

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
AUGUST 14, 2007**

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 Chuck McGrady, Commissioner Mark Williams, County Manager Steve Wyatt, Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Deputy Clerk to the Board Terry Wilson, Research/Budget Analyst Amy Brantley, County Assessor Stan Duncan, Sheriff Rick Davis, Building Services Director Sam Laughter, Human Resource Director Jan Pritchard, Registrar of Deeds Nedra Moles, Associate County Attorney Sarah Zambon, Tax Collector Terry Lyda, Deputy/Delinquent Tax Collector Lee King, Engineering and Facility Services Director Marcus Jones, Communications Officer Pam Brice, PIO for the Sheriff Dept. Joe Johnson, Senior Planner Autumn Radcliff, and Planner Matt Card.

Absent was: Planning Director Anthony Starr.

### CALL TO ORDER/WELCOME

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

### PLEDGE OF ALLEGIANCE

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

### INVOCATION

County Manager Steve Wyatt gave the invocation.

### INFORMAL PUBLIC COMMENTS

Chairman Moyer reminded those who had signed up to speak to keep their comments to three minutes each.

1. David Weintraub – Mr. Weintraub requested the Board of Commissioners pass a formal large scale development moratorium for major subdivisions until the Land Development Code is passed and the small area planning has been completed. As the Director of the Environmental Conservation Organization (ECO) he prefers to spend his time planning hikes and bird walks, water monitoring of our watersheds and creating environmental programs. In his short tenure here it has occurred to him that if things continue in the current direction, we will be reduced to doing nothing more than running urban walks, reminiscing about what once was, rather than immersing folks in the amazing natural gems that make up our county's natural heritage. He stated that they have collected over 3,000 signatures but could have easily gotten thousands more and can if need be. Many of the people they spoke with are volunteers who were passionate about their concerns with growth and run away development. "There is a sense that county government has not been responsive to their rising discontent." The problem is in growth, growth without land use policies that govern its direction. ECO favorably supports the passage of the LDC as quickly as possible.
2. MariJane Pell – Ms. Pell stated that the people of Henderson County don't like this new development, they don't want it. They want a moratorium. They want the Board to hold builders accountable for the problems they create, the pollution they cause, the streams they impact and any new infrastructure that is needed. "You Commissioners are suppose to protect us and consider the welfare of this community uppermost, that is your job. We want you to do a better job... the people of Henderson County want a moratorium on large scale development planning.

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

The people of Henderson County want a moratorium on large scale housing developments. The people of Henderson County want a moratorium on large scale housing developments and they want it now.”

3. Susan Stewart - Ms. Stewart is a resident and concerned citizen of Henderson County. “We are growing like a run away train and nothing is stopping this train.” She stated that we need a temporary moratorium until we get the land development code right.
4. Chris Berg – Mr. Berg passed, did not address the Board.
5. Fielding Lucas –Mr. Lucas stated that the older he gets the more he is impressed by the number of people who know what is best for him, far better than he is likely to know himself. He talked about our growth and referred to the proposed development for Crab Creek.
6. Eva Ritchey – Ms. Ritchey stated that she supports a moratorium because we need it. We long past need a land use plan. She stated that developers are not the problem, there are good developers that do exactly what the rules say. They care only about one thing and that is profit. The problem is that we have had no rules so we have houses perched on ridgetops. We have homes on steep slopes. We have mountains that have been carved in half. Good planning is about being neighborly. She stated that we have been talking about land use for ten years.
7. Bill Ramsey – Mr. Ramsey stated that every year this Board casts hundreds of votes. The thing that separates some votes from others is that many of the votes that are cast here have to do with annual issues and the Board will vote on them again; the annual budget, some staff appointments, that sort of thing. The really gravidus votes that the Board must make are those that set a precedent and there are none on the agenda that have any more gravity than the vote on The Glen at Flat Rock. He urged the Board to hear the pleas of the people who live in that community and vote no for all the reasons that have been given through the three long meetings that have taken place over the last three months. This is a precedent setting vote. It is the right project but it is the wrong location.
8. Bill Alexander – Mr. Alexander represents The Glen applicant. He thanked the Board for the time they took to hear all the people regarding The Glen, including his client. Educated development of land is not what has changed the face of our county. What has changed the face of our county is the unprecedented growth rate that occurred all over western North Carolina and that growth is a factor that we simply can’t prohibit. We can direct it but we cannot prohibit it. Mr. Alexander stated that in considering the vested rights application statute, he feels that the County Attorney would say to the Board that a moratorium can’t prevent a remedy previously established by State Statute.

#### **DISCUSSION/ADJUSTMENT OF AGENDA**

Chairman Moyer stated that there are people who came for agenda item “Important Dates” and would prefer not to wait till the end. He requested the Board move the “Important Dates” up so the dates could be set and those people could leave.

Chairman Moyer stated that under the Consent Agenda there was one additional road, Rosemont Drive to be added under agenda item “D- Petition for addition to state road name” which inadvertently didn’t get on there.

Commissioner Messer mentioned that Cane Creek Water and Sewer District is on the agenda tonight regarding the waterline on Highway #25 at the fire department. It will likely be late in the evening before the Board discusses this item. He asked if this item could be moved to try to accommodate the people in attendance from the Fletcher Fire Department. Chairman Moyer asked that it be moved up as the first discussion item.

*Commissioner Williams made the motion to approve the agenda with the above requested changes. All voted in favor and the motion carried.*

#### **IMPORTANT DATES**

**Set Public Hearing on Noise Ordinance Amendments**

Chairman Moyer stated that because of the absolute necessity to get the land development code finished, he asked that this item be rolled to a later meeting. The Board was in agreement.

