

MINUTES**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS
AUGUST 19, 1998**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bob Eklund, Vice-Chair Grady Hawkins, Commissioner Vollie G. Good, Commissioner Renee Kumor, Commissioner Don Ward, County Manager David E. Nicholson, Assistant County Manager Angela M. Skerrett, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

Also present were: Staff Attorney Jennifer O. Jackson, Finance Director J. Carey McLelland, and Planning Director Matt Matteson.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Hawkins led the pledge of allegiance to the American Flag.

INVOCATION

Max Smith, Minister of Main Street Baptist Church, gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Ward asked that one item be added - Recreation as "F" under Staff Reports. Commissioner Ward also asked to pull "B" from the Consent Agenda and place it under Nominations "School Facility Committee".

David Nicholson asked to add #6 under Nominations, "Goals Committee".

Chairman Eklund asked that item "E" be pulled from the Consent Agenda - "Tax Collector - Order of Collection". He wished to consult the County Attorney in Closed Session on this matter.

It was the consensus of the Board to approve the above changes to the agenda.

INFORMAL PUBLIC COMMENTS

1. Christine Ring - Ms. Ring requested the Board's assistance in passing ordinances to protect property owners near game lands, state/national forests, and tourist attractions as well as a noise ordinance in the county. She further requested that the Board pressure the NCDOT to place Big Hungry and Gallimore Road higher on the list to be paved along with posted speed limits.

Chairman Eklund informed Ms. Ring that the noise ordinance is part of our "quality of life" issues that the Board will be looking at in the fall.

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Commissioner Ward suggested that a letter go out to NCDOT regarding signs and also send a letter to Clyde Amos, First Sergeant in the Highway Patrol encouraging enforcement.

2. Jack Lynch - Mr. Lynch spoke about citizen communication at public meetings, School Board meetings as well as Board of Commissioners' meetings.

3. Bryan Aleksich - Mr. Aleksich spoke about school construction. He asked that whatever is decided regarding funding of school construction be following a referendum.

He spoke about the Oregon initiative whereby any citizen with enough signatures can have any item put to a vote by the citizenry.

4. Dotty Effinger - Ms. Effinger addressed Mental Health issues. In November of 1996 Ms. Effinger, Jane Lindsey, and Cathy Swabe informed the Board about problems encountered trying to get services for children at Trend Mental Health. They asked for help at that time but haven't received much. Ms. Lindsey was also in the audience.

Fortunately they have received some help from Representative Larry Justus, Senator Bob Carpenter, Congressman Charles Taylor and others. When they contacted the Feds, Health Care Financing (HICFA) in Atlanta, they began investigating. HICFA has told the State to return \$82,000,000 of the \$86,000,000 emergency Medicaid mental health funds. The Department of Mental Health wants the legislature to give them an additional \$38,000,000 as part of the fix for the state Medicaid fund mismanagement. This separate \$86,000,000 fund was supposed to provide cash and counseling for families in crisis who needed mental health services.

Ms. Effinger stated that the State Mental Health System has let these children down.

Ms. Effinger asked the Board to help make some changes in the legislation.

Commissioner Kumor suggested the possibility of charging the Community Child Protection Team to do some work for the Board of Commissioners in addition to whatever their statutory mandates are. She suggested that the Board ask for a recommendation from the Community Child Protection Team if it is within the Board's authority to do so, to recommend to the Board of Commissioners a Task Force of people to assess standards for the delivery of services to children at risk. If we develop a standard that the community providers agree to then we have a standard to hold them to.

5. Don Fischer - Mr. Fischer spoke in favor of Discussion Item "E" - petition to abandon Mud Creek Cemetery Road. Mr. Fischer is Vice-President of Joe Crowell Construction, who is developing the King Property which is across the Mud Creek Cemetery Road with its entrance off of Rutledge Drive. It will cross Mud Creek Cemetery Road and therefore they wish to close that road so it is not in the middle of their entrance.

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Mud Creek Baptist Church has signed the petition. They are the only other property owner on the road.

6. Eva Ritchey - Ms. Ritchey spoke on the merits of recycling. She asked the Board to please not take away the opportunity to train our children to recycle and to reuse to help preserve our Mother Earth.

CONSENT AGENDA

Commissioner Hawkins made the motion to approve the Consent Agenda as adjusted above. All voted in favor and the motion carried.

The CONSENT AGENDA included the following:

Minutes

Minutes were presented for the Board's approval of the August 3, 1998 meeting.

Senate Bill 452-Regulation of Sexually Oriented Businesses

The Board had requested that Staff keep them informed as to the status of the legislation pertaining to local government's authority to regulate the location and operation of sexually oriented businesses. Senate Bill 452 was ratified by the General Assembly on July 8, 1998, and signed into law by Governor Hunt on July 15, 1998. This legislation clarifies local government's role in regulating the location and operation of adult establishments.

