equal to the corporation’s 2003 total just to balance that loss. It’s time to face reality. Number three, severely tighten expense controls. It is hard to accept in this tough year when income goals have not been met from the very beginning, that through the 11<sup>th</sup> month finds operating expense exceeding budget by \$1.6 million dollars. The letter of credit, number four, the letter of credit collateralizing the 2001 bond issue expires in September 2008. The 2002 and 2003 audit reports found the hospital in non-compliance, but indicated that waivers had been given. I must wonder how long that generosity will continue in the face of a declining capital account and current ratio. In that regard, I think the need for the \$10 million loan now should be re-examined. Let the sun shine in, number five. Let the sun shine in, you will be surprised to find how healthy it can be.

As for me, I am hopeful that I can get a financial report history file covering from 2000 to now. First I would like to improve the growth rate calculations from earlier. As a statistician I’m not very happy with the fit that we get with only five data points. Second, I would like to look for statistical performance relations with the non-hospital entities, to give statistical support or even encourage decisions to be made regarding their future. Pardee must succeed in whatever form necessary to make that happen. For the good of the people of the County, I would like to help. Thank you.”

6. **Ken Fitch** - Mr. Fitch expressed concern about the Henderson County Plan with respect to the Blue Ridge National Heritage Area. He stated that it was disturbing to find that members of the Board of Commissioners were unaware of the Plan, and its proposals for funding to preserve our heritage, especially since the Plan could address issues of heritage preservation that had come before the Commission in the past, such as the Historic Courthouse and cemeteries. He stated there was a sense of urgency, as the application process for the Heritage grants was currently underway.

The Blue Ridge National Heritage Area is a federal designation that recognizes the unique historic, cultural and natural resources of the region that had contributed to the history of the nation, and calls for the preservation, protection, and interpretation of those resources. Along with the designation, comes grant funding to promote the protection of those resources.

As part of the planning process, each County has to prepare a County Management Plan. That process began last November. The local person in charge of the plan was Melody Heltman. The Plan totaled 88 pages, and Mr. Fitch provided some of the more relevant pages to the Board. Mr. Fitch stated that he felt there was a profound disconnect between the diverse and rich heritage of County and the projects presented in the County plan, and that there appeared to be a conflict of interest in that some of the grant recipients were actually members of the Heritage Tourism Council. He felt that based on the projects in the Plan, it appeared to be a Heritage Tourism Plan rather than the intended Heritage Management Plan.

Mr. Fitch stated that the Courthouse was presented in the Plan, but appeared to be an afterthought. No where in the Plan was there any mention of a museum, or any official historic component. He stated that the United States had recognized the significance of the heritage of the region. He hoped that the County would take action to ensure that the heritage of the County was also recognized and protected.

Chairman Moyer questioned what the County's role was with the Plan. David Nicholson answered that the County had provided the Commission with information, but that the County had no seat on that Commission. Melody Heltman, Director of Travel and Tourism, represents travel and tourism on the Committee, but the County had no other role. It was the consensus of the Board to convey to Ms. Heltman the Board's concern that they not had any input, nor opportunity to comment in any way on the Plan, and strongly request that they be allowed the opportunity to do so. It was further then consensus of the Board to contact Penn Dameron, the Executive Director, regarding the role of the Commissioners and the public at large in the process.

7. **Eva Ritchey** – Ms. Ritchey spoke on behalf of the Democratic Party. She thanked the Board for their commitment to establishing the Edneyville community center. With regards to the Tuxedo property, the Party supported a library in that community, but it was the consensus of the Party to allow the community to decide what should happen in the community. With regard to the Historic Courthouse, she stated that the party did not support the present plan.

She discussed the situation with WHKP being broadcast on Channel 11, stating that it was a monopoly and as such was opposed by the Party. She was concerned that this was the fourth time she had addressed the Board on this matter. In the interest of fairness to all citizens, the Henderson County Democratic Party requested the removal of WHKP from Channel 11.

8. **Carl Taylor** – Mr. Taylor spoke with regards to the Tuxedo property. Mr. Taylor had attended school at Tuxedo from 1939 to 1947. He discussed the need to hold onto the building for sentimental reasons, when the next generation would have no such sentimental attachment. He stated that we can not change the past, but we can improve the future. He was in favor of a community park and library for future generations.

