

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
JUNE 27, 2006**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.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 Steve Wyatt, Assistant County Manager Justin Hembree, Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Finance Director J. Carey McLelland, Utilities Director Doyle Freeman, Development and Enforcement Services Director Toby Linville, Emergency Management Coordinator Rocky Hyder, County Engineer Gary Tweed, Zoning Administrator Natalie Berry, and Deputy Clerk to the Board Amy Brantley.

### 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

Commissioner Shannon Baldwin gave the invocation.

### DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer suggested making Discussion Item "A-Election of Sheriff" the next order of business.

Chairman Moyer suggested moving item "J- Balfour School Automotive Science Training Facility Project – State ADM Fund Application" up to "B-1"). Some of the people involved with that item have a timing issue.

Chairman Moyer suggested adding under "Important Dates" a joint meeting to be set of the Board of Commissioners and the Board of Public Education.

There were no other suggested changes.

*Commissioner McGrady made the motion to approve the amended agenda. All voted in favor and the motion carried.*

### ELECTION OF SHERIFF

There has been a vacancy in the office of Sheriff of Henderson County since June 1, 2006. The procedure for filling such a vacancy in Henderson County is set out in NCGS 162-5.1.

Under NCGS 162-5.1, the Chief Deputy of Henderson County acts as Sheriff until such time as a new Sheriff is appointed by the Board, or elected, whichever first occurs.

Election by this Board must be of the person nominated by the Executive Committee of the Henderson County Republican Party, so long as this Committee makes its nomination to the Board within thirty days of the position becoming vacant. The Executive Committee made its recommendation to the Board of Commissioners by letter dated June 19, 2006.

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

If the Board is so inclined, a motion was suggested to take that action.

*Commissioner McGrady moved that the Board elect Eddie Watkins as Sheriff of Henderson County. All voted in favor and the motion carried unanimously.*

Sheriff Watkins came forward and was congratulated by the Board. Sheriff Watkins thanked the Board for the opportunity and for the confidence the Board had in him. He stated his goal was to work hard for all the citizens of this county and to make a smooth transition when the new Sheriff comes in.

### **INFORMAL PUBLIC COMMENTS**

1. Dick Baird – Mr. Baird bashed the Board about the proposed FY 2006-2007 budget. He expressed unhappiness with the Public Hearing on the Budget, calling it a farce.

He formally requested annual expenditure numbers. He also submitted an adequate public facilities analysis which he stated would save the county up to \$80,000.

2. Patty Auwarter – Ms. Auwarter spoke as a concerned parent with children at Mills River Elementary School. She expressed disappointment with the recent budgetary cuts that should fund the elementary school renovations. She asked the Board to make the children of Mills River a priority. She asked that the Board move forward quickly with the called joint session with the Board of Public Education and work together to find a way to proceed to make the elementary school renovations a priority.

3. Eva Ritchey – Ms. Ritchey spoke to the issue of the Land for Tomorrow initiative, lending her support. She stated “The environment, gentlemen, is just another word for God’s creation and we haven’t done a very good job here in North Carolina of preserving that creation.”

She stated that it is past time to move ahead on the Mills River project. She proposed a solution – suggesting that the Board move the historic courthouse off the table and move Mills River Elementary School forward. Then, when we have the monies and the revenue available which will be coming in, then move the courthouse back onto the plate and take care of it. She suggested that we make the Mills River School a solar design school.

Ms. Ritchey invited each of the Commissioners to the public rally today entitled “Save our City”. She stated that it is time to move forward with a Land Use Plan for our County, what is happening in the city is just part of it.

4. Kieran Roe - Mr. Roe was present to address an up-coming agenda item “Land for Tomorrow” so he will speak at that time.
5. Melissa Pruitt – Ms. Pruitt addressed the Mills River School issue. She stated that the children of Mills River elementary School have continued to excel in spite of poor conditions and asked “How long do you think that can continue when we’re not going to be able to attract quality teachers because of the poor conditions. . . When are we going to place a priority on our children who are the future of this county?” She stated that Mills River School is of historical value, it is still being used and it is being allowed to fall down around itself.

### **CONSENT AGENDA**

*Commissioner McGrady moved the adoption of the consent agenda. All voted in favor and the motion carried.*

### **Minutes**

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

May 25, 2006, special called meeting

June 1, 2006, special called meeting  
June 5, 2006, regular meeting  
June 13, 2006, special called meeting

### **EMS Accounts Receivable Report**

At the Board's request the EMS Accounts Receivable Report was included as information for consent approval.

### **Tax Collector's Report**

Terry F. Lyda, Tax Collector, had provided the Tax Collector's Report dated June 19, 2006 for the Board's information and consent approval.

### **NACo 2006 Credentials**

NACo is preparing for its 71<sup>st</sup> Annual Conference to be held August 4-8, 2006 in Cook County, IL. NACo has requested that the County submit its credentials (voting) in order to participate in official business of the Conference.

The County Manager recommended that Chairman Moyer be approved as the Designated Delegate and that Vice-Chairman Messer be approved as the First Alternate.

### **CDBG Required Plans**

Included in the agenda packet was the documentation that must be approved by the Board of Commissioners for the 2005 CDBG Scattered Site Housing Rehabilitation Program. These plans have been approved in recent years and must be updated and adopted for each new CDBG grant.