**Set Land Development Code Workshop**

Chairman Moyer stated that staff had spent a lot of time trying to clear dates so the deliberations could be completed on the Land Development Code (LDC). Two dates have been suggested, August 23 and August 28. Chairman Moyer requested that both dates be set. *Chairman Moyer made the motion to set LDC workshops for 6:00 on Thursday, August 23 and 6:00 on Tuesday, August 28 (if needed), both here. A vote was taken and the motion passed unanimously.*

**Request for Public Hearing on new road names: 1. Perry McDowell Trail and 2. Fiddlers Green Lane**

Chairman Moyer stated that it appears there is no controversy so staff suggested that it be set for a regular Board meeting. *Commissioner Messer made the motion to set that public hearing for Tuesday, September 4 at 7:00 p.m. All voted in favor and the motion carried.*

**Set Public Hearing on Rezoning Application #R-2007-04**

Based on staff's recommendation, *Commissioner Williams made the motion to set this public hearing for Tuesday, September 4 at 7:00 p.m. All voted in favor and the motion carried.*

**Set Public Hearing on Rezoning Application #R-2007-05**

Based on staff's recommendation, *Commissioner McGrady made the motion to set this public hearing for Tuesday, September 4 at 7:00 p.m. All voted in favor and the motion carried.*

**County Manager comments**

Steve Wyatt informed the Board, as a matter of information, that the Recreation Advisory Board is looking at conducting some public input sessions around the county in relationship to the development of the Parks Master Plan. They are looking at the following dates, in the evenings:

- Tuesday, August 28 at North Henderson High School
- Tuesday, September 11 at West Henderson High School
- Tuesday, September 18 at East Henderson High School
- Tuesday, September 25 at Hendersonville High School

They are also looking for a time and date for one day time meeting, for folks who may not feel comfortable being out at night. Staff will communicate these dates to the Board when they are firmed up. These will all be public input meetings for parks facilities held by the Parks & Recreation Advisory Board.

**CONSENT AGENDA**

*Commissioner Messer made the motion to approve the consent agenda as revised above. 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 meetings:

- May 22, 2007, special called meeting
- June 12, 2007, special called meeting
- June 28, 2007, special called meeting
- July 2, 2007, regular scheduled meeting

**Tax Collector's Report**

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collector's Report dated August 3 for the Board's information and consent approval.

**Tax Releases**

The County Assessor had provided a list of two (2) tax release requests for approval by the Board of Commissioners.

### **Petition for Addition to State Road System**

Staff had received petitions for addition to the State Road System for the following roads:

- |     |                          |                           |
|-----|--------------------------|---------------------------|
| 1.  | Sunset Ridge Drive       | Sunset Subdivision        |
| 2.  | Sunset Valley Drive      | Sunset Subdivision        |
| 3.  | East Sunset Ridge Drive  | Sunset Subdivision        |
| 4.  | South Sunset Ridge Drive | Sunset Subdivision        |
| 5.  | North Sunset Ridge Drive | Sunset Subdivision        |
| 6.  | West Sunset Ridge Drive  | Sunset Subdivision        |
| 7.  | Dunigan Drive            | StoneGate Subdivision     |
| 8.  | Limerick Lane            | StoneGate Subdivision     |
| 9.  | Park Knoll Drive         | Park Knoll Subdivision    |
| 10. | East Park Drive          | Park Knoll Subdivision    |
| 11. | Drexel Farms Drive       | Celadon Hills Subdivision |
| 12. | Karla Circle             | Celadon Hills Subdivision |
| 13. | South Drexel Farms Drive | Celadon Hills Subdivision |

### **2007 Strategic Plan and Capital Improvement Plan Monthly Update**

The monthly update was presented for the Board's information and review.

### **Mills River Post Office Letter of Support**

A draft letter had been prepared for the Board's review and approval, in support of a post office for the Town of Mills River. The letter conveys the support of the Board for a full-service post office for that community, and recommends the US Postal Service consider revising its postal districts to coincide with municipal borders. The Board was requested to approve the letter as presented and direct that it be forwarded to Regional Field Representative Randy Flack in Heath Shuler's office."

The suggested motion was *"I move the Board approve the letter as presented and direct Staff to forward it to Regional Field Office Representative Randy Flack in Heath Shuler's office."*

### **Non-Profit Performance Agreements**

Subsequent to the approval of the FY 2007-08 Budget, staff had distributed the funding agreements to the non-profit agencies receiving County allocations. Staff will be including signed funding agreements on the Board's consent agendas as they are received from the agencies. Funding Agreements were included for the following agencies:

1. Arts Council of Henderson County
2. Blue Ridge Literacy Council
3. Community Development Council
4. Council on Aging
5. Environmental and Conservation Organization
6. Historic 7<sup>th</sup> Avenue District Inc.
7. Partnership for Economic Development

Staff recommended that the Board authorize the Chairman to execute the funding agreements, in doing so, authorize the release of the first of the aforementioned agencies' quarterly allotments.

The suggested motion was *"I move the Board authorize the Chairman to execute the attached funding agreements and, in doing so, authorize the release of the first of the aforementioned agencies' quarterly allotments."*

**CDBG Administration Documents**

In November 2006, the County applied for and subsequently received \$250,000 in Community Development Block Grant (CDBG) Housing Development funds for infrastructure development in the Shuey Knolls Subdivision. Land-of-Sky was chosen to provide assistance in the administration of these funds for Henderson County. The grant implementation documents have been prepared by Land-of-Sky for execution by the Chairman, to allow them to begin moving forward with the project on behalf of Henderson County. The Board was requested to authorize the Chairman to sign the prepared documents for forwarding to the Land-of-Sky Regional Council.