9. **Evelyn Nichols** – Ms. Nichols thanked David Nicholson for 30 years of service to the County, and wished him well in the future. Ms. Nichols stated that there had been 500 people who wished to have the Tuxedo school restored. She urged the Board to respect the community's wishes with respect to their heritage.

Ms. Nichols stated that when the meeting was held in Tuxedo, there was no information given. There were no site plans, no written plans, and only off handed estimates offered. The East Flat Rock site was used as an example, but the proposed park would be smaller than East Flat Rock. Because of the size of the site, there would only be room for eight picnic sheds, and the multi-purpose field would only be able to accommodate low trajectory sports such as soccer. She recommended the Board hire a realtor to be on the lookout for property that would accommodate a nice library and park.

10. **Douglas Coggins** – Mr. Coggins stated that with respect to Mr. Osteen's comments, there is a need to have electrical power at a site prior to the issuance of the Certificate of Occupancy. Regarding the need for a park and library in Tuxedo, he felt the community should wait and look for an adequate site, rather than hastily picking either the school or a park and library site. The community deserves an adequate park, with room for activities. He believed that for the existing school, Blue Ridge Community College might be able to utilize the building.

Mr. Coggins stated that he was involved in the procurement of the falls at Dupont forest. He had an attachment to that property, and was pleased that they had been able to get the State to buy that property. He believed that there should be access to that park so people could enjoy it. He asked the Board to go on record in support of procurement of that property for a state park.

11. **Robert Ballard** – Mr. Ballard spoke with respect to the Tuxedo School. He stated that the Board of Education had done a feasibility study on the old school building, and that study concluded that it would be suitable for a light manufacturing facility or a school. However, it had been estimated that it would cost \$2 million to renovate the building versus \$100,000 to tear it down. He was in favor of preserving the spirit and memory of the school, and asked the Board to make an appropriate decision using all the facts.

### **IMPORTANT DATES**

Chairman Moyer suggested that the Board schedule a special called evening meeting regarding the Tuxedo school property. *Commissioner McGrady made the motion to schedule a special meeting regarding the Tuxedo project for Thursday, October 20<sup>th</sup> at 6:30 p.m. All voted in favor and the motion carried.* It was the consensus of the Board to have the materials for that meeting available to the public by 12:00 on Friday, October 14<sup>th</sup>.

### **DISCUSSION/ADJUSTMENT OF AGENDA - continued**

Chairman Moyer added as Discussion Item "E" – County Manager Hiring process, making Update On Pending Issues Item "F". *Commissioner Messer made the motion to approve the agenda with that change. All voted in favor and the motion carried.*

### **CONSENT AGENDA**

Commissioner Baldwin requested that the Item "E" be pulled for discussion. Chairman Moyer suggested that it be added as Discussion Item "F", making Update On Pending Issues Item "G". *Commissioner McGrady made the motion to approve the consent agenda with the exception of Item "E". All voted in favor and the motion carried.*

The Consent Agenda consisted of the following:

### **Minutes**

Draft minutes were presented for the Board's review and approval of the following meeting(s):

September 21, 2005 – regular meeting

**Tax Collector's Report**

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collectors Report dated September 30, 2005 for the Board's information.

**Financial Report – August 2005****Cash Balance Report – August 2005**

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

Non-departmental expenses are for Property/Liability and Workman's Compensation insurance coverage that will be allocated out to each department during the fiscal year.

The temporary YTD deficit in the Fire Districts Fund is due to a request from a fire department for funds to make a debt service payment on a fire truck that was due in the month of August.

The YTD deficit in the Emergency 911 Communications Fund is due to FY2006 approved appropriations for the purchase of Emergency Medical Dispatch software, necessary replacement of the 911 Center's dated Un-interruptible Power Supply-Battery Backup System and a GIS software application update that links GIS data with the Computer Aided Dispatch (CAD) system in the 911 Center.

The YTD deficit in the Mills River Watershed Protection Project, the Mud Creek Watershed Restoration Fund 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 grant funds to reimburse these expenditures.

**Henderson County Public Schools Financial Report – August 2005**

The Schools Financial Report was provided for August for information and consent approval.

**Reimbursement resolution for Mills River School**

A reimbursement resolution was proposed concerning expenditures made toward the design of the new Mills River Elementary School. While the financing for this project would likely not take place until 2006, certain design-related expenditures need to occur. The resolution was necessary in order to allow the County and the Board of Education to be reimbursed for necessary expenditures from the proceeds of borrowing for this project.

