

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
TUESDAY, SEPTEMBER 4, 2012**

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 Tommy Thompson, Vice-Chairman Bill O'Connor, Commissioner Larry Young, Commissioner Charlie Messer, Commissioner Michael Edney, County Manager Steve Wyatt, Interim Assistant County Manager David Whitson, County Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Public Information Officer Christy DeStefano, Finance Director J. Carey McLelland, Planning Director Anthony Starr, Engineer Marcus Jones, Research/Budget Analyst Amy Brantley, Fire Marshal Rocky Hyder, Planner Matt Champion, Assessor/Tax Collector Stan Duncan, Senior Planner Autumn Radcliff, DSS Director Liston Smith, Real Property Supervisor Nick Mazzarella, and Code Enforcement Director Toby Linville.

### CALL TO ORDER/WELCOME

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

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Joseph, John, and James Weiser of the Lego and Robotics 4-H Club.

### INFORMAL PUBLIC COMMENT

1. Karen Rhoads – Mrs. Rhoads questioned if soil testing had been done on the Boyd Property.

### CLOSED SESSION

The Board is requested to go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a), for the following reason(s):

Pursuant to N.C. Gen. Stat. §143-318.11(a)(4), to discuss matters relating to the location or expansion of industries or other businesses in Henderson County, including agreement on a tentative list of economic development incentives that may be offered by the Board in negotiations.

*Commissioner O'Connor made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(4). All voted in favor and the motion carried.*

*Commissioner O'Connor made the motion that the Board go out of closed session and reconvene into open session. All voted in favor and the motion carried.*

### DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Edney requested the addition of 1995 Courthouse renovations under discussion.

*Commissioner Edney made the motion to adopt the Agenda with the addition of discussion of the 1995 Courthouse renovations. All voted in favor and the motion carried.*

### CONSENT AGENDA

*Commissioner O'Connor made the motion to adopt the Consent Agenda as presented. All voted in favor and the motion carried.*

CONSENT AGENDA consisted of the following:

APPROVED: September 19, 2012

**Minutes**

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

August 6, 2012 – Regularly Scheduled Meeting

August 8, 2012 – Special Called Meeting

**Tax Collector’s Report**

Tax Collector Clerk Kathy Johnson had presented the Tax Collector’s Report to the Commissioners dated August 24, 2012 for information only. No action was required.

**County Financial Report/Case Balance Report – July 2012**

The July 2012 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 July:

- Dues/Non-Profit Contributions – 1<sup>st</sup> quarter non-profit contribution payments paid in advance
- Elections – annual voting equipment hardware and software maintenance contract paid in July
- Register of Deeds – printing and binding costs to be covered by a budget amendment from the ROD’s restricted fund balance for automation and enhancements
- Garage – fuel purchases for the County’s fleet to be allocated out to departments and utility charges for the month of July
- Information Technology – non-capital technology purchases for software and annual maintenance contracts appropriated in the current fiscal year for various departments
- Rescue Squad – 1<sup>st</sup> quarter non-profit contribution payment paid in advance
- Mental Health – payment of mental health maintenance of effort funds appropriated for the fiscal year and paid in July to Western Highlands Area Mental Health Authority
- Public Library – blanket purchase order encumbrance for the purchase of publications throughout the fiscal year
- Non-Departmental – 1<sup>st</sup> quarter property and liability insurance premium paid in July and to be allocated out to all departments

The YTD deficit in the Revaluation Reserve Fund is due to a July payment of \$23k for N.C Property Tax System version updates/enhancements being implemented.

The YTD deficit in the Emergency Telephone System (911) Fund is due to expenditures running slightly ahead of revenues received for the month of July. Fund balance of \$271,713 was appropriated to cover expenditures in this Fund for FY2013.

The YTD deficit in the CDBG – the Mud Creek Grant Project Fund and the CDBG – Talley Drive Grant Project Fund is due to the timing difference between the expenditure of grant funds and subsequent reimbursement from the state.

Motion:

*I move that the Board of Commissioners approves the July 2012 County Financial Report and Cash Balance Report as presented.*

**Public Schools Financial Reports – July 2012**

The Henderson County Public Schools provided the July 2012 Local Current Expense Fund and Other Restricted Funds Financial Reports for the Board’s information.

Motion:

*I move that the Board of Commissioners approves the Henderson County Public Schools July 2012 Financial Reports as presented.*

#### **Scattered Site Housing Rehabilitation Grant Administration Contract**

The County has used outside firms to administer this grant program for prior grant cycles. The program requirements and documentation are quite large and require a tremendous effort to manage. The grant program provides funds to hire a firm to manage the grant. No local funds are required for the grant administration. Planning Staff solicited proposals for this service and recommends Benchmark CMR as the most qualified firm.

Most local governments hire outside firms for this service because of the complex nature of the grant requirements. The Planning Department does not have the necessary staffing to administer this grant in house. The County received this grant once every 3 years from the State. Benchmark's proposal would provide complete service for a fixed fee of \$59,500.00. Consulting type contracts over \$50,000 require Board approval as specified in the FY2013 Budget Ordinance.

Motion:

*I move that the Board authorizes the Planning Director to enter into a contract with Benchmark CMR for grant management and administration for the fixed amount of \$59,500.00.*

#### **Resolutions for Henderson County's CDBG Grant for Talley Drive and CDBG/NCRC Grants for Sierra Nevada/Ferncliff Industrial Park**

Previously the Board approved the acceptance and implementation of two grant projects utilizing CDBG and NC Rural Center (NCRC) funds. The Talley Drive CDGB Grant is intended to improve the Talley Drive community by providing a new road through the neighborhood and rehabilitating some of the homes. The Ferncliff Park & Sierra Nevada CDBG Grant and NCRC Grant extend water and sewer infrastructure. In order to be more efficient and responsive, staff requests that the Planning Director be permitted to sign all documents pertaining to these two grants so that these documents do not need to be brought before this Board repeatedly. All documents or decisions statutorily or administratively required to be made by this Board will come before this Body. Staff can also provide an update on these projects at the request of this Board. The two attachments are:

- 1) A Resolution Authorizing the Planning Director to Sign Documents pertaining to the Talley Drive CDBG Grant; and
- 2) A Resolution Authorizing the Planning Director to Sign Documents Pertaining to the Sierra Nevada CDBG & NCRC Grants.

Motion:

*I move that the Board approves and adopts the Resolution authorizing the Planning Director to sign all documents pertaining to the Talley Drive CDBG grant except for any modifications to the Deeds of Trust; AND*

*I move that the Board approves and adopts the Resolution authorizing the Planning Director to sign all documents pertaining to the Sierra Nevada CDBG & NCRC grants.*

#### **Surplus Equipment (Building)**

A resolution was provided for the Board's consideration, declaring the old guard building for the Transfer Station as surplus equipment as it is no longer used by the County. The resolution also authorizes staff to advertise the surplus equipment for sale by electronic public auction at [www.govdeals.com](http://www.govdeals.com) after the required advertisement of the sale.

Motion:

*I move that the Board approves the resolution declaring the old guard building as surplus and authorizes staff to sell the surplus equipment by electronic public auction utilizing GovDeals auction*

*services after the required advertisement.*

**Non-Profit Performance Agreement**

Subsequent to the approval of the FY 2012-2013 Budget, staff has distributed the funding agreements to the non-profit agencies receiving County allocations.

Vagabond School of the Drama                      \$100,000.00

Motion:

*I move the Board authorizes the Chairman to execute the funding agreement and, in doing so, authorizes the release of the aforementioned agency's quarterly allotment.*

**2012 Fall Litter Sweep Resolution**

The fall 2012 Litter Sweep roadside cleanup, organized by the NC Department of Transportation, will be taking place September 15<sup>th</sup> through September 29<sup>th</sup>, 2012. Henderson County encourages citizens in Henderson County to take an active role in making our community cleaner through participating in local litter sweep activities.

Motion:

*I move the Board adopts the Resolution designating September 15, 2012 – September 29, 2012 as Litter sweep time in Henderson County.*

**Ambulance Procurement**

Henderson County EMS would like to purchase two ambulances to replace two units under a three year lease agreement expiring in December 2012. During research of ambulance purchases over the past year, EMS staff discovered the State of Florida conducted a public bid on a substantially similar ambulance in October 2011. The Florida bids resulted in purchase prices which are as good or better than staff anticipates would be received were a bid for two ambulances alone let. Staff requests the Board consider utilizing the Florida bid to procure two ambulances.

Under NCGS 143-129(g)(3), out-of-state public bids less than one year old may be used in such circumstances,

...if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Notwithstanding any other provision of this section, any purchase made under this subsection shall be approved by the governing body of the purchasing political subdivision of the State at a regularly scheduled meeting of the governing body no fewer than 10 days after publication of notice that a waiver of the bid procedure will be considered in order to contract with a qualified supplier pursuant to this section. Notice may be published in a newspaper having general circulation in the political subdivision or by electronic means, or both.

Public notice for waiver of bidding for previously bid contracts was provided in the Hendersonville Tribune on August 23, 2012. The annual debt service payment for the purchase of these ambulances is included in the FY 2013 budget.

Motion:

*I move the Board waive the bid requirements pursuant to NCGS 143-129 and approve the purchase of two ambulances from Precision Rescue Vehicles (Road Rescue).*

**Abandoned Manufactured Home Removal Grant**

In 2008, House Bill 1134 was enacted. The purpose of this bill is to protect public health and the environment by encouraging counties to develop plans that provide for the deconstruction of abandoned manufactured homes and the removal of reusable or recyclable components, by providing for the abatement

of abandoned manufactured homes that are determined to be a nuisance, and to designate that a portion of the Solid Waste Management Trust Fund be used to fund the deconstruction and removal of the abandoned manufactured homes.

Henderson County participated in this grant from February 2010 – February 2011 and removed 25 abandoned manufactured homes. Henderson County has once again been awarded this reimbursement grant. The grant contract is from February 2012 – February 2013. In order to reflect the reimbursements from the grant a budget amendment must be made for this fiscal year. To date 14 of the available 25 homes have been demolished. The available grant is for \$25,000 and a \$9,000 reimbursement was requested last fiscal year. The remaining \$14,000 of the grant is to be added to the FY 2012 - 2013 budget.