The suggested motion was *“I move that the Board authorize the Chairman to sign the prepared documents for forwarding to the Land-of-Sky Regional Council.”*

**Request to Re-Allocate Maintenance of Effort Funds**

Henderson County has received a request from Community Health Network to reallocate \$15,000 in Maintenance of Effort Funds. These funds were originally requested for reimbursement of psychiatrists for psychiatric consultation to primary care physicians. However, access to psychiatrists has been limited and is a service that is not available.

To make better use of those funds, Community Health Network has requested their reallocation to the following activities:

- \$5,000 – Case Management
- \$6,000 – Psychiatric Medications and Pharmacist
- \$4,000 – Administration of the Program

Arthur Carder, CEO of Western Highlands LME, has received this information and supports the reallocation of funds as it has the potential to impact many consumers.

The Board was requested to approve the re-allocation of \$15,000 in Maintenance of Effort funds for Community Health Network.

The suggested motion was *“I move the Board approve the request to re-allocate \$15,000 in Maintenance of Effort funds for Community Health Network.”*

**Pictometry Contract**

Included in the budget approved for the Assessor’s Department is \$73,008 for Pictometry, a set of digital aerial imagery of the county flown to provide an all compass point (North, South, East, & West), “oblique” image of each parcel. This information will significantly improve the ability of the appraisal staff to pursue property previously omitted from the tax roll, and to perform other analysis beneficial to providing a fair and equitable assessment program.

In addition, other county departments, including the Sheriff’s Office, the E911 Center, Emergency Management, and Code Enforcement will be able to utilize the product in the carrying out of their individually-assigned responsibilities.

The Board was requested to approve the Pictometry Contract.

The suggested motion was *“I move the Board approve the Contract for Pictometry as proposed.”*

**Improvement Guarantee Extensions**

Mr. Jeff Cosgrove, owner and developer of Summit Springs, is requesting an extension of the improvement guarantee completion date for Phase I of Summit Springs. Mr. Cosgrove is requesting a two (2) month extension which makes a completion date of September 30, 2007. If the extension is approved, the developer must amend the irrevocable letter of credit in accordance with the terms of the Performance Agreement.

Mr. Dean Anderson, owner, has requested an extension of the completion date for the Grand Highlands at Bearwallow Mountain subdivision improvement guarantee. The improvement guarantee covered the construction of the roads which included paving for the original 99 lots approved by the Planning Board on April 19, 2005. Mr. Anderson has requested to extend the improvement guarantee to December 14, 2007 which is the maximum allowed by the Subdivision Ordinance. If the extension is approved, the owner must amend the irrevocable letter of credit in accordance with the terms of the Performance Agreement.

Mr. Scott McElrath, owner, has requested an extension of the completion date for The Homestead at Mills River subdivision improvement guarantee. Mr. McElrath has requested that the completion date be extended to October 30, 2007. If the extension is approved, the surety performance bond, which expires on October 30, 2007, must be amended so that it expires no earlier than December 30, 2007.

Action by the Board of Commissioners is needed to either grant or deny the extension requests. Staff recommends that the Board approve the requests pursuant to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance.

The suggested motion was "I move that the Board of Commissioners find and conclude that the request to extend the completion dates for Summit Springs, Grand Highlands at Bearwallow Mountain and The Homestead at Mills River, as provided for in the draft Performance Guarantee Agreements, complies with the provisions of the Subdivision Ordinance and is approved."

#### **Resolution Authorizing the Surplus and Disposition of Personal Property by Private Sale**

The Henderson County Sheriff has received a request from the Town of Mills River to purchase a 2005 Dodge Durango, VIN#1DHB38N25F5788946, which is currently driven by the deputy assigned to the Town. This vehicle will be replaced by a new patrol car that will be paid for from the continued service contract between the Sheriff's Department and the Town.

The selling price to the Town of Mills River has been calculated to be \$9,420 which is the remaining net cost to the County after giving the Town credit for \$14,800 in vehicle cost reimbursement payments made over the last two fiscal years under its service contract with the Sheriff's Department.

The sale of personal property to another local government unit is authorized under NCGS 160A-274.

The Sheriff requests that the Board consider approving the resolution declaring the 2005 Dodge Durango surplus and authorizing the sale of this vehicle to the Town of Mills River at the stated price.

The suggested motion was "*I move that the Board of Commissioners approve the proposed resolution declaring the 2005 Dodge Durango as surplus and authorizing the sale of this vehicle to the Town of Mills River at the stated price.*"

#### **Register of Deeds – Request to use ROD Restricted Funds for Automation, Enhancement and Document Preservation**

Beginning in January 2002, the General Assembly enacted legislation that required counties to place 10% of certain revenues generated by the Register of Deeds Office into a fund to pay for automation enhancements and document preservation. This fund which is a portion of the County's Restricted General Fund Balance has in excess of \$300,000 currently. Only the Board of Commissioners may authorize the use and release of these restricted funds.

Included in the agenda packet was a request from Nedra Moles, Register of Deeds, to use the Register of Deeds Restricted General Fund Balance for system upgrades and archival document conversion. The budget amendment appropriates \$25,000 requested from the restricted general fund balance for this purpose.

Staff requested that the Board consider approving the request by the Register of Deeds to use restricted fund balance for this purpose and approve the prepared budget amendment appropriating the funds necessary for this request.