The County Manager supported the proposal. The following motion was suggested: *I move that the Board adopt the proposed resolution concerning reimbursement of expenditures connected with the Mills River Elementary School construction project.*

**Sale of tax-foreclosed property, Rocky Gorge subdivision**

On June 6, 2005, the Board preliminarily accepted a bid to purchase certain tax-foreclosed lots located in Rocky Gorge subdivision for the sum of \$15,000.00. The upset bid procedure for this property had been completed. A total of nine upset bids on this property were actually received. The last and highest upset bid for this property was for a total purchase price of \$60,000.00. The final bidder was J. Yorke Pharr, III.

Staff suggested the following motion to accept the final offer, and requesting authorization to close the transaction upon payment in full: *I move that the Board give final acceptance to the offer of J. Yorke Pharr, III, to purchase real property, upon payment in full of the offer price of \$60,000.00, and further, that the Chairman of the Board of Commissioners, County Manager and County Attorney take such steps, including the execution by the Chairman of the proposed quitclaim deed, as necessary to close such transaction.*

**Petition for addition to State Road system**

Staff recommended approval of the following petition for addition to the State Road system:

- Black Bear Trail

It has been the practice of the Board to accept road petitions and forward them to NC Department of Transportation for their review. It has also been the practice of the Board not to ask NCDOT to change the priority for roads on the paving priority list.

### **Amendments to the 2005 Strategic Plan and Five Year Capital Improvement Program**

During the September 21, 2005 meeting, the Board of Commissioners took action to make the Edneyville Community Recreation Project a top priority for the County and to seek grant funding to assist with the costs of this project. This action necessitates amendments to the 2005 Strategic Plan and the County's Five Year Capital Improvement Program.

Staff recommended that the Board amend Strategy 5.9 of the 2005 Strategic Plan as follows:

Strategy 5.9: Begin the planning and design for a multi-purpose recreation building *in the Edneyville community*.

Staff recommended that the Board amend the County's Five Year Capital Improvement Program as follows:

Change wording from "Jackson Park Improvements" to "Jackson Park Improvements/Edneyville Community Recreation Project."

### **Public Records Disposal Request**

Finance Staff requested approval from the Board of Commissioners to destroy records in accordance with the County's Records Retention Policy and the provisions of N.C.G.S. 121 and 132 as the period for retention of the records had expired.

### **Water and Sewer Line Extensions**

The City of Hendersonville requested County comments on the following proposed water line and sewer line extensions:

- Carriage Park, Section 17 - Water Line Extension
- Carriage Park Loop Road - Water Line Extension
- Carriage Park, Section 19, Phase 2 - Water Line Extension
- Carriage Park, Section 21 - Sewer Line Extension

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

### **NOMINATIONS**

#### **Notification of Vacancies**

The Board was notified of the following vacancies and these will appear on the next agenda for nominations:

- 1. Western Highlands LME – 1 vac.**

#### **Nominations**

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

- 1. Animal Services Committee – 1 vac.**

Commissioner McGrady nominated Walter Kidd to Position #4. *Chairman Moyer made the motion to accept Mr. Kidd by acclamation. All voted in favor and the motion carried.*

- 2. Cemetery Advisory Committee – 1 vac.**

There were no nominations at this time so this item was rolled to the next meeting. It was the consensus of the Board to have Staff contact those individuals with applications on file to determine their current interest.

**3. Child Fatality Prevention Team – 1 vac.**

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

**4. Community Child Protection Team – 6 vac.**

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

**5. Hendersonville City Zoning Board of Adjustment – 1 vac.**

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

**6. Hendersonville Planning Board – 1 vac.**

Commissioner Young nominated E. J. Fortaw. Mr. Fortaw is interested in serving, but does not currently have an application on file. Commissioner Young anticipated Mr. Fortaw filing an application prior to the next meeting.

**7. Juvenile Crime Prevention Council – 4 vac.**

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

**8. Mountain Area Workforce Development Board – 1 vac.**

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

**9. Nursing/Adult Care Home Community Advisory Committee – 4 vac.**

Commissioner Messer nominated Dee Hill for appointment to Position #16. Commissioner McGrady nominated Jane Fleming to Position #19. There were no additional nominations. *Commissioner McGrady made the motion to accept Ms. Hill and Ms. Fleming by acclamation. All voted in favor and the motion carried.*

**10. Planning For Older Adults Block Grant Advisory Committee – 1 vac.**

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

**11. Senior Volunteer Services Advisory Council – 1 vac.**

Jerald Wright was nominated to the Council on September 21, 2005. There were no additional nominations. *Chairman Moyer made the motion to accept Mr. Wright by acclamation. All voted in favor and the motion carried.*

**PUBLIC HEARING – Road Names**

*Commissioner McGrady made the motion to go into Public Hearing. All voted in favor and the motion carried.*

Justin Hembree stated that the purpose of the Public Hearing was to hear public comment concerning the proposed road name of Farm View Drive. The Public Hearing date had been set at the September 12<sup>th</sup> meeting. Staff had received no comments concerning the name, and the application had been submitted as required by County and State regulations.