Staff recommended the Board adopt the policies as presented.

### **Flood Prevention Ordinance Amendments**

National Flood Insurance Program approval of our Flood Prevention Ordinance included suggested text revisions. These changes were listed and a revised draft was included in the agenda packet that incorporates these revisions.

The County Manager suggested the Board approve the NFIP suggested text amendments.

### **Water Line Extension – Meadow Creek**

The City of Hendersonville requested County comments on a proposed water line extension project to serve Meadow Creek.

A City of Hendersonville Project Summary sheet, with backup documents and a County review sheet with staff comments was included in the agenda packet for Board review and action.

The County Manager recommended that the Board take action to support the referenced water line extension.

### **Water and Sewer Line Extension – Elkamet, Inc.**

The City of Hendersonville requested County comments on a proposed water and sewer line extension project to serve Elkamet, Inc.

A City of Hendersonville Project Summary sheet, with backup documents and a County review sheet with staff comments was included in the agenda packet for Board review and action.

The County Manager recommended that the Board take action to support the referenced water and sewer line extension.

**Water Line Extension – Deer Meadow**

The City of Hendersonville requested County comments on a proposed water line extension project to serve Deer Meadow development.

A City of Hendersonville Project Summary sheet, with backup document and a County review sheet with staff comments was included in the agenda packet for Board review and action.

The County Manager recommended that the Board take action to support the referenced water line extension.

**Sewer Line Extension – Eagle Pointe**

The City of Hendersonville requested County comments on a proposed sewer line extension project to serve Eagle Pointe.

A City of Hendersonville Project Summary sheet, with backup documents and a County review sheet with staff comments was included in the agenda packet for Board review and action.

The County Manager recommended that the Board take action to support the referenced sewer line extension.

**Renewal of HCSO Mounted Patrol Lease**

The County has previously leased land for use of the Henderson County Sheriff's Office Mounted Patrol. The lease, for \$700 per year, expires September 30, 2006, but is renewable (at the same rate) for a period of five additional years. The Sheriff's Department has requested its renewal.

If the Board is so inclined, the following motion was suggested:

**I move that the Board exercise its option to renew the lease of land used for the HCSO Mounted Patrol.**

**HonorAir 2006 Days**

Staff recommended that the Board adopt the following proclamation. Local municipalities have also endorsed the proclamation.

**HENDERSON COUNTY  
PROCLAMATION  
*HonorAir 2006 Days  
May 29 – July 4, 2006***

**Whereas,** The World War II Memorial in Washington, DC was dedicated in 2004 as the Nation's way to express the appreciation due the World War II generation for their selfless sacrifices that preserved the freedoms we all enjoy; and

**Whereas,** Many of the World War II generation, the men and women who fought and sacrificed for our country, whose youngest member is in their late seventies, have not had an opportunity, or ability, to visit the Memorial; and

**Whereas,** The Henderson County HonorAir 2006 was formed by Jeff Miller, David Reeves, David Adams, Senator Tom Apodaca, Mike Murdock, Frank Schell, George Erwin, Henry Johnson, Meredith Elliot and Post 77 American Legion; and

**Whereas,** HonorAir 2006 has planned two separate, one-day trips to Washington, DC on Saturday, September 23 and Sunday, September 24, 2006 for two hundred World War II Veterans, plus their guardians, to fly from the Asheville Regional Airport directly to Washington, DC to allow them to view their World War II Memorial for the first time; and

**Whereas,** HonorAir 2006 is conducting a fundraising event from Memorial Day through July 4, 2006 to assist with the \$100,000 needed for this most worthwhile event.

**Now, Therefore,** The Henderson County Board of Commissioners proclaims May 29 through July 4, 2006, as

**“HonorAir 2006 Days”**

In Henderson County and urges all members of this community to support and contribute to this worthwhile event for the recognition of the achievements of the men and women who have worn the uniform of the United States, whom we owe a great debt of gratitude.

**In Witness Whereof,** I have hereunto set my hand and caused the Seal of the Henderson County, North Carolina, to be affixed this 27<sup>th</sup> day of June 2006.

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William L. Moyer, Chairman  
Board of Commissioners

Attest:

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Elizabeth W. Corn  
Clerk to the Board of Commissioners

**NOMINATIONS**

**Notification of Vacancies**

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

1. WCCA Board of Directors – 1 vac.

**Nominations**

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

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

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

2. **Environmental Advisory Committee – 2 vac.**

At the last meeting, nominations were made: to position #7 Tony Campano, who is currently serving as Vice-Chairman of that Board and position #9 Collette Summitt. Ms. Brantly stated that Ms. Summitt is not interested in serving at this time as she has already been appointed to Apple Country Greenway Commission.

Commissioner McGrady nominated Tom Davis to position #9 and Beth Bochoven to position #7. We do not have applications at this time on either of these but Commissioner McGrady had spoken with both. He suggested that we roll these and try to get applications from both persons.

We also need to appoint a Chairman to this Committee. There were no nominations at this time so this was rolled until the members are all seated on this Board.

3. **Henderson County Historic Courthouse Corporation – 2 vac.**

Chairman Moyer suggested rolling these appointments until after we cover this item on the agenda today (Charter changes).

