

## MINUTES

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
MONDAY, AUGUST 7, 2017

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 5:30 p.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

Those present were: Chairman Mike Edney, Vice-Chairman Grady Hawkins, Commissioner Tommy Thompson, Commissioner Charlie Messer, Commissioner William Lapsley, County Manager Steve Wyatt, Assistant County Manager Amy Brantley, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Planning Director Autumn Radcliff, Engineer Marcus Jones, Director of Business and Community Development John Mitchell, Tax Administrator Darlene Burgess, Library Director Trina Rushing, Emergency Management Director Rocky Hyder, Emergency Management Administrative Assistant Cathy Justice, Planner Alan McNeill, Planner Stedman Smith, EMS Director Mike Barnett, Finance Director J. Carey McLelland, Construction Manager David Berry, Internal Auditor Samantha Reynolds, Environmental Programs Coordinator Rachel Kipar and PIO Kathryn Finotti – videotaping, Deputy Kandice Carland & Corporal Jonathon Tankersley as security.

### CALL TO ORDER/WELCOME

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

### INVOCATION

The invocation was provided by County Manager Steve Wyatt.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Cayden Brackett of the Leaders in Training 4-H Club.

### **RESOLUTION IN MEMORIAM – Dr. Howard Norton**

Commissioner Messer stated the Henderson County Board of Commissioners is requested to adopt a Resolution in Memoriam for Howard “Doc” Norton, who passed away on July 22, 2017. For close to 40 years, Doc Norton was the only doctor in Mills River. He was a founding member of the Mills River Volunteer Fire Department in 1968 and served the fire department in many positions until his death. He was a member of the Henderson County Fire Commission and served as Henderson County coroner for years. Doc Norton made enumerable outstanding contributions to the government and citizens of Henderson County.

Commissioner Messer read the Resolution aloud.

*Commissioner Hawkins made the motion that the Board adopt the Resolution of Memoriam for Howard “Doc” Norton. All voted in favor and the motion carried.*

### **RESOLUTION OF COMMENDATION – Rocky Hyder**

Chairman Edney stated the Henderson County Board of Commissioners is requested to adopt a Resolution of Commendation for Rocky Hyder. Rocky Hyder will retire on August 31, 2017, having been with Henderson County since October 5, 1992. Rocky Hyder has worn many hats over his years with Henderson County, from Fire Marshal to Interim Animal Services Director to Emergency Services Director.

Commissioner Lapsley stated it was an honor to present the Resolution and read it aloud.

*Commissioner Lapsley made the motion that the Board adopts the Resolution of Commendation for Rocky Hyder, Henderson County Emergency Services Director. All voted in favor and the motion carried.*

DATE APPROVED: August 16, 2017

Chairman Edney stated that Rocky has also received an award for his work statewide.

Commissioner Thompson presented Rocky Dale Hyder with the Order of the Long Leaf Pine from Governor Roy Cooper.

Chairman Edney presented Rocky with a framed picture of the Historic Courthouse and said “We want you to remember all of us.” Mr. Hyder received a standing ovation.

**PUBLIC HEARINGS**

**Public Hearing for Rezoning Application #R-2017-01, Matthew Dyer**

*Commissioner Hawkins made the motion to go into public hearing regarding Rezoning Application #R-2017-01, Matthew Dyer. All voted in favor and the motion carried.*

Planner Stedman Smith stated Rezoning Application #R-2017-01 which was initiated on March 15, 2017 at the request of applicant and agent, Mr. Matthew Dyer, who requests the County rezone approximately 4.87 acres of land (thereafter the “Subject Area”) from Residential One (R1) zoning to Industrial (I) zoning.

The Henderson County Planning Board considered rezoning application #R-2017-01 at its regularly scheduled meeting on June 15, 2017. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation to rezone the Subject Area to an Industrial (I) zoning district.

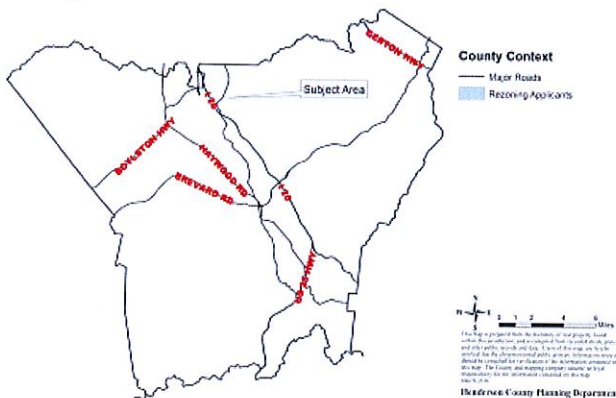
**PUBLIC NOTICE:**

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §42A-303 and §42A-346 (C) of the Henderson County Land Development Code and State Law, notices of the August 7, 2017, public hearing regarding rezoning application #R-2017-01 were published in the Times-News on July 27, 2017 and August 3, 2017. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area on July 25, 2017 and posted signs advertising the hearing on the Subject Area on July 26, 2017.

**Application Summary**

- Rezoning Request: R-2017-01
- Submitted on March 15, 2017
- Applicant/Owner: Mr. Matthew Dyer
- Rezone from Residential One (R1) Zoning to Industrial (I) Zoning
- 4.87 Acres
- 1 Parcel

**County Context**



**County Context**  
 Major Roads  
 Rezoning Applicants

0 1 2 3 4 5 Miles

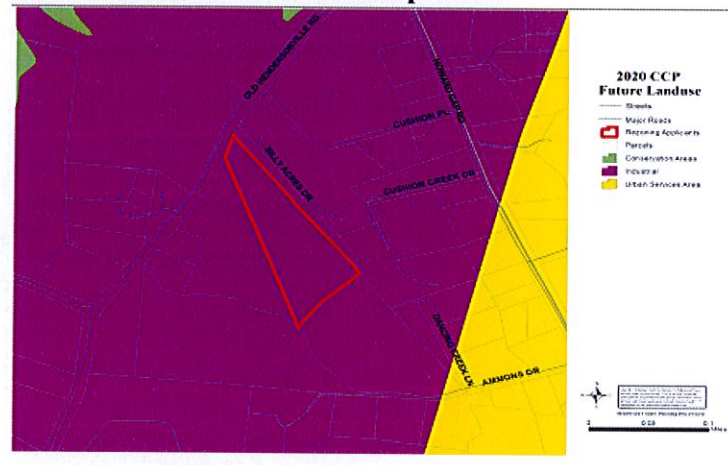
This map is prepared from the best available data and is not intended to be used for legal purposes. It is not a warranty, representation, or endorsement of any products or services. The user assumes all responsibility for the use of this map. For more information, please contact the Henderson County Planning Department at 706-535-1234.

Henderson County Planning Department

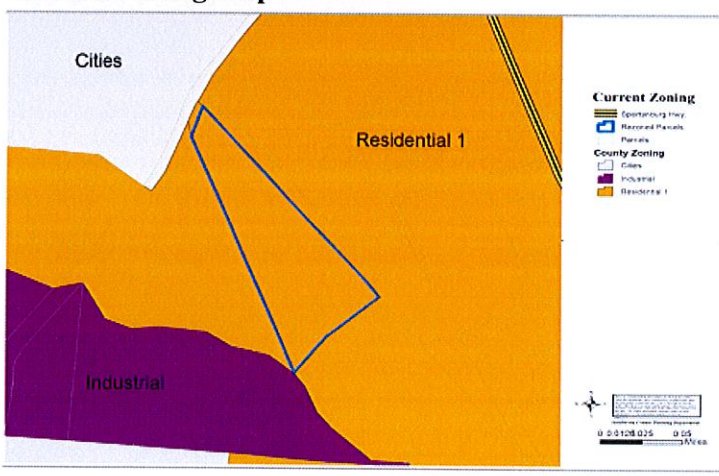
### Aerial Photo Map



### 2020 CCP Future Land Use Map



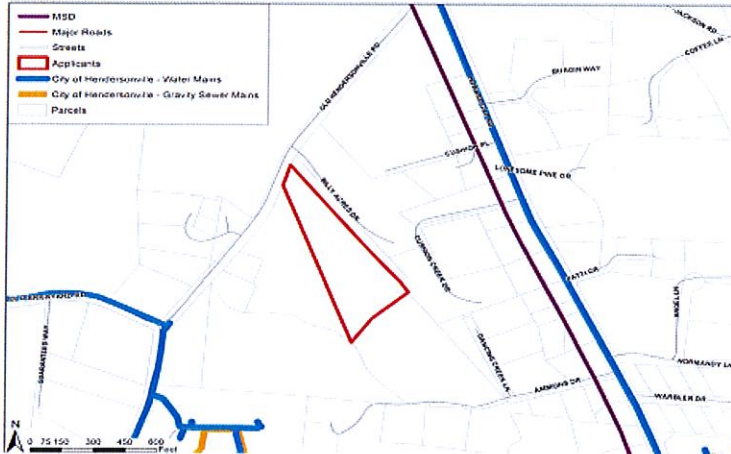
### Current Zoning Map



It was noted that zoning on this property has changed several times over the years.



## Public Utilities



## Public Input

1. James Michael Davis reiterated the information received in his \*email below. He is against the rezoning.
2. Scott Conrad stated he has PTSD and since living at this location, the problems have been less due to the tranquility. He is against the rezoning.
3. Diane Bracket is concerned with the noise, animal lives, children's safety, and loss of the creek running down the middle of the subject property.

\*Email received from James Michael Davis, 75 Old Hendersonville Road, Fletcher, NC.

I am sending an email to verbalize my concerns on the purposed rezoning of property adjacent to mine on "Old Hendersonville Road" in Fletcher. I have lived here for 20 years. My home is approximately 60 feet from property line and placing industrial type business here would be very disturbing to my personal well-being. It would hamper any future sale of my home/property to be continued as residential. Thus creating a financial issue for myself and my family. I am a Registered Nurse at the VA Hospital in the ICU. I work different shifts, including nights. So, having an industrial property next door would prevent the rest I need to perform my duties and care for our Veterans. Plus, the fact that the property in question for rezoning is surrounded on three sides by residential property that have homes and families on them, and the third side is industrial. But, that side that is industrial, has a business that is actually across Old Hendersonville Road and has a fence with several feet of lawn space between the road and the actual business. So, to actually consider that side is misleading, because it is actually a highway. This is mostly a very quiet area and rezoning this area would change this stretch of Old Hendersonville road. This an area of homes and families. From the Condominiums of Brickton Village to the small church (that is being rebuild) and on down the road. There may be industrial property surrounding us, but we are and should continue to be residential and a place for homes and families. I have spoken to my neighbors and they feel the same, but with reality. I am the one most affected by this and it would be a shame to change this area. I am still under the weather with the respiratory illness. I appreciate your taking my concerns and forward them.

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

*Commissioner Hawkins made the motion that the Board denies Rezoning Application #R-2017-01, and not rezone the Subject Area to an Industrial (I) zoning district. All voted in favor and the motion carried.*

## Public Hearing for Rezoning Application #R-2017-02

*Commissioner Messer made the motion to go into public hearing regarding Rezoning Application #R-2017-02. All voted in favor and the motion carried.*



Commissioner Lapsley noted a long history with the applicant as a client and requested to be recused from voting.

*Chairman Edney made the motion that the Board allows Commissioner Lapsley to recuse himself from voting on Rezoning Application #R-2017-02. All voted in favor and the motion carried.*

Allen McNeill, Planner, stated Rezoning Application #R-2017-02, which was initiated on May 15, 2017 at the request of applicants and owners, who requests the County rezone approximately 37.4 acres of land (thereafter the "Subject Area") from a Residential Two Rural (R2R) and Community Commercial (CC) zoning districts to an Industrial (I) zoning district. The Subject Area is located off Crest Road.

The Technical Review Committee heard this item at its May 6th meeting, and voted to send forth a favorable recommendation to rezone the Subject Area.

The Henderson County Planning Board considered rezoning application #R-2017-02 at its regularly scheduled meeting on June 15<sup>th</sup>, 2017. During that meeting, the Planning Board voted unanimously to send forth a favorable recommendation to rezone the Subject Area to an Industrial (I) zoning district

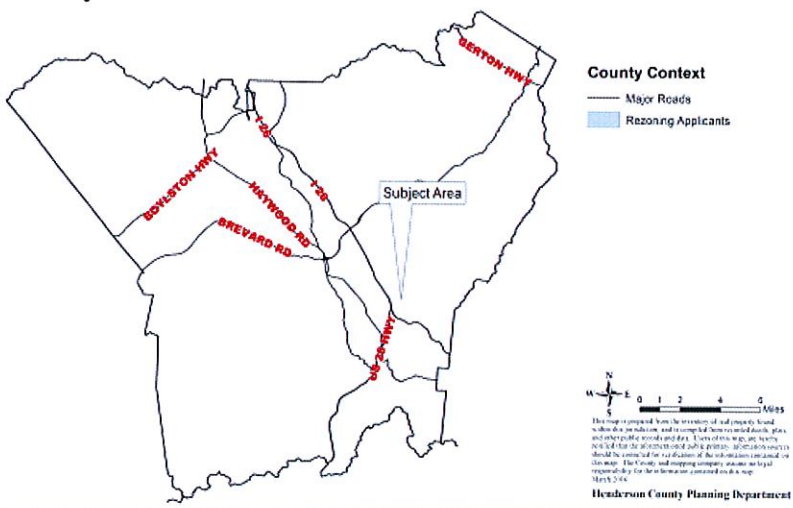
**PUBLIC NOTICE:**

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §42A-303 (5) and §42A-346 (C) of the Henderson County Land Development Code and State Law, notices of the August 7, 2017, public hearing regarding rezoning application #R-2017-02 were published in the Times News on July 27, 2017 and August 2, 2017. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area on July 25, 2017 and the Subject Area property owners on July 25, 2017 and posted signs advertising the hearing on the Subject Area on July 27, 2017.

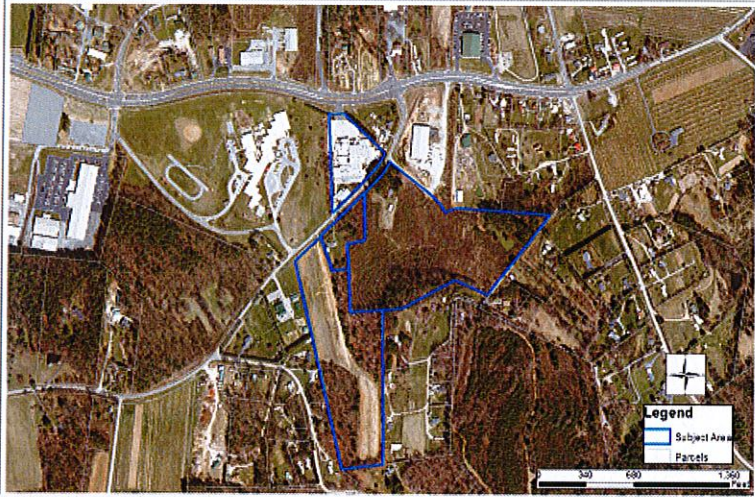
**Application Summary**

- Rezoning Request: R-2017-02
- Submitted on May 15, 2017
- Applicant/Agent: Coy S. Davis Jr., Gene Davis, Richard J. Herman, Anne Greer, and Curtis Burge
- Rezone from Residential Two Rural (R2R) and Community Commercial (CC) to Industrial (I) zoning district
- 37.4 acres

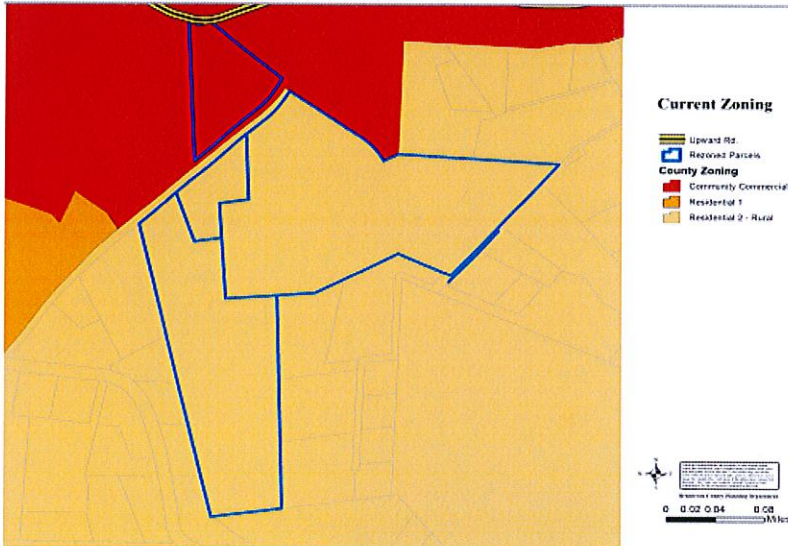
**County Context**



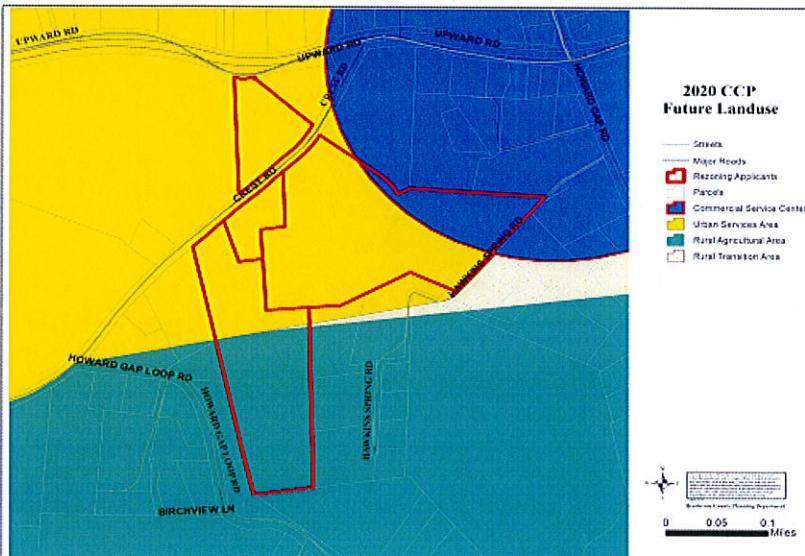
### Aerial Photo Map



### Current Zoning Map

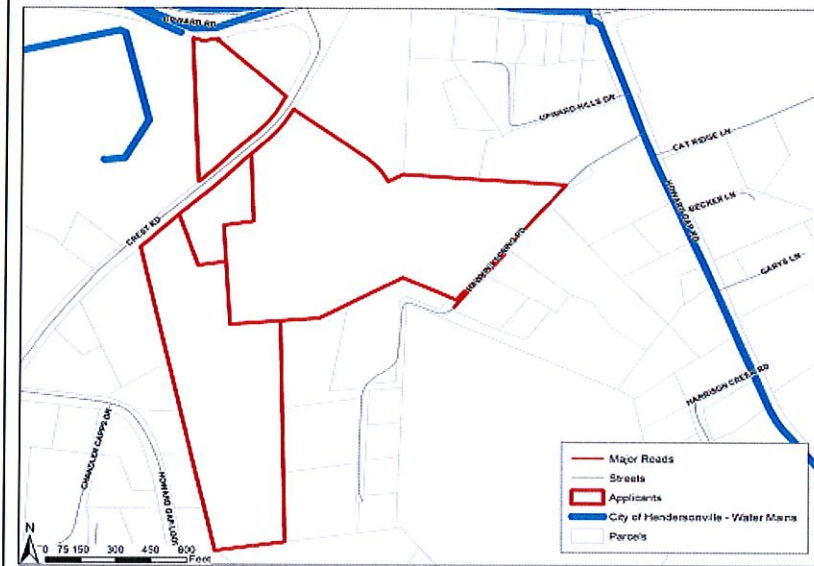


### 2020 CCP Future Land Use Map





### Public Utilities



### Public Input

1. Syble McMurray lives on a connecting parcel to the subject property. She is concerned about their road and water run-off. If vegetation is removed, it will wash away even more and this is the only entry to her home. Ms. McMurray has medical conditions as well as some of her neighbors, and is against the rezoning. Their road is not state-maintained, and is used by 6-9 houses. The widening of Howard Gap Road has caused extreme run-off with nothing being done by the NCDOT. Ms. McMurray is also concerned about the noise from the industry. She asked the Board to deny the request.
2. Carl McMurray reiterated Ms. McMurray's comments. There has been no storm water management with Upward Road and the ditches are deep. He is concerned about water run-off, wildlife, and their quality of life.
3. Bobby & Wanda Moffitt. Mr. Moffitt feels with industry zoning, they will have safety concerns for the churches and schools, increased traffic on an already busy road, excess lighting and noise from the industry, and their property values will decrease. He asked the Board to deny the zoning request. If however, the zoning request is approved, make sure things are put into place for erosion control, proper roads, and buffers for noise and light.
4. Andrew Tate is the president of the Henderson County Partnership for Economic Development. He supports the rezoning request for all four parcels. Landlogic, LLC purchased the property many years ago for this reason. The property is planned for Mountain Showcase to move here also. Many industries are located next to the property. NCDOT was contacted regarding roads and traffic, and the schools were also contacted. He asked the Board to support the rezoning request.
5. Corey Linger works for the listing property. She feels a majority of their calls for this property have been commercial. She asked the Board to approve the zoning request.
6. Gene Davis feels the rezoning to industrial will be great for industry and growth in the community.
7. Ryan Casto owns a cabinet shop on Sugarloaf Road and the new property will allow them to expand. He asked the Board to approve the request which will bring in jobs.
8. Pat Sheehan purchased 6 acres adjoining the subject property about 6 years ago. Since the purchase there have been erosion problems. He is against the rezoning request because of pollution and erosion.
9. Emily Lois Ray owns approximately 6 acres near Liquidlogic and the packaging facility. She inherited the land from her grandfather and promised to take care of the land. This rezoning will decrease the property value and hurt wildlife. They already deal with extreme run-off and erosion. Please protect their water, keep them safe, and do not increase traffic by denying this request.