**Public Input**

There was none.

*Commissioner McGrady made the motion to go out of Public Hearing. All voted in favor and the motion carried.*

*Commissioner Messer made the motion to approve the Road Name as presented. All voted in favor and the motion carried.*

**PUBLIC HEARING – Community Development Block Grant (CDBG) 2002 Scattered Site Housing Program**

*Commissioner McGrady made the motion to go into Public Hearing. All voted in favor and the motion carried.*

Nippy Page stated that the purpose of the Public Hearing was to receive public comment as Staff closes out the 2002 CDBG Scattered Site Housing Program. She noted that they had been able to rehabilitate eight dwellings, and assist 14 beneficiaries, ten of which were very low income, and four which were low income.

**Public Input**

None

No action was required by the Board.

*Commissioner McGrady made the motion to go out of Public Hearing. All voted in favor and the motion carried.*

**RECOGNITION OF BLUE RIDGE COMMUNITY COLLEGE STUDENTS**

Chairman Moyer stated that there were several students in the audience from Blue Ridge Community College. He asked the students to come up and address the Board. Johnathan Drabioki, Karen Benson, Haley Creasman and Cole Pittillo came forward, introduced themselves, and stated that they were taking a class on local government and were writing an observational paper on the meeting.

**ANIMAL ORDINANCE AMENDMENT**

The Animal Services Committee re-considered the Animal Ordinance amendment regulating wild and exotic animals on September 20, 2005. After careful consideration of the Board's comments and consultation with the County Attorney, the Committee had revised the Ordinance. It no longer states that it deals with exotic animals, but other regulated animals because exotic animals didn't meet the full definition of what the Committee intended to regulate. The definitions section had also been changed, more families and orders had been added, and the mention of any particular animal within an order being deleted. Mr. Hyder pointed out that the venomous reptile issue was still addressed, but there were exemptions for educational institutions and camps.

Mr. Hyder also noted that the permit fee amount was left blank. Staff had contacted other counties regarding similar permit fees, discovering a range of \$5.00 to \$1000.00. Many counties choose to either not regulate wild and exotic animals or prohibit them altogether. The Animal Services Committee supports a permit process as the most effective method for dealing with wild and exotic animals.

Commissioner Baldwin asked Mr. Hyder to review what the County was attempting to regulate with this Ordinance. Mr. Hyder stated that Ordinance was about animals that could potentially cause serious harm to humans. The Animal Services Committee had come to the consensus that people who wish to keep that type animal will keep them regardless, and that the County should find a way to ensure that the animals are being kept properly, and being taken care of. He felt that the Ordinance being considered was very clear, was enforceable, and would allow the County to regulate certain animals.

There followed much discussion among the Board about whether or not there was a problem with these types of animals in the County. Commissioner McGrady stated that while there was not currently a problem, with the variety of animals that were now possible to attain via outlets such as the internet, it was probably appropriate to have an Ordinance to address the issue. Mr. Hyder noted that the intent of the Animal Services Committee was to create an inventory of regulated animals, and that an annual fee would allow for site visits and provide a way to monitor the animal from year to year.

There was discussion about whether or not regulation was warranted, and what type of fee should be associated with the Ordinance. *Commissioner Young made the motion to set the fee at \$25.00 on an annual basis. Following additional discussion about the need for regulation of these animals, a vote was taken on Commissioner Young's motion. The motion carried 4-1 with Chairman Moyer voting in opposition.*

**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 reason(s):

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. Jasmine M. vs. Henderson County Department of Social Services*

*All voted in favor and the motion carried.*

#### **ANIMAL ORDINANCE AMENDMENT - continued**

Commissioner McGrady stated that he felt that there was a need for an ordinance. However, philosophically he wished to strike references to native species. He also expressed concern about §66A-100 A(16) "Other wild or exotic animals potentially harmful to humans which are not otherwise enumerated herein", questioning whether that catch-all language was too ambiguous, and left too much discretion to the Animal Services Director. Russ Burrell stated that the intent of the Committee was to include a catch-all statement.

