

## MINUTES

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
FEBRUARY 5, 2007

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 5:30 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Mark Williams, Commissioner McGrady, County Manager Steve Wyatt, Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Public Information Officer Chris S. Coulson, Finance Director J. Carey McLelland, Deputy Clerk to the Board Terry Wilson, Research/Grant Coordinator Amy Brantley, County Assessor Stan Duncan, Property Addressing Coordinator Curtis Griffin, Delinquent Tax Collector Lee King and Enforcement Director Toby Linville.

### CALL TO ORDER/WELCOME

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

### PLEDGE OF ALLEGIANCE

Three members of the Eagle Scouts Troop #605 led the Pledge of Allegiance to the American Flag.

Chairman Moyer stated that on January 13, 2007, there was an Eagle Cord of Honor held for Troop #605 to recognize Wilson J. Moss, Jonathan Robinson, and Patrick Singletary who obtained the rank of Eagle Scout. Chairman Moyer was honored to attend and represent the Board of Commissioners. To become an Eagle Scout you have to complete a major project which involves civic good and a lot of work. These three young men took on the project of doing all of the landscaping at the new Animal Shelter. They did a tremendous job and saved the County a substantial amount of money. He congratulated the young men and presented them with a plaque from the Board of Commissioners. Chairman Moyer called the Troop #605 leader, Don Henderson to the podium. He thanked Mr. Henderson for all of the hard work and effort he puts into scouting.

### INVOCATION

County Manager Steve Wyatt gave the invocation.

### INFORMAL PUBLIC COMMENTS

Chairman Moyer asked each person who had signed up for informal public comments to please limit their time to about 3 minutes.

1. Buford Adcock – Mr. Adcock lives at 350 Frankie Lane in Hendersonville. The problem he is dealing with is barking dogs. Mr. Adcock's neighbor has a dog that is turned loose about 6:15 in the morning and the dog barks continuously until around 9:00 when his owner puts him back into the house. Any other time of the day that the dog comes out he continually barks also. He had addressed this issue with his neighbor with no results. He provided a barking muzzle to his neighbor and was reimbursed by the neighbor, however, the neighbor reported later that he had tried using the muzzle but his dog did not like it. Needless to say the barking continues. Mr. Adcock did notify the Sheriff's Department and they responded several times confirming that it was a nuisance but they could not help with the situation. The Sheriff's Department has confronted his neighbor and left him notes with regards to the problem. Mr. Adcock has spoken with an animal control officer and they indicated they could not assist him with the barking problem. His son operates a Christian youth camp on his property and back during the summer this dog was a problem to his



neighbors, campers, counselors, and himself. He is concerned with what affect this may have on returning campers. He feels that it will cause people not to come back. Mr. Adcock would like to see the problem resolved. He has done all that he feels he can do. He asked the Board of Commissioners to do something about the Barking Dog Ordinance to help. He stated that the Town of Fletcher has recently implemented an ordinance of which he has a copy. The ordinance seems to be very basic and straight forward and is enforced by the towns Police Department. There is a 30 minute time limit on the dog barking.

2. Linda Soble – Ms. Soble lives at 308 Comet Drive in Hendersonville. She is the President of the Henderson County Association of Educators. The County Commissioners along with the School Board have appropriated funds to pay educators of Henderson County a local supplement of 5%. The percentage has remained the same for all employees of the former Hendersonville City Schools for twenty-five years. The Henderson County school employees received an increase from 3 to 5 % before the two systems merged back in the early 1990's. More than a decade has passed since any educator has received a supplement increase. The majority of surrounding Counties give larger supplements. Other school systems are becoming creative in attracting applicants from the decreasing pool of educators. For example across the state signing bonuses, double digit local supplements, and interest free home loans are offered as incentives. Our local supplement needs to be increased in order to attract and retain highly qualified educators. Henderson County schools loose certified staff in excess of 10% annually. In order to be more competitive the association is requesting sufficient funds in the 2007-2008 current expense budgets to fully cover the school systems needs and to provide an increase in the present supplement for teachers.
3. Bruce Hatfield – Mr. Hatfield lives at 144 Black Jack Road in Hendersonville. He is here is regards to the Timberwolf Subdivision Extension. He is having a silt problem on his property in his pond because of the reckless abandonment for the environment. The subdivision is being built along the head waters of Little Mud Creek which feed his pond and eventually feeds Kanuga Lake then on into Mud Creek. The contractor has proposed to put at least 7-10 houses on the property line on approximately 1 acre with septic tanks. This affects his well, spring water and his pond. There has been no silt fencing. Mr. Hatfield asked that the Board of Commissioners not approve the Timberwolf Subdivision extension. He has already contacted legal counsel to discuss what he must do to stop this contractor.
4. Dick Baird – Mr. Baird resides at 511 Hidden Lake in Hendersonville. Mr. Baird wanted to compliment the County Manager and his staff for the way the retreat was organized and conducted. He also complimented the Commissioners for their decisions and time dedicated to get the job done. The public spoke last year and the County took time and effort to go through this information and give it the consideration that was deserved.