Motion:

*I move the Board approves a budget amendment for \$14,000 for the expenditure of these reimbursement grant funds.*

**Lease of space at Clear Creek Elementary School for City of Hendersonville utilities metering tower**

The City of Hendersonville seeks a lease of space on the Clear Creek Elementary School property for the location of a utilities metering tower. The City of Hendersonville’s new water meters collect meter data by radio signal, with the goals of increasing meter-reading accuracy while lowering costs.

Title to the real estate of Clear Creek Elementary School is currently in Henderson County. However the County’s title to the land is subject to an encumbrance which financed the construction of the school, and also subject to an option in favor of the Board of Education to require conveyance of the real estate back to the Board of Education upon repayment in full of that debt.

The Board of Education has reviewed the proposed lease, and has given its approval.

Motion:

*I move that the Board approves the lease with the City of Hendersonville.*

**BOC appointments to Community Child Protection and Child Fatality Prevention Team**

The Directors of Social Services and Public Health, with the facilitation of the Assistant County Manager, have reached agreement on recommendations and nominations to this Board for the Community Child Protection and Child Fatality Prevention Team.

The Board of Commissioners appoints eight (8) of the members of this Team. One team member must be a law enforcement officer, one must be a representative of emergency medical services or firefighters, and one must be the parent of a child who died before reaching age 18. The other members appointed by the Board of Commissioners are “at-large”.

Each of the eight nominees for Board of Commissioner appointment is presented jointly by Social Services and Public Health.

Law Enforcement Officer	Andrew Anderson
Emergency Medical Services/Firefighter Representative	Crit Harley
Parent	Marilyn Tatham
Community Member at Large	Kathleen Jocelyn
Community Member at Large	Becky Banadyga
Community Member at Large	Robert Duffy
Community Member at Large	Angie Alley
Community Member at Large	Tanya Blackford

## Motion:

*I move the Board appoints the nominees listed in the Community Child Protection and Child Fatality Prevention Team agenda item.*

**Modifications in Voluntary Agriculture District ordinance**

Changes in state law have made provisions in the County's Voluntary Agriculture District Ordinance (Part One of Article VIII of Chapter 92 of the County Code) inappropriate. Inclusion in a Voluntary Agriculture District can no longer be conditioned on participation in the "present-use-value" program for *ad valorem* property taxation. However, this Board can set other reasonable conditions on participation in this program.

Your Agriculture Advisory Committee has met with your Assessor and County Attorney to discuss this matter, and recommends to you the changes shown in the draft attached. The proposal:

- Lowers the acreage requirements for new districts from 100 acres to 50, and
- Adds an additional qualification route for properties not participating in the present-use-value program, namely being engaged in "agriculture" as defined in N.C. Gen. Stat. §106-581.1, *and* provides gross revenue from agriculture of at least \$2,000 per year (either the year prior to application or on average over the five years prior to application).

N.C. Gen. Stat. §106-581.1 defines "agriculture" as all of the following:

- (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- (2) The planting and production of trees and timber.
- (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
- (4) Aquaculture as defined in G.S. 106-758.
- (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.

Your Advisory Committee feels that these changes open the door for real "farms" that are in need of the protections offered from inclusion in Voluntary Agriculture Districts without so diluting that designation as to make it meaningless and valueless to those already included.

## Motion:

*I move the Board approves the modifications to the Voluntary Agriculture District Ordinance shown in the attachments to this agenda item.*

**Tourism Development Authority**

The agreement included with the agenda has been negotiated with the Henderson Tourism Development Authority. The Authority had its initial meeting 1 September 2012.

At the 6 August meeting, the Board authorized and empowered staff "to negotiate and execute a contract

with the Henderson Tourism Development Authority for its operations for a period not to exceed the balance of Fiscal Year 2013.”

This agreement keeps in effect the budget approved by this Board for the 2013 Fiscal Year, effectively holding both the County and the Authority harmless from the change in its organization.

### **Use Permit for Westfeldt Park for French Broad River Clean Up**

Western North Carolina Alliance, along with sponsor Sierra Nevada Brewing Co., seek the use of Westfeldt Park on September 29 as a part of their “French Broad River Clean Up”. This proposed use would require a waiver of both the County’s Facility Use policy and its Parks and Recreation Policy, and a temporary repeal of Henderson County Code section 130A-8A.

The proposed action, if the Board is so inclined, is as follows:

The provisions of section 130A-8A of the Henderson County Code are temporarily repealed and waived only for the County’s Westfeldt Park and only for such park’s regular hours of lawful use only on September 29, 2012. Further, any provisions of the County’s Facility Use policy and its policies regarding use of its parks are hereby waived insofar as they would prohibit the otherwise lawful serving (but not sale) of malt beverages in the County’s Westfeldt Park during the park’s regular hours of lawful use on September 29, 2012. Notwithstanding, however, no person or entity shall serve any malt beverage at such event to any person who appears to a reasonable person to be under the influence of an impairing substance.

If the Board is inclined to grant this request, staff intends to propose a new ordinance and policies regarding use of County parks and facilities in this regard.

Motion:

*I move that the Board adopts the proposed action regarding Westfeldt Park on September 29, 2012.*

### **AgriBusiness Development Board – Name Change**

The Board of Commissioners is requested to consider changing the name of the Henderson County Agribusiness Development Board, to Agribusiness Henderson County. At the Agribusiness Board’s last meeting, it was voted unanimously to recommend this name change for approval by the Board of Commissioners.

Motion:

*I move the Board approves changing the name of the Henderson County Agribusiness Development Board, to Agribusiness Henderson County.*

### **NOMINATIONS**

Chairman Thompson informed the Board of vacancies and opened the floor for nominations.

#### **Notifications of Vacancy**

1. Nursing/Adult Care Home Community Advisory Committee – 1 vac.  
Position #16
2. WCCA Board of Directors – 1 vac.  
Position #1

#### **Nominations**

1. Henderson County Board of Health – 2 vac.  
Commissioner Young nominated George “Pete” Richards for position #2 (dentist), and Robyn Bryson for position #6 (pharmacist). *Chairman Thompson made the motion to accept the appointments of George Richards to position #2 and Robyn Bryson to position #6 by acclamation. All voted in favor and the motion*

*carried.*

2. Historic Resources Commission – 1 vac.

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

3. Juvenile Crime Prevention Council – 5 vac.

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

4. Mountain Area Workforce Development Board – 1 vac.

Chairman Thompson nominated Mr. Terry Collins for position #6. *Chairman Thompson made the motion to accept the appointment of Mr. Terry Collins to position #6 by acclamation. All voted in favor and the motion carried.*

5. Mountain Valleys Resource Conservation and Development Program – 1 vac.

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

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

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

7. Senior Volunteer Services Advisory Council – 2 vac.

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

8. Smartstart – 1 vac.

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

### **CONFEDERATE MEMORIAL**

Captain Walter Bryson and Warren Scott, with George Mills Camp 70 of the Sons of Confederate Veterans have submitted a request to add an iron Southern Cross of Honor in front of the Confederate obelisk at the Historic Courthouse in Hendersonville as a additional remembrance of the Henderson County citizens who served in the War between the States one hundred and fifty years ago.

Crosses are generally placed at the graves of the veterans in honor of their service, but we would like to show our respect for those whose burial places are far from home or lost to our memory.

The Board of Commissioners is requested to consider this request.

Mr. Warren Scott stated that George Mills Camp 70 of the Sons of Confederate Veterans will maintain the marker and replace it if necessary within twenty-four hours at their expense. They will also share information with the Heritage Museum Director for any questions citizens may have in regard to the Confederate obelisk.

*Commissioner Messer made the motion that the Board approves allowing the addition of an iron Southern Cross of Honor in front of the Confederate obelisk at the Historic Courthouse. All voted in favor and the motion carried.*

### **ANNUAL LAND DEVELOPMENT CODE TEXT AMENDMENTS (TX-2012-02)**

Planning Director Anthony Starr stated with the adoption of the Land Development Code (LDC) on September 19, 2007, the Board of Commissioners directed staff to prepare annual updates to the LDC to prevent it from becoming outdated. This annual review is intended to prevent the need for a large overhaul of the entire code in the future. Trends and new issues are regularly emerging that require periodic updates to LDC text.



Based on input from staff, the Planning Board and the public, the Planning Department prepared several text amendments for consideration. All of the changes associated with these amendments reduce regulation while protecting the public interest and safety. The proposed changes will lower development costs, provide greater flexibility with the design of projects, and lower the impact of development on the environment.

The proposed changes are intended to be non-controversial. The proposed text amendments reduce regulations by:

- Simplifying the process for amending the County Comprehensive Plan
- Reducing the minimum parking requirements for multifamily and industrial development
- Reducing the property line setbacks for accessory structures
- Clarifying that dumpsters are allowed for multifamily and nonresidential projects
- Making technical corrections to the responsibilities of various boards
- Making a technical correction regarding the appeal hearing for soil erosion regulations
- Streamlining the legal notice requirements for quasi-judicial hearings
- Eliminating the Soil Erosion Permit (Soil Erosion Plans still required for larger projects)
- Reducing the turn radii standards for private subdivision roads

State law and the LDC require the Board of Commissioners to hold a public hearing prior to acting on a text amendment. The Planning Board and Technical Review Committee reviewed the proposed text amendment and both unanimously recommended approval.

## Land Development Code Amendments to Reduce Regulation



Henderson County Board of Commissioners

Tuesday, September 4th, 2012

Presentation by: Anthony Starr, AICP, Planning Director

*Henderson County Planning Department*

## 2012 LDC Text Amendments

- LDC originally adopted September 19, 2007
- The Board of Commissioners directed staff and the Planning Board to propose updates, at least annually, to prevent the LDC from becoming outdated
- Each year, the Planning Staff and Planning Board work together to create possible text amendments
- Based on feedback from the development community, the Planning Board and the public, staff created this initial list of potential text amendments
- The BOC also directed staff to identify possible options to reduce regulation and enhance the County's business friendly climate

*Henderson County Planning Department*

## Amendment A: CCP Amendments

- LDC requires public hearing for substantive changes
- State law does not require a public hearing
- Propose to eliminate public hearing requirement & newspaper advert; instead post on County website
- Would reduce advertising costs
- Board of Commissioner (BOC) approval still required
- Public input at every Planning Board/BOC meeting
- Provides greater flexibility to promote development where a CCP change is needed
- Legal advertisements rarely read by the public
- Recommend elimination of public hearing/legal advert

*Henderson County Planning Department*

Department websites and channel 11 will be used to notify the public.