*Commissioner Baldwin made the motion to direct Mr. Hyder to rework the ordinance to capture the concepts discussed by the Board. Mr. Hyder stated that he could pursue the issue of native species, but questioned whether the Board was talking about all native species or one sector of native species. Commissioner Young questioned what native species were already regulated by state law. Mr. Hyder stated that many native species were indeed already regulated, and that State law references were outlined in the draft ordinance. Commissioner McGrady stated that he was willing to work with Mr. Hyder regarding his concerns specific to native, venomous snakes.*

Chairman Moyer expressed concerns about the ability of animal services staff to determine the adequacy of confinement for every exotic or wild species. Commissioner McGrady stated that in terms of making the Ordinance more readable, it would be useful to associate examples with the orders and species regulated. Mr. Hyder stated that he would prefer to take the discussion back to the Animal Services Committee to revise the Ordinance. He was willing to work on the changes, but felt it appropriate to take it back to the Committee as they had a vested interest. *Commissioner Baldwin stated that his motion was to give the Ordinance back to Mr. Hyder and allow him to do whatever he needed to with it. Commissioner McGrady added that Mr. Hyder would bring that back to the Board at an appropriate time. All voted in favor and the motion carried.*

#### **RADIO BROADCAST ON HCTV-11**

Following the September 21, 2005 meeting, letters and the criteria set by the Board had been sent to WHKP and WTZQ to determine whether they were able to meet that criteria. Both stations had responded that they were able to meet the criteria. Chairman Moyer requested that representatives from the stations address the Board on the specifics of their responses.

Randy Houston, President of WTZQ, and Mark Warwick, Director of Advertising, addressed the Board, stating that WTZQ could meet the criteria. Based on the criteria, it sounded like the County was looking for a music station on Channel 11. He stated that several of the criteria would require some additional discussion and clarification. Commissioner Baldwin questioned whether WTZQ would be able to host a question and answer program with Commissioners. Mr. Houston stated that they could do that, but it was a tricky issue in that they couldn't do a call in program unless it was live. Commissioner McGrady questioned whether Mr. Houston would be willing to consider a schedule that would allow WTZQ station to be on the Channel on a rotating schedule. Mr. Houston answered that that was another tricky question in that there was a lot of expense involved, with no monetary reward. Mr. Houston answered several additional questions from the Board, stating that they do provide hourly news briefs and a community calendar.

Richard Rhodes, Vice-President of WHKP, stated that they had the ability, using a specific piece of equipment, to not only stop the programming that the County did not wish to have broadcast, but could substitute public information into those spaces. He stated that he did not believe the County wanted a music

station, but wanted an information station. He pointed out that WHKP already does the question and answer programming Commissioner Baldwin had asked for, and it's called Open Line. The financial investment they were willing to make in the first year was approximately \$15,000. He also noted that WHKP does weather from the National Weather Service, and has three full time staff dedicated to the news. Mr. Rhodes stated that he did not feel splitting the channel between the stations was feasible, due to the confusion for the listener. He did believe though that an education channel was in the future for the County, and that WTZQ should have first option at broadcasting on that channel.

Commissioner Messer questioned what type of contracts the stations would seek to make the investment in the necessary equipment. Mr. Rhodes stated that he would like to have a contract, and would prefer to have it in concordance with Mediacom's franchise. Mr. Houston stated that he too would prefer a contract, for the protection of everyone involved, the term of which should be mutually agreeable to everybody. Mr. Rhodes and Mr. Houston answered several additional questions from the Board on the specifics of their proposals.

There was discussion among the Board on the process to be used moving forward. Chairman Moyer expressed concern about granting a long term contract given that the County does not yet know where we will come out with the Mediacom negotiations. Commissioner Baldwin stated that the Board has to define what the important issues are, and how important those issues are. He did not feel it was fair to ask either station to make financial investments, without offering some type of contract. However, he also did not feel that given the current Mediacom negotiations, this was the time to offer a long term contract.

Commissioner McGrady suggested putting out an RFP for the remainder of the Mediacom contract, which would be through July, 2006. Any future contracts would then be tied to any future Mediacom contract. By that time the Board would know whether or not there would be an education channel on which one of the stations could run. Commissioner McGrady also stated that with respect to religious programming, he did not feel that programming should be included on the government channel.