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

Chairman Moyer requested the addition of I-2, Racetrack @ Airport Site and I-3, Extension Request for Improvement Guarantee for Timberwolf Subdivision (previously Item G of the Consent Agenda) into Discussion Items. Chairman Moyer also requested the deletion of Closed Session (a)(1).

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

#### **CONSENT AGENDA**

*Commissioner McGrady made the motion to adopt the consent agenda as amended above. All voted in favor and the motion carried.*

#### **Minutes**



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

September 20, 2006

December 18, 2006

January 10, 2007

**County Financial Report/Cash Balance Report – December, 2007**

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

Non-Departmental costs include insurance premiums paid to date for Property and Liability insurance coverage and Worker's Compensation costs. These costs are being allocated out to all departments on a pro rata basis prior to fiscal year end.

The current YTD deficit in the Emergency 911 Communications Fund is due to the purchase of new technology and equipment during the first quarter that was budgeted in the current fiscal year and paid for from unreserved fund balance appropriated.

The YTD deficit in the CDBG-Scattered Site Housing Project, the Mills River Watershed Protection Project and the Lewis Creek Restoration Project is temporary due to timing differences in the expenditure of funds and the subsequent requisition of Federal and State grant funds to reimburse project expenditures. Reimbursement requests are normally done on a quarterly basis.

The YTD deficit in the Mills River Elementary School Project includes architectural fees that have been paid on the project to date that will be reimbursed from the issuance of debt in the future.

The YTD deficit in the Solid Waster Landfill Fund is due to construction expenditures incurred on the new transfer station project. The total cost of this project is being paid from \$1.8 million of unreserved fund balance appropriated in the Landfill Fund budget.

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

*I move that the Board of Commissioners approve the December 2006 County Financial Report and Cash Balance Report as presented.*

**Henderson County Public Schools Financial Report – December 2006**

This report was presented for the Board's review and consent approval.

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

*I move that the Board of Commissioners approve the December 2006 Henderson County Public Schools Financial Report as presented.*

**Property Lease**

Henderson County has leased the property next to Broadpointe Business Park to Wayne Carland for several years. Mr. Carland was again interested in renewing this lease. This is the property donated to the County piece by piece when property is sold to businesses at the Park.

The proposed lease is identical to previous years, except that the annual rent is increased to \$1,950.00 from \$1,834.00. Mr. Carland owns the only legal right of access to this property except via the river.

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



*I move that the Board approve the lease for 2007 with Wayne Carland as shown in the draft which was attached to the agenda.*

#### **Extension Request for the Blue Moon on Pinnacle Peak Improvement Guarantee**

On March 15, 2006 the Board of Commissioners approved an application for an improvement guarantee for the Blue Moon on Pinnacle Peak subdivision. The improvement guarantee covered the earthwork, construction of the roads, drainage and erosion control for the entire subdivision. As required by the improvement guarantee's performance agreement the developer posted with Henderson County an irrevocable letter of credit in the amount of \$1,140,551.00. The original agreement required all improvements be completed by December 30, 2006.

The Planning Department received a letter from Mr. Alan Rieger, agent for owner, requesting to extend the completion date to May 30, 2007 because the paving could not be completed during the winter months. The applicant also requested that the Board approve a partial release of the improvement guarantee. Mr. David Huntley, surveyor, submitted a letter along with a contract from Tarheel Paving a& Asphalt Company certifying that the remaining cost of the improvements for the project totaled \$161,804.00 (cost of paving and ditch work). Staff visited the project site for Blue Moon on Pinnacle Peak on January 8, 2007 and verified that the improvements except for paving were completed as required. Mr. Rieger is also requesting to deposit with the County cash or certified check instead of amending the current letter of credit.

Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners to grant extensions to completion dates for a maximum of one additional year, provided that the time between initiation and completion of the improvements does not exceed two years. If the Board of Commissioners agrees to grant the requested extension and approve the reduction, County staff had attached for the Board's consideration a draft performance guarantee agreement. The agreement reflected a new completion date of May 30, 2007 and showed a reduction in the amount of the improvement guarantee. The agreement will supersede any previous performance agreements.

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

*I move that the Board of Commissioners find and conclude that the extension, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. I further move that the Board allow a partial release of the improvement guarantee as shown in the attached cost estimates and that the applicant be allowed to deposit this amount in the form of cash or certified funds with the County.*

#### **Extension Request for the River Stone Improvement Guarantee**

On October 2, 2006 the Board of Commissioners approved an application for an improvement guarantee for the River Stone subdivision. The improvement guarantee was for Sections 3A and 4B of River Stone. The improvement guarantee covered construction of the roads including paving and a valley gutter system for the above mentioned sections in River Stone. As required by the performance guarantee for the improvement guarantee, the developer posted with Henderson County an irrevocable letter of credit in the amount of \$122,125.00. The original agreement required that the improvements be completed by November 30, 2006.