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

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

**5. Historic Preservation Commission – 4 vac.**

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

**6. Juvenile Crime Prevention Council – 6 vac.**

Ms. Brantley informed the Board that position #18, Matt Russell, who is our Parks and Recreation representative, is willing to be reappointed. Also for the Director of Mental Health, Developmental Disabilities and Substance Abuse, Rose Stouder (who works for Western Highlands LME) has submitted an application to serve in that specific position, #6.

Commissioner McGrady nominated Rose Stouder to position #6. *Chairman Moyer made the motion to accept Ms. Stouder by acclamation. All voted in favor and the motion carried.*

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

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

The Chair of the Board has recommended the appointment of Douglas Owens to position #19. Commissioner Messer nominated Douglas Owens. *Chairman Moyer made the motion to accept Mr. Owens by acclamation. All voted in favor and the motion carried.*

**8. SmartStart – 1 vac.**

There were two nominations at the June 5 meeting: David White and Marcie Burlett. The Clerk polled the Board with the following outcome:

Commissioner Baldwin	Marcie Burlett
Commissioner McGrady	David White
Chairman Moyer	Marcie Burlett
Commissioner Messer	Marcie Burlett
Commissioner Young	Marcie Burlett

Marcie Burlett was the nominee.

**9. Solid Waste Advisory Committee – 1 vac.**

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

**FY 2007 BUDGET ORDINANCE**

Steve Wyatt presented two drafts of the FY 2006-2007 Budget Ordinance, as well as a cover memo explaining the difference between the two drafts. He explained that it is unusual to have two drafts of the budget but stated that what staff heard loud and clear was concern from the Commissioners regarding the conditions of public school facilities. These two drafts are a response to that concern.

Mr. Wyatt explained that the only difference between Draft A and Draft B was the method in which the Public Schools' funding was addressed. In Draft A, Schools capital funding is broken into three categories. Category I – Construction & Building Renovation; Category II – Furnishings & Equipment, and Category III – Buses & Motor Vehicles. In Draft B, capital funding is broken down by project in Addendum A. Again, this differentiation in the method for addressing capital is the only difference in the two drafts. The projects were taken from the Master List of Projects that the schools submitted with their budget request. Our staff placed a priority on roof repairs, leaking roofs, ceiling damage repairs, and facility type issues. The \$400,000

that the Board of Commissioners indicated that it wanted to increase the schools' budget by, is allocated into the capital expense. Facilities' renovations and construction of facilities is the Board of Commissioners' mandate. The current expense funding on this Board's part is optional. It is the state's responsibility. Also there is the additional \$100,000 for Blue Ridge Community College Capital expense, again facilities are capital related. There is \$250,000 for EMS type improvements, about \$88,000 for the purchase of an ambulance, \$37,000 for equipping that ambulance, and \$125,000 for personnel. There is \$80,000 in the special projects budget for the development of an adequate public facilities ordinance. One of the issues the Board was concerned about was in Department of Social Services – the ratio of supervisors to line personnel. The Board indicated a desire to dedicate an additional \$45,000 and add supervisory personnel. Staff proposes using that money to match state and federal draw-downs to procure two positions for that \$45,000. The purchasing agent position has been removed from the finance budget and the \$45,000 from the agricultural project. The debt service for Mills Rivers Elementary School was reduced. One of the things Mr. Wyatt wanted to do as he developed this budget was to set aside some money for a capital reserve fund. \$500,000 has been carved out of this budget for the establishment of a capital reserve fund. This fund is the Board's opportunity to use that as some installment purchasing in the fiscal year once the Board determines what its capital priorities are. It could be Mills River, Hillandale, a combination of the two or even other projects. Staff continues to have concerns about the cost of insurance, worker's compensation, property liability, and our benefits program so they set aside \$100,000 for that insurance reserve. Those proposals also included dropping down the fund balance applied slightly to about \$515,000. That number is important in that we're able to do that and maintain the integrity of the 12% floor in fund balance. The Board has a policy that the County will maintain a minimum of a 12% fund balance, state law requires 8%.

Steve Wyatt explained that there are some items in the Budget Ordinance that are a little bit different, changes to the overall document, outside of obvious formatting changes:

- Section 4, bullets 1 – 7 (page 2), formalize provisions that have been previously assumed by other County Managers, but not formally adopted through the Budget Ordinance.
- Section 4, bullets 8 and 9 (page 2), set out provisions that were previously located in another section of past Budget Ordinances.
- The final set of bullets in Section 4 (page 2) addresses Commissioners' previous discussions regarding the County Manager's authority to execute change orders for County construction projects.
- Section 5 (page 4) explicitly sets out authority for the County Manager to authorize budget transfers between departments and funds with an official report to the Board of Commissioners.

Finally, staff drafted new provisions specific to the Public School System under Section 19 (page 9):

- Provision 1 directs the Finance Director to provide current expense monthly allocations to the school system in 1/12 allotments. This is a change to the previous ordinances in that the school system will no longer be required to provide a reimbursement certificate for its monthly disbursements.
- Provision 2, added by the County Attorney, establishes a provision restricting the use of Article 40 and 42 sales taxes from being used for debt service on the Sugarloaf Elementary School.
- Provision 3 freezes \$900,000 in school capital budgeted through lottery proceeds, until the County receives those proceeds from the State.