10. George W. Jones, Jr. has lived here for 70 years. Every property below him deals with run-off and erosion problems. What happens to the pond running down the middle of the subject property? He is concerned about the wildlife. An already existing problem will be made even worse.
11. James David Ray owns property west of the Spearman property. He feels regardless of the outcome, major run-off is a problem. He is concerned about their drinking water and safety.
12. Dr. Beverly Hargus owns a Veterinary Clinic near the subject property. She is also a large animal Vet and chose the property for the location and quietness. She feels this is perfect farmland and agriculture should be considered. She asked the Board to deny the request because of concern of noise, traffic and safety.
13. Randy Brooks feels these are two parcels with a cart path. Run-off is already terrible. More traffic will make a bad situation even worse. Property values will decrease and safety is an issue. Please deny this request.
14. Charles Murdock stated his client has a contract on two parcels. They are considerate of residents and things such as buffering can be done.
15. Tom Cooper is a member of the Economic Development Board. Mr. Cooper feels industrial property is hard to find and the inventory is going away. He asked the Board to approve the request.
16. Chip Gould is a member of the Economic Development Board. The Board works hard to identify industrial sites next to existing industry. The subject property has infrastructure and a 4-lane road.
17. Amanda Cantrell feels the county has moved from agriculture to industrial. Industrial Zoning does not fit with the subject property. She is concerned about children and safety.
18. Chris Casto stated traffic is not a concern. He doesn't feel there is much traffic at this time. He noted that there are less restrictions on residential than industrial. Mr. Casto asked the board to approve the zoning request.
19. Diane Jackson Brooks feels there is a lot of traffic, noise, and run-off. She asked the Board to evaluate and deny the request.
20. Dan Casto has a small family owned business to be located on the subject property. They will have wildlife butters and will glad to help with the road. They will be good neighbors.

Letter received from Preston Glenn Gilliam, 1243 Howard Gap Loop, Flat Rock, NC.

I am writing in response to the proposed zoning map amendment (Rezoning #R-2017-02). This area has always been a housing and farming community, to rezone for an industrial (I) zoning district would diminish the family atmosphere. It would also devalue our property as well as our neighbors along the Davis property. For this reason and others I am opposed to the industrial rezoning.

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

*Commissioner Hawkins made the motion that the Board directs the Chairman to correspond with the NCDOT about the water drainage issues and if Upward Road is the source of these issues that NCDOT should correct the problem. The motion passed 4-0 (Commissioner Lapsley recused from voting).*

*Commissioner Messer made the motion to table the rezoning applications for all parcels excluding the tract owned by Landlogic (potential buyers are Mountain Showcase) and address at a later date with the Landlogic application. The motion passed 4-0 (Commissioner Lapsley recused from voting).*

*Commissioner Thompson noted that the current owner and the prospective future owner of the Landlogic tract could, should they choose to do so while this matter was tabled, request that the County reprocess their request as one for conditional rezoning, provide all required materials to the County, and request that the County handle the same in an expedited matter. The Board was in agreement.*



**INFORMAL PUBLIC COMMENTS**

1. Joe Sanders thanked the Board for the Greenway expansion.
2. Gary Griffin feels the Edneyville community needs a gravity fed sewer system as approved by the small area plan. It will provide better quality of water, more use for businesses, and growth for the community.
3. Jack Walsh introduced himself as an applicant for the Animal Services Advisory Committee. He wanted to put a face with the application.

**DISCUSSION/ADJUSTMENT OF CONSENT AGENDA**

Commissioner Lapsley requested a moment to make points about two items, Water Line Extension Request – South Creek Cottages & Water and Sewer Line Extension Request – Dodd Meadows (Phase 4 & 5).

**Water Line Extension Request – South Creek Cottages**

Commissioner Lapsley noted that the City had notified the County in regard to the Water Line Extension Request for South Creek Cottages. He thanked them. This is for notification only, and the Board of Commissioners are not required to do an approval. This will add 21 customers to the City’s system, which will then put the City at 75% + 21 of their customers outside of the corporate limits.

**Water and Sewer Line Extension Request – Dodd Meadows (Phase 4 & 5)**

Commissioner Lapsley stated again the City is notifying the County of Water and Sewer Line Extension outside of their corporate limit. He thanked them. This will add 33 customers to the City’s Water and Sewer Base outside of the City’s corporate limit.

*Commissioner Thompson made the motion to approve Consent Agenda as presented. All voted in favor and the motion carried.*

CONSENT AGENDA consisted of the following:

**Minutes**

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

July 19, 2017 - Regularly Scheduled Meeting

**Tax Collector’s Report**

Deputy Tax Collector Luke Small had presented the Tax Collector’s Report to the Commissioners dated July 27, 2017 for information only. No action was required.

**Pending Releases and Refunds**

A list of pending releases and refunds have been reviewed by the Assessor. As a result of that review, it is the opinion of the Assessor that these findings are in order. Supporting documentation is on file in the County Assessor’s Office.

These pending release and refund requests are submitted for the approval by the Henderson County Board of Commissioners.

<u>Type</u>	<u>Amount</u>
Total Taxes Released from the Charge	\$ 6,808.57
Total Refunds as a Result of the Above Releases	\$ 3.41

Motion:

*I move the Board approves the Combined Release/Refund Report as presented.*

**County Financial Report/Cash Balance Report –May 2017**

The May 2017 County Financial Report and Cash Balance Report were provided for the Board’s review and approval.

The following are explanations for departments/programs with higher budget to actual percentages for the month of May:

- Garage – fuel costs incurred with usage to be allocated out to certain departments
- Rescue Squad – vehicle repair and fuel costs incurred to be reimbursed by the Squad to the County
- Mental Health – 4<sup>th</sup> quarter Maintenance of Effort (MOE) funding payment to Vaya Health

The YTD deficit in the 911 Emergency Communications Fund is due to a timing delay in receipt of the monthly NC 911 PSAP Surcharge revenue for May. These funds will be received in June.

The YTD deficit in the Emergency Services Headquarters, the Law Enforcement Training Center (LETC), the Hendersonville High School and the Edneyville Elementary School Projects is due to the payment of architect fees for these projects from appropriated fund balance in the Capital Projects Funds that will be reimbursed from future financings.

The YTD deficits in the Recreation Parks Improvements Project and the Artificial Turf Field Projects is being paid from appropriated fund balance in the Capital Projects Fund primarily from proceeds received from the sale of the Bent Creek property as approved in the FY2017 budget.

The YTD deficit in the Westfeldt Park Project from project expenditures to date will be reimbursed from grant funds appropriated in the budget for FY2017. The remaining project reimbursement has been requested and is expected to be received in early FY2018.

The YTD deficit in the Cane Creek Water & Sewer District Fund is due to capital outlay expenditures incurred on the Mill Pond Creek Sewer Project that is being paid from appropriated retained earnings in the Fund.

Motion:

*I move that the Board of Commissioners approves the May 2017 County Financial Report and Cash Balance Report as presented.*

#### **Public Schools Financial Reports – May 2017**

The Henderson County Public Schools May 2017 Local Current Expense Fund / Other Restricted Funds Report was provided for the Board's information.

Motion:

*I move that the Board of Commissioners approve the Henderson County Public Schools May 2017 Financial Report as presented.*

#### **Public Records Disposal Request – EMS**

The Emergency Medical Services Department wishes to dispose of the January 1<sup>st</sup> 2004 through June 30<sup>th</sup> 2006 Ambulance Call Reports. The eleven year period for retention as required by the North Carolina Department of Cultural Resources has expired. The Ambulance Call Reports which included minors and/or disabled patients will not be destroyed.

Motion:

*I move the Board approves the disposal of the January 1, 2004 through June 30, 2006 Ambulance Call Reports as presented in compliance with the Records Retention Schedule, and authorize the Clerk to the Board of Commissioners to sign the Public Records Disposal Request and Destruction Log.*

#### **Request for Shuttle Bus Parking**

The County has received a request from Sierra Nevada Brewing Co. (SNBCo) for the use of the 1995 Courthouse north parking lot, off of 4<sup>th</sup> Ave. The request letter was provided. This request is associated with SNBCo's 2017 Oktoberfest Event on September 30 from 5:00 pm to 10:00 pm.



SNBCo proposes to utilize the parking lot as “a central and safe location for residents to load/un-load” the SNBCo shuttle bus. The shuttle bus is complementary and will run between Hendersonville and the brewery during the event to provide “safe transportation.”

Motion:

*I move that the Board approves the use of the 1995 Courthouse’s parking lot on 4<sup>th</sup> Avenue by Sierra Nevada Brewing Company on Saturday, September 30, 2017.*

**NC Cardinal Memorandum of Understanding**

NC Cardinal is a consortium of North Carolina public libraries that share an online catalog and integrated library system (ILS), and share resources with other member libraries. Henderson County joined this online consortium in fiscal year FY16.

The annual cost share for continued membership is determined based upon the size of the library’s collection and patron base. The FY18 Memorandum of Agreement, bylaws, and other data indicating our annual cost share of \$10,196 is provided for your approval. This full amount was accounted for, and approved, in the adopted FY18 budget.

Motion:

*I move that the Board approves the request for approval of the FY17-18 NC Cardinal Memorandum of Agreement as presented.*

**Set Public Hearing for Rezoning Application #R-2017-03, The Boulders Subdivision**

Rezoning Application #R-2017-03, which was initiated on June 20, 2017, request the County rezone approximately 3.43 acre portion of land (thereafter the “Subject Area”) from a Hendersonville City Estate Residential (R-40) zoning district to a County Residential One (R1) zoning district to be consistent with the zoning on the remaining portion of the Subject Area located in the county’s jurisdiction (see attached map). On July 6, 2017, the City of Hendersonville voted to remove the portion of the Subject Area from the City’s ETJ. Henderson County has 90 days or until October 3, 2017 to determine and apply a County zoning designation for the Subject Area. The Subject Area is located off Randy Drive inside The Boulders subdivision. The owner of the Subject Area is Mr. Peter Brower, the developer of The Boulders.

The Henderson County Technical Review Committee reviewed the rezoning request at its July 18, 2017 meeting and voted to send forth a favorable recommendation. The Henderson County Planning Board reviewed the rezoning request at its July 20, 2017 meeting and voted to send forth a favorable recommendation.



Motion:

*I move that the Board schedules a public hearing for rezoning application #R-2017-03 for Wednesday, August 16, 2017, at 9:00 A.M.*

**Non-Profit Performance Agreements**

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

- |   |          |
|---|----------|
| 1. Blue Ridge Humane Society                                | \$70,000 |
| 2. Mountain True  | \$ 4,683 |
| 3. The Housing Assistance Corporation                       | \$11,750 |
| 4. Western Carolina Community Action-Transportation Match   | \$38,905 |
| 5. Western Carolina Community Action-Medical Transportation | \$11,100 |

Motion:

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

**Victim Assistance Coordinator Position**

The Sheriff's Office is requesting that the Board approve the Sheriff in using the \$45,648.00 grant funds provided by Safelight through the Governor's Crime Commission grant to fund the Victim Assistance Coordinator position. This position was approved by the Board on the consent agenda in the June 5<sup>th</sup>, 2017 meeting.

Motion:

*I move the Board of Commissioners approve the attached Budget Amendment to appropriate funding necessary to fill this position.*

**Water Line Extension Request – South Creek Cottages**

The City of Hendersonville has requested that the County comment on a proposed water line extension to twenty-one proposed single-family lots in South Creek Cottages Subdivision located off Patty's Chapel Road along Fox Creek Drive. The proposed water line is 1,890 linear feet and includes 3 fire hydrants. The project's location within the Urban Services Area is consistent with the Henderson County 2020 Plan. A City of Hendersonville project summary sheet was provided for Board review and action. This expansion will be funded by the owner/developer Rick Moore.

South Creek Cottages Subdivision  
Water Line Extension Request



Motion:

*I move the Board approves the extension request and direct staff to convey the County's comments to the City of Hendersonville.*



**Water and Sewer Line Extension Request – Dodd Meadows (Phase 4 & 5)**

The City of Hendersonville has requested that the County comment on a proposed water and sewer line extension to thirty-three proposed single-family homes in Phase 4 and 5 of Dodd Meadows Habitat for Humanity Subdivision located off E. Blue Ridge Road along Volunteer Way. The proposed water line is 750 linear feet in Phase 4 and 880 linear feet in Phase 5. The proposed gravity sewer line is 527 linear feet in Phase 4 and 710 linear feet in Phase 5. The project's location within the Urban Services Area is consistent with the Henderson County 2020 Comprehensive Plan. A City of Hendersonville project summary sheet was provided for Board review and action. This expansion will be funded by Henderson County Habitat for Humanity.

**Motion:**

*I move that the Board approves the extension request and direct staff to convey the County's comments to the City of Hendersonville.*

**Walk of Fame Steering Committee – Revised Charter**

The Walk of Fame has requested the Board consider revising the Charter, with the proposed changes reflected in red on the attached draft. The Charter was originally approved on April 15, 2015, and revised on June 24, 2015, June 6, 2016 and August 17, 2016.

Primarily, the proposed revisions change the qualifications and appointment of the selection committee, ensuring that those members "have demonstrated active involvement in the community and who have at least a minimal knowledge of Henderson County and Hendersonville history." Staff supports this recommendation, as has the City of Hendersonville.

**Qualification and Appointment of Selection Committee:**

The Selection Committee shall consist of the five voting members of the Steering Committee and two additional members who have demonstrated active involvement in the community and who have at least a minimal knowledge of Henderson County and Hendersonville history. It shall be the responsibility of the chairman of the Steering Committee to appoint the two additional members, who shall serve a one-year term. The additional members may be reappointed for ensuing years as the chairman sees fit.

It shall be the responsibility of the Steering Committee to provide orientation, explanation of procedures, and guidance during the deliberations of the Selection Committee. The Selection Committee shall meet as many times as necessary to complete the selection process.

The Selection Committee shall choose a minimum of five and a maximum of ten honorees annually.

**Motion:**

*I move the Board approves the revised Charter and By-Laws for the Walk of Fame Steering Committee as presented.*

**Big Sweep River Clean-up at Westfeldt Park on September 9, 2017**

The Board is requested to approve the use of Westfeldt Park as the central meeting and staging location for the 30<sup>th</sup> annual Big Sweep River Clean-up event on Saturday, September 9, 2017 from 9am until 4pm. The event will be coordinated by Asheville GreenWorks, MountainTrue, and RiverLink. Collected debris and waste will be disposed of at the Henderson County Transfer Station. The goal of Big Sweep is to clean up the rivers of western North Carolina and make them safer and more accessible for users. Several stretches of the French Broad River and other waterways in Henderson County will be maintained during this event by volunteers and staff from the three conservation organizations. The partner organizations will provide gear and boats, as well as waivers and liability forms for all participants.

Motion:

*I move that the Board allows use of Westfeldt Park as the central location for the 30<sup>th</sup> annual Big Sweep River Clean-up on Saturday, September 9, 2017.*

**Request to Use '95 Courthouse North Parking Lot**

The Board of Commissioners is requested to approve the use of a portion of the '95 Courthouse North Parking lot on Wednesday, August 9<sup>th</sup>, from 11:00am – 3:00pm for a fundraising event.

Motion:

*I move the Board approves the use of a portion of the '95 Courthouse north parking lot on Wednesday, August 9<sup>th</sup>, from 11:00am – 3:00pm.*

**Vaya Health – Quarterly Fiscal Monitoring Report (FMR) for the quarter ended June 30, 2017**

N.C.G.S. 122C-117(c) requires the staff of the local area mental health authority to provide the County Finance Officer with the quarterly Fiscal Monitoring Report (FMR) within 30 days of the end of the quarter. The County Finance Officer is then required to provide the FMR to the Board of Commissioners at the next regularly scheduled meeting of the board. The FMR for Vaya Health was received by the County Finance Director on July 31, 2017.

Motion:

*I move that the Board of Commissioners approves the Vaya Health Fiscal Monitoring Report for the quarter ended June 30, 2017.*

**Reimbursement Resolution, Hendersonville High School**

The Board is requested to adopt a reimbursement resolution, allowing the County's general fund to be reimbursed from future borrowings for certain capital expenditures related to the future construction of a new Hendersonville High School.

Motion:

*I move the adoption of the proposed reimbursement resolution.*

**Blue Ridge Honor Flight Use of Historic Courthouse**

Blue Ridge Honor Flight is requesting to use the entry way to the Henderson County Historic Courthouse to raffle off two handmade quilts. The quilts will be hung in a visible area near the front door during the month of August.

Proceeds from the raffle will be used to send veterans to their memorials in Washington at no charge.