Chairman Moyer expressed concern that if we put out an RFP at this point, by the time those come back in the County will be even closer to the end of the current Mediacom contract. He asked the stations to comment on the prospect of a short term contract, running until July, 2006. Mr. Rhodes stated that it would be a lot of expense for a potentially short amount of time, but that WHKP would honor the agreement through July, and purchase the equipment necessary to move forward. Mr. Houston stated that would be a large investment, but did not feel that was the only viable alternative. There followed much additional discussion about the wide range of alternatives.

*Commissioner Baldwin made the motion to direct Staff to develop an RFP based on the discussion from the meeting. Based on the amorphous nature of the motion, Commissioner Baldwin withdrew his motion. Commissioner Baldwin made the motion to have Staff create an RFP based on the discussion, as well as information received from the respective radio stations. Following additional discussion, Commissioner Baldwin amended his motion to include Commissioner Young and Commissioner McGrady as a subcommittee of the Board to work with the County Manager to come up with an RFP. David Nicholson advised Commissioner Baldwin that would constitute a public meeting, and that he would need to either un-amend his motion or schedule a special called meeting. Commissioner Baldwin withdrew the motion. Commissioner Baldwin then made the motion to direct the County Manager to create an RFP based on the input received, the discussions held, and the written materials received to date in consultation with Commissioners. Following additional discussion about the fairness of the timing issue, Commissioner Baldwin withdrew his motion. Chairman Moyer then made the motion that the County proceed with having WHKP on Channel 11 until the time that the franchise with Mediacom is renewed on the condition that they obtain, as soon as possible, the equipment discussed that would take commercials off the channel, and move to implement the criteria working with County Staff. David Nicholson requested that the motion also include direction to WHKP to work with Staff on some of the definition issues. Chairman Moyer stated that was covered in the implementation of the criteria working with County Staff. All voted in favor and the motion carried.*

Commissioner McGrady stated that he felt the programming that should not be included on Channel 11 included any religious programming. He felt that should be one of the criteria included in the agreement with WHKP. *He made the motion to include criteria which would prohibit programming of a religious nature including religious services.* Mr. Rhodes stated that they were currently broadcasting religious programming on Sunday from 7:00 a.m. until noon. There was discussion about whether current County programming was already blocking some of that programming, with Chris Coulson answering that the County was already blocking much of WHKP's broadcast during that time. Commissioner McGrady stated that if there was an understanding that as a general matter the County would put substance on the channel during those times to block that programming, then it did not need to be a specific criteria.

At the September 21, 2005 meeting, the Board had requested that staff provide its thoughts on how emergency information would be disseminated should there be no radio signal on HCTV-11. Mr. Nicholson had provided the following information regarding emergency information:

- HCTV-11 We would utilize the character generator to provide written messages. We utilized this method extensively last year during the storms to provide information on health and safety, the location of emergency shelters and on road closures. (We have also used it to provide information from the City of Hendersonville on water outages and associated safety issues.) Once the character generator is updated, the information is almost instantly provided to the community. The character generator is located in the County Office Building and can be accessed remotely through a notebook computer.
- Website As in the past, we would establish a link from our home page to an emergency information page. This information can be updated from a County office or a remote location by computer.
- Radio Stations Staff, through visits, telephone calls and press releases, would update the listeners of the local radio stations in Henderson County and surrounding communities. We do not believe that this will change should the Board eliminate the radio signal from HCTV-11.
- Broadcast Television Stations Through direct contact or by press release, we would also provide emergency information to the all of the local television stations.

### **GREENWAYS MASTER PLAN**

David Nicholson reminded the Board that Henderson County participates as a member of the Apple Country Greenways Commission. The Commission had asked the Board of Commissioners to endorse their conceptual greenways plan. A copy of the plan was presented for the Board's information. Previously, the Board chose not to formally endorse the plan. However, the County had used their recommendations within the County Comprehensive Plan, and had participated in the construction of the greenway that crosses Jackson Park. The Commission requested that the Board consider formally adopting the plan.

Also, there were several amendments to the Inter-local Agreement that established the Commission being considered. The amendments were to include the Town of Mills River as a participating unit and change the membership from 3 to 2 members from each unit.