The suggested motion was *“I move that the Board of Commissioners approve the request by the Register of Deeds and the associated budget amendment to use Restricted General Fund Balance for the purposes indicated..”*

#### **Request to Establish a Clinical Social Worker (Mental Health Therapist) Full-Time Employee Position in Health Department**

A bi-lingual Clinical Social Worker serving as a Mental Health Therapist has been working out of the Henderson County Department of Public Health for almost one year serving patients of the Health Department, and patients who need a bi-lingual therapist are also referred from various community health services providers through the Henderson County Community Health Network. This therapist has been made available to our community through a federal grant awarded to the Henderson County Partnership for Health, Inc. and implemented through the Henderson County Community Health Network (CHN), a collaborative project of the Henderson County Partnership for Health, Inc. MAHEC was contracted by the CHN to temporarily serve as a staffing agency to hire the Therapist and provide for her supervisory oversight as she seeks State Licensure. Licensure is also required to bill insurance for services. MAHEC often assists communities in getting integrated care started, but eventually spins these projects off to other entities for longer term support. MAHEC now asks release of its responsibility for the Therapist, and they want another agency to assume this role. The Therapist's services have been extremely timely and helpful to many of our citizens. There are few bi-lingual therapists serving Henderson County, nor are there therapists who can be so immediately available to health department clients and their families. The MH Therapist provides a critical link between primary medical care and mental health services and in this way assures the provision of health care when otherwise unavailable. The MH Therapist demonstrates the mobilization of community partnerships to identify and solve health problems. Her early availability can reduce further deterioration of a client's condition which left unresolved could result in higher cost interventions.

The Henderson County Department of Public Health currently has a vacant, unfunded Public Health Nurse position that originally provided nursing services funded by the Smart Start Program. This position could be re-designated to a Clinical Social Worker position. Our experience over the past year has shown that not all MH Therapist services currently being provided at the Health Department would be compensated since most clients have no insurance, nor do they have the ability to pay. Since there aren't enough insured clients to fully support this position full-time, County Mental Health Maintenance of Effort (MOE) funds would be needed. However, any revenues that may be collected from billing for services could be used to offset the MOE funds.

Staff requested that the Health Department reclassify an existing unfunded Public Health Nurse position to a full-time Clinical Social Worker (Mental Health Therapist) position and use the amount of County Mental Health Maintenance of Effort funds needed to cover cost for the position in order to serve citizens of Henderson County needing these services.

The suggested motion was *“I move that the Health Department reclassify an existing unfunded Public Health Nurse position to a full-time Clinical Social Worker (Mental Health Therapist) position and use the amount of County Mental Health Maintenance of Effort Funds needed to cover cost for the position in order to serve the citizens of Henderson County needing these services.”*

#### **Request Appropriation of Additional State Funds into Health Department Budget for Public Health Accreditation**

The Henderson County Department of Public Health is involved this fiscal year in becoming accredited. The State Legislature in mandating Public Health Accreditation every four years provides a one time fund of \$25,000 in the year a local health department is going through accreditation for the first time. The

Consolidated Contract Agreement with the NC Division of Public Health stipulates that this fund may be used in any way for meeting accreditation standards. The Henderson County Department of Public Health needs to have a staff member devote a significant amount of time coordinating with all areas of the health department operations to assure all accreditation bench marks are met. A staff member has been identified for the task. She is presently a part-time employee who could be temporarily placed for the remainder of this fiscal year as a full-time employee for the purposes of accreditation and developing a systematic methodology for assuring on-going activities to maintain accreditation standards in the years to come. Any remaining funds could be used to further support items and activities that relate to Public Health Accreditation.

Staff requested that the additional \$25,000 in Aid to Counties offered through a Consolidate Contract Addendum from the NC Division of Public Health be used as stipulated for purposes of Public Health Accreditation, and that a portion of these funds be used for designating a currently part-time health department employee to full-time status for the remainder of the fiscal year in order to coordinate the Public Health Accreditation process.

The suggested motion was *"I move that the additional \$25,000 in Aid to Counties offered through a Consolidated Contract Addendum from the NC Division of Public Health be used as stipulated for purposes of Public Health Accreditation, and that a portion of these funds be used for designating a currently part-time health department employee to full-time status for the remainder of the fiscal year in order to coordinate the Public Health Accreditation process."*

## **NOMINATIONS**

### **Notification of Vacancies**

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

1. Animal Services Committee – 1 vac.
2. Cemetery Advisory Committee – 7 vac.
3. Etowah-Horse Shoe Small Area Plan Committee – 7 vac.
4. Planning for Older Adults Block Grant Advisory Committee – 1 vac.
5. Senior Volunteer Services Advisory Council – 1 vac.

### **Nominations**

Chairman Moyer stated that the Board had not gotten to the discussion of the Etowah-Horse Shoe Small Area Plan Charter but the way it is set up is the normal way. The vacancies have been posted for that committee and at the next meeting the Board will make the appointments.

Commissioner McGrady stated that the people on this committee need to represent the community. He has been trying to work with the folks in Etowah and Horse Shoe to get a group of names submitted to the Commissioners that will buy the community into the planning process we have here.

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

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

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

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

- 4. Nursing/Adult Care Home Community Advisory Committee – 3 vac.**



Chairman Moyer informed the Board that there are two people currently serving in positions #15 (Kay Robinson) and # 18 (Rita Suder) and they are both willing to continue to serve, if it's the Board's pleasure. Commissioner McGrady nominated Kay Robinson to position #15 and Rita Suder to position # 18, both for reappointment.

*Chairman Moyer made the motion to accept both these nominees by acclamation. All voted in favor and the motion carried.*

**5. Planning for Older Adults Block Grant Advisory Committee – 2 vac.**

Chairman Moyer stated that Silvia Crouse in position # 9 and Howard Hess in position #15 are both unable to serve another term. Terry Wilson explained that Chairperson of the committee, recommended the appointment of Paul Payne to position #9.

Commissioner Young nominated Paul Payne to position #9. There were no other nominations.