Motion:

*I move to Grant the use of the Historic Courthouse to Blue Ridge Honor Flight for the month of August.*

**DISCUSSION/ADJUSTMENT OF DISCUSSION AGENDA**

*Commissioner Messer made the motion to adopt the discussion agenda as presented. All voted in favor and the motion carried.*

**NOMINATIONS**

**Notification of Vacancies**

Chairman Edney noted the vacancies which appear on the next agenda under "Nominations".

1. Fire and Rescue Advisory Committee - 1 vac.
2. Hendersonville City Zoning Board of Adjustment – 3 vac.
3. Home and Community Care Block Grant Advisory Committee – 1 vac.
4. Henderson Tourism Development Authority – 1 vac.



**Nominations**

Chairman Edney opened the floor for nominations.

1. Animal Services Advisory Committee – 1 vac.

Commissioner Messer nominated Jack Walsh for position #2. *Chairman Edney made the motion to accept the appointment of Jack Walsh to position #2 by acclamation. All voted in favor and the motion carried.*

2. Asheville Regional Housing Consortium – 1 vac.

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

3. Henderson County Historic Courthouse Corporation/dba Heritage Museum – 1 vac.

Commissioner Hawkins nominated Patsy Jones for position #2. *Chairman Edney made the motion to accept the appointment of Patsy Jones to position #2 by acclamation. All voted in favor and the motion carried.*

4. Home and Community Care Block Grant Advisory Committee – 1 vac.

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

5. Juvenile Crime Prevention Council – 3 vac.

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

6. Library Board of Trustees – 1 vac.

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

7. Mountain Area Workforce Development Board – 1 vac.

Commissioner Messer nominated Dr. Laura Leatherwood for position #4. *Chairman Edney made the motion to accept the appointment of Dr. Laura Leatherwood to position #4 by acclamation. All voted in favor and the motion carried.*

8. Nursing/Adult Care Home Community Advisory Committee – 8 vac.

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

9. Recreation Advisory Committee – 2 vac.

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

10. Senior Volunteer Services Advisory Council – 1 vac.

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

11. Walk of Fame Steering Committee – 1 vac.

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

**EDNEYVILLE ELEMENTARY PRELIMINARY DESIGN**

John Mitchell stated at the February 15, 2017 meeting of the Board of Commissioners, the Board instructed the Architect of Record, Clark Nexsen to develop the design for a new Edneyville Elementary School to be located next to the existing school.

Staff and the architect have met with user groups, including teachers, administrators, parents and children. Programming meetings have been held with Henderson County Public Schools staff, and a community meeting was conducted at the existing school to develop a proposed design. August 1, 2019 is the projected completion date.

Chad Roberson with Clark Nexsen presented the proposed design of the new facility and ask for the Board's approval to continue with the project.

What are the project goals?

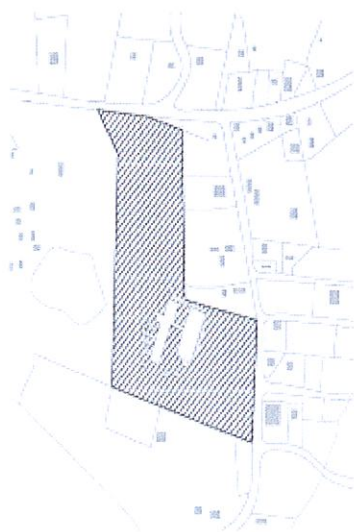
- Create a 21<sup>st</sup> Century Learning Environment
- Preserve the "Rural Character" of the Site and School
- Capitalize on Outdoor Spaces – Connect the Inside with the Outside

- Make the Building Safe and Secure
- Maintain Strong Connection with the Community

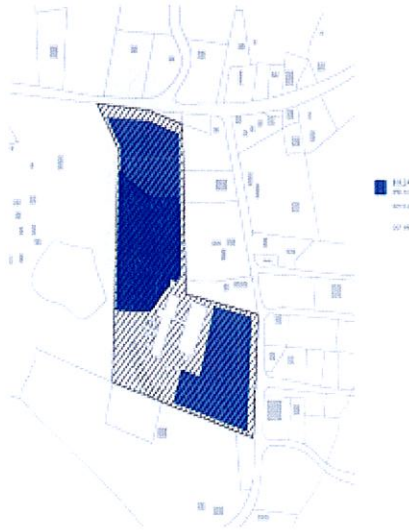
Aerial Site Photo



Existing Site



Building Location Options



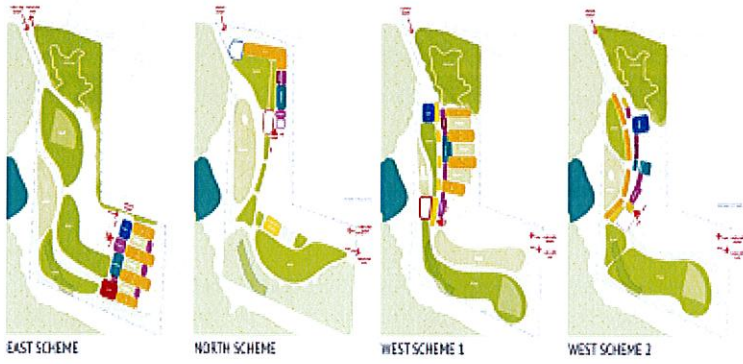




### Learning Landscape



### Options Explored



### Concept Design



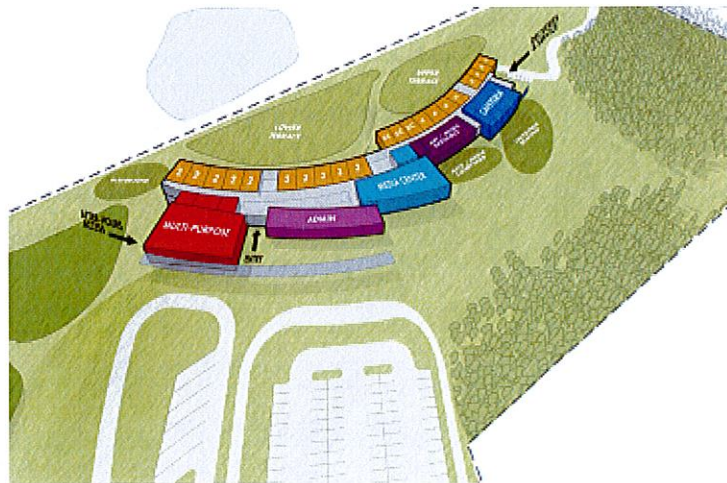
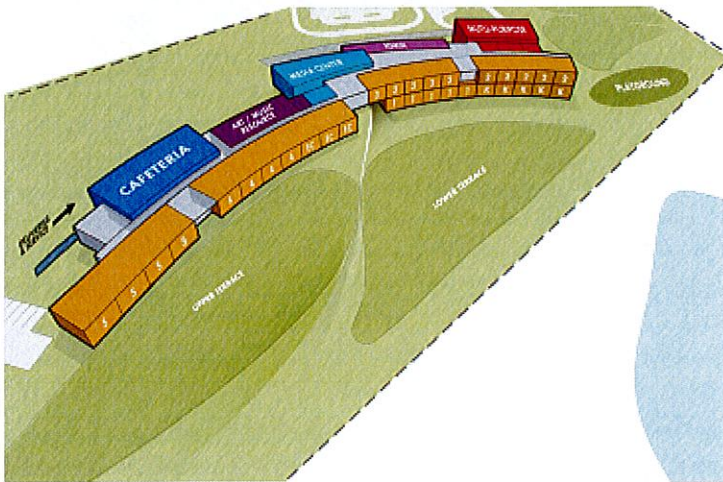
Aerial Site Photo



Aerial Site Photo with New Building Plan

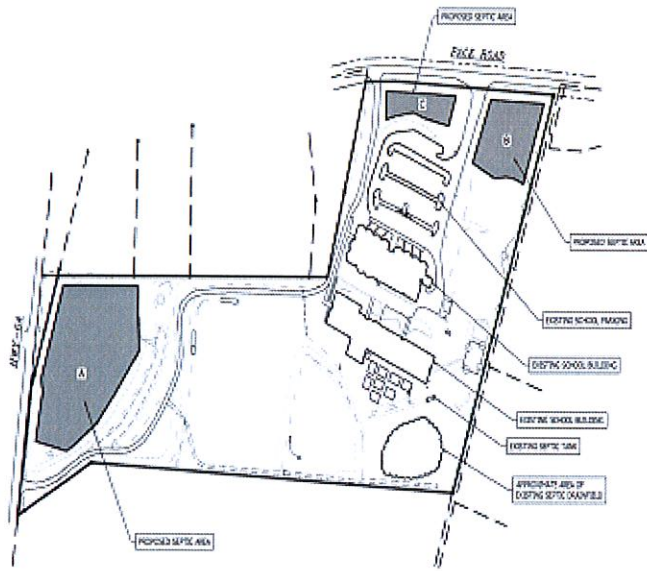


3D Diagrams

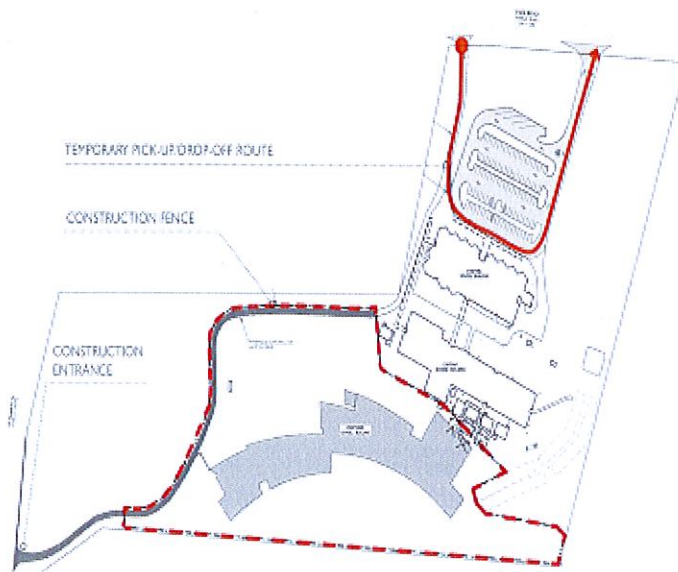




Septic Field Options



Temporary Site Access during Construction of New School



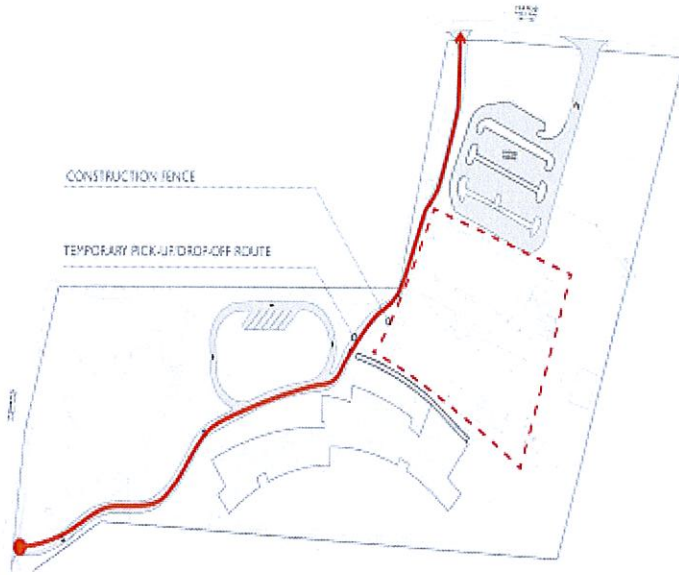
Commissioner Lapsley noted the ends of the building were close to the property line and questioned if there would be fencing.

Chad Roberson responded that there currently is a fence along the property line.

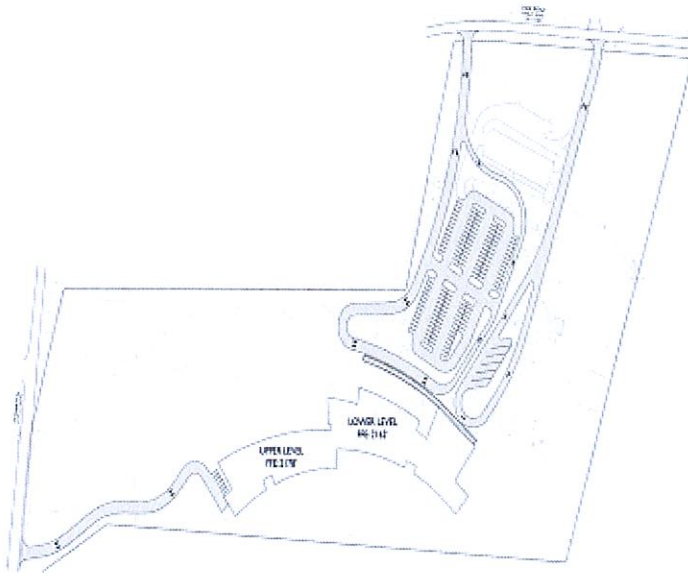
Commissioner Lapsley suggested moving the building up and left, moving it further away from the property line.



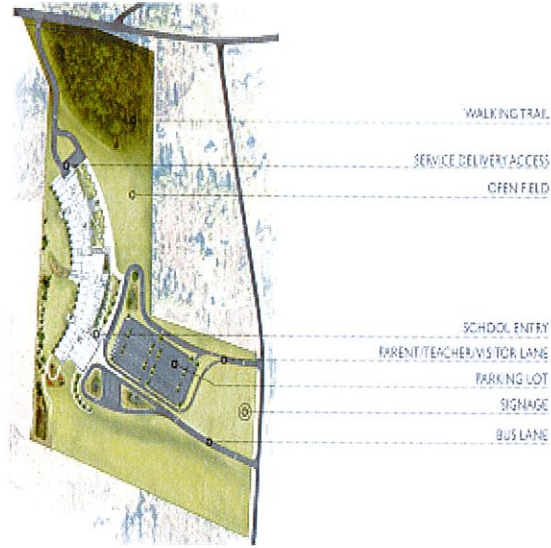
Temporary Site Access during Demolition of Existing School and Construction of New Parking



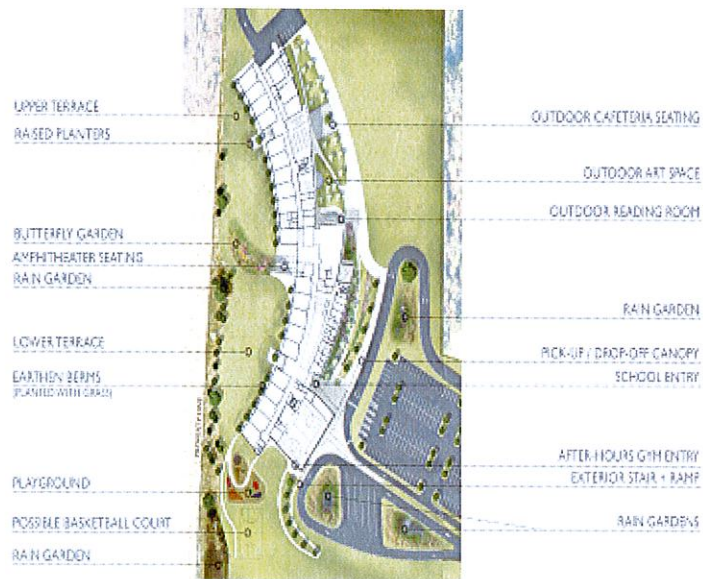
Access to New School



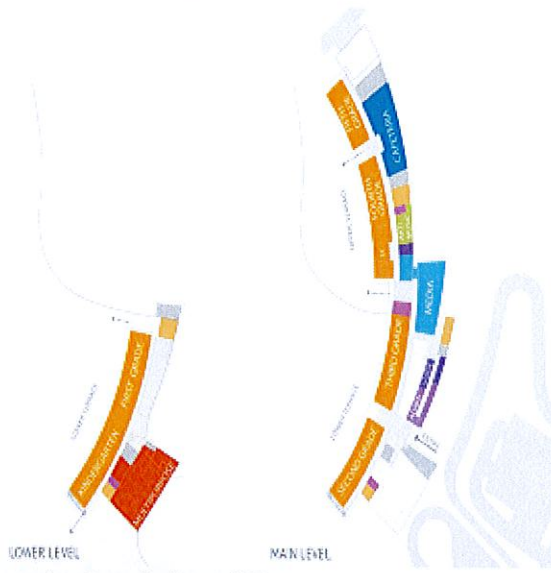
### Overall Site Plan



### Exterior Spaces



Overall Floor Plan



Exterior Rendering of Entrance



Interior Rendering





## Exterior Rendering of Play Area



## Schedule

- Construction Documents January 2018
- Bidding February 2018
- Construction Begins March 2018
- School Open for Students August 2019

The Board of Commissioners and Board of Education are excited about the full size gym. It will be amazing and a great community asset.

Chairman Edney asked that an area be graded for a baseball field. He also questioned the need for a concession stand in the gym.

*Commissioner Hawkins made the motion that the Board accept the Edneyville Elementary School design and direct staff to begin the project. All voted in favor and the motion carried.*

**SEWER OPTIONS FOR EDNEYVILLE ELEMENTARY**

Marcus Jones stated during the Board's April 3, 2017 meeting, staff was directed to study the on-site sewer option for the proposed Edneyville Elementary. The study has been completed by Brooks Engineering, a sub consultant for Clark Nexsen, and confirms that an on-site system is possible. This on-site option is proposed to be a drip irrigation system. In addition to the on-site option, there are three other options: a "package plant," pressurized public sewer, and gravity public sewer. The presentation highlights these options and also lists some funding opportunities.

Staff is requesting direction from the Board regarding which sewer option to serve the new Edneyville Elementary school. To maintain the project's schedule, a decision on sewer service is needed this month.

## Sewer Options for Edneyville Elementary

## Presentation Outline:

1. On-Site Sewer Option
2. "Package Plant" Option
3. Public Sewer Option, Pressurized
4. Public Sewer Option, Gravity
5. Cost Summary
6. WGLA Engineering Summary
7. Funding

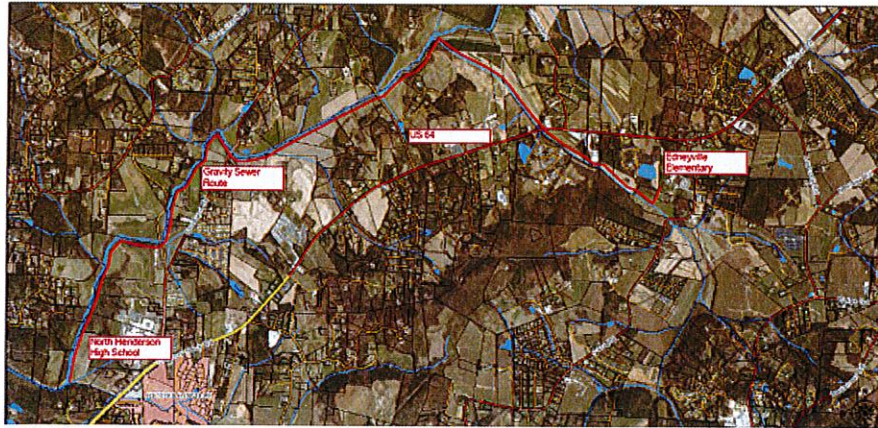
## On-site Sewer Option:

- Brooks Engineering, Clark Nexsen sub consultant, determined that the school can be served by an on-site wastewater and disposal system utilizing a drip irrigation process.
- A drip irrigation system is contained completely within the school property. It receives the wastewater





**Proposed Gravity Sewer Layout**



**Summary of Sewer Costs:**

System	Estimated Capital Cost	Estimated O&M Cost (yearly)
-On-site system	\$705,000.00	\$35,000.00
-Discharge system	\$950,000.00	\$35,000.00
-Pump Station to Hendersonville	\$1,500,000.00	\$19,000.00 (user fees) \$10,000.00 (O&M)
-Gravity Sewer to Hendersonville	\$4,500,000.00	\$19,000.00 (user fees) \$5,000.00 (O&M)

**WGLA Engineering Summary of Options:**

In conclusion, the on-site and discharging systems are less costly during the initial construction, but the systems require long term maintenance and monitoring which result in higher operation and maintenance costs. The discharging system and the gravity sewer option will also take longer to put into service than the other two options considered.