On December 4, 2006 the Board of Commissioners approved an extension to the completion date for the improvement guarantee to February 28, 2007. On January 4, 2007 the Planning Department received a letter from Mr. Drew Norwood, owner, requesting to extend the completion date again to July 31, 2007 because the paving could not be completed during the winter months. The applicant also submitted a letter on December 22, 2006 requesting a partial release of the improvement guarantee. Mr. Don Hunley, engineer for the project, submitted certified cost estimates with the letter which showed that \$9,625.00 worth of improvements remain for these sections. The agreement reflects that he deposit with the County the \$9,625.00, via cash or certified check, instead of amending the current letter of credit.



Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners to grant extensions to completion dates for a maximum of one additional year, provided that the time between initiation and completion of the improvements does not exceed two years. If the Board of Commissioners agrees to grant the requested extension and approve the reduction, staff had attached for the Board's consideration a draft performance guarantee agreement. The agreement reflected a new completion date of July 31, 2007, and reduced the improvement guarantee to \$9,625.00 and will supersede and previous performance agreements.

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

*I move that the Board of Commissioners find and conclude that the extension, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. I further move that the applicant be allowed a partial release of the improvement guarantee as shown in the attached cost estimates and that the applicant be allowed to deposit cash or certified funds with the County.*

**Extension Request for Improvement Guarantee for the Timberwolf Subdivision (formally known as Jeter Mountain Subdivision)**

This item was moved to Discussion Item I-3

**Designation of plat review officers**

N.C. Gen. Stat. §47-30-2 requires that all persons appointed as plat review officers be so appointed by a resolution in the Register of Deeds office. "Plat review officers" insure that all plats to be recorded comply with the plat requirements set out in the General Statutes.

On September 17, 1997 the Board first adopted a plat review officer resolution. The resolution also sets out certain other procedures that all plat review officers must follow. The Board has time to time updated its appointments of plat review officers.

The Board needed to again consider updating the list of those persons appointed as plat review officers. The Planning Director recommends that Matthew Cable be added to the resolution. A proposed resolution has been prepared and was attached to the agenda for the Board's consideration in order to accomplish this update. The proposed resolution restates all other persons currently appointed as plat review officers.

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

*I move that the Board adopt the proposed attached resolution appointing a new list of plat review officers for Henderson County.*

**Sale of tax foreclosed property in Hunters Crossing Subdivision**

On 6 November 2006, the Board preliminarily accepted a bid to purchase certain tax-foreclosed lots located in Hunters Crossing subdivision for the sum of \$500.00.

The upset bid procedure for this property is now complete. No upset bids on this property were received. The last and highest bid for this property is the original bid, from Leon G. Bass.

Proposed is a final acceptance of the offer, and authorization to close the transaction upon payment in full.

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

*I move that the Board give final acceptance to the offer of Leon G. Bass, to purchase real property, upon payment in full of the offer price of \$500.00, and further, that the Chairman of the Board of Commissioners,*



*County Manager and county Attorney take such steps, including the execution by the Chairman of quitclaim deed, as necessary to close such transaction.*

**LEPC Annual Report for 2006**

Pursuant to Article 2-7 of the Local Emergency Planning Committee By-Laws, the 2006 annual report was submitted along with the membership roster for 2007 for the Board's review and consent approval.

**Petition for addition to State Road system**

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

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

*I move that the Board approve the petitions and forward them to NCDOT for action.*

**Approval of Agreements for Federal Transit Reimbursement Funds**

Henderson County is required by the Federal Transit Administration (FTA) to enter into two agreements with the City of Asheville prior to receiving federal transit reimbursement funds. The purpose of the two agreements is to (1) create a procedure by which the City of Asheville will pass through funds that have been reserved for Henderson County in an existing FTA transit grant application and (2) to establish a fair and rational distribution formula that will be used in future grant cycles to allocate federal transit funding between the City of Asheville and Henderson County.

Henderson County Legal Staff had reviewed the draft agreements and is comfortable with the provisions contained by each. Planning Staff recommends that the Board of Commissioners authorize the County Manager to execute the two agreements as drafted. The Asheville City Council will review the documents at their next meeting scheduled for February 13, 2007. All indications from Asheville City Staff had been that the agreements would be approved by the City Council at that meeting.

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

*I move that the Board of Commissioners authorize the County Manager to execute the Sub-recipient Agreement and Sub-Allocation Agreement with the City of Asheville as drafted.*

**Resolution for permanent closure of easement on the John F. Rymer property**

North Carolina General Statute 53-1-241 required that the Board of Commissioners first adopt a resolution declaring its intent to close a public road or easement. A proposed resolution was attached to the agenda declaring the Board's intent of closing the easements on the John F. Rymer property at 1515 Brevard Road, Hendersonville, North Carolina.