## B: Multi-Family Minimum Parking

- County currently requires 2 parking spaces for each dwelling unit (single-family or multi-family)
- Propose to reduce multi-family (MF) requirement to 1.5 spaces per dwelling unit (25% decrease)
- This reflects modern parking needs as not all MF households need 2 spaces
- This standard is used by other jurisdictions
- For a 100 unit townhouse project, this would reduce the minimum parking spaces from 200 to 150
- No change for single-family homes
- Recommend reduction of the parking standard

*Henderson County Planning Department*

Decreasing the number of parking spaces required would improve stormwater runoff.

## C: Industrial Minimum Parking

- County currently requires 1 parking space for each 500 square feet of gross floor area of industrial facilities
- Warehouses must provide 1 space for each 4,000 square feet (sqft) of gross floor area
- Propose to change the industrial minimum to 1 space per 4,000 sqft
- Proposed standard reflects changes in employment trends where productivity is higher thereby using fewer employees per sqft
- For a 100,000 sqft industrial building, this would reduce the minimum # of parking spaces from 200 to 25
- Recommend reduction of the parking standard

*Henderson County Planning Department*

## D: Accessory Structure Setbacks

- County currently requires 10 foot setback from property lines in all districts
- Propose to reduce accessory structure setback to 5 feet for all districts (residential and non-residential)
- Common standard for many jurisdictions
- Provides better use of property
- Buffers and screening requirements still apply and may require greater setback
- Subdivision covenants unaffected by this change and may still require greater setbacks
- Recommend reduction in accessory structure setbacks

*Henderson County Planning Department*

## E: Dumpsters

- Dumpster requirements explicitly allowed for certain land uses
- Current LDC text could be interpreted to not allow dumpsters for a variety of land uses
- This amendment specifically allows dumpsters and uses screening requirements that are already in place where dumpsters are currently listed
- This provision allows for temporary dumpsters (up to 18 months) where **there is no text that allows them currently**
- Screening requirements would not apply to temporary dumpsters

*Henderson County Planning Department*

## F: Corrections to Decision Making Section

- This amendment does not increase regulation
- This amendment corrects several errors in the current LDC text
- It clarifies that Special Fill Permits are reviewed using a quasi-judicial public hearing since the Board of Adjustment acts as the Flood Damage Prevention Board (which approves the Special Fill Permits)
- Recommend changes for this section

*Henderson County Planning Department*

## G: Soil Erosion Appeals

- This amendment does not increase regulation
- The current LDC text requires the hearing for an appeal filed to occur within 30 days
- It is not always possible to hold the appeal hearing and meet the required public notice provisions within 30 days since the ZBA meets monthly
- The proposed change would require the appeal hearing to be held within 60 days instead of 30 days
- Recommend change for soil erosion appeals

*Henderson County Planning Department*

## H: Quasi-judicial hearings

- LDC currently requires a newspaper advertisement for quasi-judicial hearings
- State law does not require a newspaper advertisement
- Propose to eliminate newspaper advertisement requirement and instead post signs at the site
- Would reduce advertising costs
- Quasi-judicial hearing still held and mailed notice given
- Newspaper legal adverts rarely read by the public
- Newspaper advertisements still required for text amendments & zoning map amendments (rezonings)
- Recommend change for QJ hearings

*Henderson County Planning Department*

## I: Eliminate Soil Erosion Permit/Sketch Plan

- County currently requires a permit & sketch plan of areas when disturbing more than 100 square feet of soil
- A formal erosion control plan isn't required unless disturbance exceeds 1 acre; or ½ acre on slopes >15%; or ¼ acre if on slopes >25%
- No permit fees are collected with sketch plan/permits
- Originally implemented with local soil erosion standards/program in 2007 & not required by the State
- We average 25-40 permits per month
- Recommend elimination of the soil erosion permit
- Erosion control also required even without permits

*Henderson County Planning Department*

## J: Reduce Curve Radii for Roads

- LDC currently requires 90-110 foot curve radius for new subdivision roads
- Provision is aimed at maintaining a minimum radius for safe vehicle operation
- Current standard better suited for flat land areas
- Propose to reduce the centerline curve radii in exchange for widening road travel lanes in curves
- New provision provides adequate access for the largest emergency vehicles
- Could significantly reduce development costs
- Could reduce amount of land disturbed for new projects

*Henderson County Planning Department*

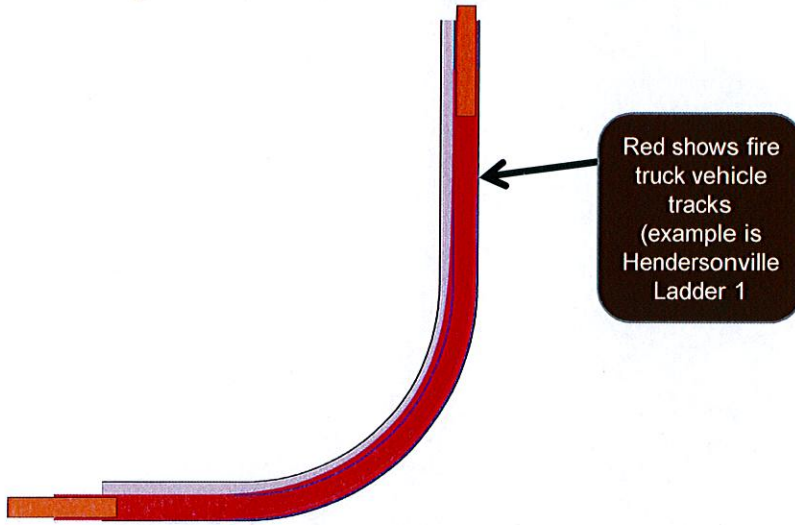
## Reduce Curve Radii for Roads

- This idea first suggested by Planning Board member and a local engineer
- Planning Staff has been coordinating with Emergency Services Department on this idea
- Here is how it works for a 16 foot wide (local) road:

Normal Road Width (feet)	Centerline Curve Radius (feet)	Increase in Road Width	New Road Width in Curve (feet)
16	90+	0	16
16	70-90	25%	20
16	60-70	35%	21.6
16	50-60	45%	23.2
16	40-50	50%	24

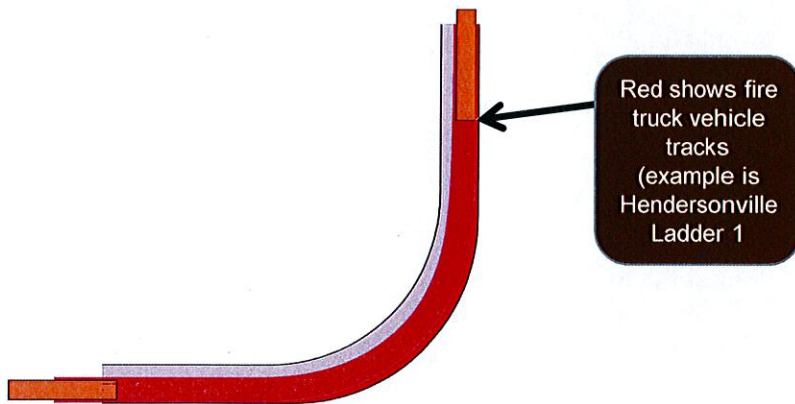
*Henderson County Planning Department*

### Example: Curve Radius 90 feet



*Henderson County Planning Department*

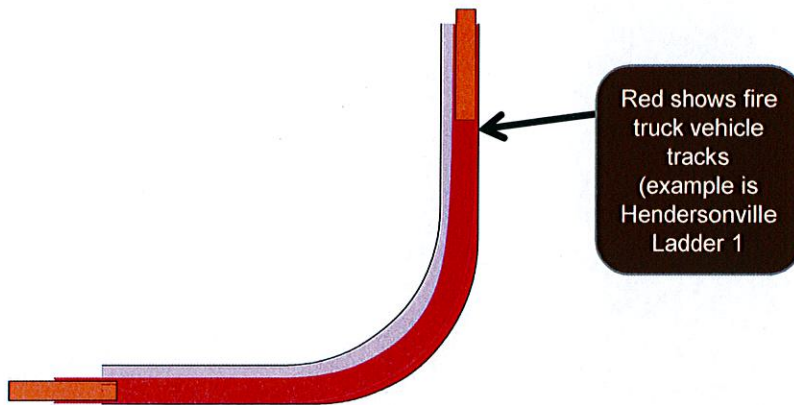
### Example: Curve Radius 70 feet



*Henderson County Planning Department*

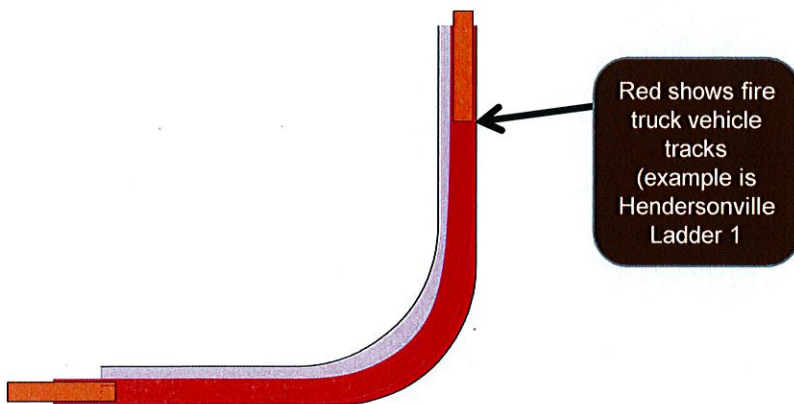


## Example: Curve Radius 60 feet



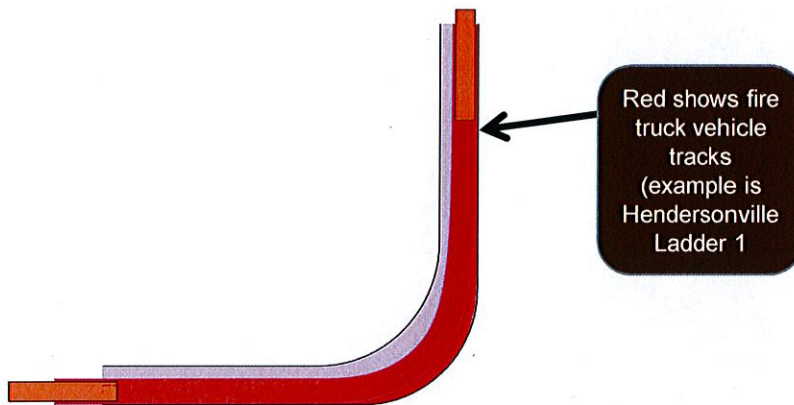
*Henderson County Planning Department*

## Example: Curve Radius 50 feet



*Henderson County Planning Department*

## Example: Curve Radius 40 feet



*Henderson County Planning Department*

### Next Steps:

- Board of Commissioners sets the required public hearing date (Wednesday, September 19<sup>th</sup> at 9am)
- Board of Commissioners holds the required public hearing
- Board of Commissioners approves, denies or modifies the proposed text