**Funding:**

- Project currently has \$500,000 allocated for sewer.
- NC Commerce grant for up to \$1,000,000 is available for public sewer options. Staff has started application process.
- Possible contribution from Hendersonville Utilities for a public sewer option.
- Possible contribution from the Justice Academy sewer fund to share in cost of a public sewer option.

Commissioner Lapsley asked if there is a possibility of participation to help with cost.

County Manager Steve Wyatt stated he would bring options back to the Board. The City could own, the County could own, or a joint enterprise.

Commissioner Lapsley is not in favor of the drip system because it is high risk. He is okay with the discharge system but the life of the system is substantially shorter with a certain level of pollution. He is not really in favor of the pump station. The gravity system is long term and most reliable, but most expensive. He suggested trying every way possible to do the gravity system. Go out into the community to see who wants to connect and will help with funding. Look at possible grants.

Commissioner Lapsley is bothered by the fact that the County does a major expansion of a sewer system and in turn give it to the City. We need to sit down with the City and figure something out.

Commissioner Hawkins questioned the timeframe for a gravity system, and what we could do in the interim



if it take 3-4 years.

Commissioner Lapsley feels the population of the school will stay very close. The Board could explore the options in the next 60-90 days and then go with a pump system using the existing system for those 90 days.

*Commissioner Lapsley made the motion that the Board approves the gravity concept and direct staff to hold discussions with the City and report back to the Board in 30 days. All voted in favor and the motion carried.*

### **MEMORANDUM OF UNDERSTANDING AND CONSERVATION EASEMENT**

John Mitchell stated at the April 4<sup>th</sup> 2016 meeting of the Board of Commissioners, the Board agreed to endorse Carolina Mountain Land Conservancy's PARTF application to secure land for a proposed park adjacent to the Green River. The name of the proposed park is the Chief and Calla Bell Trail Park. CMLC is now operating as Conserving Carolina.

At that meeting, the Board directed staff to draft a Memorandum of Understanding that specifically addressed the construction and maintenance of the park with Conserving Carolina.

Staff negotiated an MOU, and a Conservation Easement (CE) between Conserving Carolina and Henderson County that outlines park development, responsibilities and meets Clean Water Management Trust Fund requirements. The MOU includes language requested by the Board which places the responsibility for construction and maintenance with Conserving Carolina.

Kieran Roe, Executive Director of Conserving Carolina, stated the park is primarily nature trails, highlighting Henderson County Camps, as well as 20<sup>th</sup> Century Engineering Models, the Duke Energy Flume, and the Saluda Grade Railroad. There is no cost to the County for the land acquisition or development of the park. Conserving Carolina has raised the money and will maintain the park.

Russ Burrell stated he has looked over the MOU. There is some upfront cost to the County, but it will be paid back. The application will be made and the property will be conveyed to the County. The first grant will begin the trail. The County will commit to no funding.

Commissioner Hawkins is concerned about the actual number of acres of the park. The number has moved quite a bit.

Kieran Roe stated the final number is 68 acres.

Commissioner Hawkins continues to be against this "Maze" and feels it should be a state park.

Russ Burrell explained that as long as the conservation easement is maintained, the County can walk away from this project at any time.

*Commissioner Lapsley made the motion that the Board accepts the Memorandum of Understanding and Conservation Agreement with Conserving Carolina and direct staff to move forward with the project. The motion passed 4-1 with Commissioner Hawkins voting nay.*

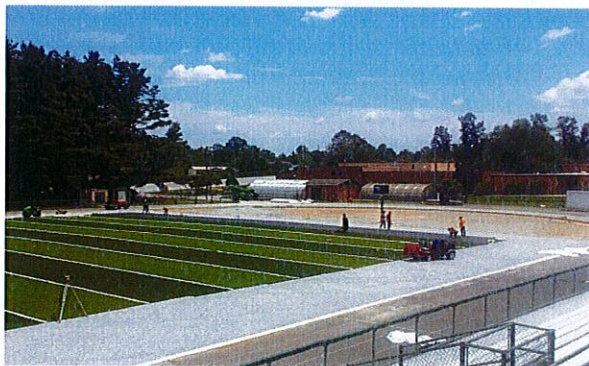
### **UPDATE FOR HIGH SCHOOL ARTIFICIAL TURF PROJECT**

Marcus Jones stated at the April 3, 2017 meeting, the Board approved a contract to install artificial turf at the following Henderson County High Schools: East, North and West. This agenda item is to update the Board on the progress of the project.

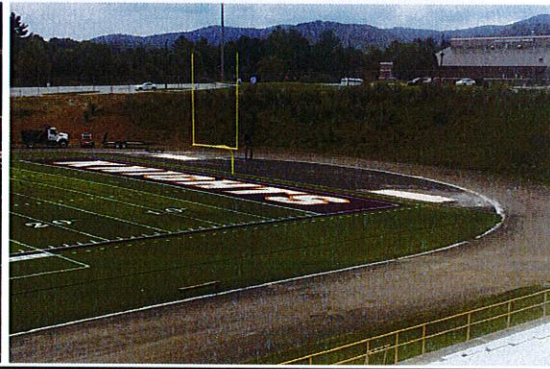
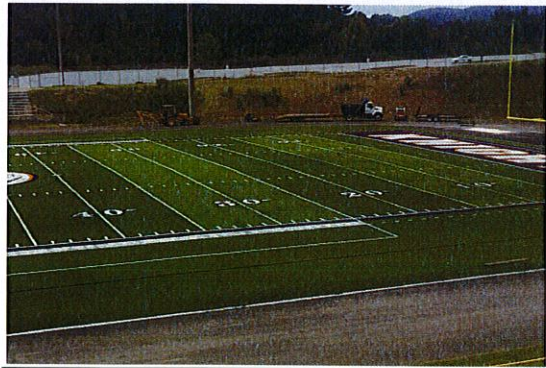
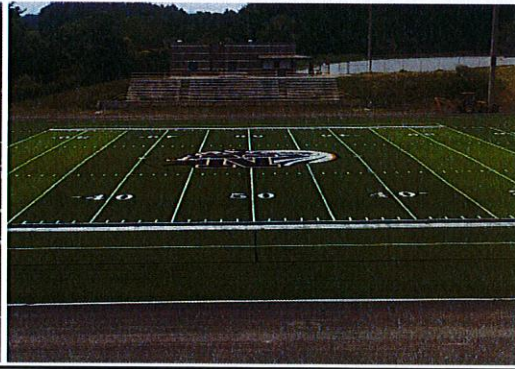
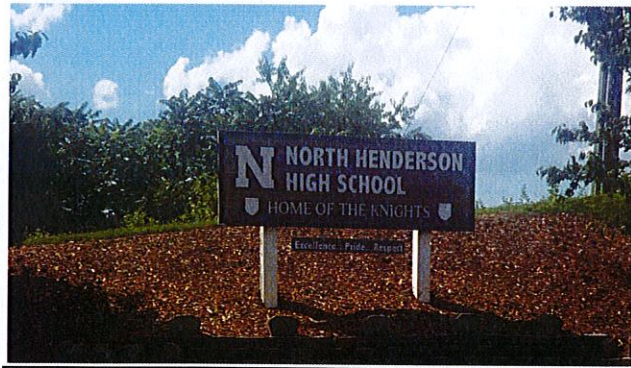
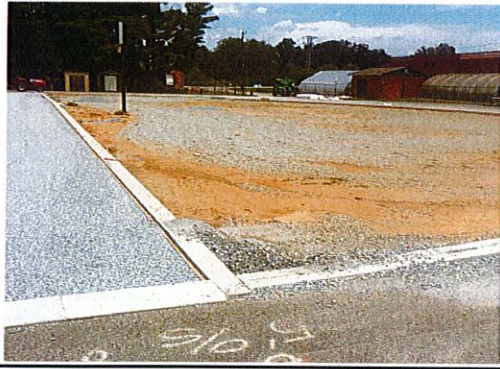
- East Henderson High School:
  - Turf installed pending installation of markings and infill, and paving "D Zones"
  - On schedule to complete by August 15 contract completion date
- West Henderson High School: Complete
- North Henderson High School: Complete
- Track Rehabilitation is pending for all three HS and will be scheduled by the schools during the Fall semester

Ribbon Cutting Ceremonies:

- East Henderson High School: Friday, September 8 (vs Chase)
- North Henderson High School: Friday, August 25 (vs East Henderson)
- West Henderson High School: Friday, August 18 (vs Madison)











John Mitchell informed the Board that the contractor has agreed to let Henderson County use the extra turf for local fields.

**CLOSED SESSION**

The Board is requested to go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) To consult with an attorney employed or retained by the Board to preserve attorney-client privilege.

*Chairman Edney made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) to consult with an attorney employed or retained by the Board to preserve attorney-client privilege. All voted in favor and the motion carried.*

**ADJOURN**

*Commissioner Hawkins made the motion to go out of closed session and adjourn at 10:00 p.m. All voted in favor and the motion carried.*

Attest:

\_\_\_\_\_  
Teresa L. Wilson, Clerk to the Board

\_\_\_\_\_  
J. Michael Edney, Chairman



# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1  
Hendersonville, NC 28792  
Phone (828) 697-4808 • Fax (828) 692-9855  
[www.hendersoncountync.org](http://www.hendersoncountync.org)

J. MICHAEL EDNEY  
Chairman  
GRADY H. HAWKINS  
Vice-Chairman

CHARLES D. MESSER  
WILLIAM G. LAPSLEY  
THOMAS H. THOMPSON

## **RESOLUTION IN MEMORIAM**

### **HOWARD "DOC" NORTON** **October 28, 1927- July 22, 2017**

**WHEREAS,** Howard "Doc" Norton served in the United States Navy during World War II where he discovered his passion for medicine; and

**WHEREAS,** Upon leaving the Navy, he attended Wofford College and The Medical University of South Carolina at Charleston; and

**WHEREAS,** After completion of his internship and residency, Doc Norton received information that Mills River needed a doctor; in 1957 he moved his family and began a practice that he successfully ran for 37 years; and

**WHEREAS,** during his service as a doctor to Henderson County residents, Doc Norton also served his community by becoming a well-respected leader serving on boards and committees at his church, generously giving of his time and finances; and


**WHEREAS,** Doc Norton was instrumental in founding the Mills River Volunteer Fire Department in 1968, through the years serving as a Lieutenant, Captain, Assistant Chief, Training Instructor, Chaplain and Board of Directors Chairman; and

**WHEREAS,** Doc Norton served as a member of the Henderson County Fire Commission and as the Henderson County Coroner for many years;

**NOW, THEREFORE, BE IT RESOLVED** that Howard "Doc" Norton will be remembered for his outstanding contributions to our community through his service as a military veteran, a physician, and community leader and that his commitment to the citizens of the county will be remembered and missed.

In witness whereof I have hereunto set my hand and caused the seal of the County of Henderson to be affixed.

Adopted this the 7th day of August 2017.

  
\_\_\_\_\_  
J. MICHAEL EDNEY, CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

  
\_\_\_\_\_  
TERESA L. WILSON, CLERK TO THE BOARD

# HENDERSON COUNTY BOARD OF COMMISSIONERS

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Vice-Chairman

THOMAS H. THOMPSON  
CHARLES MESSER  
WILLIAM LAPSLEY


## **RESOLUTION OF COMMENDATION**

### **ROCKY HYDER, EMERGENCY SERVICES DIRECTOR**

- WHEREAS,** Rocky Hyder is a Henderson County native son. He graduated from East Hendersonville High School and attended Blue Ridge Technical College receiving training in firefighting and emergency management; and
- WHEREAS,** Prior to working for Henderson County local government, Rocky established his career working as a Fireman/Fire Inspector for the City of Hendersonville and as a member of the Dana Volunteer Fire Department; and
- WHEREAS,** Rocky Hyder worked his way through the ranks of the Dana Volunteer Fire Department from Junior Fireman, Fireman, Captain, Assistant Chief and to the Board of Directors; and
- WHEREAS,** On October 5, 1992, Rocky was hired as the first Fire Marshal for Henderson County; and
- WHEREAS,** In November 2002 Rocky Hyder's position was reclassified Emergency Services Director. In this role he served as department head for Emergency Medical Services, the Fire Marshal's Office and as the Emergency Management Coordinator, the latter title being a statutory responsibility; and
- WHEREAS,** Rocky Hyder was appointed Interim Animal Services Director from September through November 2007 when a new director could be hired; and
- WHEREAS,** Rocky Hyder has served the State of North Carolina Emergency Management in several capacities including President of the NC Emergency Management Association, and as a representative on the State Emergency Response Commission; and
- WHEREAS,** Rocky Hyder will retire from his service to Henderson County and its citizens on August 31, 2017;

**NOW, THEREFORE, BE IT RESOLVED** that the Henderson County Board of Commissioners expresses their deep admiration for the experience and wisdom that Rocky Hyder brought to all of the positions that he served in with Henderson County. On behalf of the citizens and staff of Henderson County, we appreciate and commend you on a job well done Rocky Hyder. In witness whereof I have hereunto set my hand and caused the seal of the County of Henderson to be affixed.

Adopted this the 7th day of August 2017.

  
\_\_\_\_\_  
J. MICHAEL EDNEY, CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

  
\_\_\_\_\_  
TERESA L. WILSON, CLERK TO THE BOARD



# Office of the Henderson County Tax Collector

200 NORTH GROVE STREET, SUITE 66

HENDERSONVILLE, NC 28792

PHONE: (828) 697-5595 | FAX: (828) 698-6153

Henderson County Board of Commissioners  
 1 Historic Courthouse Square, Suite 1  
 Hendersonville, NC 28792

Thursday, July 27, 2017

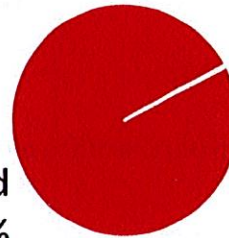
Re: Tax Collector's Report to Commissioners - Meeting Date August 7, 2017

Please find outlined below collections information through July 26, 2017 for the 2017 real and personal property bills to be mailed on August 1, 2017. Vehicles taxes are billed monthly by NC DMV.

## Henderson County Annual Bills (Real and Personal Property):

<b>2017 Beginning Charge:</b>	<b>\$69,856,396.33</b>
Discoveries & Imm. Irreg.:	\$66,671.74
Releases & Refunds:	<b>(\$7,731.42)</b>
<u>Net Charge:</u>	<u>\$69,915,336.65</u>
Unpaid Taxes:	\$69,751,297.36
<b>Amount Collected:</b>	<b>\$164,039.29</b>

**Unpaid  
99.77%**



**Paid  
0.23%**

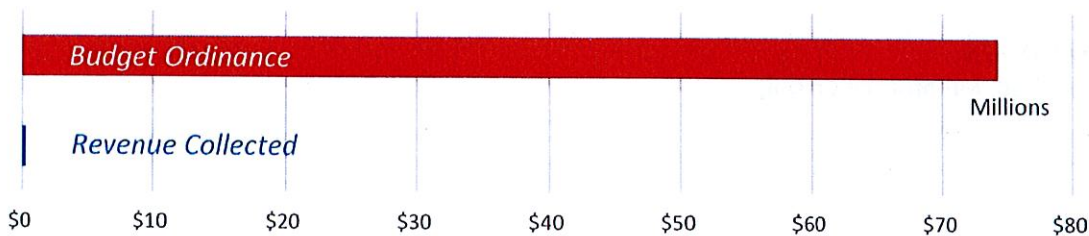
## Henderson County Registered Motor Vehicles (As Collected by NC DMV):

Net Charge:	\$0.00
Unpaid Taxes:	\$0.00
<b>Amount Collected:</b>	<b>\$0.00</b>

*Collections for FY18 not yet available*

## Henderson County FY18 Budget Analysis:

	<u>Budget Ordinance</u>		<u>Revenue Collected</u>
Ad Valorem:	\$72,826,301.00	Ad Valorem:	\$164,039.29
Prior Years:	\$1,405,000.00	Prior Years:	\$107,498.33
<b>Budget Total:</b>	<b>\$74,231,301.00</b>	<b>YTD Revenue:</b>	<b>\$271,537.62</b>



Respectfully Submitted,

Luke Small  
 Deputy Tax Collector

Darlene Burgess  
 Tax Administrator

# HENDERSON COUNTY BOARD OF COMMISSIONERS

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CHARLIE D. MESSER  
THOMAS H. THOMPSON  
WILLIAM G. LAPSLEY

August 7, 2017

Darlene Burgess, Assessor  
HENDERSON COUNTY ASSESSOR'S OFFICE  
200 N. Grove Street, Suite 102  
Hendersonville, N. C. 28792

Dear Mrs. Burgess:

Attached please find tax release requests in the amount of \$6,808.57, and tax refund requests in the amount of \$3.41, reviewed at the Henderson County Board of Commissioners' Meeting on Monday, August 7, 2017. All releases and refunds were approved.

Sincerely,



**J. Michael Edney, Chairman**  
Henderson County Board of Commissioners

JME/tlw

enclosures

**REQUEST FOR BOARD ACTION**

**HENDERSON COUNTY  
BOARD OF  
COMMISSIONERS**

**MEETING DATE:** August 7, 2017  
**SUBJECT:** Pending Releases & Refunds  
**PRESENTER:** Darlene Burgess, Tax Administrator  
**ATTACHMENT:** Yes  
1. Pending Release/Refund Combined Report

**SUMMARY OF REQUEST:**

The attached pending releases and refunds have been reviewed by the Assessor. As a result of that review, it is the opinion of the Assessor that these findings are in order. Supporting documentation is on file in the County Assessor's Office.

These pending release and refund requests are submitted for the approval by the Henderson County Board of Commissioners.

<b>Type:</b>	<b>Amount:</b>
Total Taxes Released from the Charge	\$ 6,808.57
Total Refunds as a Result of the Above Releases	\$ 3.41

**BOARD ACTION REQUESTED:**

The Board is requested to approve this pending release and refund report as presented.