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

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

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

**CANE CREEK WATER & SEWER DISTRICT**

*Commissioner Messer made the motion for the Board to adjourn as Henderson County Board of Commissioners and convene as Cane Creek Water & Sewer District. All voted in favor and the motion carried.*

*Commissioner McGrady made the motion for the Board to adjourn as Cane Creek Water & Sewer District and reconvene as Henderson County Board of Commissioners. All voted in favor and the motion carried.*

**FY 2006-2007 TAX COLLECTION SETTLEMENT; FY 2007-2008 TAX ORDER FOR COLLECTION**

Terry Lyda, Henderson County Tax Collector, thanked everyone in the Assessors' Office and all his staff in the Tax Collectors' Office for their hard work and the tremendous job they've done this year. Taking into account that he has some new employees and considering everything he felt that they have had a great year. They have collected 97.98% on the annual bills, comparable to the state average of 96.63%. They collected 87.53% on motor vehicle taxes and will continue to work on those.

Terry Lyda – “Dear Henderson County Commissioners. Attached please find the Preliminary Report for FY 06-07 along with the Settlement for Current-Year taxes and Delinquent Taxes. A list of all unpaid tax liens is available for your review in the Office of the Clerk to the Board.

I am happy to report that as of the close of FY 06-07, our office collected 97.98% of the annual tax bills and we have collected 87.53% of the motor vehicle tax bills. Our collection percentages remain well above the last reported state average of 96.63%.

Thank you for the opportunity to be of service to you. Respectfully submitted. Terry F. Lyda, Tax Collector”

Chairman Moyer stated that by law the Tax Collector must deliver any duplicate bills printed for prepayments, etc.

Terry Lyda explained that those were included in the list submitted to the Clerk to the Board.

Chairman Moyer stated that the Tax Collector must make settlements with the Board of Commissioners for all taxes placed in his hands for collection in the past year. There was a Resolution Approving the Settlement with the Tax Collector for the 2006-07 Tax Year.

Chairman Moyer stated that the Board of Commissioners must approve the bond and must have an Order of Collection for the Tax Collector and charge him with the collection of the 2008 taxes. He called attention to the series of documents in the agenda packet for the Board's review and approval.

*Commissioner McGrady moved the approval of the Tax Collection Settlement for Fiscal Year 2007 taxes and further approve the draft Order of Collection and Charge for Collection to the Tax Collector for Fiscal Year 2008 taxes. All voted in favor and the motion carried.*

*Commissioner McGrady moved approval of the Resolution Setting the Bond Amounts for the Tax Collector and Deputy Tax Collector as submitted. All voted in favor and the motion carried.*

*Commissioner McGrady moved approval of the Resolution Approving the Settlement with the Tax Collector for the 2006-07 Tax Year. All voted in favor and the motion carried.*

Russell Burrell explained that what the Board had to do was approve the Bond after the Board had charged him to collect money.

Chairman Moyer congratulated Terry Lyda and his staff on another fine job and asked Mr. Lyda to express the Board's appreciation to his staff.

#### **ANNUAL REPORT – SOLID WASTE ADVISORY COMMITTEE**

Katie Breckheimer, Chair of the Committee, was present and presented the report to the Board.

The purpose of this agenda item was for the Solid Waste Advisory Committee to report to the Board of Commissioners on the Committee's work since the last report. This report included a proposed By-Law change regarding the Committee's purpose and to provide information on the Household Hazardous Waste/Computer Recycling Event.

The proposed change to the By-Laws follows:

#### **Draft – Purpose of the Solid Waste Advisory Committee, By-Laws Article II**

Purpose. As directed by the Henderson County Board of Commissioners (BOC), the Solid Waste Advisory Committee (SWAC) is to advise the BOC on issues pertaining to present and future solid waste and recycling programs and methods in Henderson County. In so doing, it is to:

- 1) Review and make recommendations to both short and long-term Solid Waste Management Plans prepared by the office of the County Engineer.
- 2) Review and recommend programs and plans to assist in the control of litter.
- 3) Provide updates to the BOC on recommended methods for the disposal of solid waste.
- 4) Recommend programs, and assist in their development, for public education on issues pertaining to the disposal of solid waste and recycling, including the recycling of electronics and household hazardous waste.
- 5) Continue to study and recommend improvements to county recycling programs, including their costs and possible funding sources.

Ms. Breckheimer stated that in April 2006 the SWAC recommended that Henderson County budget \$811,000 annually to cover the collection twice a month of recyclables at curbside from 30,000 county households by a private collection company. Those households would have been assessed a fee of \$27. For

those fees the county would have also hired a recycling coordinator and there would have been money for waste education and an annual household hazardous waste collection and electronics collection event and would also cover the costs of the recycling drop-off center at our transfer station. They understood that the Commissioners felt this was a hefty price tag and that it would be viewed as a tax increase. So the SWAC went back to the drawing board. They continue to believe that what is most convenient for our citizens is that the recycling be picked up at curbside. Now they are looking at the waste haulers who pick up waste at curbside, since they are out and about in the county anyway, maybe they would be the right entity to pick up recyclables as well as waste. Ms. Breckheimer stated that this could be required through the permitting process, the guidelines in their annual permits. Or a franchising agreement could be considered with the waste haulers. The problem is where would they take the recyclables. Currently we have one drop-off and it is only for private citizens to use. We need to consider – do we pay for building a bigger mini transfer station for recyclables or not? She stated that Henderson County is still lacking in education as far as waste reduction and recycling programs. In the past we have had a recycling coordinator and SWAC believes that is an important position for the county to fund. At one point they thought we would have an AmeriCorp staff person for 11 months to serve as recycling coordinator, price of a match of \$5,500 for the year. Unfortunately that program was not funded this year and we lost that opportunity.

Ms. Breckheimer stated that we had our first ever household hazardous waste collection day in May and it was extremely successful. They feel that we have just collected the tip of the iceberg. There is a lot more out there that is potentially harmful and should be collected in a special manner. They are planning to have another such event this year.