Chairman Moyer discussed a lengthy discussion he had had with Chairman of the Board of Public Education Ervin Bazzle. Mr. Bazzle would prefer that the Board not ear-mark the \$400,000. He feels that is intruding in their management of their projects. They would be happy to talk about that at the up-coming joint meeting

as to what kind of reports or follow-up the Board of Commissioners would want. They do not feel that the Board of Commissioners should go to that level of supervision of their projects at this time. He also indicated that with respect to the \$400,000 that they would prefer it be split between current expense and maintenance with the understanding that at the joint meeting the maintenance issues would be addressed and how they would be taken care of and that they would not be slighted.

Chairman Moyer stated, regarding the Community College issue, in light of everything that has occurred the Board should discuss whether they wanted to add the \$100,000 to the Community College at this time.

Chairman Moyer briefly discussed the Capital Reserve account of \$500,000 and would prefer to make it \$600,000 and felt that it should be ear-marked at this time for Mills River so that it could not be changed at a later time.

Much discussion followed with conflicting concerns of repairs and maintenance of school facilities vs. intruding on the School Board's management of their projects with the Commissioners wanting to be sure that maintenance and repair projects will be taken care of at our school facilities.

*Chairman Moyer made the motion to adopt draft "A" with the change of pulling the \$100,000 from Blue Ridge Community College maintenance and setting up a Capital Reserve Fund of \$600,000, earmarked for the Mills River Project for this year (2006-2007).*

*Following continued discussion, Chairman Moyer amended his motion to adopt draft "B" with the change of pulling the \$100,000 from Blue Ridge Community College maintenance and setting up a Capital Reserve Fund of \$600,000, earmarked for the Mills River Project for this year (2006-2007) and to move on that as soon as possible. Also that Henderson County would pay items in draft "B" directly unless the Board of Commissioners reaches an agreement with the Board of Public Education that addresses these items satisfactorily at a joint meeting with them, whereby the Board of Commissioners would waive that requirement. A vote was taken and the motion carried four to one with Commissioner Young voting nay.*

The FY 2006-2007 budget was adopted with a tax rate of 56.5 cents.

Due to the number of Mills River residents in attendance, Chairman Moyer stressed that the Board has set aside and clearly identified a reserve of \$600,000 to move on the Mills River Project as soon as we have an agreed upon scope of the project with the Board of Public Education and the Board of Commissioners has indicated publicly that payment for maintenance projects be made by Henderson County directly unless a procedure is worked out at the joint meeting with the Board of Public Education whereby the Board of Commissioners is satisfied that these maintenance projects will be done and the authority can be relinquished back to the School Board.

#### **Recess**

Chairman Moyer called a brief break.

#### **BALFOUR SCHOOL AUTOMOTIVE SCIENCE TRAINING FACILITY PROJECT – State ADM Fund Application**

Carey McLelland reminded the Board that the FY2007 School Capital Fund budget includes an appropriation from the Public School Building Capital Fund ("ADM Fund") to fund and pay for construction costs associated with the Balfour School Automotive Science Training Facility project. Bids were received and opened by the Board of Public Education for this project on Thursday, June 15. The lowest responsive bidder bid a total base bid of \$546,988. With architect fees of \$34,500 and a project contingency of \$27,305, the total project budget is \$608,838.

Staff requested that the Board consider approving the prepared ADM Fund application for \$456,628.50, which is 75% of the total project cost. There is an estimated \$485,000 available in the ADM Fund currently



that can be drawn down for this project. The 25% required match of \$152,209.50 from the County will come from fund balance of approximately \$154,000 available in the School Capital Projects Fund that is not a part of current major school capital projects. Upon approval by the Board of Commissioners, this application will be forwarded to the Board of Public Education for their approval as required.

The County Manager stated that it would be appropriate for the Board to approve the prepared ADM Fund Application at this meeting since both State ADM and local match funds are available for use to fund this project and have been included in the FY2007 budget. An application to use State ADM funds requires approval from both the Board of Commissioners and the Board of Public Education.

*Commissioner McGrady made the motion to approve the ADM Fund Application for the Balfour School Automotive Science Training Facility. Discussion followed. A vote was taken and the motion carried four to one with Commissioner Young voting nay.*

### **PROPOSAL FOR PROGRAM TO CELEBRATE THE REOPENING OF THE HISTORIC COURTHOUSE**

Over a year ago, Tom Orr came before the Board and asked for Board support for a series of activities celebrating the centennial of the Historic Courthouse. The Board gave that support and Mr. Orr was able to move forward, with some authority, in getting the job done. One of the events was "Evidence of Yesterday," a multi-media production that combined the cooperative efforts of many. The year 2005 was filled with activities that focused on the historic building and those individuals who have peopled it.

He requested Board support again. This time it is for the development of an appropriate production for the Courthouse opening, December 2007. He would like to bring together creative artists to develop a heritage production appropriate to the occasion. If properly developed, it can be re-produced in the years that follow that opening. Mr. Orr has shared his thoughts with Dr. George A. Jones, Corporation President, and he has encouraged Mr. Orr to make them known to the Board of Commissioners.