**Suggested Motion:**

*I move the Board approve the Combined Release/Refund Report as presented.*



**NCPTS Pending Release/Refund Report. Thursday, July 27, 2017\***

OWNER	ABSTRACT	NOTE	ADJ. NUMBER	USER ID	SITUS ADDRESS	TAX DISTRICT	LEWY TYPE	BILLED	PAID	RELEASE	REFUND
FERNLEAF COMMUNITY CHARTER SCHOOL INC	0003088237-2017-2017-0000	PARCEL NUMBER 1018730 WAS GRANTED PARTIAL EXEMPTION FOR THE 2017 TAX YEAR BASED ON THE FACT THE SECOND BUILDING WAS NOT OCCUPIED AND IT WAS NOT WHOLLY AND EXCLUSIVELY BEING USED. FERNLEAF COMMUNITY CHARTER SCHOOL APPEALED THE PARTIAL EXEMPTION GRANTED TO THE HENDERSON COUNTY BOARD OF EQUALIZATION AND REVIEW ON JULY 26, 2017. THE BOARD GRANTED FULL EXEMPTION JULY 26, 2017.	4288	DHILL	58 HOWARD GAP RD FLETCHER NC 28732	COUNTY	TAX LATE LIST FEE TOTAL:	\$5,155.63 \$0.00	\$0.00 \$0.00	\$5,155.63 \$0.00	\$0.00 \$0.00
HENDERSONCO LLC	0002968985-2016-2016-0000	VOIDED 12/31/15. 2015 BPP TAX LISTING FORM STATED THAT BUSINESS WAS CLOSED. NO BPP 2016 LISTING WAS NEEDED..	4278	MHANEY	1744 MEADOWBROOK TR UNINCORPORATED	COUNTY	TAX LATE LIST FEE TOTAL:	\$55.94 \$5.99	\$0.00 \$0.00	\$55.94 \$5.99	\$0.00 \$0.00
HINDS, BRENDA BRITT ACTING TRUSTEE	0002450506-2017-2017-0000	FOR 2017, JUDY GILMORE CLASSIFIED THIS MH AS REAL PROPERTY ON PARCEL 9967429. VOIDED THIS ALREADY. BUT THE SYSTEM STILL CREATED AN ABSTRACT. VOID AGAIN.	4290	CLOMBARDO	HENDERSON COUNTY NC	COUNTY VALLEY HILL FIRE	TAX LATE LIST FEE TOTAL:	\$69.50 \$6.95 \$11.69	\$0.00 \$0.00	\$69.50 \$6.95 \$11.69	\$0.00 \$0.00
HOOPERS CREEK BAPTIST CHURCH	0002856818-2017-2017-0000	BY ACTION BY THE HENDERSON COUNTY BOARD OF EQUALIZATION IN REVIEW, THE 2016 TAXES FOR THIS PARCEL WAS RELEASED. THIS FULL RELEASE FOR TAX YEAR 2017 IS BEING SUBMITTED BASED ON THE ACTION OF THE BOARD FOR THE 2016 TAXES.	4289	DHILL	148 TERRY'S GAP LOOP RD FLETCHER NC 28732	COUNTY	TAX LATE LIST FEE TOTAL:	\$755.41 \$0.00	\$0.00 \$0.00	\$755.41 \$0.00	\$0.00 \$0.00
LAMB, HEATHER ANN	0003060409-2015-2015-0000	1998 YAMAHA GP800V AND 1999 YAMAHA GP800Y VOIDED. TAXPAYER CONTACTED OFFICE AND PROVIDED INFORMATION THAT BOATS WERE SOLD AND REGISTERED TO NEW OWNER 7/26/2013. DOCUMENTATION ON FILE.	4273	KATHYS	343 TERRY'S GAP RD FLETCHER NC 28732	COUNTY FLETCHER FIRE	TAX LATE LIST FEE TOTAL:	\$9.71 \$0.97 \$2.17	\$1.81 \$0.97 \$0.41	\$9.71 \$0.97 \$2.17	\$1.81 \$0.97 \$0.41
	0003060409-2016-2016-0000	1998 YAMAHA GP800V AND 1999 YAMAHA GP800Y VOIDED. TAXPAYER CONTACTED OFFICE AND PROVIDED INFORMATION THAT BOATS WERE SOLD AND REGISTERED TO NEW OWNER 7/26/2013. DOCUMENTATION ON FILE.	4274	KATHYS	343 TERRY'S GAP RD FLETCHER NC 28732	COUNTY FLETCHER FIRE	TAX LATE LIST FEE TOTAL:	\$10.14 \$1.01 \$2.06	\$10.14 \$1.01 \$2.06	\$10.14 \$1.01 \$2.06	\$0.00 \$0.00 \$0.00
	0003060409-2017-2017-0000						TAX LATE LIST FEE TOTAL:	\$0.21 \$0.21 \$0.42	\$0.00 \$0.00 \$0.00	\$0.21 \$0.21 \$0.42	\$0.00 \$0.00 \$0.00
							ABSTRACT TOTAL:	\$909.37	\$909.37	\$909.37	\$0.00
							ABSTRACT TOTAL:	\$26.49	\$26.49	\$26.49	\$3.41

\*Adjustments submitted for approval on or before

# NCPTS Pending Release/Refund Report. Thursday, July 27, 2017\*

OWNER	ABSTRACT	NOTE	VALUE CHANGE	ADJ. NUMBER	USER ID	SITUS ADDRESS	TAX DISTRICT	LEVY TYPE	BILLED	PAID	RELEASE	REFUND
PENDLEY, ALEASHIA ANN	0002917010-2016-2016-0000	PER WILDLIFE REPORT 1994	(\$2,559)	4277	RIONES	35 MAXWELL FARM LN UNINCORPORATED	COUNTY	TAX	\$14.46	\$0.00	\$14.46	\$0.00
							LATE LIST FEE	\$1.45	\$0.00	\$1.45	\$0.00	
							TOTAL	\$15.91	\$0.00	\$15.91	\$0.00	
							TAX	\$2.69	\$0.00	\$2.69	\$0.00	
		EDNEYVILLE FIRE										
		LATE LIST FEE							\$0.27	\$0.00	\$0.27	\$0.00
		TOTAL							\$2.96	\$0.00	\$2.96	\$0.00
		ABSTRACT TOTAL							\$18.87	\$0.00	\$18.87	\$0.00
		TOTAL							\$18.87	\$0.00	\$18.87	\$0.00
SHUMAKER, CHESTER HAROLD	0003091606-2017-2012-0000	ABSTRACT MADE IN ERROR - VALUE INCORRECT - VOIDED	(\$11,360)	4279	RIONES	96 BIG HUNGRY RD FLAT ROCK NC 28731	COUNTY	TAX	\$58.34	\$0.00	\$58.34	\$0.00
							LATE LIST FEE	\$35.01	\$0.00	\$35.01	\$0.00	
							TOTAL	\$93.35	\$0.00	\$93.35	\$0.00	
							TAX	\$10.79	\$0.00	\$10.79	\$0.00	
		BLUE RIDGE FIRE										
		LATE LIST FEE							\$6.48	\$0.00	\$6.48	\$0.00
		TOTAL							\$17.27	\$0.00	\$17.27	\$0.00
		ABSTRACT TOTAL							\$110.62	\$0.00	\$110.62	\$0.00
		TOTAL							\$110.62	\$0.00	\$110.62	\$0.00
WALKER, WILLIAM RUSSELL	0002917003-2016-2016-0000	1986 BAYLINER VOIDED, REGISTERED IN OHIO 1/21/2015. DOCUMENTATION ON FILE	(\$1,509)	4286	KATHYS	516 HOWARD GAP RD FLETCHER NC 28732	COUNTY	TAX	\$8.53	\$0.00	\$8.53	\$0.00
							LATE LIST FEE	\$0.85	\$0.00	\$0.85	\$0.00	
							TOTAL	\$9.38	\$0.00	\$9.38	\$0.00	
							TAX	\$1.74	\$0.00	\$1.74	\$0.00	
		FLETCHER FIRE										
		LATE LIST FEE							\$0.17	\$0.00	\$0.17	\$0.00
		TOTAL							\$1.91	\$0.00	\$1.91	\$0.00
		ABSTRACT TOTAL							\$11.29	\$0.00	\$11.29	\$0.00
		TOTAL							\$11.29	\$0.00	\$11.29	\$0.00
WILLIAMS, LAURA L	0003091712-2017-2017-0000	2013 CAVCO MANUFACTURED HOME. DOUBLE BILLED AS 889985538 AND 889974641. RELEASE BILL FOR 889985538.	(\$3,009)	4284	CLOWBARDO	55 TWO SWAINS LN FLAT ROCK NC 28731	COUNTY	TAX	\$310.75	\$0.00	\$310.75	\$0.00
							LATE LIST FEE	\$31.08	\$0.00	\$31.08	\$0.00	
							TOTAL	\$341.83	\$0.00	\$341.83	\$0.00	
							TAX	\$66.00	\$0.00	\$66.00	\$0.00	
		BLUE RIDGE FIRE										
		LATE LIST FEE							\$6.60	\$0.00	\$6.60	\$0.00
		TOTAL							\$72.60	\$0.00	\$72.60	\$0.00
		ABSTRACT TOTAL							\$414.43	\$0.00	\$414.43	\$0.00
		TOTAL							\$414.43	\$0.00	\$414.43	\$0.00
<b>GRAND TOTALS:</b>											<b>\$6,808.57</b>	<b>\$3,313</b>

\*Adjustments submitted for approval on or before

# HENDERSON COUNTY

## PUBLIC RECORDS DISPOSAL REQUEST AND DESTRUCTION LOG (Revised March 13, 2002)

DEPARTMENT: EMS

RECORD TITLE & DESCRIPTION, INCLUSIVE DATES, & QUANTITY	RECORDS WILL BE		RECORDS RETENTION SECTION	IF APPROVED, DATE DESTROYED
	DESTROYED	*DUPLICATED		
Ambulance Call reports January 1st 2004- June 30th 2006	X		Emergency SVC Standard 6, Line 5	

\*If duplication is required, indicate method.

Approval is requested for the records listed above to be destroyed in accordance with the provisions of G.S. 121 and 132. The period for retention of these records, as prescribed by the North Carolina Department of Cultural Resources, has expired; **OR** where the period for retention has not expired, the original records have been duplicated on microfilm, microfiche, data processing or word processing equipment, with the understanding that said duplication shall be maintained for the specified period of retention. **NONE** of the original records listed above have been scheduled for permanent preservation by the North Carolina Department of Cultural Resources.

Mike Barnett  
Department Head

07/14/2017  
Date

Submitted to the Henderson County Board of Commissioners. The Board:

APPROVED   
DISAPPROVED

the destruction/duplication of the above records and such approval/disapproval has been entered into the official minutes of the Board of Commissioners meeting held on the 7<sup>th</sup> day of August, 2017.

Alicia L. Wilson  
Clerk to the Board



State of North Carolina  
County of Wake

**Department of Natural and Cultural Resources  
State Library of North Carolina  
NC Cardinal Memorandum of Agreement  
Contract Number 2327**

This Agreement is hereby made between the North Carolina Department of Natural and Cultural Resources, State Library of North Carolina, 109 East Jones Street, Raleigh, NC (hereinafter referred to as "Department") and the Henderson County Public Library, 301 N. Washington St., Hendersonville, NC 28739 (hereinafter referred to as "Library" and together, the "Parties").

WHEREAS, NC Cardinal is a project of the State Library of North Carolina conducted in partnership with North Carolina public libraries;

WHEREAS, this collaboration leverages federal and local funds to achieve operational efficiencies and cost savings for public libraries and provide for more effective use of public resources;

WHEREAS, the use of a single, shared online catalog expands resource sharing and cooperative services among public libraries and delivers faster access to a greater number and variety of resources for library patrons;

NOW, THEREFORE, the Parties hereto, desiring to establish or renew their commitment to NC Cardinal upon the terms set forth below, do hereby agree as follows:

**I. Terms and Conditions**

While the Library retains autonomy over its local operations, participation in NC Cardinal requires collaboration in developing common policies and shared decision making. For acceptance into and continuing participation in NC Cardinal, the Library shall abide by the NC Cardinal Bylaws (Attachment A) and adhere to the following terms and conditions:

**A. General Terms and Conditions**

- 1) Comply with NC Cardinal policies, procedures, and protocols, including regulations approved by the State Library and policies of the NC Cardinal Governance Committee;
- 2) Connect to the network exclusively with equipment that is compatible with NC Cardinal;
- 3) Support the development and implementation of electronic and physical delivery of NC Cardinal materials and services to other members of NC Cardinal;
- 4) Provide in-person services to patrons of all NC Cardinal libraries in the same manner as to the Library's own patrons and local residents;
- 5) Refrain from making internal policy changes that would adversely affect other NC Cardinal libraries;
- 6) Provide Library representation at NC Cardinal General Membership meetings;
- 7) Provide Library representation and service to committees, task forces, and forums sponsored by the NC Cardinal Governance Committee;
- 8) Ensure Library personnel participation in appropriate training and continuing education programs;
- 9) Allow use of the Library's name in NC Cardinal official documents and informational sites;

- 10) Agree to and adhere to the GNU General Public License (GNU GPL) for Evergreen software, a copyleft license which ensures free software rights are preserved when the work is distributed; and
- 11) Make no changes to the Evergreen software code other than alterations of bibliographic holdings data.

**B. Data Terms and Conditions**

- 1) Input, maintain, and share bibliographic holdings with all NC Cardinal libraries;
- 2) Input newly acquired holdings according to the standards developed by the NC Cardinal Cataloging Committee and approved by the NC Cardinal Governance Committee;
- 3) Input, maintain, share, and keep patron records confidential according to applicable federal and State laws, including G.S. § 125-19 of the North Carolina General Statutes;
- 4) Comply with the NC Cardinal cataloging best practices and procedures for item and patron records prior to migrating data into NC Cardinal;
- 5) Restrict the creation of data records and other cataloging-related activity in NC Cardinal to authorized and NC Cardinal certified personnel;
- 6) Enter accurate information for all NC Cardinal transactions and statistics; and
- 7) Adhere to the NC Cardinal membership policies as defined in Appendix A: Bylaws, Section 2, Membership.

**C. Lending and Resource Sharing Terms and Conditions**

- 1) Lend Library materials to patrons of NC Cardinal libraries in the same manner as to the Library's own patrons and local residents. This does not preclude charging standard Interlibrary Loan (ILL) fees if the loan is transacted through ILL rather than in person; and
- 2) Begin sharing Library resources with other NC Cardinal libraries through the Resource Sharing Delivery System within two (2) months of the Library's "GoLive!" date.

**II. Governance Committee**

- A. The Governance Committee provides guidance to the State Library of North Carolina in terms of communications, organizational structure, review of NC Cardinal Bylaws and Memoranda of Agreement, and the recommendation of cost sharing and common, consistent policies.
- B. The State Library has final decision-making authority for all matters pertaining to NC Cardinal and may override a recommendation of the Governance Committee that is determined to be:
  - 1) detrimental to the majority of NC Cardinal libraries;
  - 2) not cost-effective to implement;
  - 3) adversely impacting NC Cardinal project management and support operations; or
  - 4) negatively received by NC Cardinal's hosting vendor or the Evergreen Community at large.

**III. Financial Responsibilities – State Library of North Carolina**

- A. NC Cardinal is a project of the State Library of North Carolina, supported by grant funds from the Institute of Museum and Library Services under the provisions of the Federal Library Services and Technology Act. The Department shall fund the migration costs associated with migrating from the Library's current Integrated Library System into the NC Cardinal Integrated Library System. The Department shall also fund branch costs and shared ILS costs associated with base level access for the Library's participation in

NC Cardinal during the State Fiscal Year (July 1 – June 30) of the Library's migration and one (1) additional State Fiscal Year. Base level access includes access to and use of the NC Cardinal Integrated Library System (ILS) software, hardware maintenance, hardware administration, database administration, Standard Internet Protocol (SIP) services, software upgrades, second-level system support, integral components, and tools related to the statewide resource sharing distribution system.

- B. The Department shall fund and manage project administration for NC Cardinal. Project administration includes project oversight, project schedule development, vendor negotiations and contract administration, budget forecasting, migration management, development and maintenance of communications channels, and coordination of NC Cardinal Committees.
- C. The Department shall fund and manage first-line software support for NC Cardinal. First-line support includes maintaining a help ticket system, providing remote and onsite assistance, training, and facilitating communications with second-level vendor support.
- D. The Department shall fund and manage resource sharing services for NC Cardinal. Resource sharing services include delivery system administration, purchase and distribution of shipping supplies, training, vendor communications, and problem resolution.
- E. The Department retains final financial decision-making authority for all matters pertaining to the NC Cardinal Integrated Library System (ILS) and its users.
- F. The Department shall not exceed \$1,048,962 in total State Fiscal Year 2017-2018 expenditures for NC Cardinal.

**IV. Financial Responsibilities – Participating Library**

- A. Upon the third (3rd) State Fiscal Year of participation in NC Cardinal, the Library shall fund its portion of branch costs and shared ILS costs for base level access to the NC Cardinal ILS. Base level access includes access to and use of the NC Cardinal Integrated Library System (ILS) software, hardware maintenance, hardware administration, database administration, Standard Internet Protocol (SIP) services, software upgrades, second-level system support, integral components, and tools related to the statewide resource sharing distribution system.

The Library's annual cost shall be calculated based upon the following formula:

$$\begin{aligned} & (\# \text{ of Qualifying Branches} * \text{ Cost per Branch}) \\ & \qquad \qquad \qquad + \\ & \qquad \qquad \qquad (\% \text{ of Active Items} * \text{ Shared ILS Costs}) \end{aligned}$$

- B. Qualifying branches are those that incur an annual outlet fee by meeting the following criteria:
  - 1) Open more than 18 hours per week
  - 2) Store and circulate items to the general public
  - 3) Act as a circulating branch as their primary responsibility
- C. Non-optional third party services may be required to support the NC Cardinal ILS and may incur additional annual costs to the Library. Non-optional third party services must be agreed to by a two-thirds majority of all NC Cardinal libraries and approved by the State Library's NC Cardinal Program Manager. Written notification of the implementation



of non-optional third party services shall be given to all NC Cardinal libraries on or before July 1. The new service shall become effective July 1 of the following State Fiscal Year. The Library's annual third party service costs shall be calculated based upon the following formula:

% of Active Items \* Total Annual Service Cost

- D. The Library shall pay the combined total for its portion of subscription costs, if any, and third party vendor service costs, if any, as detailed in Attachment B for the current State Fiscal Year.
- E. Optional third party services that do not directly support NC Cardinal ILS maintenance may be added at the discretion of the Library. The Library shall not adopt optional third party services that may adversely affect other NC Cardinal libraries.
- F. The Library shall comply with the provisions of subscription agreements made by the Department on behalf of NC Cardinal libraries and shall accept responsibility only for the actions of the Library's own employees related to these agreements.

**V. Availability of Funds**

All terms and conditions of this Agreement are dependent upon and subject to the allocation of funds for the purposes set forth and the Agreement shall automatically terminate if funds cease to be available.

**VI. Withdrawal from NC Cardinal**

A. The Library shall have the right to discontinue participation in NC Cardinal by giving written notice on or before June 30 to the Department. The withdrawal shall be effective September 30 of the following State Fiscal Year. Upon completion of withdrawal, this Agreement shall be considered terminated.

B. Notice shall be made only through written notice to the State Librarian at the following address:

State Library of North Carolina  
4640 Mail Service Center  
Raleigh, NC 27699-4600

- C. In the event of withdrawal, the Library shall:
- 1) lose all rights and benefits to NC Cardinal service delivery and governance;
  - 2) have their patrons withdrawn from NC Cardinal resource sharing, delivery systems, and cooperative fine and fee processes;
  - 3) have sole responsibility for replacement of all services provided through NC Cardinal and the Department's subscription agreements;
  - 4) have sole responsibility for notifying third party software vendors of the Library's effective date of withdrawal from NC Cardinal;
  - 5) pay the cost to remove the Library's complete policy set, circulation rules, hold policies, library settings, staff accounts, item records, and patron records from NC Cardinal at the current rate of its hosting vendor;
  - 6) not be required to return LSTA grant monies so long as the Library is in full compliance of grant requirements; and
  - 7) not receive a refund for any portion of annual subscription costs or third party vendor costs paid by the Library as the effective date of withdrawal shall occur after completion of a full service year.