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

*I move that the Board adopt the proposed resolution.*

**NOMINATIONS**

**Notification of Vacancies**

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

1. **Adequate Public Facilities Task Force Charter – 8 vac.**
2. **Housing Consortium, Asheville Regional – 1 vac.**
3. **Juvenile Crime Prevention Council – 1 vac.**



**4. Blue Ridge Community College Board of Trustees – 1 vac.**

**Nominations**

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

**1. Agriculture Advisory Board – 3 vac.**

Commissioner Messer nominated for reappointment Kenny Barnwell to position #3, Theron Maybin to position #4, and Sherri Johnson to position #5. *Chairman Moyer made the motion to accept the three reappointments by acclamation. All voted in favor and the motion carried.*

**2. Animal Services Committee – 3 vac.**

Commissioner McGrady nominated for reappointment Steve Braznell to position #2, William Martin to position #8, and nominated for appointment Catherine Beall to position #5. *Chairman Moyer made the motion to accept the two reappointments and one appointment by acclamation. All voted in favor and the motion carried.*

**3. Blue Ribbon Committee on Illegal Immigration – 11 vac.**

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

**4. Blue Ridge Community College Board of Trustees – 1 vac.**

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

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

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

**6. Environmental Advisory Committee – 1 vac.**

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

**7. Equalization and Review, Henderson County Board of – 2 vac.**

Commissioner McGrady nominated for reappointment Babs Kuykendall to position #3 and William Farrell to position #5. *Chairman Moyer made the motion to accept the two reappointments by acclamation. All voted in favor and the motion carried.*

**8. Fire and Rescue Advisory Committee – 1 vac.**

The committee recommended reappointment of Richard Barnwell to position #7. *Chairman Moyer made the motion to accept the committee's recommendation by acclamation. All voted in favor and the motion carried.*

**9. Henderson County Transportation Advisory Committee – 9 vac.**

Commissioner McGrady nominated for reappointment Chip Gould to position #4, Steve Carter to position #8, Hunter Marks to position #10, Jim Crafton to position #12, Jon Laughter to position #16 and nominated for appointment Jaime Adrignola to position #14, and Scott Schenk to position #18. *Chairman Moyer made the motion to accept the five reappointments and two appointments by acclamation. All voted in favor and the motion carried.*

**10. Henderson County Zoning Board of Adjustment – 2 vac.**

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

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

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



**12. Hospital Corporation Board of Directors – 1 vac.**

Jeff Egolf and Bob Eklund were nominated for position # 9. The Clerk was asked to poll the Board. The results were as follows with each Commissioner getting one vote.

Chuck McGrady	Mark Williams	Bill Moyer	Charlie Messer	Larry Young
1. Bob Eklund	1. Jeff Egolf	1. Bob Eklund	1. Bob Eklund	1. Jeff Egolf

The Clerk tallied the votes with Bob Eklund being appointed to position #9.

**13. Juvenile Crime Prevention Council – 5 vac.**

Commissioner McGrady nominated Joe Johnson to position #3. *Chairman Moyer made the motion to accept by acclamation. All voted in favor and the motion carried.*

**14. Mud Creek District Ad. Council/Water and Sewer Ad. Council – 3 vac.**

Commissioner McGrady nominated Bill Moyer to position #1, Tom Cooper to position #2 and Bill Lapsley to position #3 for reappointment. *Chairman Moyer made the motion to accept all 3 nominees by acclamation. All voted in favor and the motion carried.*

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

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

**16. Planning for Older Adults Block Grant Advisory Committee – 3 vac.**

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

**17. Recreation Advisory Board – 3 vac.**

Commissioner Messer nominated for reappointment Roy Huntley to position #1, Jeffrey Donaldson to position #6 and Corum Smith to position #7. *Chairman Moyer made the motion to accept the nominations by acclamation. All voted in favor and the motion carried.*

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

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

**DISCUSSION ITEMS**

**Tax Collector’s Annual Report**

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collector’s Report dated February 5, 2007, for the Board’s review and consent approval.

Terry F. Lyda stated that in accordance with N.C.G.S. 105-369, Advertisements of Tax Liens on Real Property for Failure to Pay Taxes, he respectfully submitted the following report:

Annual Bills (not including Motor Vehicles)	
2006 Total Collector’s Charge:	\$49,390,710.20
Payments:	\$45,784,159.72
Unpaid Taxes:	\$ 3,606,550.48

**Percentage Collected through 02/02/2007: 92.70%**

**Advertisement of Tax Liens:**

Effective January 1, 1985, Ch. 1013 (H1676) amends N.C.G.S. 105-369 to provide that tax liens need to be advertised only once. A taxing unit may choose to advertise the tax liens more than one time, but it is not required to do so. The list must still be posted at the Courthouse or City Hall and it must be advertised in one or more newspapers having a general circulation in the taxing unit. The advertising may be done at any time from March 1 through June 30.



Effective July 1, 2006, N.C.G.S. 205-369 has been modified and will require us to provide notice to and advertise liens under the name of the "record owner as of the date the taxes became delinquent" of real property.