Ms. Breckheimer stated as the Legislature closed its last session, Senate Bill #1492 really made a lot of changes. One is that all new construction and demolition landfills have to be lined. We have gotten an extension on our C&D (construction and demolition) site at our transfer station. That will close in July of 2008 so staff is looking at what our options are. It will definitely be a bit more expensive than it is for us now. Ms. Breckheimer also explained that all of our garbage created here in Henderson County is trucked down to the Palmetto Landfill and we have a contract with Waste Management for that to continue through 2010. Staff is also looking at our options beyond that contract. SWAC is working with staff on that issue.

Ms. Breckheimer stated that we have a new Solid Waste Plan budgeted in the 2007-08 budget. She thinks that the new Plan will take care of some of the concerns about the current drop-off for recycling.

She explained that there is a new tipping bay open at the transfer station. There also has been some renovation to the old tipping floor that is now being used by private citizens.

Ms. Breckheimer stated that the community is participating in the SWAC meeting. At every meeting they have representatives from the ad-hoc committee for recycling reform, a group of citizens made up of the League of Women Voters, ECO, and the Hendersonville Community Co-Op, and Land of Sky's Waste Reduction Partners, and members of Home Owners Associations. They join in and give input on what they think improvements to recycling need to be.

She concluded that with the Board's continued support and with the public's patience we can build an award-winning solid waste and recycling program.

Chairman Moyer stated that the recycling containers are not being emptied often enough, trash is backing up, unless we solve the truck problem we will continue to have problems. If the recyclers don't want the stuff then they are not going to take it and we will have to pay to get rid of it. There are bins and bins of recyclables on site.

*Commissioner McGrady made the motion to approve the proposed **new purpose** for the Solid Waste Advisory Committee's By-Laws (as stated above). All voted in favor and the motion carried.*

**SOIL EROSION AND SEDIMENTATION CONTROL UPDATE**

Sam Laughter, Building Inspections Director for Henderson County, provided the Board with an update on the status of the Soil Erosion and Sedimentation Control Division.

As a result of the adoption of the Henderson County Soil Erosion and Sedimentation Control Ordinance with the effective date of October 1, 2007, Henderson County submitted an application to the North Carolina Division of Land Resources to establish a Local Program. We were approved to hold a contract to provide enforcement of the local ordinance as submitted for state approval. Funding was provided in the form of a start up grant that was split evenly between Henderson, Caldwell and Lincoln Counties.

Henderson County adopted a budget for the 2008 budget year in the amount of \$194,124. Part of this budget will be funded by money from the start up grant in the amount of \$33,785, not to exceed 40% of the start up cost first year. These expenses must not be made before our start date of October 1 and must be spent prior to April 1, 2008. The balance of the funding is to be collected in the form of permit fees.

As of today Natalie Berry has been selected as Soil Erosion and Sedimentation Control Chief. She has an extensive background in Building Code, Erosion Control and Storm Water Enforcement with the city of Asheville, North Carolina. The selection process has started for an Enforcement Field Technician position. A Permit Specialist position will also be filled to complete the division staff.

Training opportunities are being offered the first of which was held at the Hendersonville Home Builder meeting on August 9. Natalie presented the program as an introduction to the builders and followed up with a question and answer session. Other training will be provided by our staff and the State for Developers, Design professionals, Grading and Building Contractors.

Temporary offices will be set up until the Old Courthouse is occupied by the governing body and manager's staff. At this time we expect to set up the more permanent offices that will be vacated near the other Building Services Divisions.

Chairman Moyer asked Mr. Laughter if he saw any obstacles to moving forward with the schedule set earlier. Mr. Laughter saw none.

**CONSIDERATION OF THE ETOWAH-HORSE SHOE COMMUNITY PLANNING COMMITTEE CHARTER**

**Announcement** Anthony Starr, Planning Director, was on track to address this issue with the Board but he and his wife are expecting. Autumn Radcliff, Senior Planner, came to the podium in Anthony's absence and informed the Board that as of this afternoon Anthony and his wife have a new baby girl, born at 3:22 p.m. She weighed in at 7 lbs. 4 oz. Everyone is doing good. Her name is Sara Catherine. Anthony will be back at work next week.

Autumn Radcliff reminded the Board that one of the items in the County Comprehensive Plan was to begin our small area planning process and one of the first areas was part of what was the Etowah-Horse Shoe community plan. The Board of Commissioners has directed staff to begin the process for that plan. The first required steps are the approval of a committee charter and the appointment of members to that committee. Attached as part of the agenda were a memorandum, outline and draft charter explaining the process and responsibilities required to accomplish this task. Planning staff requested the Board of Commissioners approve the draft charter and begin appointing committee members should the Board desire to proceed with the creation of this plan.

Autum Radcliff explained that staff feels the plan will take somewhere between 18 and 24 months to complete. Planning staff will facilitate all the community meetings. The Committee will report directly to the Board of Commissioners and will provide them with a quarterly report. Staff recommended that the committee be made up of seven individuals, six who live, work, or own property within the boundaries of the

Etowah-Horse Shoe Plan. The seventh would be a liaison from the Planning Board. The Board of Commissioners may choose to appoint some members of the municipalities that abut the study area, City of Hendersonville, Town of Mills River, and Town of Laurel Park. This Committee will be responsible for putting together this plan, outlining the goals of the community, they will be directly involved with writing this plan and hopefully presenting this plan to the Planning Board and the Board of County Commissioners. Staff expects the plan will be made up of several elements: Land Use Development, Community Facilities, Agriculture, Economic Development, Housing, Transportation Access Management, Community Character and Design, and Natural and Cultural Resources.

Planning Staff had previously received names of people interested in serving, as they held small community planning meetings some time ago. Autumn offered to do a press release to try to get the word out. The Board liked that idea. The Commissioners also suggested postings in public places in those communities (General Store, Post Office, etc.).