- D. In the event of withdrawal, the Department shall:
- 1) discontinue NC Cardinal funding and services for the Library on the designated termination date; and
  - 2) provide up to two (2) data export files of the Library's bibliographic, item, patron, and circulation data at no cost to the Library.

**VII. Default**

- A. A violation of any provision, policy, or requirement that is not corrected by the Library within sixty (60) days after written notice by the Department will constitute default under the terms of this Agreement.
- B. If default occurs, the Department may terminate the Library's participation in NC Cardinal by sending written notice of termination to the Library. The termination shall be effective on September 30 of the following State Fiscal Year.
- C. Upon receiving notice of termination from the Department, the Library shall proceed with withdrawal from NC Cardinal pursuant to Section VI above.

**VIII. Modification/Amendment of Agreement**

This Agreement may be amended at any time upon written agreement of the Parties.

**IX. Term and Termination of Agreement**

- A. This Agreement shall be effective upon final signature of the Parties and shall end on June 30<sup>th</sup> of the next calendar year, unless sooner terminated as set forth in Sections VI or VII above. The Library and the Department may, either by amendment to this Agreement pursuant to Section VIII above or by approval of a new Agreement, extend the term annually by July 1 for each subsequent State Fiscal Year.
- B. If the term of this Agreement is not extended and no successor agreement is to be executed upon the expiration of the term of this Agreement, the Library shall immediately proceed with withdrawal from NC Cardinal pursuant to Section VI above. Upon completion of withdrawal, this Agreement shall be considered terminated.

**X. Agreement Documents**

- A. This Agreement shall consist of the following documents in order of precedence:
- 1) Amendments to this Agreement, if any;
  - 2) This Agreement;
  - 3) Attachment A: NC Cardinal Bylaws
  - 4) Attachment B: NC Cardinal Annual Costs by Library
- B. In the event of a conflict between or among the terms of the Agreement Documents, the term in the Agreement Document with the highest precedence shall prevail. Amendments to the Agreement, if any, shall have the highest precedence, the Agreement shall have the second highest precedence, and Attachments the third highest precedence. These documents shall constitute the entire agreement between the Parties and supersede all other prior oral or written agreements.

**XI. Severability**

If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

n





**XIV. Care of Property**

The Library agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this Contract or purchased by it for this Contract and will reimburse the State for loss of damage of such property.

**XV. Access to Persons and Records**

The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all Contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the Library during and after the term of the Contract to verify accounts and data affecting fees or performance).

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Library and the Department have each executed this Agreement in duplicate originals.

**Henderson County Public Library**

\_\_\_\_\_  
Trina Rushing  
Library Director

\_\_\_\_\_  
Date

**Henderson County Board of Commissioners**

  
\_\_\_\_\_  
J. Michael Edney  
Chairman

\_\_\_\_\_  
8-7-2017  
Date

**State Library of North Carolina**

\_\_\_\_\_  
Cal Shepard  
State Librarian

\_\_\_\_\_  
Date

**North Carolina Department of Natural and Cultural Resources**

\_\_\_\_\_  
Staci T. Meyer  
Deputy Secretary

\_\_\_\_\_  
Date

**Approved as to the Availability of Funds**

Budget Code: 4601 / 535830 / 1495425

\_\_\_\_\_  
Dwayne Patterson  
Chief Financial Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Roger Odom  
Director of Procurement and Contract Monitoring

\_\_\_\_\_  
Date

# Attachment A: NC Cardinal Bylaws

July 2014

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## **Section 1: Name and Mission**

1. The name of this organization shall be NC Cardinal. NC stands for North Carolina.
2. The purpose of NC Cardinal is to provide North Carolina residents greater access to public resources.

NC Cardinal is a partnership between the State Library of North Carolina and North Carolina public library systems. NC Cardinal uses an open-source integrated library system (ILS) to expand resource sharing and cooperative services development through a single, shared online catalog.

## **Section 2: Membership**

Members are those eligible organizations that have submitted applications and been approved by the State Library. NC Cardinal is supported by the Library Services & Technology Act (LSTA) grant program which, in turn, supports the implementation of North Carolina's current LSTA Five-Year Plan. LSTA funds are awarded to the State Library of North Carolina by the Institute of Museum and Library Services (IMLS).

NC Cardinal Member Libraries must agree to:

1. participate in NC Cardinal and share their bibliographic and patron databases;
2. participate in NC Cardinal decision making and abide by Governance Committee decisions;
3. participate in resource sharing and provide in-person services to all patrons of NC Cardinal libraries in the same manner as to their own patrons; and
4. allow the use of the library name in NC Cardinal official documents and informational sites.

### **Section 2a: Application for Membership**

Prospective members may join NC Cardinal by submitting an NC Cardinal Grant Application. Applicants should understand the annual State Library of North Carolina's LSTA General Information & Provisions and the Program-Specific Information & Guidelines.

#### **Qualifications**

To be eligible for participation in NC Cardinal, public libraries must:

1. qualify for grants from the Aid to Public Libraries Fund; and
2. meet basic hardware and network speed requirements.

#### **Approval of Application**

The State Library of North Carolina may review and approve membership based upon funding and resource capacity, may refuse an application for membership, or may postpone consideration of an application for membership.

Upon approval, the applicant library must execute the NC Cardinal Memorandum of Agreement and adopt the NC Cardinal Bylaws. Failure to do so will disqualify the applicant from participation in NC Cardinal. The State Library may provide funds for the library to migrate its automated system data into NC Cardinal, to receive training in using NC Cardinal, to access the NC Cardinal services subscription, and to make other expenditures determined by the State Library to be necessary for a successful migration.

In the event that funds or program capacity are not available to support all public libraries that apply, applicants will be selected based on the following criteria:

1. expiration date of the library's automated system contract;
2. scope and complexity of the library's migration requirements; and
3. other circumstances affecting the library as determined by the State Library.

#### Section 2b: Membership Activation

Membership is effective on the date the NC Cardinal Memorandum of Agreement is fully executed.

#### Section 2c: Member Withdrawal

Prior to terminating or taking action to withdraw from NC Cardinal, the Member Library shall discuss their intentions with authorized representatives of the State Library and the NC Cardinal Governance Committee. Critical issues that the Member Library believes justify such withdrawal must be presented in written form. If discussions with the State Library and the NC Cardinal Governance Committee do not resolve the issues to the Member's reasonable satisfaction, the Member Library shall have the right to discontinue participation in NC Cardinal by give written notice on or before June 30 to the State Library, subject to the terms and conditions of the Memorandum of Agreement.

#### Section 2d: Effective Date of Withdrawal

The membership of a Member Library giving written notice on or before June 30 will cease on September 30 of the following State Fiscal Year.

#### Section 2e: Default

A violation of any provision, policy, or requirement that is not corrected by the Member Library within sixty (60) days after written notice by the State Library will constitute default under the terms of their NC Cardinal Memorandum of Agreement and these Bylaws, subject to the terms and conditions of the Memorandum of Agreement.

#### Section 2f: Electronic Balloting

At the discretion of the State Library or by a consensus vote of the Governance Committee, electronic balloting may be employed. Notice of issues for electronic ballot must be electronically emailed to each member of the Governance Committee no less than one (1) week prior to the designated "ballot start time." Electronic balloting may proceed after approval by the Governance Committee.

### Section 3: Governance Committee

The Governance Committee provides guidance to the State Library of North Carolina in terms of communications, organizational structure, review of NC Cardinal Bylaws and Memorandum of Agreement, cost sharing policies, and the approval of common, consistent policies. Powers and Authority for this committee are outlined in Section 3h, Powers and Authority.

#### Section 3a: Number and Composition

The Governance Committee shall consist of five (5) members from participating NC Cardinal Libraries and two (2) members from the State Library: the NC Cardinal Program Manager and a representative

from the Library Development Section. Governance Committee members must be selected from the Senior Management staff of Member Libraries.

NC Cardinal Member Library representation on the Governance Committee shall be composed of:

1. one (1) member from a Municipal library;
2. one (1) member from a County library;
3. one (1) member from a Regional library; and
4. two (2) members at large.

### Section 3b: Nomination

At least sixty (60) days prior to the NC Cardinal General Membership Meeting, the Governance Committee must appoint a Nominations Committee of two (2) or more Members who are not seeking election. The Nominations Committee is required to receive and coordinate nominations for election to the Governance Committee.

### Section 3c: Election

An election of Governance Committee members must be held at an NC Cardinal General Meeting to replace those members whose terms of office have expired or will expire at the end of the meeting.

### Section 3d: Terms

A term of office shall be two (2) years, to commence at the beginning of the next Quarter after the election with the exception of the first year. Following the election, an announcement of the newly elected officers will be sent to the membership promptly. Committee members may serve two (2) consecutive terms with a two-thirds (2/3) majority vote of the membership. Committee appointments shall be staggered to promote consistency as well as to accommodate change.

### Section 3e: Vacancies

Vacancies on the Governance Committee shall be filled by appointment by the Governance Committee until the next election of members.

### Section 3f: Meetings of Governance Committee

The Governance Committee shall hold at least two meetings per year, with other meetings scheduled as needed. At least thirty (30) days in advance, the General Membership shall be notified of Governance Committee meetings. Governance Committee meetings are closed and attendance is limited to Committee members, administrative staff of Member Libraries, and invited guests.

Additional meetings may be scheduled:

1. at the request of the State Library;
2. at the request of two Governance Committee members; or
3. upon receipt of a written request signed by at least fifty (50) percent of the membership.

At least one (1) annual meeting will be held for the General Membership. Members will be notified at least thirty (30) days in advance of the annual meeting. Minutes of meetings shall be kept and distributed to the membership.



### Section 3g: Attendance

It is expected that Governance Committee members will attend all meetings in person. If a Governance Committee member cannot attend a Committee meeting, the member may make advance arrangements with the NC Cardinal Program Manager and the hosting site to participate electronically, by conference call or other technology.

Governance Committee members will not send a representative to the meeting as a substitution.

If a Governance Committee member cannot actively participate in more than two (2) consecutive meetings, the member may be replaced for the duration of their term by appointment of the other members of the Governance Committee.

### Section 3h: Powers and Authority

The Governance Committee shall provide counsel and support to the State Library of North Carolina and Member Libraries in the operation of NC Cardinal by:

1. recommending policy;
2. monitoring current research and trends to determine the best practices;
3. communicating to the entire membership; and
4. reviewing and discussing recommendations from other NC Cardinal Committees and providing a final recommendation.

Topics may cover a wide range of subjects, including information technology, vendor purchases, upgrades, enhancements, support, membership costs, and budget considerations.

NC Cardinal Member Libraries will act upon recommendations approved by the Governance Committee.

### Section 3i: Voting

Only Governance Committee members may vote at a Governance Committee meeting. Each Governance Committee member has one (1) vote. This vote must be cast in person. Proxy representation and proxy voting are not allowed. If an elected member cannot attend a Committee meeting, the member has the option of making advance arrangements with the NC Cardinal Program Manager to participate via technology, or forfeit the right to vote at the meeting. A two-thirds (2/3) majority vote among Governance Committee members is required to pass a policy or recommendation.

### Section 3j: Non-voting Members

The NC Cardinal Program Manager shall be a non-voting member.

### Section 3k: Appeal Process

A Member Library(ies) may request reconsideration of a decision made by the NC Cardinal Governance Committee. A written request for reconsideration must be submitted within fourteen (14) days of the Committee decision. The appeal must include a justification for submitting the request for reconsideration, with supporting facts, and be signed by the submitting Member Library(ies). The Governance Committee will review the request for reconsideration within fourteen (14) days of submission. A written notice of action and/or decision will be distributed by the Governance Committee to the appealing Member Library(ies).

### Section 3i: Removal

Should it become necessary to dissolve the Governance Committee, a two-thirds (2/3) majority vote of no-confidence from the NC Cardinal membership shall dissolve the Governance Committee. Should the Governance Committee be dissolved, a nominating committee selected from the membership shall propose new candidates.

## Section 4: Working Committees

Category-specific NC Cardinal task forces/committees, for example Cataloging or Resource Sharing, will submit recommendations for approval to the Governance Committee. These recommendations will be voted upon for implementation. Voting will adhere to the procedures as outlined Section 3i of these Bylaws.

### Section 4a: Creation of Working Committees

Recommendations for new committees are submitted by NC Cardinal Member Libraries directly to NC Cardinal Program Staff or the NC Cardinal Governance Committee. Requests for project- or category-specific committees will be vetted and approved by the NC Cardinal Governance Committee. Committee member nominations will be solicited from Member Library Directors. Final member selections will be determined by NC Cardinal Program Staff according to the following composition:

1. at least one (1) member from a Municipal library;
2. at least one (1) member from a County library;
3. at least one (1) member from a Regional library; and
4. other members by level of expertise in the project- or category-specific area.

## Section 5: Amendment of Bylaws

The NC Cardinal Bylaws may be amended at any time by a two-thirds (2/3) majority of vote of Member Libraries. Thirty (30) days prior written notice shall be given to Member Libraries of any proposed amendment. Proposed amendments may originate from the NC Cardinal membership with signatures from one-third (1/3) of the Member Libraries.

The Bylaws shall be reviewed every two (2) years by the NC Cardinal Governance Committee at the beginning of new Committee appointments. The Committee shall recommend any modifications and submit the Bylaws for review and renewal to the Member Libraries with thirty (30) days written notice for a vote to extend or rescind the agreement.

## Section 6: Definitions

Library System	The organization unit as defined by the Evergreen Software, to be distinguished from branches, book mobiles, etc.
Member Library	A library system that participates in the NC Cardinal program.

**Attachment B – NC Cardinal Annual Costs by Library  
State Fiscal Year 2017-2018**

**Annual Cost Calculations**

A. The Department shall fund the migration costs associated with migrating from the Library's current Integrated Library System into the NC Cardinal Integrated Library System. The Department shall also fund branch costs and shared ILS costs associated with base level access for the Library's participation in NC Cardinal during the State Fiscal Year (July 1 – June 30) of the Library's migration and one (1) additional State Fiscal Year. Base level access includes access to and use of the NC Cardinal Integrated Library System (ILS) software, hardware maintenance, hardware administration, database administration, Standard Internet Protocol (SIP) services, software upgrades, second-level system support, integral components, and tools related to the statewide resource sharing distribution system. Upon the third (3rd) State Fiscal Year of participation in NC Cardinal, the Library shall fund its portion of branch costs and shared ILS costs for base level access to the NC Cardinal ILS.

B. The Library's annual costs for participation in the NC Cardinal ILS shall be calculated based upon the following formula:

**Shared ILS Costs Calculations:**

$$\text{Total Consortial Costs} - \text{Total Branch Costs} = \text{Shared ILS Costs}$$

**Library System Costs Calculations:**

$$\begin{array}{r} \text{Library's Portion of Branch Costs} \quad (\# \text{ of Qualifying Branches} * \text{ Cost per Branch}) \\ + \text{Library's Portion of Shared ILS Costs} \quad (\% \text{ of Total ILS Active Items} * \text{ Shared ILS Costs}) \\ \hline \text{Total Library Costs} \end{array}$$

C. **Total Consortial Costs** are the annually reviewed and negotiated fees charged by the NC Cardinal hosting vendor to maintain and administer the shared ILS software and hardware. These fees provide for:

- 1) maintenance for server administration;
- 2) implementation of software upgrades;
- 3) maintenance of database storage performance optimization;
- 4) upgrade of server configuration; and
- 5) support of software issues and problem resolution.

D. Total Consortial Costs are then divided into two categories:

- 1) **Total Branch Costs** are the sum of all Costs per Branch for all qualifying libraries in the consortium.
- 2) **Shared ILS Costs** are the shared portion of the Total Consortial Costs after Total Branch Costs are deducted. These Shared ILS Costs are divided among all library systems according to each library's percentage of Active Items in the shared ILS.

E. The **Library's Portion of Branch Costs** is composed of the Cost per Branch multiplied by the number qualifying branches in that Library System.



- 1) The **Cost per Branch** is the annual flat fee charged by the NC Cardinal hosting vendor for each Qualifying Branch location within a Library's service area.
- 2) A **Qualifying Branch** meets the following criteria:
  - a. Is open more than 18 hours per week;
  - b. Stores and circulates items to the general public; and
  - c. Acts as a circulating branch as their primary responsibility.
- 3) Library outlets that are not qualifying branches will not incur the annual fee.

F. The **Library's Portion of Shared ILS Costs** is determined by multiplying the Shared ILS Costs by the percentage of total active items in the shared ILS catalog that are owned by the Library.

- 1) An **Active Item** is a catalog record associated with a specific barcode which has not been withdrawn, discarded, or deleted during the fiscal year. The Library's percentage of active items is calculated based on the total number of active items in the NC Cardinal shared catalog. Active item counts for the calculation of annual costs shall be captured on January 1 of each year.

G. The Library will receive an Annual Invoice each fiscal year listing Total Library Costs.

H. Total Library Costs FY 2017-2018

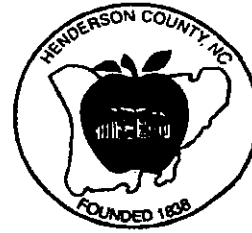
**Henderson County Public Library**

<b>Library's Portion of Branch Costs</b>	<b># of Qualifying Branches</b>	<b>Cost per Branch</b>
\$6,000	6	\$1,000

<b>Library's Portion of Shared ILS Costs</b>	<b># of Library Active Items</b>	<b>Total ILS Active Items</b>	<b>% of Total ILS Active Items</b>	<b>Shared ILS Costs</b>
\$4,195.52	287,903	6235918	4.62%	\$90,874.00

<b>Total Library Costs</b>
<b>\$10,195.52</b>

**LINE-ITEM TRANSFER REQUEST  
HENDERSON COUNTY**



**Department:** Sheriff/Detention

*Please make the following line-item transfers:*

**What expense line-item is to be increased?**

Account	Line-Item Description	Amount
<u>115431-512100</u>	<u>Salaries &amp; Wages Regular</u>	<u>\$45,648.00</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u>Total</u>	<u> </u>	<u>\$45,648.00</u>

**What expense line-item is to be decreased? Or what additional revenue is now expected?  
REVENUE**

Account	Line-Item Description	Amount
<u>114431-472406</u>	<u>Agency Reimbursement - Safelight</u>	<u>\$45,648.00</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

<b>Justification:</b>	<i>Please provide a brief justification for this line-item transfer request.</i>
To transfer the received grant money provided by Safelight via the Governors Crime Commission Grant to fund the Victims Assistance Coordinator position within the Sheriff's Office.	

*Charles D. ...* 7/28/2017  
 Authorized by Department Head Date

     
 Authorized by Budget Office Date

     
 Authorized by County Manager Date

*For Budget Use Only*

Batch #  

BA #  

Batch Date

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on August 7, 2017 at 5:30 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman J. Michael Edney presiding.

\* \* \*

The following members were present: J. Michael Edney, Thomas H. Thompson, Charlie Messer, Grady Hawkins and William Lapsley.

The following members were absent: None.