It is the recommendation of the Tax Collector to the Board of Commissioners that unpaid tax liens be advertised once: on May 21, 2007 (the third Monday in May). The reasons for his recommendation are as follows: (1) our tax statements sent to the taxpayers tell them that as long as their taxes are paid by April 30, their lien will not be advertised; (2) the Times-News states that they must have ample time for preparation of the advertisement; and (3) with the implementation of the new rules regarding advertisement, our costs per parcel will essentially double even without allowing for any per-inch increase the newspaper may add. Since many people rely upon income tax refunds to pay their property taxes, he feels it should remain on the same schedule as previously used to reduce as far as possible the costs incurred by advertising. Giving taxpayers until the end of April to pay ensures that anyone who is planning to use income tax refunds to pay county taxes has an opportunity to do so.

Collections information through February 2 for the 2006 bills mailed on August 18 is outlined below:

Annual Bills G01 Only:

2006 Total Charge	\$49,390,710.20
Payments & Releases:	45,784,159.72
Unpaid Taxes:	3,606,550.48
Percentage collected:	92.70%

Motor Vehicle Bills G01 Only:

2006 Total Charge:	\$3,350,486.45
Payments & Releases	2,583,029.38
Unpaid Taxes:	767,457.07
Percentage collected:	77.09%

Fire Districts All Bills:

2006 Total Charge	\$5,100,855.94
Payments & Releases	4,638,216.90
Unpaid Taxes:	462,639.04
Percentage collected:	91.14%

*Commissioner McGrady made the motion to accept the Tax Collector's recommendation regarding the advertising of delinquent taxes. All voted in favor and the motion carried.*

**Public Input Plan for the Draft Land Development Code**

Chairman Moyer called Anthony Starr to the podium.

Planning Director Anthony Starr stated that he had spoken with the Commissioners individually regarding the draft code and he is familiar with some of the issues that have been raised by the Commissioners. The next phase in this project is to receive public input regarding the draft LDC and zoning map. The purpose of the meetings will be to receive the suggestions and comments of citizens and stakeholders of Henderson County concerning the draft LDC and zoning map. These public input sessions would start Tuesday, February 20, 2007 at 7:00 pm. A public session would be held each Tuesday from February 20 to March 20, 2007 with a formal public hearing on March 27, 2007. The dates, times and locations are as follows:

<u>Date</u>	<u>Time</u>	<u>Location</u>
Tuesday, February 20, 2007	7-9pm	Blue Ridge Community College – Thomas Auditorium
Tuesday, February 27, 2007	7-9pm	Atkinson Elementary



Tuesday, March 6, 2007	7-9pm	Justice Academy
Tuesday, March 13, 2007	7-9pm	West Henderson High School
Tuesday, March 20, 2007	7-9pm	Patterson Center at Fletcher Academy
Tuesday, March 27, 2007	7-9pm	Board of Commissioners Meeting Room (100 N. King St.)

Planning Staff would be available one hour prior to each meeting to answer questions of citizens on an individual basis. Each meeting would begin with an opportunity for people to sign up to speak. Chairman Moyer would begin the meeting with a welcome and introduction. Each meeting would be a special called meeting so that all Commissioners could attend. Planning Staff would conduct input sessions, but the March 27 Public Hearing would be conducted by the Board of Commissioners.

A website for the Land Development Code has been established and the link to this site can be found on the County's homepage. The website provides an e-mail address for the public to submit comments. A video and series of scrolling slides that describe the draft Land Development Code will also appear on Cable Channel 11. Several large newspaper advertisements and a press release are planned to communicate this information.

The Board may implement additional changes to the LDC and zoning map after receiving public input.

*Chairman Moyer made the motion to hold a workshop (special called meeting) on Land Development Code in the Commissioners Meeting Room on Tuesday, February 20, 2007 at 7:00 pm. All voted in favor and the motion carried.*

*Commissioner McGrady made the motion to set public input meetings on successive Tuesday's beginning on Tuesday, March 13, 2007 at 7:00 pm with the last meeting being held in the Commissioner's meeting room. All voted in favor and the motion carried.*

*Commissioner Williams made the motion to resume accepting zoning applications. All voted in favor and the motion carried.*

Anthony Starr informed the Board that if an application was received today that the earliest the Board could act on any rezoning application would be the first meeting in May. This is assuming the Board did not use its authorized time to hold an additional meeting or sub-committee meetings on any particular application. There is a possibility that the new draft code could be adopted in April or May depending on how things go. The Planning Board has encouraged citizens to send a letter to planning staff or to the Commissioners requesting a particular zoning classification that will meet their needs under the new code and it could be incorporated in the process as they continue forward with the new LDC and zoning map. Therefore, you would not have to spend staff time or Planning Board time to process those zoning applications.