*Commissioner Young made the motion that the Board sets a public hearing to receive public comment for Land Development Code Text Amendment 2012-02 for Wednesday, September 19th, 2012 at 9:00a.m. All voted in favor and the motion carried.*

### **NCACC LEGISLATIVE GOALS**

County Manager Steve Wyatt stated the NCACC has announced the legislative goals development process for the 2013-13 biennium, and are inviting counties to submit their legislative proposals to the Association. The submission deadline for proposals is September 17, 2012. A list of the Legislative Goals for 2011-2012, and an update on their status, was included in the agenda packet for reference.

NCACC is the only organization in the state that truly represents all the citizens of North Carolina. For each biennial session of the General Assembly, counties submit legislative proposals, and commissioners from across the state review and recommend them to our members.

### Legislative goals development timeline

- September 17, 2012      Goals submission deadline
- September – October      Steering committees review goals
- November      Legislative Goals Committee meets
- December      Board of Directors reviews and finalizes recommendations
- January 24-25, 2013      Legislative Goals Conference, membership approval of goals

**Goal #1: Support Voter ID legislation**

Goal Description: Support legislation to require a legally acceptable picture identification, issued by either the State of local government, in order to be allowed to cast a ballot.

Motion: *Commissioner Edney made the motion to send goal #1, supporting Voter ID legislation. All voted in favor and the motion carried.*

**Goal #2: Economic Development Incentives (State Rules for Development)**

Goal Description: Allow greater flexibility for counties, based upon individual county needs and economic development priorities as it pertains to economic development incentives. Specifically for those companies making a large investment in job creation but not necessarily a large investment in taxable plant and equipment.

Motion: *Commissioner O'Connor made the motion to send goal #2, supporting more flexibility for counties in Economic Development Incentives. All voted in favor and the motion carried.*

**Goal #3: Authorize electronic notice of public hearings and other legal notices.**

Goal Description: Seek legislation to provide counties with options for notice of public hearings, notice of delinquent taxpayers and other legal notices, through electronic means.

Motion: *Chairman Thompson made the motion to send goal #3, seeking legislation to authorize counties to use electronic notice of public hearings and other legal notices. All voted in favor and the motion carried.*

**Goal #4: Sweepstakes Gaming Regulation Authority**

Goal Description: The Board is against Sweepstakes Gaming establishments, and wishes them to be outlawed. However, if such establishments are allowed, the County supports legislation to give counties regulatory authority of gaming establishments. Such regulation would mirror the authority granted to municipalities, allowing the regulation of hours of operation, minimum age for entry, etc.

Motion: *Commissioner Young made the motion to send goal #4, seeking County authority of Sweepstakes Gaming Regulations. All voted in favor and the motion carried.*

**Goal #5: Eliminate second primary and run-off elections**

Goal Description: Seek legislation to eliminate second primary and run-off elections, and have popular vote determine election results.

Motion: *Chairman Thompson made the motion to send goal #5, seeking legislation to eliminate second primary and run-off elections. The motion passed 4-1 with Commissioner O'Connor voting nay.*

**Goal #6: Tax law revisions for foreclosure properties**

Goal Description: Allow purchasers in foreclosure actions (where the purchase closes after 1 January) to seek, and Assessors discretion to allow, revaluation of the purchased property for ad valorem tax purposes effective back to 1 January, so long as such revaluation is based solely on physical changes (vandalism, theft, damage) to the property not assumed in the assessor's 1 January valuation.

Motion: *Commissioner Edney made the motion to send goal #6, requesting tax law revisions for foreclosure properties. All voted in favor and the motion carried.*

**Goal #7: Support NC drivers permit for agricultural workers**

Goal Description: Support legislation making it possible for individuals actively working in agriculture to get a NC permit allowing them to drive without regards to their citizenship, thereby insuring an adequate workforce for farm operations, a means for workers to legally travel to and from work and other locations as needed, and enable better enforcement of proper motor vehicle insurance, as well as insuring proper training of operators, who will be on the road regardless.

Motion: *Commissioner Messer made the motion to send goal #7, requesting support of NC drivers permit for agricultural workers. All voted in favor and the motion carried.*

**Goal #8: Support suspension of mandatory use of E-verify (NC HB36) for agriculture**

Goal Description: Suspend the requirement for employers in the agricultural sector, under HB36, to participate in the federal E-verification program until the Federal Government has addressed the issue of a Guest Worker Visa system that allows for an adequate and legal workforce for agriculture, whereby the suspense of the state level requirement would protect our number one industry which is highly dependent upon immigrant labor and without which, the result would be devastating to this vital part of our economy.

Motion: *Commissioner Messer made the motion to send goal #8, requesting the suspension of mandatory use of E-verify (NC HB36) for agriculture. The motion passed 3-2 with Commissioners O'Connor and Young voting nay.*

**POSSIBLE IMMEDIATE PURCHASE AND LEASE/BACK OF BOYD PROPERTY**

Interim Assistant County Manager David Whitson stated the Board has been contacted by the L. C. Boyd, Jr., regarding the immediate purchase of Boyd's property located near "Five Points" in Hendersonville.

The Board has a contract for the purchase of the land, at a time to occur of Boyd's choosing, but in not less than eighteen (18) months from August 22, 2012. The County has paid \$750,000 into escrow for such purchase, and will owe the remaining \$2,000,000 at closing.

Boyd has proposed the immediate purchase by the County of the property, but the leaseback to him of the property to approximately 18 months.

Should the Board agree to immediate purchase and leaseback, a draft reimbursement resolution was included for consideration, which would allow the Board to finance the purchase price at any time within eighteen months.

Stan Duncan provided an analysis conducted on commercial property which resulted in the following estimates of rental cost:

Two structures on property at an estimated rental of \$10,229.00 per month or \$122,740.00 per year based on the following figures:

Garage	20,000 square ft at \$3.50 per square foot
Showroom	5264 Square ft at \$9.00 - \$10.00 per square foot

David Whitson provided an estimated rental of \$9,997.00 (rounded to \$10,000) per month based on loss of taxes, insurance cost, etc.

County Manager Steve Wyatt noted that at time of purchase of the property, a Phase I environmental assessment was completed by the State. Additional selective soil borings were completed and no indications of anything unusual were found.

Commissioner O'Connor looked at this as a financial transaction and felt the rental income should be more in the vicinity of \$12,850 per month.

County Finance Director Carey McLelland felt the best financing term would be for 10 years. It would have to go through a bidding process to determine the interest rate. The process will take 60-90 days and must include approval by the Local Government Commission.

*Commissioner Messer made the motion that the Board authorizes the Finance Director to take appropriate*

*steps to begin the financing process. All voted in favor and the motion carried.*

*Commissioner Edney made the motion that the Board proceeds with the immediate purchase of the Boyd property, at the contract terms, but with immediate leaseback of the property to Boyd for a period of eighteen months, at a monthly lease payment of \$10,000.00, and further moved approval of the proposed reimbursement resolution. The motion passed 4-1 with Commissioner O'Connor voting nay.*

#### **1995 COURTHOUSE RENOVATIONS – ADD ON**

County Manager Steve Wyatt stated that over the years, the 1995 Courthouse has incurred much vandalism to courtroom furniture. Refinishing the furniture through rotation was doable, with the possibility to reconfigure the seating. The cost to refinish benches is approximately \$200 per bench for a total of \$14,000. The cost to move the divider bar is approximately \$3000.00.

For the Superior Courtroom, Commissioner Edney suggested removing the first 2 rows of benches and moving the divider bar back to provide more of a buffer for jurors. For the District Courtroom, he suggested removing the first (1) row of benches and moving the divider bar back also providing a larger buffer for the public from inmates. He has spoken with the staff at the Courthouse and they are okay with the idea. The Clerk of Court is concerned of the loss of seating capacity. At this time she is also looking at a new sound system within the courtrooms.

*Commissioner Edney made the motion that the board authorizes follow through of this plan and instruction to staff accordingly. All voted in favor and the motion carried.*

It was noted that the metal detector in the 1995 Courthouse had been moved from the 3<sup>rd</sup> floor to the second floor and consideration is being made to move it to the first floor for safety reasons. If the detector is moved to the first floor, the front entrance will be closed and all entry must be made through the first floor, going through security. At this time, Sheriff McDonald is working on increasing security and getting recommendations. He will bring the information to the Commissioners at a later date.

#### **IMPORTANT DATES**

Schedule NCDOT Secondary Roads Public Hearing

*Chairman Thompson made the motion that the Board schedules the annual NCDOT Public Hearing on Secondary Roads for Wednesday, September 19, 2012 at 9:00 a.m. All voted in favor and the motion carried.*

Chairman Thompson noted that he had spoken with Steve Cannon at the NCDOT in regard to the Upward Road/Spartanburg Highway divider. This will also be discussed at the September 19, 2012 meeting.

#### **CANE CREEK WATER AND SEWER DISTRICT**

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

Please see separate Cane Creek minutes for action.