John Antrim, Chairman of the Committee, emphasized that the Plan was for the County as a whole, including the municipalities. He noted that the Commission could make recommendations, and assist with getting a greenway project started, but could not actually own anything. David Nicholson also stated that the County is actually using the Plan. Staff had used it as part of the County Comprehensive Plan, and the County already maintains the Oklawaha Greenway. Adoption would just make the use of the Plan more formal. *Commissioner McGrady made the motion to adopt the conceptual plan proposed by the Apple Country Greenways Commission. All voted in favor and the motion carried.*

Commissioner McGrady then requested that the County Attorney be directed to draft either an amendment or a new agreement reflecting two changes, the addition of Mills River and a change in the membership from 3 to 2 members from each unit. Mr. Burrell had already drafted a new Interlocal Agreement, which was given to Mr. Antrim for his review. It was the consensus of the Board to have the new Interlocal Agreement placed on the Board's next Consent Agenda for final adoption.

**HISTORIC PRESERVATION COMMITTEE**

The LGCCA had discussed the possibility of a multi-jurisdictional Historic Resources Preservation Committee to serve Henderson County and its municipalities. Chairman Moyer stated that the Committee would set up a coordinating group to spark interest in the area of historic preservation. A draft ordinance had been presented to the Board for their consideration. One of the duties of the Committee as outlined in the draft Ordinance charged the Committee to “undertake an inventory of properties of historical, prehistorical, architectural, archeological and/or cultural significance.”

*Chairman Moyer made the motion that the Board adopt the draft ordinance regarding preservation of historic resources, subject to later revision as and when this ordinance, or substantially similar ordinances, are adopted by the municipalities of Henderson County. All voted in favor and the motion carried.*

**COUNTY MANAGER HIRING PROCESS**

Chairman Moyer stated that he had worked with Human Resources Director Jan Prichard on the process that would be followed with respect to recruitment of a County Manager. Chairman Moyer was generally comfortable with the process used when recruiting a County Attorney, but did wish to have all members of the Board review applications, rather than leaving that to two Commissioners. Chairman Moyer noted that no ads had yet been sent out, because he wished to have the Board discuss the process first. There was discussion about what should be included in the ad regarding salary. It was the consensus of the Board to have the ad state that salary would be commensurate with experience.

Commissioner Baldwin suggested that some type of matrix be developed defining the qualities the Board would be looking for, which would allow them to narrow down the applications received. Chairman Moyer also wished to have a list of 10 questions regarding critical areas that would be asked of all candidates interviewed. Commissioner Young suggested holding a special called closed session meeting to review all the applications once received. It was the consensus of the Board to hold such a meeting at the appropriate time. David Nicholson also suggested the Board consider sending some written questions out to candidates.

Chairman Moyer stated that he would work with Jan Prichard to develop the questions and the matrix. He requested that the Commissioners think about the areas that are extremely important, and pass those ideas along. He also stated that he would direct Mrs. Prichard to start the process and run the ads, with the wording about the salary being changed.

**NON-PROFIT FUNDING AGREEMENTS**

Upon receiving the County’s funding agreement for the Upper Broad River Watershed Protection Program, Kieran Roe, Director for Carolina Mountain Land Conservancy (CMLC), contacted the County regarding the activities to be funded within the County’s grant. Mr. Roe requested that CMLC be permitted to use 5% of the allocated program funding for administrative expenses that they expect to incur in administering the grant.

Staff recommended that the Board of Commissioners approve the revised funding agreement, noting the following additional statement within Provision #7: *Notwithstanding, the AGENCY may use not more than five percent (5%) of the total received hereunder for general administrative expenses.*

Commissioner Baldwin requested this item be pulled from Consent Agenda, as he wished to make a disclosure to the Board concerning his role as the Community Development Director for Lake Lure. He stated that Lake Lure provides an office and 25% of the salary for the person who is the Director of the Upper Broad River Protection Program. Commissioner Baldwin stated that he had been very careful to ensure that in the agreement, the money that Henderson County provides is spent in Henderson County. He noted that if the Board felt he needed to recuse himself from voting for a potential conflict of interest, he was prepared to do so.

*Commissioner McGrady stated that he appreciated the disclosure, and made the motion to approve the revised funding agreement per the October 3<sup>rd</sup> memo related to the Upper Broad River Watershed Protection Program. There being no Board members who felt there was a conflict of interest, a vote was taken on the motion. All voted in favor and the motion carried.*

**UPDATE ON PENDING ISSUES****Mental Health**

Justin Hembree reminded the Board that last year was the first year the County had gone through a grant application process to award maintenance of effort funds to agencies that submit proposals to provide mental health services specifically to citizens in Henderson County. The County is again soliciting proposals from agencies who may wish to apply for funding for the 2006 calendar year. Chairman Moyer requested that a detailed report outlining how previous funds were spent be provided to the Board to assist in making a determination about how future funds should be allocated.