#### **Lewis Creek Water Management Project**

Suzanne Hohn, Outreach Coordinator for the Carolina Mountain Land Conservancy, a land trust, stated that last January they had requested that the Board sponsor a grant application for a water management project for Lewis Creek Nature Park and Nature Trail project. That grants application covered planning and design for management of the park, interpretive signs, planning for a nature trail and other preservation and restoration for the Southern Appalachian Highlands Bog Community that is located on the property. They are not submitting a second grant to the Division of Water Resources for a Water Management Project. This project will build on activities covered by the first grant by addressing storm water management and treatment in and near Lewis Creek Nature Park. Sponsorship of this project requires no county funding.

*Commissioner McGrady made the motion to adopt the resolution supporting the Lewis Creek Water Management Project grant application. All voted in favor and the motion carried.*



### **NACo Prescription Drug Discount Card Program**

In May, 2005, the National Association of Counties (NACo) began a 17-county prescription drug discount card pilot program. This program, which has been contracted through CaremarkPCS Health L.P., allows counties to offer prescription discount cards primarily to uninsured and underinsured residents, though the card may in fact be used by all county residents, regardless of age, income, or existing health coverage.

The program is not insurance, but rather a prescription discount program. There is no cost to the counties joining the program, but the counties do agree that by joining, Caremark retains 100% of any rebates offered as reasonable compensation for the services.

Several North Carolina counties are already involved in the program including: Alexander, Ashe, Bertie, Bladen, Buncombe, Burke, Caldwell, Camden, Catawba, Cherokee, Columbus, Pender, Haywood, Currituck, Davidson, Edgecombe, Hertford, Lee, Martin, Mitchell, Nash, Swain, Northampton, Onslow, Pitt, Scotland, Transylvania, Union, Vance, Warren and Watauga.

In general, it has been reported that counties are pleased with the program. The benefits provided to program participants include: an average savings of 20%, extra savings available through mail order, savings on specialty medications, no enrollment fees, age, or income requirements, all "commonly" prescribed medicines are covered, and use is unlimited.

The possible drawbacks to the program are that cuts to the rebates pharmacies receive for filling prescriptions particularly affect local, independent pharmacies. It has also been reported by some counties that there is a perceived County Staff or Board of Commissioners responsibility for participant issues with the program.

*Commissioner Messer made the motion to move forward and make this available to the citizens of Henderson County. All voted in favor and the motion carried.*

Research/Grant Coordinator Amy Brantley explained that it would take 8-10 weeks before Henderson County would be eligible because there are contracts and paperwork to be completed.

### **Possible sale of (former)Public Health Department Building 1347 Spartanburg Highway, Hendersonville, NC**

County Attorney Russ Burrell stated that approval is sought for the beginning of the process of the sale of the former Public Health Department Building at 1347 Spartanburg Highway. If the Board determines that disposal of this property is appropriate, the options available are as follows:

1. Advertisement for sealed bids;
2. Negotiated offer, advertisement, and upset bid;
3. Public auction; or
4. Exchange

The appraised value of this property was \$1.457 million. It was recommended that the same process be used as was used for the Land Development Building.

*Commissioner McGrady made the motion that the Board authorize staff to initiate the process to solicit bids on the former Health Department Building, subject to the advertisement and upset bid process set out by law, and also subject to the rejection of all bids by this Board at any time. Commissioner McGrady further moved that the initial bid sought by staff should be at least in the amount of the appraised value of the real estate. All voted in favor and the motion carried.*

### **Blue Ribbon Committee on Illegal Immigration**

County Manager Steve Wyatt stated that the Board had reviewed and adopted a charter and had requested staff to come back with a list of groups for the Board's consideration that would comprise a portion of the



committee. The Board has proposed a committee of eleven (11) members, with five (5) of those as at-large representation. During the last meeting, the Board of Commissioners agreed to provide the County Manager with their choices from the original list of groups to be represented on the committee. The Board submitted the following to be included for representation on the Committee:

- Local law enforcement
- Faith community
- Business community
- Agriculture
- Latino/Hispanic advocate

*Commissioner Messer made the motion that the Board of Commissioners authorize the County Manager to begin communicating with their groups, requesting representation on the Blue Ribbon Committee for Illegal Immigration. All voted in favor and the motion carried.*

#### **Foothills Highland Games**

Finance Director Carey McLelland stated that the County had been contacted by representatives of the Scottish Clans of the South (SCOTS) Games Committee requesting that they be permitted to again hold the Foothills Highland Games at Jackson Park. The 2006 Foothills Games were held at Jackson Park in November 2006 after outgrowing the Blue Ridge Community College facilities. Interim Recreation Director, Carey McLelland had been in communication with the group regarding holding the 2007 Games at Jackson Park.

Staff is generally supportive of permitting the SCOTS to utilize Jackson Park for its Foothills Highlands Games. However, staff had a significant concern regarding the closure of the Park for the event primarily because Jackson Park is the County's most widely used park and its closure would inconvenience other park visitors. In addition, County staff will need to address park ordinance issues regarding open fires, weapons used during the Games, and overnight camping during the event prior to approval.