*Commissioner Edney made the motion to go out of session as the Cane Creek Water & Sewer District Board. All voted in favor and the motion carried.*

#### **ADJOURN**

*Commissioner Edney made the motion to adjourn at 8:45p.m. All voted in favor and the motion carried.*

Attest:

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**COMMUNICATION SITE LEASE AGREEMENT**

THIS LEASE AGREEMENT made and entered into as of the 4<sup>th</sup> day of September 2012 by and between Henderson County, North Carolina, hereafter referred to as "Lessor," and The City of Hendersonville, hereinafter referred to as "Lessee."

**WITNESSETH:**

That in consideration of the sum of one dollar and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby mutually covenant and agree as follows:

- 1) **Leased Premises:** Lessor hereby leases unto Lessee, and Lessee hereby leases from Lessor, the following described leased premises, for the purpose of erecting and maintaining a communications tower: a portion of that real property described in that deed recorded in Deed Book 1050 at page 731, Henderson County registry, such portion to be described as follows: .
- 2) **Lease Time Period:** The initial term of this lease shall be for a period of 50 years and shall be deemed to have commenced on September 1, 2012, and same shall expire or terminate on August 30, 2062.
- 3) **Rental:** Lessee shall pay to Lessor, as rental for the said parcel of land leased hereunder, the sum of \$1.00 per year. The first year's rental shall be due and payable on 1 September 2012, and successive annual rental payments shall be due and payable automatically on the same date thereafter during the period of this Lease.
- 4) **Utilization of leased premises:** The Lessor and the Lessee may each, without permission of the other, locate communications antennas on the Tower to be installed by the Lessee. Each party shall take necessary steps to insure that its communications equipment does not interfere with the other party's. Neither party shall cause or suffer any other person or entity to locate communications equipment on the Tower without the prior express written consent of the other party. Further, Lessee shall not locate any third-party's communications equipment on the Tower without the prior express written consent of the Henderson County Public Board of Education unless required to do so under prevailing United States or North Carolina law.
- 5) **Removal of equipment:** Upon the expiration or termination of this Lease, the Lessee

shall by the date of termination of this Lease remove all Lessee's communications equipment and property related thereto.

6) Destroyed or stolen equipment: Lessor shall not be responsible for any of Lessee's equipment which may be destroyed, stolen, or damaged, by Acts of God or third parties. Lessee shall carry such insurance coverage desired for such equipment.

7) Utilities: Lessee shall be responsible for providing necessary electrical power, emergency electrical power, or any other services that may be required to operate Lessee's facility.

8) Access: Lessee shall have a non-exclusive right to access the leased premises for ingress and egress purposes. In the event that Lessee must install a road to the leased premises, Lessee shall erect and maintain a gate for the road and it is Lessee's sole responsibility to make sure that the gate remains closed and locked at all times. Lessee shall solely be responsible for the construction and maintenance of the road and is responsible for repairing any damages to the road caused by vehicles operated by or used on behalf of the Lessee.

9) Lessee and its authorized personnel shall have reasonable access to the leased premises twenty-four hours a day, seven days a week for the purposes of routine and emergency maintenance of the Lessee's property. To the extent possible, Lessee and its authorized personnel shall avoid accessing the leased premises Monday through Friday between the hours of 7:30am to 8:30am and 2:30pm to 3:30pm (said times being high volume traffic times for school traffic).

10) Except as provided herein or in other duly recorded easements, only the Lessee and its authorized personnel shall have permission to enter the leased premises. For purposes herein, authorized personnel shall mean only authorized employees, engineers, technicians or properly authorized contractors of Lessee or persons under their direct supervision.

11) In the event of an emergency, Lessor or the Lessor's employees or agents may access the leased premises upon providing oral notice to Lessee. Lessee shall provide to Lessor a key to the gate so that Lessor can access the leased premises if necessary.

12) Lessor's indemnity: Lessee and Lessor shall each indemnify and hold harmless the other, its successors and assigns, from losses, damages, injuries, claims, demands and expenses, including legal fees and expenses, arising out of the negligent operation of the equipment of Lessee which is installed on Lessee's structure. The indemnities herein shall continue in full force and effect until Lessee has vacated the premises leased. "Vacating the premises leased" shall occur when Lessee is no longer occupying the premises leased and when Lessee has

removed all of Lessee's equipment therefrom.

13) Invalid provision: Any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the rest of this Agreement.

14) Complete agreement: This Agreement executed by the parties contains the entire understanding of the parties and such understanding may not be modified except in writing signed by the parties hereto.

15) Assignment: The Lessee may assign this Lease to any local governmental unit or agency thereof located within the boundaries of Henderson County, North Carolina.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this Agreement to be executed in duplicate originals, each to have the full force and effect of any original document.

Done in the place and as of the date first above written.

HENDERSON COUNTY, N.C. (LESSOR)

By:



Thomas H. Thompson

Chairman

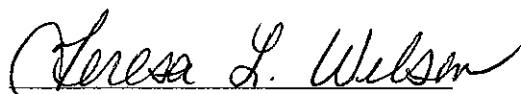
Board of Commissioners

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, Kathryn L. Finotti a Notary Public for said county and state, do hereby certify that Thomas H. Thompson, Chairman, Henderson County North Carolina Board of Commissioners and Teresa L. Wilson, Clerk to the Board, personally appeared before me this day and acknowledged the execution and attestation respectively of the foregoing Lease Agreement.

Attest:



Teresa L. Wilson

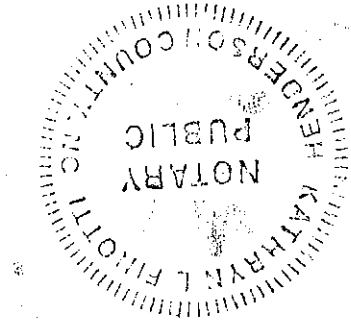
Clerk to the Board



Witness my hand and notarial seal, this the 6th day of September, 2012.

My commission expires: 3-23-13

Kathryn L. Finotti  
Notary Public



THE CITY OF HENDERSONVILLE (LESSEE)

By: \_\_\_\_\_  
W. Bowman Ferguson, City Manager

Attest: \_\_\_\_\_  
Tammie K. Drake, MMC  
City Clerk

State of North Carolina  
County of Henderson.

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that W. Bowman Ferguson, in his capacity as City Manager of the City of Hendersonville and Tammie K. Drake, in her capacity as Hendersonville City Clerk, appeared before me this day and acknowledged the execution and attestation respectively of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_ 2012.

My commission expires:

\_\_\_\_\_  
Notary Public

**RESOLUTION BY THE HENDERSON COUNTY BOARD OF PUBLIC EDUCATION  
APPROVING THE LEASE BETWEEN THE COUNTY OF HENDERSON AND THE  
CITY OF HENDERSONVILLE REGARDING THE INSTALLATION OF A  
COMMUNICATIONS TOWER BEHIND CLEAR CREEK ELEMENTARY SCHOOL**

**WHEREAS**, the County of Henderson (hereinafter "County"), as a result of a Certificate of Participation finance agreement, currently owns the Clear Creek Elementary School real property, said real property being described in Deed Book 1050 at page 731 (hereinafter "Property"), and shall transfer ownership of the Property back to the Henderson County Board of Public Education (hereinafter "Board") on or before December 1, 2020;

**WHEREAS**, the County desires to lease a portion of the Property to the City of Hendersonville (hereinafter "City") for the purpose of erecting and maintaining a communications tower for a period of fifty (50) years (hereinafter "Lease"); and

**WHEREAS**, before the County formally approves the Lease with the City, the County desires that the Board review and approve the Lease, said Lease being incorporated herein and attached hereto as Exhibit A.

**NOW THEREFORE**, be it resolved by the Board as follows:

1. That the Board is satisfied with the provisions contained in the Lease as proposed in Exhibit A and does not have any additional concerns.
2. That the Board formally adopts this Resolution approving the Lease as proposed in Exhibit A.

I MOVE THE ADOPTION OF THE FOREGOING RESOLUTION.

  
\_\_\_\_\_  
Board of Education Member

SECONDED BY:

  
\_\_\_\_\_  
Board of Education Member

READ, APPROVED AND ADOPTED, THIS THE 13th DAY OF AUGUST 2012.

  
\_\_\_\_\_  
Board of Education Chairperson

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

## **INTER-LOCAL AGREEMENT**

This Agreement is made September 1, 2012, pursuant to Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes by and between the Henderson Tourism Development Authority, a public authority under the North Carolina Local Government Budget and Fiscal Control Act ("the Authority"), and the County of Henderson, a body corporate and politic ("the County").

### **FACTUAL BACKGROUND TO AGREEMENT**

1. The Authority was created by North Carolina General Assembly in Session Law 2012-144, effective September 1, 2012.
2. Prior to September 1, 2012, the Henderson County Travel and Tourism Committee ("the Committee") carried out the functions which effective September 1, 2012, are those of the Authority.
3. In carrying out these functions, the Committee had employees and used facilities owned by the County. The Committee's employees were treated for all purposes as employees of the County.
4. The Tourism Development Tax ("Occupancy Tax") in the County is currently five percent (5%) of gross receipts derived from activities defined in Session Law 2012-144 (such gross receipts hereafter "the Gross Occupancy Receipts").
5. By previous agreement between the County and the Committee, one-half percent (½%) of the Gross Occupancy Receipts is paid from the total Occupancy Tax to the County "to defray the costs of the operation of the Historic Courthouse".
6. The Committee's budgeted revenues expenditures for Fiscal Year 2013 ("FY13") are shown on the attachment, Exhibit 1.
7. The County and the Authority wish to cooperate, as stated below, in providing personnel and facilities for the Authority, and in maintaining the efficient operation and transition of the current functions of the Authority (which were formerly carried out by the Committee), and have reached this as an interim agreement in order to do so.
8. It is the desire and intention of the County and the Authority to maintain the revenue projections and continue the budgeted outlays for FY13 shown in Exhibit 1.
9. This contract is permitted as an inter-local agreement under Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes.

### **STATEMENT OF AGREEMENT**

1. Term of Agreement: The initial term of this agreement is from the date hereof through June 30, 2013.
2. Employees: All employees of the Committee shall remain employees of the County, subject to the County's personnel policies, but shall work at the direction of the Executive Director of

the Authority. The Authority will allow no action which would violate the County's policies or applicable law.