Mr. Hembree then updated the Board on another possible reorganization of the public mental health system in North Carolina. He stated that the information is changing all the time, but in the previous week, the Secretary of the Department of Health and Human Services (DHHS) submitted a proposal to limit the number of Local Management Entities (LME) in the state to ten. What they had proposed specifically for this area was that Western Highlands be combined with two other LMEs; Foothills, to the east, and Smokey Mountains, to the west. Essentially, we would go from an eight county region to a 20 county region which geographically would be a triangle from North Wilkesboro, to Forest City and over to Murphy. The purpose behind the proposal was simple, DHHS did not have enough money to pay the administrative costs associated with the number of LMEs that had been formed, so they were looking to reduce the number of LMEs. Mr. Hembree stated that he would continue to keep the Board updated on this reorganization, particularly if it reached a point where there would need to be contact with the local delegation.

**Historic Courthouse – City Issues**

David Nicholson stated that there had not been a lot of discussion at the recent City Council meeting. He understood that the City did wish to schedule a joint meeting with the Board. He did state that the issue of a parking deck had been raised, and that the City was satisfied with an option that would not change the parking spaces on the west side of Main Street.

The City wished to schedule a joint meeting with the Board on October 6<sup>th</sup> at 4:00 p.m. Unfortunately, two members of the Board were unable to attend that meeting. Following discussion about additional possible meeting dates, it was the consensus of the Board to propose a joint meeting be held on October 10<sup>th</sup> or 12<sup>th</sup> at 5:00 p.m.

**IMPORTANT DATES****Set Public Hearing on Special Use Permit Application #SP-05-01, River Stone Planned Unit Development**

On August 22, 2005, Windsor-Aughtry Company submitted an application for a special use permit to develop a planned unit development (PUD), to be known as River Stone, on approximately 175.52 acres of land, located at the intersection of Butler Bridge Road and North Rugby Road. A copy of the application materials is available in the Board of Commissioners office.

As required by the Henderson County Zoning Ordinance (§200-33.A, 200-56, and 200-70), the Board of Commissioners, on September 6, 2005, referred the special use permit application to the Planning Board for its review and recommendation. The Planning Board considered the application at its regular meeting on September 20, 2005, and its recommendations as well as staff comments will be presented at the public hearing.

Before taking action on the application, the Board of Commissioners must hold a public hearing. The public hearing on the special use permit application must be conducted as a quasi-judicial proceeding. Given the public notice requirements, the earliest regular meeting date at which such a public hearing could be held is Monday, November 7, 2005.

The County Manager recommended that the Board of Commissioners schedule a quasi-judicial public hearing for special use permit application #SP-05-01 for Monday, November 7, 2005 at 7:00 P.M., or schedule a special called meeting.

*Commissioner McGrady made the motion to set the public hearing on the special use permit application for River Stone Planned Unit Development for November 7<sup>th</sup> at 7:00 p.m. All voted in favor and the motion carried.*

#### **Set Special Called Meeting – Junior Leadership Development**

Carolyn Borman, of the Chamber of Commerce, had requested the Board consider the following dates to hold the annual Junior Leadership Development meeting. She had suggested November 9, 10, 29 or 30. *Chairman Moyer made the motion to set a special called meeting on November 9<sup>th</sup> at 9:00 a.m. to meet with the Junior Leadership Development students. All voted in favor and the motion carried.*

#### **Volunteer Appreciation Banquet**

Amy Brantley reminded the Board of the Volunteer Appreciation Banquet being held at Highland Lake Inn on October 25, 2005.

#### **CANE CREEK WATER & SEWER DISTRICT – no business**

#### **CLOSED SESSION**

*Commissioner McGrady made the motion for the Board to go into closed session as allowed pursuant to NCGS 143-318.11 for the following reason(s):*

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.*
2. (a)(5) *To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease; or (II) the amount of compensation and other material terms of an employment contract or proposed employment contract.*

*All voted in favor and the motion carried.*

#### **Adjourn**

Following Closed Session, Chairman Moyer adjourned the meeting.

Attest:

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Amy R. Brantley, Deputy Clerk to the Board

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William L. Moyer, Chairman