Mr. Orr requested that the Board charge him with this responsibility. He realizes the difficulty of the task that he would assume, but he also realizes that we are losing valuable time. He feels that he has been paralyzed by inactivity and needs the Board to once again "jump start" this creative activity, begun in 2005. David Nicholson has informed Mr. Orr that bids have come in and the rehabilitation project can now move forward. Mr. Orr would like the efforts to "tell the history of Henderson County" to move forward as well, with the Courthouse as the venue.

On Tuesday, June 13, he began working on a video "In the Mirror of Her Mind," featuring an extended interview with local historian, Louise Bailey. This will be a cooperative effort with BRCC's David Hutto. Mr. Orr is excited about what can be created and developed in that new technology facility with its properly equipped studio space.

Mr. Orr stated that he appreciated the Board's leadership and the support they gave in the past. As we look forward, it is his hope that Act Two of our endeavor can be even more exciting and challenging.

He offered his phone number 693-6430 and e-mail address for the Board's convenience: [tomorr@brinet.com](mailto:tomorr@brinet.com).

Staff sees no problems with this request and recommended acceptance of the proposal.

George Jones and Tom Orr were both present, addressed the issue, and answered questions from the Board.

*Chairman Moyer made the motion to endorse the project and direct Tom Orr and Jeanie Gouch to move forward with a production. All voted in favor and the motion carried.*

**AMENDMENT OF ARTICLES OF INCORPORATION AND BY-LAWS, HENDERSON COUNTY HISTORIC COURTHOUSE CORPORATION**

Russell Burrell explained that in the agenda packet were amendments to the charter (“Articles of Amendment”) and by-laws requested by the Henderson County Historic Courthouse Corporation. The changes primarily deal with how replacement directors are selected. In this proposal, the remaining directors would nominate persons to serve as directors at the end of expired terms. They would have to nominate at least one more person than there are slots open. When a director left office other than as a result of the expiration of a term, the directors themselves would have the power under this proposal to appoint a person to fill the unexpired term. Mr. Burrell reviewed the changes to both documents with the Board.

If the Board is so inclined, the following motion was suggested:

**I move the Board approve the suggested changes to the charter and bylaws of Henderson County Historic Courthouse Corporation.**

[If amendments are desired, add to the foregoing:

**... with the following amendments: (list amendments)]**

Dr. George Jones came forward and answered questions from the Board.

Following discussion, *Commissioner Baldwin made the motion to adopt the recommendation with the exception to the provision that allows the Historic Courthouse Corporation Board to then amend the Articles of Incorporation and By-laws without review by the Board of Commissioners. A vote was taken and the motion passed three to two with Commissioners McGrady and Young voting nay.*

Dr. George Jones offered three names for the two vacancies: Vanessa Mintz, Tom Orr, and Judy Abrell. *Commissioner McGrady made the motion to reappoint Tom Orr and Judy Abrell. All voted in favor and the motion carried.*

**HISTORIC COURTHOUSE CORPORATION REQUEST**

Dr. Jones had spoken to Chairman Moyer stating that they need to begin coordinating their activities and move aggressively into fund raising. Monies had previously been authorized for the Corporation Board to begin their activities. It appears that \$17,000 is still in that account. Dr. Jones requested the release of the funds (\$17,000) to move forward and will report to the Board of Commissioners as to how the funds are spent.

*Commissioner Young made the motion to release the funds to the Historic Courthouse Corporation as requested. All voted in favor and the motion carried.*

**PUBLIC HEARING – New Road Names**

*Commissioner McGrady made the motion that the Board go into public hearing. All voted in favor and the motion carried.*

Toby Linville presented five new road names for approval. Petitions have been received, either through subdivisions or property extensions where there have become more than two homes per private road. These names have been approved through the system and upon the Board’s approval will be forwarded to NC Department of Transportation for inclusion in their State Road System. The names in question are:

Wolf Mountain Trail, Back Mountain Trail, Mine Creek Trail, Joe Burns Drive, and Allen Wood Lane.

**Public Input**

There was none.

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

*Commissioner Messer made the motion for the Board to go out of public hearing. All voted in favor and the motion carried.*

#### **LAND FOR TOMORROW RESOLUTION**

Commissioner McGrady had requested that this item be placed on the agenda for discussion. The resolution has been adopted by several local governments in North Carolina. The resolution calls for a bond referendum to be placed on the ballot in November to allow for an increase in conservation spending. Commissioner McGrady stated that this resolution broadly seeks to take advantage of a large mass of land sales that are occurring in the state by timber companies and others and purchase some of those lands while they are on the market.

Commissioner McGrady explained that the North Carolina Association of County Commissioners convened in about May and three of its steering committees met jointly and heard presentations from several different groups that were pushing for ballot initiatives related to funding, one was transportation, one was education, and one was a rural redevelopment initiative (called Clean Water initiative) and Land for Tomorrow. The joint steering committee (which Commissioner McGrady serves on) ultimately passed a resolution supportive of the Clean Water and the Land for Tomorrow resolutions. He supports this resolution and brought it forward because he thinks this initiative would positively affect Henderson County, were it passed. We're right on the border with some of the land being acquired related to the World's Edge property, the DuPont State Forest, likewise either in additions to the State Forest or in other funding, we could potentially receive some benefit from this. He stated that he didn't wish to slight the Clean Water or Rural Redevelopment Initiative but it would have no impact in Henderson County. It is directed to sewer infrastructure in rural counties. He offered the Land for Tomorrow resolution for the Board's consideration.