3. The Executive Director shall be a County employee, subject to the County's personnel policies, but shall work at the direction of the Authority.

4. One-half percent (½%) of the Gross Occupancy Receipts shall continue to be paid from the Occupancy Tax to the County "to defray the costs of the operation of the Historic Courthouse"

5. The rate of the Occupancy Tax will not be reduced during the term of this agreement.

6. The Authority will use and the County will permit the Authority to use the building owned by the County and up until September 1, 2012, used by the Committee.

7. The Authority will use the facilities and materials which were up until September 1, 2012, used by the Committee.

8. The Authority will ratify and reaffirm all contracts entered into by the Committee with third parties to this Agreement unless such third parties are in breach of such contracts.

9. The Authority will continue to cover the County with its performance licensing contracts with the American Society of Composers, Artists and Publishers ("ASCAP") and Broadcast Music, Inc. ("BMI"), and will refuse to allow any artists with which it contracts to perform works licensed solely by Society of European Stage Authors & Composers ("SESAC") (unless and until the Authority contracts with SESAC for the same).

10. The County will collect the Occupancy Tax on behalf of the Authority, and will provide accounting services for the Authority.

11. The Authority will abide by the FY13 budget of the Committee, such that from the total proceeds of the Occupancy Tax, plus the other revenues shown on the budget of the Committee, Exhibit 1 hereto, the County and the Authority (through the Finance Officer who, under Session Law 2012-144 is also the Finance Officer of the Authority) will insure payment of the following:

a. To the County, all costs, direct and indirect, of employing the Director and other employees of the Authority, including but not limited to wages, employer taxes, retirement contributions, unemployment taxes, workers compensation insurance and payments, and any other cost as a result of the County's employment of these employees, all as shown on the FY13 budget of the Committee, Exhibit 1 hereto.

b. To the County, all other line items shown on the FY13 budget of the Committee, Exhibit 1 hereto, that would have, in the absence of the Session Law creating the Authority, have been paid to or retained by the County as a result of the costs of the operation of the Committee.

c. To third parties who have contracted with the Committee, such amounts as they are entitled up to the amounts shown on the FY13 budget of the Committee, Exhibit 1 hereto.

d. To the Authority, any remaining funds, for addition to the Authority's fund balance, which result from:

i. Any vacancy in any budgeted position at the Authority during the period 1 September 2012 to 30 June 2013.

ii. Any third party expenditures which are included in the FY13 budget of the Committee, Exhibit 1 hereto, but which are not yet contracted for as of 1 September 2012.

12. It is the intention of the parties and the desire of them that this agreement be in every instance interpreted such that:

a. The County in its finances neither benefits nor suffers detriment from the establishment of the Authority; and,

b. That, as compared to the finances of the Committee, and the funds which would have been available to it in the absence of the formation of the Authority, the Authority will neither benefit nor suffer in its finances as a result of its establishment.

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Agreed to and effective this 1<sup>st</sup> day of September, 2012.

COUNTY OF HENDERSON

By:   
STEVE WYATT, County Manager

HENDERSON TOURISM DEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
DAVID E. NICHOLSON, Chairman

By: \_\_\_\_\_  
KIMBERLY SMITH, Member

By: \_\_\_\_\_  
PHYLLIS ROGERS, Member

By: \_\_\_\_\_  
SELENA EINWECHTER, Member

By: \_\_\_\_\_  
BRENDA RAMER, Member

By: \_\_\_\_\_  
WILLIAM FERGUSON, Member

By: \_\_\_\_\_  
, Member

By: \_\_\_\_\_  
CONNIE BACKLUND, Member

By: \_\_\_\_\_  
BRUCE POPE, Member

**EXHIBIT 1**

TRAVEL & TOURISM FUND (26)		APPROVED
264613	401000	\$ (110,000)
264613	414000	\$ (42,000)
264613	433000	\$ (1,079,081)
264613	433001	\$ (2,000)
264613	477000	\$ (18,000)
264613	477001	\$ (46,000)
<b>TOTAL</b>	<b>TRAVEL &amp; TOURISM FUND REVENUES</b>	<b>\$ (1,297,081)</b>
265613	512100	\$ 245,892
265613	512200	\$ 1,000
265613	512600	\$ 10,000
265613	513400	\$ 3,585
265613	513500	\$ 1,221
265613	518000	\$ 19,809
265613	518100	\$ 16,774
265613	518300	\$ 67,561
265613	518400	\$ 3,599
265613	518500	\$ -
265613	518600	\$ 2,000
265613	521100	\$ 3,000
265613	522600	\$ 75,000
265613	523300	\$ 500
265613	525001	\$ 800
265613	526000	\$ 8,000
265613	526010	\$ 43,700
265613	526020	\$ 3,000
265613	526200	\$ 3,000
265613	526201	\$ 3,400
265613	526500	\$ 14,500
265613	532100	\$ 9,500
265613	532500	\$ 40,792
265613	534001	\$ 10,250
265613	534002	\$ 2,200
265613	534003	\$ 2,000
265613	534005	\$ 2,000
265613	535100	\$ 11,750
265613	535200	\$ 14,000
265613	535300	\$ 1,000
265613	537000	\$ 300,000
265613	537100	\$ 3,000
265613	537101	\$ 3,500
265613	539000	\$ 52,000
265613	547200	\$ 2,000
265613	547500	\$ 3,500
265613	547600	\$ 8,500
265613	555000	\$ 100,000
265613	569900	\$ 30,000
265613	569901	\$ 119,000
265613	598011	\$ 55,748
<b>TOTAL</b>	<b>TRAVEL &amp; TOURISM FUND EXPENDITURES</b>	<b>\$ 1,297,081</b>

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on September 4, 2012 at 5:30 9.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman Thomas H. Thompson presided.

\* \* \*

The following members were present:

Chairman Thomas H. Thompson; Vice Chairman William P. O'Connor; Commissioner Charlie Messer; Commissioner Larry Young; Commissioner J. Michael Edney

The following members were absent:

None

Also present:

County Manager Steve Wyatt; Assistant County Manager David Whitson; Clerk to the Board Teresa Wilson; Finance Manager J. Carey McLelland; County Attorney Charles Russell Burrell.

\* \* \*

Commissioner O'Connor 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 OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED WITHIN THE NEXT EIGHTEEN MONTHS**

**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 acquire certain real property, formerly owned by L. C. Boyd and wife, S. C. Boyd, located within the City of Hendersonville, for use by the County (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 maximum principal amount of Obligations expected to be executed and delivered by County to pay for all or a portion of the costs of the Project is \$2,750,000.

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 Edney, 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 OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED WITHIN THE NEXT EIGHTEEN MONTHS" was duly adopted by the following vote:

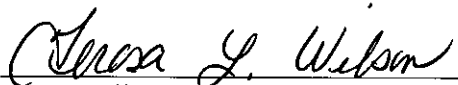
AYES: Edney, Thompson, Messer, Young

NAYS: O'CONNOR

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

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 OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED WITHIN THE NEXT EIGHTEEN MONTHS”** adopted by the Board of Commissioners of the County of Henderson, North Carolina, at a meeting held on the 4<sup>th</sup> day of September, 2012.

***WITNESS*** my hand and the corporate seal of the County of Henderson, North Carolina, this the \_\_\_ day of September, 2012.

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

Modifications to:

## CHAPTER 92. FARMLAND PRESERVATION

### § 92-26. Application procedure.

- A. An agricultural district shall initially consist of one or more qualifying farms which collectively consist (or, in the case of one farm only, individually consists) of at least 50 acres of qualifying farmland lying (if more than one farm) within one mile of each other. An agricultural district may be enlarged by adding qualifying farms subsequent to initial formation so long as such qualifying farms are within one mile of any farm in such district.
- B. An agreement to sustain, encourage and promote agriculture must be executed by each applicant in the district and submitted to the Agricultural Advisory Board for approval.
- C. Landowners may apply to participate in existing districts and are encouraged to do so.
- D. To secure County certification as an agricultural district, a landowner, for such designation, will apply to the Chairman of the Agricultural Advisory Board. Application forms may be obtained from the Chairman at the Soil and Water Conservation District office or at the office of the Henderson County Planning Department.
- E. Upon receipt of an application, the Chairman will forward copies immediately to the Henderson County Assessor's office and the Henderson County Soil and Water Conservation District office for evaluation pursuant to Article IV. Said offices shall evaluate, complete and return their copies to the Chairman within 30 days of receipt.
- F. Within 30 days of receipt of respective reports from the County Assessor and the Soil and Water Conservation District office, the Board will meet and render a decision regarding the application. The Chairman will notify the applicant by mail of the Board's decision.
- G. If the application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the Henderson County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

**§ 92-30 Qualifying Farmland**

As used in this Article, "qualifying farmland" must:

A. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and

B. Be located in the unincorporated area of Henderson County; and

C. Either

1. Be participating in the farm present-use-value taxation program established by N.C. Gen. Stat. §105-277.2 through §105-277.7, or is otherwise determined by the county to meet all the qualifications of this program set forth in N.C. Gen. Stat. §105-277.3 ; or

2. Both

a. Be engaged in "agriculture" as that term is defined in N.C. Gen. Stat. §106-581.1; and,

b. Provide to its owner gross revenue from its use in "agriculture" of at least \$2,000.00 per acre in the year prior to application (or, as an alternative, an average of at least \$2,000.00 per acre for the five years prior to application).

The Henderson County Board of Commissioners hereby adopts and enacts the preceding this the 6 day of September, 2012.



HENDERSON COUNTY BOARD OF COMMISSIONERS

By Thomas H. Thompson  
THOMAS H. THOMPSON, Chairman

ATTEST:

Teresa L. Wilson  
Teresa L. Wilson, Clerk to Board of Commissioners

Approved as to form:

Russell Burrell  
Russell Burrell, County Attorney

# HENDERSON COUNTY TAX COLLECTOR

200 NORTH GROVE STREET, SUITE 66  
HENDERSONVILLE, NC 28792

PH: (828) 697-5595

FAX: (828) 698-6153

24 August 2012

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

## Re: Tax Collector's Report to Commissioners -- 4 September 2012 Meeting

Please find outlined below collections information through August 23rd for the 2012 bills mailed out on 14 August 2012, as well as registered motor vehicle bills. As a point of reference, we also have included collections information as of the same date last year.