Viewers on Channel 11 will hear about this because the Board has discussed this issue twice now, that they are looking for candidates.

Chairman Moyer stated that the Board will do their best with the help of ads and a press release to assess candidates to get a broad range of folks on this committee. We have applications here in the Commissioners' office for individuals who are interested in serving. Applications will be copied and distributed to all the Commissioners in advance of the next meeting so they can review them and made appointments from those that are interested in serving. The Commissioners want a group of citizens that reflect the views of the two communities.

Following some discussion, *Commissioner McGrady made the motion to approve the charter as recommended by staff with the change of the word community to the word communities. All voted in favor and the motion carried.*

**PUBLIC HEARING – To Consider Economic Incentives Grant for Continental Teves, Inc.**

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

Andrew Tate addressed "Project United", now known as Continental Automotive Systems or Continental Teves. He stated that this project is considered an \$8.7 million investment with 35 new jobs with wages and benefits at \$35,000 annually. It is a competitive project both internally and externally, externally with other manufacturers on a global basis and internally with other manufacturing plants within the parent company. Production would possibly begin as soon as July 2009. In 1997 Continental Teves first located in Henderson County with \$100 million investment and created 552 jobs. In December 2006 they expanded on site and are still in the process of doing that through the end of this year. That includes a \$4.3 million investment and 13 new jobs. Mr. Tate stated that we have now gone through the process of closed sessions with the County and with the Town of Fletcher with the public hearing being tonight with the County and September 10 will be the public hearing for the Town of Fletcher for incentives. Mr. Tate introduced Bobby Neland, Plant Manager with Continental Automotive Systems, to talk a little more specifically about the project and why they are considering Henderson County as a location.

Mr. Neland stated that they are in the process of bidding on a new platform within Daimler Chrysler. It is called the curve platform which is the SUV's, both the Grand Cherokee, the Dodge Durango, the Mercedes M-class made down in Tuscaloosa. Continental Teves make the brake calipers. They are currently bidding on that piece of business. Their competition is world-wide both within many manufacturers and they also have to be the best competitor within Continental Automotive Systems. They have about five manufacturing locations around the world so they are in the process of competing for this work. Mr. Neland stated that it is exciting to be part of trying to bring those jobs here to Western North Carolina and to Henderson County

specifically. They have to do everything possible to be competitive and this is just one more tool in the toolbox, these incentives help them compete on the world-wide basis.

Chairman Moyer thanked Mr. Neland for his efforts in trying to bring this to Western North Carolina. The Board and citizens thank Continental Teves for being in our county and for everything they have done so far.

Mr. Neland stated that this November they will celebrate a 10-year anniversary in the automotive industry.

#### **Agreement**

Russell Burrell stated that the Board had a draft of an agreement that the Office of the County Attorney would propose under the Board's newly adopted Economic Incentive Policies. That is essentially the formula the Board and staff will be looking at in all future cases. The first year is a fixed amount, subsequent years would be based upon the amount of property taxes that would be collected on the new investment.

#### **Public Input**

There was none.

*Commissioner McGrady made the motion to approve the agreement with Continental Teves as outlined in the public hearing, the form of which was in the agenda packet, contingent upon their being the successful bidder on that piece of business. All voted in favor and the motion carried.*

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

#### **Recess**

Chairman Moyer called a 5 minute recess.

Chairman Moyer called the meeting back to order.

#### **BOARD DELIBERATION AND DECISION, GLEN AND HIGHLANDS AT FLAT ROCK**

Russell Burrell explained that the agenda item sets out the standards from both the General Statutes and the Henderson County Code for the determination of vested rights and the statutory method of obtaining them. It is a very broad standard. The Henderson County Code says that the Board may approve or disapprove a site specific development plan based upon the need to protect the public health, safety and welfare. Mr. Burrell stated those are the broadest standards possible, further stating that the Board may require terms and conditions as it may deem necessary to protect the public health, safety, and welfare. Also in the agenda packet were seven pages (47 pages in all) of possible conditions. Staff had attempted to provide the Board, should they be inclined, all the conditions that were raised by the evidence the Board heard in the three nights of testimony. The parties were also asked to supply any conditions that they wanted to have put in front of the Board. So the Board had in front of them the possible conditions they could place, should they wish to do so. The Board also has the authority to grant it in whole without conditions or to deny it. He stated that the Board would need to make some findings in each. The Legal Department had prepared a couple of draft orders, one allowing it and one denying it. The allowing order makes the presumption that if the Board allows it, it will be on some conditions; therefore, it is nowhere near complete until staff knows which conditions the Board will choose. Staff had identified findings based on the evidence that was heard, that could be made. Staff hopes to have the order prepared for the Board tonight, once a decision is made but if it is lengthy it might not be ready tonight. He explained that the Board's Ordinance requires that the Board render a decision within 30 days. The 30-day period began to run with the close of the final day of evidence which was July 24.

Chairman Moyer stated that the public hearing had been closed but the Board received two documents tonight, one from staff and one from the Attorneys for the applicant. Russell Burrell stated that he too had

just received both documents tonight and had not had a chance to review the one from the applicant. He had read the one from staff because he received it by e-mail earlier.

Chairman Moyer stated that they both appear to deal with the conditions.

Angela Beeker addressed procedure, stating that she had submitted their response to the conditions very soon after the Board concluded the vested rights hearing. When she printed off the agenda item yesterday she saw that there were new conditions that had been added that they had not seen before and the letter tonight addresses those.

Boyd Massagee just wanted to raise a question about the input being taken.