Kieran Roe, Executive Director of the Carolina Mountain Land Conservancy, a local non-profit organization started in Henderson County in 1994, noted that since that time they have helped protect over 12,000 acres of land in Henderson, Transylvania, and part of the neighboring counties. He stated that there have been bills introduced into both the House and the Senate this session for the authorizing of bonds to be issued. It would be a ballot measure that would go on the ballot this fall, November 2006. It would give the opportunity to the residents of the state of North Carolina to vote on whether to support bonds totaling \$200,000,000 a year for five years. They would go to fund existing state trust funds. There are presently four trust funds that, at least in part, fund the conservation of land and water resources in the state: The Clean Water Management Trust Fund, The Farmland Preservation Trust Fund, The Natural Heritage Trust Fund, and the Parks and Recreation Trust Fund so that monies that would be generated by the issuance of these bonds would go to increase, for a period of five years, the monies that would go to these trust funds. Our local conservancy in Henderson County has benefited a great deal by the support of these trust funds in the past and we've done some great projects here in Henderson and the neighboring counties. He stated that it would be an investment on the part of residents of the state and the state government in the future of North Carolina and in the future of our Clean Water/Clean Air and our working world landscapes. It would help to keep farmland in farms and working forestland. In his time here, working with the conservancy, he has seen land prices in Henderson and the counties around here skyrocket. He thinks it would be a wise investment on the part of the state right now to take advantage of the prices that land is presently at before we lose opportunities. There have been several forums in Henderson County over the years. A few years ago we had the "Designing Our Future" forum. We've had planning department public input sessions around the county in recent years and one of the things that the citizens of Henderson County repeatedly say is what they treasure or what they love about Henderson County is the beauty of our rural landscape, our mountains. It is an important benefit that we would see come to Henderson County in terms of protecting that quality of life. Our local tourist economy is based on the scenic beauty of this region and the rural parts of our county. We have events here celebrating our heritage as an apple producing county and yet farmers in the orchard area of our county are under increased pressure to sell their land for development. It would be good to have greater options, funding

that could be provided to farmland owners that would prefer to see their land stay as farmland. This funding would give greater opportunities to folks like that. He requested the Board pass the resolution, sending a signal to the General Assembly which is presently considering this session whether or not to authorize this bond measure. Essentially we would be letting the voters of the state decide whether or not they wanted to support this initiative. Mr. Roe added that in addition to buying land outright for public ownership, some of the types of projects these funds would go to would be to purchase conservation easements which would leave the land in private hands and let it be used as farmland and forest land so it would be a mix of types of tools that would be used.

*Commissioner McGrady made the motion to adopt the resolution as presented. All voted in favor and the motion carried. The resolution follows:*

**HENDERSON COUNTY, NORTH CAROLINA  
RESOLUTION**

**LAND FOR TOMORROW**

**Whereas,** Henderson County Government is committed to protecting lands critical to the future of North Carolina's drinking water, economy, and quality of life; and

**Whereas,** North Carolina is losing more than 100,000 acres of those special places to population pressures each year, and

**Whereas,** North Carolina's population is expected to grow by 50% in the next 25 years, and

**Whereas,** the important tourism industry can only survive with natural beauty, clean water and scenic vistas, and

**Whereas,** there is inadequate funding for protecting stream banks and floodplains, legacy forests, prime farmlands, local parks and recreation, state parks, greenway and inactive rail corridors, game lands, natural, scenic and historic places, and

**Whereas,** there is no second chance to protect North Carolina's great resources and costs will only increase in the future, and

**Whereas,** additional state funding will leverage twice as much funding from federal, private and local sources

**Now, therefore, be it resolved** that the Henderson County Board of Commissioners urges the 2006 General Assembly to enact legislation authorizing a November 2006 general obligation bond referendum to increase conservation spending in North Carolina by \$200,000,000 per year for five years.

Adopted this the 27<sup>th</sup> day of June 2006.

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William L. Moyer, Chairman

Attest:

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Elizabeth W. Corn, Clerk to the Board

**TAX RELEASES /TAX REFUNDS**

Chairman Moyer explained that tax releases and refunds are normally on the consent agenda but this time there was an item of significance and interest to the Board so they were placed on the agenda for some explanation and discussion.

Stan Duncan referred the Board to page two of the refund document, where there was listed a refund request that involves a company named Raflatac, located in the northern part of the county. He explained that in 2001 the taxpayer made a substantial investment in real property, building a structure for their manufacturing facility. That was reported in the January listing of 2002 as a leasehold improvement to the tune of 17 million eight hundred and some odd hundred thousand dollars. They also had a building permit for that that came through and the structure was picked up as real property for 2002, that assessment was about 10 million seven hundred and some odd thousand dollars, based on the 1999 Schedule of Values. The real property component did not measure up to what was actually being invested at the current time because they were measuring it in 1999 dollars for real property. Stan Duncan explained "The bottom line is the taxpayer listed this property in their business personal listing form as a leasehold improvement. It is not a leasehold improvement, it is on land that they own but that's the way the taxpayer carried it on their books and they continued to carry it on their books through the year 2005, so each year when that rendition came in from the taxpayer it was taken through the schedules, it was trended and depreciated and assessed as business personal property and it continued to be assessed as real property for all those intervening years as well. It clearly meets the test of real property. It does not meet the test of personal property. This refund request came about as a result of an internal change as to who was submitting the renditions on the part of the taxpayer. Working with staff, it was determined that it had been incorrectly listed and should never have been listed originally or listed by the taxpayer or accepted by staff as a leasehold improvement." Mr. Duncan stated that the bottom line on this is that if you go back – the courts have ruled that an inaccuracy should not go uncorrected. If this were the reverse situation, where they had not listed it at all, we would discover them for current and five years with penalties. This is a rule that works both ways, in the case that the tax having been already paid, they can petition for a five year refund based on the latest date on which the tax became due.