### Annual Bills G01 Only:

2012 Total Charge: \$6,372,344.92  
Payments & Releases: 205,426.41  
Unpaid Taxes: 6,166,918.51  
**Percentage collected:** 3.14%  
(through 08/24/2012.)

2011 Total Charge: \$6,310,487.87  
Payments & Releases 120,489.89  
Unpaid Taxes: 6,189,997.98  
**Percentage collected:** 1.85%  
(through 08/24/2011)

### Motor Vehicle Bills G01 Only:

2012 Total Charge: \$1,152,612.62  
Payments & Releases: 667,517.09  
Unpaid Taxes: 485,095.5  
**Percentage collected:** 57.12%  
(through 08/24/2012)

2011 Total Charge: \$1,012,398.14  
Payments & Releases: 645,412.31  
Unpaid Taxes: 366,985.83  
**Percentage collected:** 63.14%  
(through 08/24/2011)

### Fire Districts All Bills

2012 Total Charge: \$56,768,867.46  
Payments & Releases: 1,052,372.32  
Unpaid Taxes: 55,716,495.14  
**Percentage Collected:** 1.82%  
(through 08/24/2012)

2011 Total Charge: \$56,518,986.04  
Payments & Releases: 278,350.64  
Unpaid Taxes: 56,240,635.40  
**Percentage Collected:** .46%  
(through 08/24/2011)

Respectfully submitted,

  
Kathy Johnson  
Tax Collections Clerk

Stan C. Duncan  
Tax Collector

**LINE-ITEM TRANSFER REQUEST  
HENDERSON COUNTY**



**Department:** Code Enforcement Services

*Please make the following line-item transfers:*

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

Account	Line-Item Description	Amount
<u>115492 538100</u>	<u>Professional Services</u>	<u>\$ 14,000</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

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

Account	Line-Item Description	Amount
<u>114492 457005</u>	<u>State - AMH Grant PR</u>	<u>\$ 14,000</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

**Justification:**

Henderson County has again received the NCDENR abandoned manufactured home removal grant. Approved by the BOC 9.4.12.

Toby Linville  
Authorized by Department Head

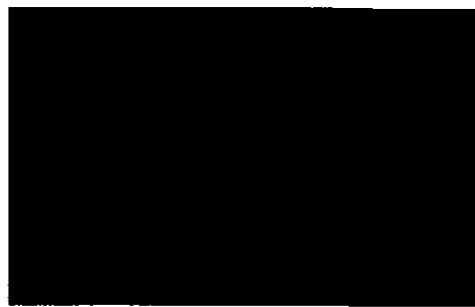
9/4/2012  
Date

   
Authorized by Budget Office

   
Date

   
Authorized by County Manager

   
Date



**Exhibit A**

**RESOLUTION DECLARING PERSONAL PROPERTY AS SURPLUS  
AND AUTHORIZING THE SALE OF SURPLUS PROPERTY  
BY ELECTRONIC PUBLIC AUCTION**

**WHEREAS**, Henderson County owns equipment itemized on the attached Exhibit B, hereinafter referred to as "surplus property", that is either obsolete or no longer needed for any governmental use by the County; and

**WHEREAS**, the Henderson County Board of Commissioners is desirous of declaring the equipment as surplus and selling at a public auction as authorized by NCGS 160A-270; and

**WHEREAS**, it is the intent of the County to sell said surplus equipment by electronic public auction at [www.govdeals.com](http://www.govdeals.com).

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

1. The equipment itemized on the attached Exhibit B is hereby declared to be surplus property.
2. The Finance Director is hereby authorized to sell by electronic auction at [www.govdeals.com](http://www.govdeals.com) the surplus property described above to the highest bidder.
3. All surplus property will be sold "as is", all sales final, cash, certified check or money order only. Henderson County makes no express or implied warranties of merchantability of any surplus property, or part thereof, or its fitness for any particular purpose regardless of any oral statements that may be made concerning the surplus property or any part thereof.
4. A notice summarizing this Resolution and the sale of the surplus property by electronic public auction shall be advertised by the Finance Director on the County's website at [www.hendersoncountync.org](http://www.hendersoncountync.org) at least ten (10) days prior to the public auction.

THIS the 4<sup>th</sup> day September, 2012.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

BY:

*Thomas H. Thompson*  
Thomas Thompson, Chairman

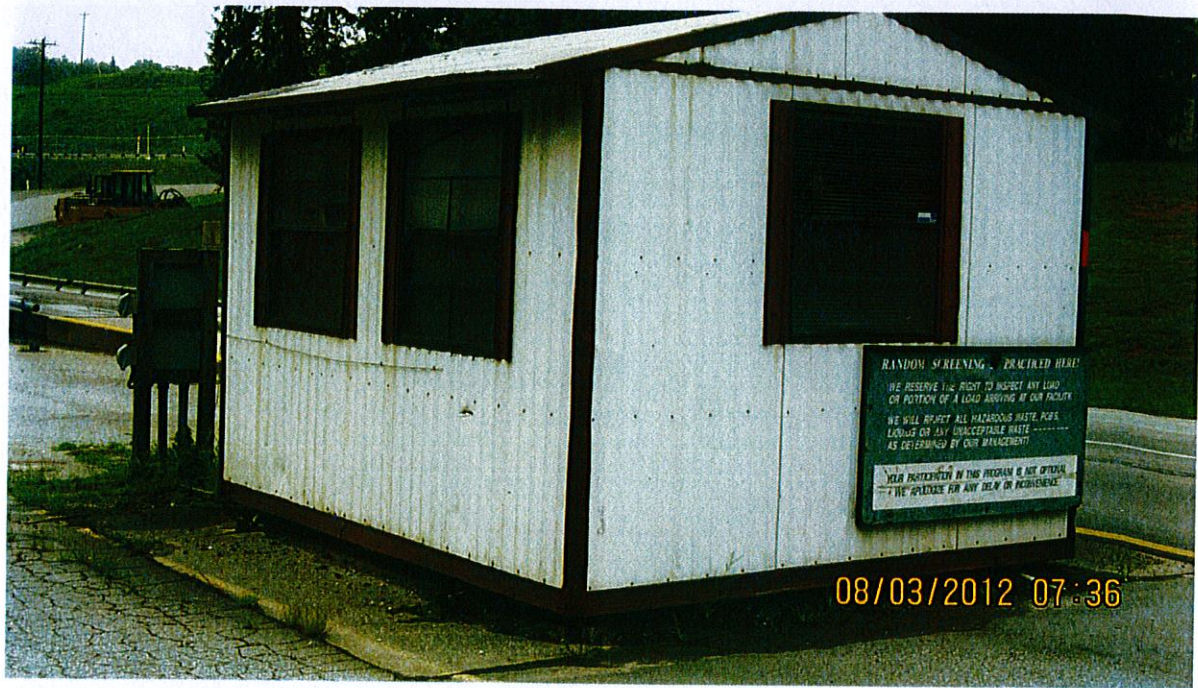
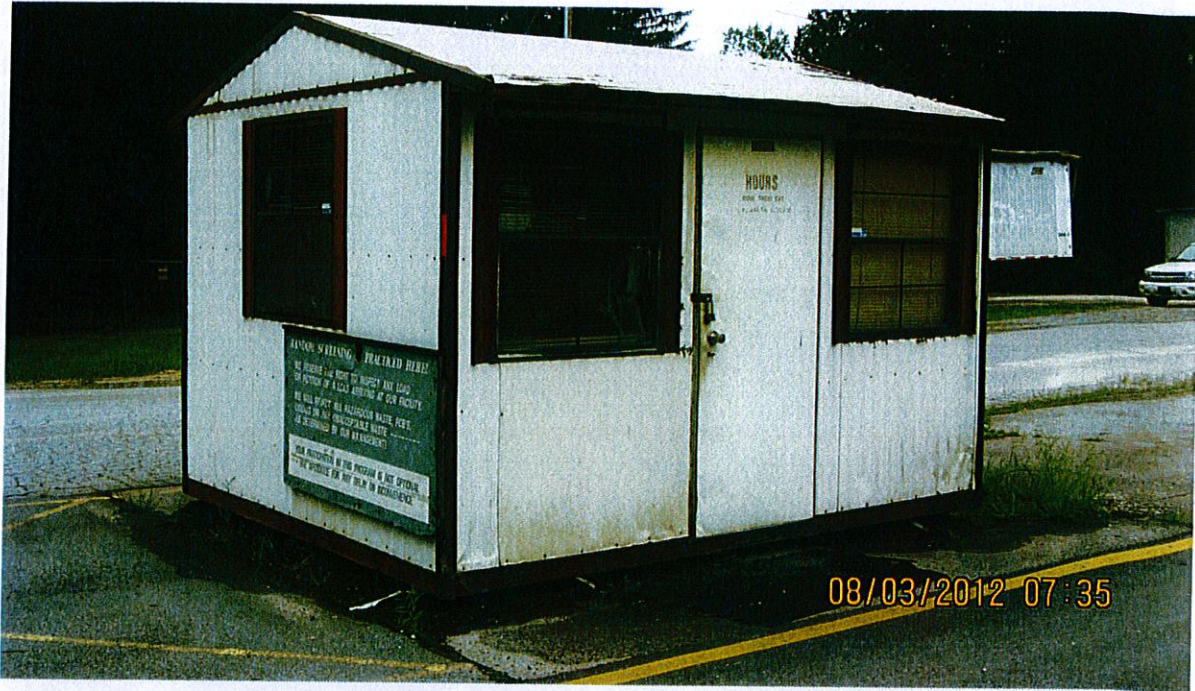
ATTEST:

*Teresa L. Wilson*  
Teresa L. Wilson, Clerk to the Board

[OFFICIAL SEAL]

**Exhibit B**

The equipment for surplus is the old guard building for the Transfer Station. The renovations of the Henderson County Transfer Station have left this building vacant. Solid Waste is no longer has a use for this building.