Also present: County Manager Steve Wyatt, Assistant County Manager Amy Brantley, County Attorney Russ Burrell, Finance Director J. Carey McLelland and Clerk to the Board Teresa Wilson.

\* \* \*

Commissioner Thompson moved that the following resolution (the "*Resolution*"), a copy of which was available with the Board and which was read by title:

**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A NEW HENDERSONVILLE HIGH SCHOOL FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2019**

**WHEREAS**, the Board of Commissioners of the County of Henderson, North Carolina ("*County*") has determined that it is in the best interests of County to finance the acquisition, construction and equipping of a new Hendersonville High School (the "*Project*");

**WHEREAS**, the County presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with proceeds of tax-exempt obligations and reasonably expects to execute and deliver its tax-exempt obligations (the "*Obligations*") to finance, or to reimburse itself for, all or a portion of the costs of the Project; and

**WHEREAS**, the County desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of execution and delivery of the Obligations (the "*Original Expenditures*"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Obligations, and the County intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Obligations to be executed and delivered at a date occurring after the dates of such Original Expenditures;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the County of Henderson, North Carolina as follows:

Section 1. **Official Declaration of Intent.** The County presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the County on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the

Obligations. The County reasonably expects to execute and deliver the Obligations to finance all or a portion of the costs of the Project and the principal amount of Obligations currently expected to be executed and delivered by County to pay for the costs of the Project is \$54,000,000.

Section 2. *Compliance with Regulations.* The County adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County's intent to reimburse itself for the Original Expenditures from proceeds of the Obligations.

Section 3. *Itemization of Capital Expenditures.* The Finance Officer of the County, with advice from special counsel, is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the Original Expenditures incurred and paid by the County in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Obligations.

Section 4. *Effective Date.* This Resolution is effective immediately on the date of its adoption.

On motion of Commissioner Thompson, the foregoing resolution entitled "**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A NEW HENDERSONVILLE HIGH SCHOOL FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2019**" was duly adopted by the following vote:

AYES: 5

NAYS: 0

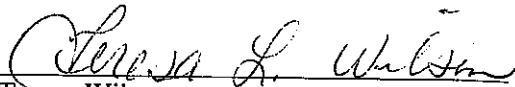


STATE OF NORTH CAROLINA            )  
  )  
  )        ss:  
COUNTY OF HENDERSON            )

I, *Teresa Wilson*, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution entitled **“RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A NEW HENDERSONVILLE HIGH SCHOOL FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2019”** adopted by the Board of Commissioners of the County of Henderson, North Carolina, at a meeting held on the 7th day of August, 2017.

**WITNESS** my hand and the corporate seal of the County of Henderson, North Carolina, this the 7<sup>th</sup> day of August, 2017.



  
Teresa Wilson  
Clerk to the Board  
County of Henderson, North Carolina

**Memorandum of Understanding between  
Henderson County and Conserving Carolina  
for creation of the Chief and Calla Bell Trail Park**

- I. **Purpose:** The purpose of this Memorandum of Understanding (MOU) is to memorialize the partnership between Henderson County (Henderson County) and Conserving Carolina (CC), in order to create the Chief and Calla Bell Trail Park and develop a trail or trails connecting to points within the park. HENDERSON COUNTY and CONSERVING CAROLINA are the only parties to this MOU (hereinafter "Party" or "Parties").
  
- II. **Background:** Henderson County is a North Carolina county formed in 1838. CC is a North Carolina nonprofit corporation with a mission of protecting and stewarding land and water resources vital to our natural heritage and quality of life and to fostering an appreciation and understanding of the natural world. In 2016, CC purchased 68 acres, more or less, located off of Highway 176 near the Henderson/Polk county line (the Property). The Property is known by CC as the Chief and Calla Bell Trail Park. The Property was purchased both to protect the conservation values of the Property, including but not limited to public recreation by creating a trail park for the residents of Henderson County and beyond. A conservation easement encumbering the Property will be conveyed to the State of North Carolina in order to protect these resources. CC now seeks to convey ownership of the Property to a public entity such as Henderson County that is better positioned to manage the anticipated recreational uses on the property. In 2016, Henderson County was awarded a grant from the North Carolina Parks and Recreation Trust Fund (PARTF) in order to purchase this tract from CC. Grant deliverables included only the transfer of the Property, but future plans include trail development across the Property as well as signage conforming to Henderson County parks. This MOU encompasses the agreement in principle shared between CC and Henderson County and sets out the Parties' roles, obligations, and particularities for the establishment of the park and the advancement of trail development at the Property.
  
- III. **Collaboration goals:** The partners acknowledge and agree that their collaborative goals include:
  - a. Transferring the Property to Henderson County to establish Chief and Calla Bell Trail Park; and

- b. Developing an appropriate length of trail(s) that will provide the optimum recreational opportunities on the Property.

**IV. Responsibilities of the Parties:** The Parties acknowledge and agree to the following responsibilities in order to attain the foregoing collaboration goals:

- a. Henderson County will pay to CC \$320,000 for the Property. Because PARTF is a reimbursement grant that requires a cancelled check as proof of payment prior to issuance of funding for the purchase, Henderson County will initially issue a check to CC for the purchase price, at which time CC will then issue a check back to Henderson County in the same amount. Once PARTF releases funding to Henderson County, the county issue another check to CC for the purchase price. CC will also provide copies of invoices to Henderson County for work performed as allowed under the grant. Henderson County will reimburse CC for all such documented expenses from the remaining PARTF funding up to an amount of \$30,000. Documentation of this transactional procedure is included in this MOU for purposes of providing context to financial auditors.
- b. Henderson County will place a NC Clean Water Management Trust Fund (CWMTF) conservation easement on the property immediately after it acquires the property. CWMTF grant funds are serving as match to PARTF funds and will help cover CC land acquisition and trail development costs. The CWMTF will permit the park and recreational uses planned for Bell Trail Park.
- c. CC will provide technical assistance services by its full-time Trails Coordinator for project design, project management, and construction oversight for trail development at the Property.
- d. CC will construct the trails and design the trailhead and park signage in partnership with Henderson County. The park name shall remain the "Chief and Calla Bell Trail Park". CC will utilize surplus funding to pay for the development of the trails.
- e. Trail planning and construction will meet the standards accepted by the Professional Trailbuilders Association and/or North Carolina State Parks.
- f. Ongoing trail maintenance will be conducted via volunteer crews provided by CC.
- g. CC will provide technical assistance services by staff in facilitating the real estate transaction of the transfer of the Bell Trail tract to Henderson County. To the extent that such expenses are eligible for reimbursement from the PARTF grant award, Henderson County will reimburse CC for the costs of writing and preparing the grant and facilitating the real estate transaction.
- h. The Parties agree that the real estate transaction must be completed within three (3) years of the execution of the PARTF grant contract.

- i. The Parties agree that at least ¼ mile of trail must be completed on the Property within three (3) years of the execution of the PARTF grant contract. The Parties will cooperate to raise any additional funds needed to complete the trail.

V. **Principal Contacts:** The principal contacts for the Parties are:

John Mitchell  
Business and Community Director  
Henderson County  
100 N. King Street  
Hendersonville, NC 28792  
[John.mitchell@hendersoncountync.org](mailto:John.mitchell@hendersoncountync.org)  
(828) 697-4819 (office)

Kieran Roe  
Executive Director  
CC  
847 Case Street  
Hendersonville, NC 28792  
[Kieran@carolinamountain.org](mailto:Kieran@carolinamountain.org)  
(828) 697-5777 (office)

VI. **Limitations:**

- a. This MOU does not create an obligation for funding or budgeting for ongoing trail maintenance or property management. All responsibilities of the Parties are subject to the availability of funds.
- b. This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not a Party to this agreement against CC, Henderson County, or their partners. This MOU does not apply to any person not directly associated with a Party.

VII. **Intellectual Property/Names and Emblems:** By signing this MOU, each Party consents to the use of its name and unique artwork, e.g. the logo, of Henderson County and CC on material, including material published in any format, for the promotion of the Chief and Calla Bell Trail Park and its network of trails to the public and private parties.

VIII. **Proprietary Information:** To carry out the joint work resulting from this MOU, Henderson County and CC may need to disclose to each other confidential information. The Parties agree to clearly identify confidential information disclosed to each other in written form, and to memorialize in writing, within a reasonable time, confidential oral communications. The Parties agree not to disclose information not identified as confidential.

IX. **Commencement/Duration/Modification/Termination:** This MOU takes effect when signed by all Parties and will remain in effect until either Party terminates the MOU by providing written notice to the other. This MOU may be extended or modified at any time per the mutual written consent of the Parties. Upon receipt of the



termination notice, all Parties will take all reasonable actions to cancel outstanding commitments and limit financial expenditures related to the work described in this MOU.

- X. **Financial Provisions**: All commitments made by Henderson County and CC in this MOU are subject to the availability of funds. Nothing in this MOU, in and of itself, obligates either Party to expend funds or to enter into any contract or incur financial obligations that would be inconsistent with either Party's budget priorities.
- XI. **Compliance with Laws**: The Parties will observe all applicable laws and regulations during the execution of the work described in this MOU. The Parties agree and acknowledge that all parties to this transaction are regulated by the federal and state laws and regulations governing governmental and nonprofit corporations as applicable. Neither Party shall engage in any transaction that is illegal or fraudulent.
- XII. **Approval**: This MOU takes effect upon the date of the last signature below.

**FOR HENDERSON COUNTY:**

\_\_\_\_\_  
John Mitchell, Business and Community Director

\_\_\_\_\_  
Date

**FOR CONSERVING CAROLINA:**

\_\_\_\_\_  
Kieran Roe, Executive Director

\_\_\_\_\_  
Date



**CONSERVATION EASEMENT**  
**Chief and Calla Bell Trail Park Property**

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**Prepared by: Conserving Carolina and Clean Water Management Trust Fund**

**After Recording Return to: Conserving Carolina, 847 Case Street, Hendersonville, NC 28792**

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**NORTH CAROLINA**  
**Tax Parcel No. 10000760**

**Henderson COUNTY**  
**CWMTF No. 2015-27**

**THIS DEED OF CONSERVATION EASEMENT** ("Conservation Easement") is made, given, granted and executed on this the [redacted] day of [redacted], 2017 by and between **Henderson County**, a local government of the State of North Carolina with an address at 200 N. Grove St., Suite 129, Hendersonville, NC, 28792 ("Grantor") and the **STATE OF NORTH CAROLINA** with its address c/o State Property Office, Attn: CWMTF Real Property Agent, 1321 Mail Service Center, Raleigh, NC 27699-1321 ("State" or "Grantee," and together with the Grantor, the "Parties") acting by and through **NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND**, a division of the North Carolina Department of Natural and Cultural Resources with an address at 1651 Mail Service Center, Raleigh, North Carolina 27699-1651, Attn: Contract Administrator ("Fund").

**RECITALS & CONSERVATION PURPOSES**

**A.** Grantor owns in fee simple absolute certain real property lying and being in Green River Township, unincorporated, North Carolina (the "Property"), and more particularly described on the attached "Exhibit A" incorporated by reference as if fully set forth herein.

**B.** Grantor is a local government with a Parks and Recreation Department that will help manage and maintain the Property.

**C.** The State has enacted the North Carolina Conservation and Historic Preservation Agreements Act (the "Act"), Chapter 121, Article 4 of the North Carolina General Statutes ("N.C.G.S."), which provides for the enforceability of restrictions, easements, covenants or conditions "appropriate for retaining land or water areas predominantly in their natural, scenic, or open condition . . . ."

**D.** The Clean Water Management Trust Fund is authorized by N.C.G.S. Chapter 143B, Article 2, Part 41 to acquire land and interests in land:

- for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses; and
- for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs; and
- to provide buffers around military bases to protect the military mission; and
- that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes; and
- that contributes to the development of a balanced State program of historic properties.

**E.** Grantor and Grantee have agreed to set aside 60.03 acres of the Property (as described in the attached "Exhibit B" incorporated by reference as if fully set forth herein and hereinafter referred to as the "Easement Area") for the purpose of creating a conservation easement, to

- preserve, enhance, restore, and maintain the natural features and resources of the Easement Area, to provide habitat for native plants and animals, to control runoff of sediment, and to improve and maintain water quality, including providing environmental protection for surface waters of portions of the Green River and its tributaries.
- protect and preserve the ecological diversity represented by the Easement Area for recreational, scientific, educational, cultural and aesthetic purposes.

Moreover, Grantor and Grantee recognize that the Easement Area has other conservation values, including fish and wildlife conservation, open space, and scenic values (hereinafter, collectively with the conservation values defined in this Section E of the Recitals and Conservation Purposes of this Agreement, the "Conservation Values").

**F.** Grantor grants and conveys unto the Grantee, its successors, assigns and designated representatives, a right of ingress, egress, and regress from a public road across the lands of the Grantor to the Easement Area, for the purpose of gaining uninterrupted access to the Easement Area described herein above.

**G.** Grantor and Grantee recognize that the Easement Area contains unnamed tributaries to the Green River and is located within 500 feet of the main stem of the Green River, and that the Easement Area has been deemed by the State to qualify as a riparian buffer, addressing the protection, including, but not limited to, cleanup and prevention of pollution, of the State's surface waters, and the establishment of a network of riparian buffers.

**H.** Grantor and Grantee recognize that the Easement Area represents the ecological diversity of North Carolina, including, but not necessarily limited to, natural features such as Montane Cliffs, intact Canada



Hemlock Forest and Montane oak/hickory natural communities. Grantor and Grantee further recognize that restricting use of the Easement Area in the manner set forth herein will facilitate preservation and conservation of these natural features for recreational, scientific, educational, cultural, and aesthetic purposes.

**I.** Grantor has received or will receive a grant from the Fund, identified as Grant Contract No. 2015-27 (the "Grant Contract"), entered into between the Grantor and the Fund and effective as of [REDACTED], in consideration of which the Grantor has agreed to enter into this Conservation Easement (the "Project"). The terms and conditions of said Grant Contract are hereby incorporated by reference. It is on file and available for public inspection in the offices of the Grantor, the Fund, and the North Carolina Department of Natural and Cultural Resources ("NC DNCR").

**J.** Grantor and Grantee acknowledge that the Easement Area is currently unimproved except as permitted in Article V of this Conservation Easement. The characteristics of the Easement Area, its current use and state of improvement are described in a Baseline Documentation Report (the "BDR"), as incorporated into the Grant Contract, that is on file in the offices of the Grantor and the Fund and available for public inspection. The Parties acknowledge that the BDR is the appropriate basis for monitoring compliance with the objectives of preserving the conservation and water quality values; and that it is not intended to preclude the use of other evidence (e.g. surveys, appraisals) to establish the present condition of the Easement Area if there is a controversy over such present condition.

**NOW, THEREFORE**, in consideration of the premises and the mutual benefits recited herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Grantor hereby unconditionally and irrevocably gives, grants and conveys forever and in perpetuity to the Grantee, its successors and assigns, and the Grantee hereby accepts, this Conservation Easement of the nature and character and to the extent hereinafter set forth in, over, through and across the Easement Area, together with the right and easement to preserve and protect the Conservation Values.

The purpose of this Conservation Easement is to protect and preserve the Conservation Values as outlined above in Section E of the Recitals and Conservations Purpose(s) and it shall be so held, maintained, and used therefore. Grantor hereby conveys to Grantee all development rights that are now or hereafter allocated to, implied or inherent in the Easement Area, and the Parties agree that such rights are terminated and extinguished, and may not be used on or transmitted to any portion of the Property, as it now or hereafter may be bounded or described, or to any other property. It is the further purpose of this Conservation Easement to prevent any use of the Easement Area that will significantly impair or interfere with the preservation of said Conservation Values. Grantor intends that this Conservation Easement will restrict the use of the Easement Area to such activities as are consistent with the Conservation Values described in the Recitals herein.

#### **ARTICLE I. DURATION OF EASEMENT**

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, its representatives, successors, assigns, lessees, agents and licensees.

#### **ARTICLE II. RIGHTS RESERVED TO GRANTOR**

Grantor reserves certain rights accruing from the fee simple ownership of the Property, including the right to engage in or permit others to engage in the uses of the Easement Area that are not inconsistent with the purpose(s) of this Conservation Easement. All rights reserved by the Grantor, are reserved for Grantors, their representatives, successors, and assigns, and are considered to be consistent with the purpose(s) of this Conservation Easement. Except for the specific restrictions and prohibitions made applicable herein to the Easement Area, Grantor shall continue to own and may use the Property in any lawful manner. The Parties acknowledge and agree that they have no right to agree to any activity that would result in the termination of this Conservation Easement.

The Easement Area shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. The following uses are reserved as indicated:

**A. Passive Recreational Use.** Grantor reserves the right to engage in and to permit others to engage in passive recreational uses of the Easement Area requiring minimal surface alteration of the land, so long as related alterations, construction, improvements, maintenance, activities and uses pose no threat to the Conservation Values. By way of illustration, such passive recreational uses may include non-commercial hunting, fishing, hiking, walking, scientific study, animal/plant observation, nature and environmental education, historic tours, photography, and any other purposes consistent with these accepted uses and the maintenance of the Conservation Value, subject to all applicable federal, state and local laws and regulations. All improvements shall be subject to the terms and conditions set forth herein and by the aforementioned Grant Contract. Usage of motorized vehicles in the Easement Area is prohibited, except as they are used exclusively for management, maintenance, or stewardship purposes, and on existing trails, paths or roads.

**B. Public Use and Access.** Grantor reserves the right to allow public access and use of the Easement Area for the purpose of creating open space with associated passive recreational activities as provided for herein.

**C. Hiking and Greenway Trails.** Grantor reserves the right to construct and maintain paved and/or unpaved trails on the Easement Area. All unpaved trails must be located a minimum distance of fifty (50) feet from the top of the bank and tributaries of the Green River, unless such locations are physically impracticable. All paved trails must be located a minimum distance of 30 feet from the top of bank of surface waters. All trails, paved and/or unpaved, must be located so as not to impair the Conservation Values as set forth herein. In the construction of such trails and when required by the terrain, boardwalks, ramps and handrails are permitted herein. The Grantor may also construct and maintain park benches, litter receptacles, and trail/feature signs along the trails. All necessary care shall be taken to complete the construction of such features in a manner so as not to impair any Conservation Values either during or after construction.

**I. Vegetation Management.** Grantor reserves the right to manage vegetation for the following activities: (1) boundary marking, fencing, and signage; (2) selective cutting and prescribed burning and the application of herbicides and pesticides for fire containment, insect and disease control, restoration of hydrology, wetlands enhancement, and or control of invasive exotic plants; and (3) removal of damaged trees and debris caused by storms and fire and posing a threat to life or property.

**E. Early Successional Habitat Areas.** Grantor reserves the right to maintain existing early successional habitat areas in early successional habitat for the purpose of providing habitat diversity for wildlife species and may include the planting of various native grasses, forbs, and herbaceous vegetation. This activity must be conducted a minimum distance of 100 feet from surface waters as measured from top of bank.

**F. Native Community Restoration, Management, and Maintenance.** Grantor reserves the right to perform all activities necessary to restore, manage, and/or maintain the native plant and animal communities on the Easement Area. All necessary care shall be taken to protect all Conservation Values and restoration and management shall be carried out in a manner so as not to cause or allow harm or degradation to any Conservation Values either during or after restoration activities. Specific activities allowed, with the goals and objectives of native plant and animal community preservation include, but may not be limited to:

Prescribed burning, including creation of firebreaks  
Selective timber harvesting following approved Forest Management Plan

**H. Hunting and Fishing.** Grantor reserves the right to hunt and fish pursuant to all federal, state, and local rules and regulations.