Stan Duncan referenced a memorandum that he had sent to Chairman Moyer, dated May 18, summarizing the total county portion of this is \$313, 380.73 in refund to Raflatac for having paid essentially twice on the same piece of property.

Following some discussion, *Commissioner McGrady made the motion to approve the release and refund reports as submitted by the County Assessor. All voted in favor and the motion carried.*

A list of eight (8) tax release requests and twelve (12) tax refund requests was presented for approval by the Henderson County Board of Commissioners.

**MEDIACOM RECONCILIATION PROCESS**

Selena Coffey informed the Board that representatives from the various local franchising authorities (LFAs) met on Friday, June 16, 2006, to review a potential approach for reconciling and reallocating misdirected franchise fee payments for the calendar years 2004 and 2005 and for the first quarter of calendar year 2006. This approach and solution was presented by John Crook and the County's property addressing staff played a key role in its development by correcting Mediacom's subscriber records (addresses).

Once the LFA representatives reviewed and discussed the approach presented by Mr. Crook, there was general consensus among the attendees that a letter be written to Mediacom showing that a compromise had been reached by the LFAs for reconciliation. The draft letter was included in the agenda packet for the Board's review.

Staff recommended that the Board vote to authorize the Chairman to execute this letter on behalf of Henderson County.

Chairman Moyer explained that what gave rise to this was the classification of customers and who was receiving the payment from Mediacom with respect thereto. A lot of time has been put toward this effort. He recommended that the Board go ahead with this, bite the bullet and proceed. Procedures have been put in place.

*Commissioner McGrady made the motion to approve and authorize the signing and payment of this money. All voted in favor and the motion carried.*

Selena Coffey publicly thanked the Property Addressing staff, stating that they did a really good job of reconciling the records.

#### **ALTERNATIVE REVENUE TASK FORCE CHARTER**

Steve Wyatt presented a proposed charter for an Alternative Revenue Task Force. The purpose of this task force will be to provide the Board of Commissioners with recommendations concerning alternative revenue sources for necessary capital projects. The charter calls for a final report to be presented to the Board of Commissioners by December 1, 2006. This corresponds with an initiative outlined in the County Manager's budget message. The work of this group would need to be completed and reported to the Board by the first or second meeting in December for the Board of Commissioners to continue with the process, which will likely involve interaction with the legislative delegation.

The County Manager recommended approval of the prepared charter.

*Commissioner McGrady made the motion to adopt the charter and begin to solicit membership. All voted in favor and the motion carried.*

#### **STRATEGIC PLAN MONTHLY REPORT**

Included in the agenda packet was the Strategic Plan Monthly Report. Selena Coffey explained that the purpose of this monthly report is to examine the extent to which the issues within the Strategic Plan have been addressed and the goals have been achieved.

She touched on Strategy 4.6: Address recycling and waste management within County facilities.

She stated that Justin Hembree is heading up the process for getting a recycling program started within county government, it is well underway. It is expected to be effective July 1. Departments are receptive to this program.

Ms. Coffey touched briefly on the Human Services Building, informing the Board that discussions are going on about the actual move into the building. Department of Social Services is scheduled to move in September 22 – 25 and the Health Department is scheduled to move in September 29 – October 2. An Open House is scheduled for September 19. All these dates are tentative at this time. On August 8, they will begin delivery and set up of the furniture, fixtures and equipment for the building, all within budget. Until then they will be working on the paving and landscaping. We are set to have substantial completion of the building with all the building systems operational by July 18.

Commissioner Young mentioned that the building has only one elevator and it is a passenger elevator. He stated that is a big building to have only one elevator and to accommodate so many people. He sees the need for an additional elevator. There is not even a cargo elevator in the building. He stated that the passenger elevator will not accommodate cargo. He feels that the County Manager/Board needs to take a strong look at this. If the one elevator is out of service, how will we handle employees, visitors, and especially the handicapped. The County Manager stated that he and staff will look at that issue and report back to the Board.

Commissioner Young mentioned a sewer problem at Jackson Park and asked if staff had looked at the possibility of putting Jackson Park on city sewer to alleviate the sewage problem. Staff will look into that and report back to the Board.

No action was required on this item.