**HENDERSON COUNTY RESOLUTION  
AUTHORIZING THE PLANNING DIRECTOR TO SIGN REQUIRED REPORTS  
AND DOCUMENTS RELATED TO THE FERNCLIFF INDUSTRIAL PARK  
AND SIERRA NEVADA CDBG & NCRC GRANTS**

**WHEREAS**, the County of Henderson anticipates receiving 2012 North Carolina Rural Economic Development Center (NCRC) Private & Public Infrastructure Grants; and

**WHEREAS**, the County of Henderson anticipates receiving a Community Development Block Grant for public infrastructure; and

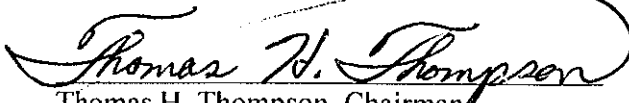
**WHEREAS**, these grant funds will be used to provide assistance to Sierra Nevada and Ferncliff Industrial Park to implement the construction of the necessary water and wastewater infrastructure to support the new Sierra Nevada Brewing Company located in Ferncliff Industrial Park and future businesses in that park; and

**WHEREAS**, the County of Henderson must sign various reports and documents to utilize grant funds including documents with Sierra Nevada, contractors, vendors and those that are sent to the North Carolina Department of Commerce and Division of Community Investment and Assistance during the administration of grant programs;

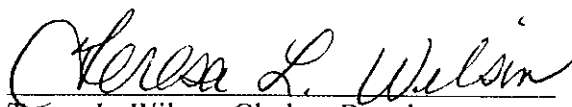
**NOW THEREFORE BE IT RESOLVED**, that Anthony Starr, the Planning Director, is designated to sign correspondence, contracts, reports, administrative documents, and CDBG recipient loan agreements, as well as documents related to purchasing and modification of pricing or purchasing regarding the Public and Private Infrastructure CDBG/NCRC project on behalf of Henderson County's Board of Commissioners. Carey McLelland, the Finance Director, is designated as an alternate should Anthony Starr not be available. All documents will be approved in accordance with the Henderson County Purchasing Policy and Carey McLelland, Finance Director must pre-audit applicable documents as required by law.

**BE IT FURTHER RESOLVED**, the authorization is to be effective on September 4, 2012.

Adopted and Approved this the 4<sup>th</sup> day of September, 2012.

  
Thomas H. Thompson, Chairman

Henderson County Board of Commissioners

  
Teresa L. Wilson, Clerk to Board

**HENDERSON COUNTY  
RESOLUTION AUTHORIZING THE PLANNING DIRECTOR TO SIGN  
REQUIRED REPORTS AND DOCUMENTS  
RELATED TO THE TALLEY DRIVE CDBG GRANT  
Grant Number:09-C-2066**

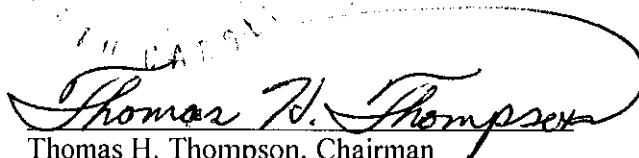
**WHEREAS**, the County of Henderson has received Community Development Block Grant funds from the North Carolina Department of Commerce to use to rehabilitate Talley Drive in Grant Number **09-C-2066**; and


**WHEREAS**, the County of Henderson must sign various reports and documents to utilize grant funds including documents with property owners, contractors, vendors and those that are sent to the North Carolina Department of Commerce and Division of Community Investment and Assistance during the administration of grant programs ;

**NOW THEREFORE BE IT RESOLVED**, that Anthony Starr, the Planning Director, is designated to sign correspondence, contracts, reports, administrative documents, and CDBG recipient loan agreements, as well as documents related to purchasing and modification of pricing or purchasing regarding the Talley Drive CDBG project on behalf of Henderson County's Board of Commissioners. Carey McLelland, the Finance Director, is designated as an alternate should Anthony Starr not be available. All documents will be approved in accordance with the Henderson County Purchasing Policy and Carey McLelland, Finance Director must pre-audit these documents as required by law. Mr. Starr may not sign any documents modifying the original deeds of trusts or liens pursuant to the grant and these must be approved by the Board of Commissioners

**BE IT FURTHER RESOLVED**, the authorization is to be effective on September 4, 2012,

Adopted and Approved this the 6<sup>th</sup> day of Sept., 2012.

  
Thomas H. Thompson, Chairman  
Henderson County Board of Commissioners

  
Teresa L. Wilson, Clerk to Board

# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1  
Hendersonville, NC 28792  
Phone (828) 697-4808 • Fax (828) 698-4443  
[www.hendersoncountync.org](http://www.hendersoncountync.org)

THOMAS THOMPSON  
Chairman  
BILL O'CONNOR  
Vice-Chairman

CHARLIE MESSER  
LARRY YOUNG  
J. MICHAEL EDNEY


## PROCLAMATION ACKNOWLEDGING SEPTEMBER 15-SEPTEMBER 29 AS FALL 2012 LITTER SWEEP ROADSIDE CLEANUP

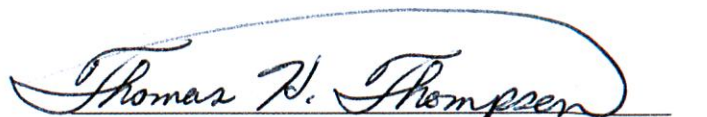
- WHEREAS,** the North Carolina Department of Transportation organizes an annual fall statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and
- WHEREAS,** the Henderson County Board of Commissioners will acknowledge the fall 2012 LITTER SWEEP roadside cleanup which will take place September 15-September 29, 2012, and encourages civic and professional groups, local governments, businesses, churches, schools, families, and individual citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and
- WHEREAS,** community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP and may receive certificates of appreciation for their participation; and
- WHEREAS,** the great natural beauty of our state and Henderson County and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and
- WHEREAS,** the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and
- WHEREAS,** the FALL LITTER SWEEP cleanup will celebrate the 24th anniversary of the North Carolina Adopt-A-Highway program and its 5,000 volunteer groups who donate their labor and time year-round to keep our roadsides clean; and
- WHEREAS,** the LITTER SWEEP cleanup will be a part of educating the children of Henderson County regarding the importance of a clean environment to the quality of life in North Carolina;

**NOW, THEREFORE,** be it resolved that we, the Henderson County Board of Commissioners, does Hereby proclaim September 15-September 29, 2012, as LITTER SWEEP time in Henderson County and encourages citizens in all 100 counties to take an active role in making their communities cleaner.

Adopted this 4<sup>th</sup> day of September, 2012

ATTEST:

  
TERESA L. WILSON, CLERK TO THE BOARD

  
THOMAS THOMPSON, CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

WO No. 3264710 Resp. 5530 Project CIPINC  
Drawn By: MARK EDENS  
Project Description: UNDERGROUND PRIMARY  
LINE EXT. 1PH.

Return Address: Duke Energy Carolinas  
Attn: MARK EDENS  
957 SPARTANBURG HWY  
HENDERSONVILLE NC 28792

Grantor's Address: 737 N CLEAR CREEK RD  
HENDERSONVILLE NC 28793

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**RIGHT OF WAY AGREEMENT**

**KNOW ALL MEN BY THESE PRESENTS, That COUNTY OF HENDERSON**

hereinafter called "Grantor" (whether one or more), in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, does hereby grant unto DUKE ENERGY CAROLINAS, LLC, and its successors and assigns, subsidiaries and divisions, hereinafter called "Grantee," the perpetual right, privilege and easement to go in and upon that certain land of Grantor (hereinafter "premises") situated in said County and State, property described as:

DEEDBOOK# 1050, PG# 731

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and over and across said premises within a right-of-way strip (check applicable):

having a width of \_\_\_\_\_ feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate with poles, lighting fixtures, crossarms, wires, guys, anchors, cables, transformers and other apparatus and appliances, overhead lines for the purpose of transporting electricity and/or providing lighting services and for the communications purposes of the Grantee and regulated telephone utilities. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement; and to remove from the right-of-way strip, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines or other facilities or equipment and trees of any species that Grantee determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines or other facilities or equipment; to trim or remove and to keep trimmed or remove dead, diseased, weak or leaning trees or limbs outside of the right-of-way strip which, in the opinion of the Grantee, might interfere with or fall upon the electric, lighting, or regulated telephone facilities within the right-of-way strip; and to install guy wires and anchors extending beyond the limits of the right-of-way strip.

having a width of 10 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate underground lines and conduits with other apparatus and appliances, either above ground or below ground, to include transformers and service connections, for the purpose of transporting electricity, providing lighting services and for the communications purposes of Grantee. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement; and to clear the land within the right-of-way strip and to keep it clear of trees, structures or other obstructions; and to clear that land outside the right-of-way strip within ten feet of the service door of any transformer or cabinet located within the right-of-way strip and to keep the area within ten feet of said door clear of trees, structures or other obstructions.

Grantor, for itself and its successors and assigns, agrees to hold Grantee, its successors and assigns, harmless for replacement and/or repair of paving, landscaping and fences as a result of future system maintenance and repair. All underground facilities are to be installed in accordance with the provisions of Grantee's Underground Distribution Installment Plan, NCUC Docket E-7, Sub 828, receipt of a copy of which is acknowledged by Grantor.

IN WITNESS WHEREOF, this instrument is executed on this 14<sup>th</sup> day of September, 2012

**GRANTOR**

By: Thomas H. Thompson

Name: Thomas H. Thompson

Title: Chairman, Henderson County Board of Commissioners

STATE OF NORTH CAROLINA

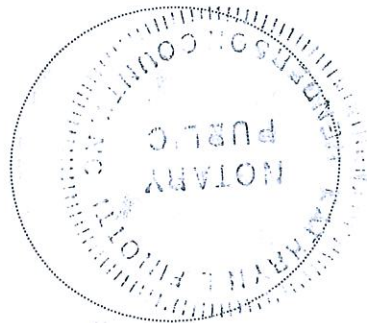
COUNTY OF Henderson

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Right of Way Agreement

Date: 9/18/12

My Commission Expires: 3-23-13

Kathryn J. Finotti  
Notary Public



Affix (Notary or Corporation) Seal