The Assistant County Manager recommended that the SCOTS be permitted to utilize Jackson Park for the Foothills Highland Games, without closing the Park, but authorizing the Interim Recreation Director, County Attorney, and representatives of the Games to attempt resolution of the other issues and the resolution be placed on the consent agenda at the Board of Commissioners' February 21, 2007 meeting.

Udo Wilms, Director and President of SCOTS informed the Board that the SCOTS are now in their seventh year and have grown to the needs of Jackson Park.

Discussion followed and it was the Board's consensus that Jackson Park should not be closed.

*Chairman Moyer made the motion that Jackson Park not be closed for the Games, and that staff develop a formal policy regarding the no closure rule. He further moved that staff work with the SCOTS group to try to resolve other issues so that the games could continue in Henderson County and in Jackson Park. All voted in favor and the motion carried.*

#### **Library policy regarding banned individuals**

The County Attorney explained that the problem was with repeat offenders of the Library's "Disruptive Behavior Policy". The "Disruptive Behavior Policy is as follows:

### **HENDERSON COUNTY PUBLIC LIBRARY DISRUPTIVE BEHAVIOR POLICY**



**IT IS UNACCEPTABLE BEHAVIOR FOR ANY LIBRARY PATRON:**

1. To create any loud or disturbing noise, including noise by persons and electronic devices.
2. To use tobacco (either smokeless tobacco or by smoking) inside library buildings.
3. To possess or consume food or beverages except where purchased within the building in a designated area for the same, or at meetings where permission has been obtained to serve refreshments from the Library administration.
4. To not wear shirts or shoes in any Library building.
5. To bring animals other than generally recognized service animals (e.g., guide dogs for vision impaired individuals) into the building.
6. To solicit for sales, donation, or to advocate any position (except in designated meetings in the area designated for such meetings).
7. To distribute leaflets or post any sort of notices or flyer without prior authorization from the Library administration.
8. To use Library telephones or other equipment without prior permission of the Library administration except where the same is clearly designated for public use.
9. To move library furniture or equipment from one location to another without prior permission of the Library administration.
10. To fail to adhere to the Library's internet use policy.
11. To leave children under the age of 8 unattended.
12. To use any Library facility, including buildings, parking lots, sidewalks or driveways for games, skateboarding, rollerblading or any other activities without the prior permission of the Library administration.
13. To remove any library property from the building without prior authorization of the Library administration except through established lending procedures.
14. To block or in any way interfere with the free movement of any person or persons.
15. To follow or stalk staff or patrons around any Library building, or to undertake any other harassing behavior such as staring or other acts of intimidation.
16. To commit any nuisance or to disturb or offend the average Library patron.
17. To deface or willfully destroy any library property or the property of any patron.
18. To verbalize obscene or abusive language.
19. To fight, threaten, challenge to a fight or use obscene or offensive words likely to provoke violence.
20. To carry or possess any concealed or unauthorized weapon.
21. To possess or consume alcoholic beverages or controlled substances anywhere on library property except in compliance with a valid prescription therefore.
22. To use library property or facilities for activities or behaviors for which it is not intended (e.g., bathing, sexual activity).
23. To commit any crime under the laws of North Carolina.

Violators of this policy or patrons not complying with staff decisions regarding disruptive behavior are subject to removal from the library, and long-term loss of library privileges. Anyone refusing to leave the library premises when requested by library staff is subject to arrest and prosecution under trespass laws (N.C. Gen. Stat. §14-134) of North Carolina.

**POLICY BANNING OFFENDERS FROM THE LIBRARY**

Violators of the Henderson County Public Library Disruptive Behavior Policy will be asked to leave the library property immediately.

The length of time any offender will be banned from Library premises (which includes any Library building and all grounds of such buildings) will be based on the severity of the



offense and any history of previous offenses by the violator. Any violator refusing to leave Library premises when requested by Library staff is subject to arrest for trespass, and will be prosecuted. When a person is banned from the Library, they are forbidden to access Library premises, and all library privileges are revoked for the length of the ban.

Offenders will be notified both verbally and by letter (mailed to the address provided by them to Library staff) of their violation and length of their ban from the Library.

### **Bans resulting from non-criminal violations of library policy:**

First Offense: Offender banned for remainder of day.

Second Offense: Offender banned for one month.

Third Offense: Offender banned for six months.

Subsequent non-criminal offenses will incur further bans of not less than six months per offense.

Subsequent offenses need not be the same offense as previous offenses to count as second or subsequent offenses.

Bans resulting from criminal violations occurring on Library property:

The offender will be banned for a period of not less than six months (up to and including a permanent ban) depending on the severity of the offense.

### **Appeals**

Appeals of bans of one month or more must be submitted, in writing, to the Library Director within 10 days of the mailing of the notice of the ban. For all bans of six month or more, an offender must submit a request in writing to the Library Director to have full library privileges reinstated. This request must set out the offender's plan to demonstrate full compliance with all Library policies in the future.