### **STAFF REPORTS**

#### **County Attorney's Report**

Russ Burrell spoke to House Bill #2047, the video competition act in North Carolina. It passed the third reading in the State House yesterday. It passed 101 to 8. This will now go to the State Senate. If it passes in substantially the same form, it will take the issue of franchising of cable or other video services away from local government and give state-wide franchises to anyone who wishes to apply for one. The affect to Henderson County, besides taking the franchise removal process out of play that we've been working on for the last year and a half or so, would essentially freeze the amount of dollars available at the level of the first six months of the coming fiscal year. Whatever franchise fees are collected by Henderson County in the first six months of FY 2006-2007, that's what the amount of fees would be set at and that money would be used to support some sort of peg channel, a public or educational channel for Henderson County. You are allocated a certain number of those channels, you're allocated two up front although if you don't light it up (if you don't have programming on it for a certain number of hours per day that doesn't duplicate itself) then it can go dark and Mediacom or whoever the franchisee is can use that station for whatever it wishes. He noted that there is an interconnect requirement so that Henderson County would only have to provide one channel feed to one video provider but both or more video providers that had franchises that covered Henderson County would have to provide that same channel that Henderson County provided to one. In essence the other big change is that the issue of consumer complaints would go away from county government and would be taken over by the state.

#### **County Manager's Report**

Steve Wyatt introduced Anthony Starr, our new Planning Director. Anthony was present at the meeting and stood. He began work with Henderson County yesterday. Mr. Wyatt asked Commissioners to stop by and get to know Anthony.

Steve Wyatt informed the Board that they had an urgent memorandum from the NC County Commissioners' Association (copies on the dias) dealing with Medicaid Relief. That memo says "Today is the Day when Medicaid Relief will be decided". It doesn't look too good for Henderson County although some eastern counties would get substantial Medicaid relief. He asked the Commissioners to call Senator Apodaca.

Steve Wyatt stated that we have had a major weather event over the last 24 – 48 hours. He commended Rocky Hyder and other staff. He asked Mr. Hyder to give the Board a 3-minute update as to where we are now on the situation.

Rocky Hyder stated that a State of Emergency was declared yesterday and it was terminated this morning at 800 hours. They evacuated approximately 100 citizens and there were three persons rescued from the Broad River. We have a lot of homes where the access to the home is damaged due to a private bridge or a driveway/culvert type situation. Staff had established a 24-hour hot line for people to report that type damage. A team is working today to finish a preliminary damage assessment. The hot line number is 697-4527.

### **IMPORTANT DATES**

#### **Hazard Mitigation Plan Update**

Pursuant to the Robert T. Stafford Disaster Relief and Recovery Act, the Henderson County Multi-Jurisdictional Hazard Mitigation Plan has been updated to reflect experiences from the effects of Hurricanes Frances and Ivan. This plan contains input from each governmental unit within Henderson County regarding

strategies to protect human life and health, minimizing damage to existing buildings, protecting infrastructure and the environment from the effects of natural or technological hazards. Staff requested the Board provide comments on the draft document and schedule a public hearing before final approval.

Rocky Hyder stated that as part of the Hazard Mitigation Plan, on the 5 year action matrix, stormwater management and all those issues just discussed above (as part of the flood response) is included in the Hazard Mitigation Plan to compliment the Strategic Plan as well.

Staff recommended the Board schedule a public hearing for 11:00 a.m. on July 19, 2006.

*Chairman Moyer made the motion to set the public hearing on the Hazard Mitigation Plan Update for Wednesday, July 19 at 11:00 a.m. All voted in favor and the motion carried.*

### **Mayor's Cup Raft Race**

In celebration of River Month, over the past years, Land-of-Sky Regional Council has sponsored the Mayor's Cup Raft Race. This event has proven to be an exciting and friendly competition among our Region's elected officials which have made up 10, sometimes more, teams. Last year the City of Asheville was victorious. This could be our year to win. All equipment (rafts, paddles, life jackets) will be provided. There is no entry fee, but employee bonuses for taking county or city official's places in the raft are allowed (if done discretely).

The date for the Mayor's Cup Raft Race has been set for Sunday, August 20, 2006 with a start time of 3:30 p.m. at the French Broad River Park on Amboy Road in Asheville. Please plan to arrive by no later than 3:15 p.m. The purpose of the "Raft Race" is to acknowledge the importance of the French Broad River to the four-county region as a cultural, economic, natural and recreational resource. Radio Personality Pat Ryan of WXOL Oldies 96.5 will emcee the event.

All preparations are well underway for this celebration but local support is needed. The teams will make the Mayor's Cup Raft Race another successful event on our beautiful French Broad River.

Chairman Moyer stated there was a contest between Commissioner Messer and Selena Coffey as to who would be Captain this year. Anyone interested in participating should make their wishes known. Commissioner Baldwin asked to be on the team this year.

### **Joint meeting with Board of Public Education**

There had been much discussion of this earlier on the agenda. Chairman Moyer stated that he would like to respond back to the School Board with at least three dates. The suggested dates were July 6, 7, or 10 at 4:00 p.m.

It was decided to make the motion for all three dates and cancel whatever two, as needed.

*Chairman Moyer made the motion to set this joint meeting with the Board of Public Education for July 6, 7, or 10 at 4:00 p.m., here and we'll cancel two of the dates. All voted in favor and the motion carried.*

### **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 reasons:*

- 1.(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.*

*2.(a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.*

*All voted in favor and the motion carried.*

Attest:

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Elizabeth W Corn, Clerk to the Board

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William L. Moyer, Chairman