### **ARTICLE III. PROHIBITED AND RESTRICTED ACTIVITIES**

Any activity on, or use of, the Easement Area inconsistent with the purpose(s) of this Conservation Easement is prohibited. The Easement Area shall be maintained in its natural, scenic, wooded and open condition and restricted from any development or use that would impair or interfere with the purpose(s) of this Conservation Easement.

**Except for those rights specifically reserved to Grantor in Article II and without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted.**

**A. Industrial and Commercial Use.** Industrial and commercial activities are prohibited on the Easement Area.

**B. Agricultural, Grazing and Horticultural Use.** Agriculture, grazing, horticultural and animal husbandry operations and any rights of passage for such purposes are prohibited on the Easement Area.

**C. Disturbance of Natural Features, Plants and Animals.** There shall be no cutting or removal of trees, or the disturbance of other natural features within the Easement Area except as noted in Article II.

**D. Construction of Buildings and Recreational Use.** There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier, landing, dock or any other temporary or permanent structure or facility on or above the Easement Area.

**E. Signs.** Signs are not permitted within the Easement except as follows: no trespassing signs; local, state, or federal traffic or similar information signs; for sale or lease signs; signs identifying the Conservation Values of the Easement; signs identifying the Grantor as owner of the Property; signs identifying the Grantee as holder of the Conservation Easement; and educational and interpretative signs.

**F. Mineral Use, Excavation, Dredging.** There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, hydrocarbons, or other materials. There shall

be no change in the topography of the land in any manner except as necessary for the purpose of combating erosion or incidental to any conservation management activities otherwise permitted on the Easement Area.

**G. Wetlands and Water Quality.** Except as set forth in Article II above, there shall be no pollution or alteration of surface waters and no construction or other activities that would be detrimental to water quality or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Easement Area or into any surface waters, or cause soil degradation or erosion, nor any diking, dredging, alteration, draining, filling or removal of wetlands, except activities to restore natural hydrology, wetlands enhancement, or to enhance or improve water quality as permitted by state and any other appropriate authorities, and then only after written approval is granted by the Fund for such activities.

**H. Dumping.** Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, or machinery, or other materials on the Easement Area is prohibited.

**I. Conveyance and Subdivision.** The Easement Area or any underlying property interest within the Easement Area may not be subdivided, partitioned nor conveyed, except in its current configuration as an entity or block of property.

**J. Open Space and Development Rights.** The Easement Area shall not be used to satisfy open space requirements of any cluster or other development scheme; nor shall the development rights encumbered hereby be transferred to any other land pursuant to a transfer of development rights scheme or cluster development arrangement or otherwise.

**K. Mitigation.** There shall be no use of the Easement Area or any portion thereof to satisfy compensatory mitigation requirements under 33 USC Section 1344 or NCGS §143-214.11 or any successor or replacement provision of the foregoing.

#### ARTICLE IV. ENFORCEMENT AND REMEDIES

**A. Enforcement and Remedies.** To accomplish the purpose(s) of this Conservation Easement, Grantee is allowed to prevent any activity on or use of the Easement Area that is inconsistent with the purpose(s) of this Conservation Easement, and to require the prompt restoration to the condition required by this Conservation Easement of such areas or features of the Easement Area that may have been damaged by such activity or use. Upon any breach of the terms of this Conservation Easement by Grantor that comes to the attention of the Grantee, the Grantee shall, except as provided below, notify the Grantor in writing of such breach. The Grantor shall have ninety (90) days after receipt of such notice to correct the conditions constituting such breach. If the breach remains uncured after ninety (90) days, the Grantee may enforce this Conservation Easement by appropriate legal proceedings including damages, injunctive and other relief. The Grantee shall also have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Easement Area by acts which may be unlawful or in violation of this Conservation Easement; (b) to otherwise preserve or protect its interest in the Easement Area; or (c) to seek damages from any appropriate person or entity. Notwithstanding the foregoing, the Grantee reserves the immediate right, without notice, to obtain a temporary restraining order, injunction or other appropriate relief if the breach of the term of this Conservation Easement is or would irreversibly or otherwise materially impair the benefits to be derived from this Conservation Easement. The Grantor and Grantee acknowledge that under such circumstances damage to the Grantee would be irreparable and remedies at law will be inadequate. The rights and remedies of the Grantee



provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available to Grantee in connection with this Conservation Easement, including, without limitation, those set forth in the Grant Contract under which this Conservation Easement was obtained.

**B. Access for Inspection and Right of Entry.** Grantee shall have the right, by and through their agents and employees, to enter the Property to inspect the Property for compliance with this Conservation Easement at all reasonable times and with prior notice and, if necessary, cross other lands retained by the Grantor for the purposes of (1) inspecting the Property to determine if the Grantor is complying with the covenants and purpose(s) of this Conservation Easement; (2) enforcing the terms of this Conservation Easement; (3) taking any and all actions with respect to the Property as may be necessary or appropriate with or without order of the Court, to remedy or abate violations hereof; and (4) making scientific and educational observations and studies and taking samples in such a manner as will not disturb the quiet enjoyment of the Property by the Grantor.

**C. Termination and Proceeds of Property Rights Created.** This Conservation Easement gives rise to a property right that is immediately vested in the Grantee at the time of recordation, with a fair market value that is equal to the proportionate value that the Conservation Easement bears to the value of the Property as a whole on the date of the recording of this Conservation Easement. This proportionate value shall remain constant.

1. **Eminent Domain.** Whenever all or part of the Property is taken by exercise of eminent domain by public, corporate or other authority, or by negotiated sale in lieu of condemnation, so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor shall immediately give notice to Grantee and the Fund, and shall take all appropriate actions at the time of such taking or sale to recover the full value of the taking and all incidental or direct damages resulting from the taking. The Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding according to Grantee's proportional interest in the value of the Property as determined under Treasury Regulations §1.170A-14(g)(6)(ii) or any successor regulation. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Property, or any damages otherwise awarded as a result of judicial proceeding, *minus* the Grantor's expenses from such transaction or proceeding. As allowed by NCGS §146-30(a), Grantee shall use its share of the Proceeds of Sale in a manner consistent with the purpose(s) of the Conservation Easement as set forth herein. Notwithstanding the foregoing, all Proceeds of Sale shall be distributed among the Parties according to each Party's respective contribution to the purchase price of the Property and this Conservation Easement. For the purposes of determining any distribution of proceeds pursuant to this section, Grantor's proportionate contribution to the purchase price shall be deemed to be 37%, and Grantee's proportionate contribution to the purchase price shall be deemed to be 62%.

2. **Changed Conditions.** If a subsequent, unexpected change in conditions surrounding the Property makes impossible or impractical the continued use of the Property for the purpose(s) of this Conservation Easement as set forth herein, and the Conservation Easement is extinguished by judicial proceeding, the Grantee, its successor and assigns, shall be entitled to a portion of the proceeds of any sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding according to Grantee's proportional interest in the value of the Property as determined under Treasury Regulations §1.170A-14(g)(6)(ii) or any successor regulation. "Proceeds of Sale" shall mean

the cash value of all money and property paid, transferred or contributed in consideration for or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Property, or any damages otherwise awarded as a result of judicial proceeding, *minus* the Grantor's expenses from such transaction or proceeding. As allowed by NCGS §146-30(a), Grantee shall use its share of the Proceeds of Sale in a manner consistent with the purpose(s) of the Conservation Easement as set forth herein. Notwithstanding the foregoing, all Proceeds of Sale shall be distributed among the Parties according to each Party's respective contribution to the purchase price of the Property and this Conservation Easement. For the purposes of determining any distribution of proceeds pursuant to this section, Grantor's proportionate contribution to the purchase price shall be deemed to be 37%, and Grantee's proportionate contribution to the purchase price shall be deemed to be 62%.

**D. Acts Beyond Grantor's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury or change in the Easement Area resulting from the acts of third parties not authorized by Grantor, or from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, property damage or harm to the Easement Area resulting from such causes.

**E. Costs of Enforcement.** Any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, any costs of restoration necessitated by Grantor's acts or omissions in violation of the terms of this Conservation Easement, shall be borne by Grantor.

**F. No Waiver.** Enforcement of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights hereunder in the event of any breach of any term set forth herein shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or of any other term of this Conservation Easement or of Grantee's rights. No delay or omission by Grantee in exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

## ARTICLE V. TITLE

The Grantor covenants and represents and warrants (i) that the Grantor is the sole owner and is seized of the Property and Easement Area in fee simple and has good right to grant and convey the aforesaid Conservation Easement; (ii) that there is legal access to the Property and the Easement Area, (iii) that the Property and Easement Area are free and clear of any and all encumbrances, except those permitted exceptions outlined below, none of which would nullify, impair or limit in any way the terms or effect of this Conservation Easement; (iv) that Grantor shall defend its title against the claims of all persons whomsoever; and (v) that the Grantee, its successors and assigns, shall have the right to monitor and defend the terms of the aforesaid Conservation Easement.

## ARTICLE VI. MISCELLANEOUS

**A. Stewardship of the Conservation Easement.** Pursuant to the terms of the Grant Contract and any contract for stewardship of the Easement Area entered into pursuant to the Grant Contract, Conserving Carolina will monitor and observe the Easement Area in perpetuity to assure compliance with the purposes and provisions of this Conservation Easement and the provisions of the Grant Contract, and it will report on the condition of the Easement Area, or provide for such reporting to the State and the Fund no less frequently than once a year; and further will report immediately to the State and the Fund any observed and/or known violations

of this Conservation Easement or the Grant Contract. The Parties acknowledge that the associated stewardship monies awarded under the Grant Contract are administered pursuant to NCGS §143B-135.236 which establishes the North Carolina Conservation Easement Endowment Fund, or any successor law, and the internal policies and procedures of the Fund, and that Conserving Carolina's obligation to monitor the Easement Area at any given time is contingent on the availability of said stewardship funds. Further, the Parties acknowledge that this obligation to monitor the Easement Area is assignable provided such assignment is made with the prior written approval of the Fund and evidenced by a written instrument signed by the Parties thereto and recorded in the Office of the Register of Deeds of Henderson County. Provided further, that any such assignment of Conserving Carolina's obligation to monitor the Easement Area shall include a right of entry onto the Property and the Easement Area for the assignee of said monitoring obligation, and shall require the monitoring to be carried out in accordance with and subject to NCGS §143B-135.236 or any successor law, and the Fund's internal stewardship policies and procedures. The Parties specifically acknowledge that neither Conserving Carolina's obligation to monitor the Easement Area, nor its assignment of said obligation, shall have any effect on the rights and obligations of the Grantee of this Conservation Easement. Further, the Parties covenant that the obligation to provide monitoring of the Easement Area will survive any transfer of Grantor's fee interest in the Property.

**B. Subsequent Transfers of the Fee.** Grantor agrees for itself, its successors and assigns, that in the event it transfers the Property, or any portion thereof including the Easement Area, to notify the Grantee and the Fund in writing of the names and addresses of any party to whom the Property is to be transferred at or prior to the time said transfer is consummated. Grantor, for itself, its successors and assigns, further agrees to make specific reference to this Conservation Easement in a separate paragraph of any subsequent lease, deed, or other legal instrument by which any interest in the Property is conveyed. The Property owner shall not convey the Property or any interest therein, and shall not incur, assume, or suffer to exist any lien, upon or with respect to the Property, without disclosing to the prospective buyer the Conservation Easement, the obligations of the Property owner and limitations on use of the Property

**C. Subsequent Transfers of the Conservation Easement.** The Parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable with any such assignee having all the rights and remedies of Grantee hereunder. The Parties hereby covenant and agree, that in the event this Conservation Easement is transferred or assigned, the transferee or assignee of the Conservation Easement will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, or any successor section, and the regulations promulgated thereunder (the "Code") that is organized or operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Code, a qualified holder as that term is defined in the Act or any successor statute, and a qualified grant recipient pursuant to N.C.G.S. Chapter 143B, Article 2, Part 41. The Parties further covenant and agree that the terms of the transfer or the assignment will be such that the transferee or assignee will be required to continue to carry out in perpetuity the purpose(s) of the Conservation Easement that the contribution was originally intended to advance as set forth herein, but acknowledge specifically that any transfer or assignment of the Conservation Easement shall have no effect on Conserving Carolina's obligation to provide stewardship of the Conservation Easement as set forth in this Article VI.

**D. Existing Responsibilities of Grantor and Grantee Not Affected.** Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation to the Grantor as owner of the Property, which includes the Easement Area. Among other things, this shall apply to:

1. Taxes. The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If the Grantee is ever required to pay any taxes or assessments on its interest in the Easement Area, the Grantor will reimburse the Grantee for the same.
2. Upkeep and Maintenance. The Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property, including the Easement Area, to the extent it may be required by law. The Grantee shall have no obligation for the upkeep or maintenance of the Easement Area.
3. Liability and Indemnification. If the Grantee is ever required by a court to pay damages resulting from personal injury or property damage that occurs on the Property, including the Easement Area, the Grantor shall indemnify and reimburse the Grantee for these payments, as well as reasonable attorneys' fees and other expenses of defending itself, unless the Grantee has committed a deliberate act that is determined to be the sole cause of the injury or damage.

**E. Conservation Purpose.** Grantor and Grantee, for itself, its successors and assigns, agree that this Conservation Easement shall be held exclusively for conservation purposes set forth by the Grant Contract, this Conservation Easement and as specified in Section 170(h)(4)(A) of the Code. Further, this Conservation Easement shall be construed to promote the purposes of the Act and such purposes of this Conservation Easement as are defined in Section 170(h)(4)(A) of the Code.

**F. Recording.** Grantee shall record this instrument and any amendment hereto in timely fashion in the official records of Henderson County, North Carolina, and may re-record it at any time as may be required to preserve Grantee's rights.

**G. Notices.** Any notices shall be sent by registered or certified mail, return receipt requested, to the parties at their addresses shown below:

If to Grantee:  
 CWMTF Real Property Agent  
 1321 Mail Service Center  
 Raleigh, NC 27699-1321

If to Owner:  
 Henderson County  
 200 N.Grove St., Ste 129  
 Hendersonville, NC 28792

**H. Amendments.** Grantor and Grantee, or their successors in interest in the Property, are free to jointly amend this Conservation Easement to meet changing conditions, provided that no amendment will be allowed that is inconsistent with the purpose(s) of this Conservation Easement or affects the perpetual duration of this Conservation Easement. Such amendment(s) require the written consent of both Grantor and Grantee and shall be effective upon recording in the public records of Henderson County, North Carolina.

**I. Environmental Condition of the Property.** The Grantor warrants, represents and covenants to the Grantee that to the best of its knowledge after appropriate inquiry and investigation: (a) the Property described herein is and at all times hereafter will continue to be in full compliance with all federal, state and local environmental laws and regulations; (b) as of the date hereof there are no hazardous materials, substances,



wastes, or environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith; (c) that there is no environmental condition existing on the Property or the Easement Area that may prohibit or impede use of the Property or the Easement Area for the purpose(s) set forth herein; and (d) the Grantor will not allow such uses or conditions.

**J. Indemnity.** The Grantor agrees to the fullest extent permitted by law, to protect, indemnify and hold harmless Grantee from and against all claims, actions, liabilities, damages, fines, penalties, costs and expenses suffered as a direct or indirect result of any violation of any federal, state, or local environmental or land use law or regulation or of the use or presence of hazardous substance, waste or other regulated material in, on or under the Property.

**K. Entire Agreement.** The Recitals set forth above and the exhibits, if any, attached hereto are incorporated herein by reference. This instrument, including the Grant Contract incorporated by reference herein, sets forth the entire agreement of the Parties with respect to the Project and supersedes all prior discussions, negotiations, understandings or agreements relating to the Project. To the extent that this Conservation Easement is in conflict with the Grant Contract, the terms of the Conservation Easement shall control.

**M. Interpretation.** This Conservation Easement shall be construed and interpreted under the laws of the State and the United States, and any ambiguities herein shall be resolved so as to give maximum effect to the conservation purposes sought to be protected herein. The normal rule of construction of ambiguities against the drafting party shall not apply in the interpretation of this Conservation Easement. Further, this Conservation Easement shall be construed to promote the purposes of the Act, which authorizes the creation of conservation agreements for purposes including those set forth herein, and such conservation purposes as are define in Section 170(h) (4) (A) of the Code. If any provision of this Conservation Easement is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

**N. Parties.** Every provision of this Conservation Easement that applies to the Grantor or to the Grantee shall likewise apply to their respective heirs, executors, administrators, successors and assigns.

**O. No Extinguishment through Merger.** The Parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property and Easement Area. Further, the Parties agree that should Grantee, or any successor in interest to Grantee, acquire title to all or a portion of the fee interest in the Property subject to this Conservation Easement, (i) said owner shall observe and be bound by the obligations and the restrictions imposed upon the Property by this Conservation Easement, and (ii) this Conservation Easement shall not be extinguished through the doctrine of merger in whole or in part in view of the public interest in its enforcement.

**P. Subsequent Liens.** No provisions of this Conservation Easement shall be construed as impairing the ability of Grantor to use this Property for collateral for borrowing purposes, provided that any mortgage or lien arising there from shall be subordinated to this Conservation Easement.

**Q. Gender.** The designations Grantor, Grantee, State and Fund, as used herein shall include the Parties, their heirs, administrators, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as the context may require.

**R. Headings.** The headings of the various sections of this Conservation Easement have been inserted for convenience only and shall not modify, define, limit or expand the express provisions of this Conservation Easement.

**TO HAVE AND TO HOLD** unto the State by and through the Fund, its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor, Grantor's representatives, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

[See next page for signatures and notary acknowledgement]

IN WITNESS WHEREOF, Grantor and Grantee, by authority duly given, have hereunto caused these presents to be executed in such form as to be binding, the day and year first above written.



[Corporate Seal]

GRANTOR:  
HENDERSON COUNTY

BY:  
NAME:  
TITLE:

J. Michael Edney  
J. Michael Edney  
Chair

ATTEST:

Teresa L. Wilson  
NAME, Secretary

NORTH CAROLINA  
HENDERSON COUNTY

I, the undersigned Notary Public, do hereby certify that Teresa L. Wilson personally came before me this date and acknowledged that he/she is the Clerk to BOB of Henderson County, and that by authority duly given and as the act of the corporation, the foregoing document was signed in its name by J. Michael Edney its TITLE, sealed with its corporate seal and attested by him/herself as its Chairman. Witness my hand and official stamp or seal, this the 7th day of August, 2017.

Joanne Martin Hinson, Notary Public  
Print Name: Joanne Martin Hinson

My Commission Expires: May 23, 2018

STAMP/SEAL

JOANNE MARTIN HINSON  
Notary Public, North Carolina  
Henderson County  
My Commission Expires  
May 23, 2018

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

**GREEN RIVER TOWNSHIP  
HENDERSON COUNTY, NORTH CAROLINA**

**BEING** all of that real property described in a deed from J. Yorke Pharr, III, and wife, Barbara V. Pharr, to Conserving Carolina, which deed was recorded on December 29, 2016 in the office of the Register of Deeds for Henderson County at Deed Book 1692, Page 258.