*Commissioner Young made the motion that the Board approve the Public Library's "Disruptive Behavior Policy", and adopt the proposed policy banning offenders of the "Disruptive Behavior Policy". All voted in favor and the motion carried.*

### **UPDATE ON PENDING ISSUES**

#### **Land Development Building**

County Manager Steve Wyatt informed the Board that in the last couple of week staff has provided copy of information including the appraisal of the Land Development building to individuals who had shown an interest in purchasing the property. A meeting was held on this date and the individuals were advised that an informal session would be held. There were three parties that attended the session and they were all interested in entering the bidding process. It was made clear that the County wanted maximize the capitalization of this asset. Site inspections are being arranged for all three parties and any others who contact us. Another meeting was scheduled for February 12 at 9:00 am, and at that time staff will accept proposals from all parties that wish to make a proposal. The bid(s) will be received followed by a waiting period of one week. If no additional bids are received during that week the initial bids will be presented to the Board of Commissioners for a recommendation and then the formal bid process will begin.

#### **Race track at Airport Site**



Chairman Moyer stated that this had been brought to his attention and that the issue had raised a lot of concern. He had met with the Mayors of Mills River and Fletcher and they asked that the Board work together with them on a letter to notify the City of Asheville of the concerns. A draft letter was created to Mayor Terry Bellamy that read as follows:

“My purpose today is to bring to your attention the concerns of the Henderson County Board of Commissioners along with the Town Council of Fletcher and Mills River regarding the race track proposal reported through the media the previous week. The media reports have generated a considerable amount of interest as to the impact of such a facility on the surrounding neighborhoods and property owners. Suffice it to say that many are upset and are contacting their respective elected officials at the prospect of a race track locating in this area.

Our citizens have conveyed to us numerous concerns ranging from noise, traffic congestion and hazards, as well as the environmental impact, just to mention a few. The bottom line is that these folks believe their quality of life to be threatened. Whether perception or reality, we believe their concerns are valid and should be taken seriously. At a minimum we should be informed as to the particulars of this project and given the opportunity for meaningful input. We urge you to take these concerns into consideration and begin a dialogue at the earliest possible opportunity”.

*Commissioner Young made the motion to authorize Chairman Moyer to send this letter to the Mayor of Asheville and allow revisions. All voted in favor and the motion carried.*

**Extension Request for Improvement Guarantee for the Timberwolf Subdivision (Formerly known as Jeter Mountain Subdivision)**

*Commissioner McGrady made the motion to postpone this agenda item until the next Board meeting on giving the applicant the opportunity to come forward and work with Mr. Hatfield. All voted in favor and the motion carried.*

**STAFF REPORTS**

**County Attorney’s Report**

There was nothing further at this time.

**County Manager’s Report**

There was nothing further at this time.

**PUBLIC HEARING – New Road Names**

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

Chairman Moyer called Property Addressing Coordinator Curtis Griffin to the podium.

Property Addressing Coordinator Curtis Griffin stated that there were two petitions for new road names. The two changes are as follows:

<u>Old Road Name</u>	<u>New Road Name</u>
Phipps Lane	Vintage Barn Lane
Tater Road	Glad Wind Drive

There was no public input.

*Commissioner McGrady made the motion to approve the petitions for new road names as requested. All voted in favor and the motion carried.*



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

**PUBLIC HEARING – Public Hearing for abandonment of State Road 1102 (portion of)**

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

Property Addressing Coordinator Curtis Griffin explained to the Board that a petition had been received to abandon approximately 200 feet of Anders Road in the Zirconia area. This will free up the individuals property from any State maintenance that may be there at the time.

There was no public input.

*Commissioner Messer made the motion that the Board approve the abandonment petition and forward it to NCDOT for action. All voted in favor and the motion carried.*

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

**IMPORTANT DATES**

**Etowah Library Groundbreaking – February 8, 2007**

Assistant County Manager Selena Coffey stated that the Etowah Library Group had invited the Board to the groundbreaking for the new library on February 8, 2007 at 11:00 AM.

*Chairman Moyer made the motion to set a special meeting for February 8, at 11:00 AM for the Etowah Library Groundbreaking. All voted in favor and the motion carried.*

**Request for Public Hearing for abandonment of State Road 1114 (portion of)**

*Commissioner McGrady made the motion to set a public hearing for March 29, 2007 at 7:00 PM. All voted in favor and the motion carried.*

**Request for Public Hearing on permanent closing of easement**

*Commissioner Messer made the motion to set a public hearing for March 21, 2007 at 11:00 AM. All voted in favor and the motion carried.*

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

**CLOSED SESSION**

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

1. (a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body.
2. (a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

*All voted in favor and the motion carried.*

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



**ADJOURN**

*Commissioner McGrady made the motion to adjourn. All voted in favor and the motion carried.*

Attest:

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Terry Wilson, Deputy Clerk to the Board

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William L. Moyer, Chairman