Russell Burrell stated that what the Board is dealing with tonight is statutory vested rights, they would give the applicant the right to do something, notwithstanding any future changes the Board makes in the zoning or subdivision laws, for a period of time. If the Board grants someone vested rights to do a particular project, under North Carolina Law it is has to be based on a site specific plan. They have the right to go forward and carry out that project for the period of time that you grant them, somewhere between two and five years, five years maximum and two years minimum. That would be the case even if, after having done that, tomorrow you passed a zoning law that said that kind of project could not go in the place that they put on the site specific plan so what you're effectively doing is granting a time frame of exemption from future zoning actions and future subdivision that the Board may make. Chairman Moyer stated that it has no effect on common law vested rights.

Commissioner Young stated that the subdivision plan has already been approved, they have gone through the procedure and it has been approved by the Planning Board. They are asking for vested rights and the Board will set any conditions. He just didn't want the public to think that the Board of Commissioners were approving the subdivision plan, it's already done.

Chairman Moyer stated that the issue is whether the Board, by granting the vested rights for a certain period of time, would give them an exemption from future changes of the law.

Russell Burrell explained that this is a two-part project; the Highlands is a pure subdivision that has already been approved by the Planning Board, The Glen is the remaining portion of the project which is apartments, assisted living and the nursing home.

Matthew Cable stated that with The Glen portion, the Planning Board had no authority to approve that portion, the specific uses, there were no lots created in that portion of the development. The only authority the Planning Board had was for the Highlands portion, the creation of those 45 single family lots and the roads for the Highland portion only. They had no approval as to The Glen portion of the development.

Chairman Moyer thanked everyone for their involvement and all the information put forward with respect to this project. He felt it was an excellent project but he has serious concerns with respect to roads, water, effect on the stream etc. He stated that he cannot support the vested rights. *Chairman Moyer made the motion to deny the granting of the vested rights as requested.*

Commissioner McGrady stated that he could see the need for the facility but was concerned about traffic and congestion, water quality and quantity, and lack of water and sewer. He feels it is the right facility but in the wrong place. He feels that the facility needs to be somewhere in Henderson County. He will also vote to oppose the request.

Commissioner Williams also expressed concerns about traffic and speed enforcement, water, and fire protection but stated that he would favor the project with conditions.

Commissioner Young stated that there is a need for this facility in Henderson County. He addressed the issue of fire protection briefly. He stated that he supports the development.

Commissioner Messer stated that there is a need for the project but stated that he could not support it at this site.

*A vote was taken on the motion to deny the request for vested rights under Chapter 189 of the Henderson County Code, Park Ridge MOB, LLC and The Glen and Highlands at Flat Rock and move that the Board direct staff to prepare an order with appropriate findings to this effect this evening and bring it back so that we can conclude this matter tonight. The motion carried three to two with Commissioners Williams and Young voting nay.*

Commissioner Williams commented on an article in the newspaper which stated that the project would get approved because someone would get their palms greased. "To insinuate that anyone on this Board is receiving some compensation for voting a particular way ... I can assure you that will never happen in my case and I don't think it will happen in the case of any individual on this Board. I think that we will have differences of opinion. Quite frankly it pleases me that we can differ on our opinions and that we can still come together and have respect for one another and that we can make decisions and try to do the best we can and then we can move on from there to the next project... I can assure you that no-one is getting their palms greased on this Board, if anything we're making a lot of sacrifices to be here. We volunteered for this. You people of Henderson County elected us to serve in this position and you have the opportunity to vote to take us out of this position."

The County Attorney distributed a draft of an order denying the vested rights. Chairman Moyer stated that the Board would complete the agenda and then take a moment to take a look at the draft while Russ also looks at it. Chairman Moyer felt that the Board should vote again to approve the final draft so that there is no question that the final draft was approved.

#### **EMPLOYEE RETIREE HEALTH INSURANCE**

Steve Wyatt had received some concerns and interest from Commissioners in looking at the Retiree Health Insurance Program. Mr. Wyatt had voiced his concerns about what the cost of an expansion of that program might be. Staff has contacted some folks that do actuarial type studies that could give us a good cost estimate of what the economic impact. Staff felt that a study of that type would cost between \$6,000 and \$8,000. This study is not currently on staff's work plan. In the agenda packet was a copy of the current retiree health program. Mr. Wyatt stated that this seems to be a recurring issue.

Jan Pritchard, the expert on this issue, addressed the Board and answered some questions.

Folks who have 30 years service with Henderson County, the county pays their medical insurance 100%. There is a sliding scale for others. If your age and your years service equal 80 the county will pay 100%; if they equal 75 the county pays 75%, if they equal 70 the county pays 50%. There was some discussion of lessening this benefit, partly because folks are living longer.

There was a question raised about service time with the military and whether that counts toward county service. At the current time it does not.

Chairman Moyer stated that this is not time sensitive but rather a recurring issue of concern. It was the consensus of the Board to let this sit a while and think about it rather than spending \$8,000 on a study. No specific change was suggested at this time. Chairman Moyer suggested that Steve Wyatt and Jan Pritchard review this issue and come up with a list of those changes where we've had problems, where changes may deal with some of those issues and the Board will consider them before we cost them out. The Board wants to see what changes are in question before we initiate a cost study.



**STATT REPORTS**

**County Attorney's Report**

Nothing, other than the draft Order the Board has in front of them.

**County Manager's Report**

Nothing further.

**DRAFT ORDER DENYING VESTED RIGHTS FOR THE GLEN**

Chairman Moyer asked everyone to take a few minutes to review the draft order to see if the Board is ready to act on it. Chairman Moyer stated that he has read through it and doesn't have any suggested changes.

Commissioner McGrady stated that the conclusions are what's important and he is comfortable with them. *He made the motion to adopt the order denying vested rights.* There was no further discussion. *A vote was taken and the motion carried three to two with Commissioners Williams and Young voting nay.*

**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(s):*

*1.(2)(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.*

*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