The legislation was provided to the Board for information only.

Plat Review Officer

At the September 17, 1998 meeting, the Board adopted a Resolution appointing certain named persons as plat review officers in accordance with NCGS 47-30.2. That Statute requires that all persons appointed as plat review officers be so appointed by resolution and that the resolution be recorded in the Office of the Register of Deeds. Plat review officers are charged with the responsibility of ensuring that all plats that are to be recorded comply with the plat requirements set out in the General Statutes. The September 17, 1997 Resolution and an excerpt from NCGS 47-30.2 were presented for review.

Staff recommended that Chris Timberlake, a Planner in the Henderson County Planning Department who has been assisting in the review of plats for several months, be appointed as a Review Officer. A proposed resolution had been prepared and was presented for the Board's consideration in order to accomplish this update.

Staff requested that the Board adopt the Resolution in order to provide the Henderson County Register of Deeds with an update list of review officers authorized to approve plats for recordation.

Request for Improvement Guarantee for High Vista Falls Subdivision, Phase I

Staff had received an Application for Subdivision Improvement Guarantee dated July 31, 1998, submitted by Development Resources, Inc., the company that is developing High Vista Falls Subdivision. By way of this application, the Developer requested permission to post a subdivision improvement guarantee to cover the estimated cost of the road and drainage improvements and water and sewer improvements for Phase I of the proposed major subdivision. High Vista Falls is a major subdivision located off NC Highway 191 in Henderson County. Maps were presented for the convenience of the Board in locating this subdivision.

Pursuant to Section 551 of the Henderson County Land Development Ordinance, a Developer may, in lieu of completing all of the requirements within the subdivision (i.e. completion of the road, drainage, water and sewer improvements) prior to final plat approval, post a performance guarantee to secure the County's interest in seeing that satisfactory construction of the incomplete improvements is accomplished. One type of permitted guarantee is an irrevocable letter of credit.

Peoples Bank has extended an Irrevocable Letter of Credit for the purpose of providing the improvement guarantee for the road, drainage, water and sewer improvements in High Vista Falls in the amount of \$550,000.00. This amount includes the amount listed on the cost quote plus the required additional amount of twenty-five percent. The Letter of Credit and a proposed Performance Guaranty Agreement were presented for the Board's review. The Staff Attorney had reviewed the Letter of Credit and the proposed Agreement and certified them as to form.

Planning Staff had reviewed the request and recommended approval in accordance with Section 551 of the Henderson County Land Development Ordinance. The effect of the approval of this improvement guarantee is to allow Planning Staff to approve the final plat for Phase I of High Vista Falls Subdivision prior to completion of the improvements.

Staff requested Board action to approve the application for improvement guarantee.

NOMINATIONS

Chairman Eklund informed the Board of the following vacancies and opened the floor to nominations:

1. Nursing/Adult Care Home Community Advisory Committee - 3 vac.

Aubrey Carruth had been nominated at a previous meeting. Commissioner Ward made the motion to suspend the rules and make this appointment. All voted in favor and the motion carried.

2. Hendersonville City Zoning Board of Adjustment - 2 vac.

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

3. Youth Advisory Board - 1 vac.

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

4. Solid Waste Advisory Committee (SWAC) - 2 vac.

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

Chairman Eklund as asked to interview the current applicants to see if they are waste haulers. It was the consensus of the Board that we currently have enough waste haulers on the committee.

Notification of Vacancies - this was pulled from the Consent Agenda and put here as #5 under Nominations.

5. School Facilities Committee - 2 Commissioner vacancies.

Mr. Nicholson passed around a letter from Chairman Linda Hawk to Chairman Bob Eklund outlining the Joint Facilities Committee and requesting the Commissioners to appoint two members.

Commissioner Ward nominated Commissioner Hawkins. Commissioner Hawkins nominated Commissioner Ward. Commissioner Kumor made the motion to suspend the rules and appoint both Commissioners to the Committee. All voted in favor and the motion carried.

There was discussion of the Commissioners' goals for this committee. Commissioner Ward had asked Bill Blalock to serve in the advisory capacity to the Commissioners (non-voting) on this committee.

Following much discussion, Commissioner Kumor summarized our Board's goals:

- ▶ Development of a feasible building plan to start one project that we can build within +/- a budgetary year to demonstrate to the community that both boards can develop a school building with a conservative budget but deliver an affordable building that supports education.
- ▶ This will be done with regard to their redistricting so that the population will be determined after redistricting.
- ▶ This will be accomplished at the lowest cost with an acknowledgment that an investment in a low maintenance building will be a savings to the community in the long haul.
- ▶ In addition, the Board may look for some additional types of funding and look for a long term facility funding recommendation from the Joint Facilities Committee.
- ▶ Expand the challenge of the Joint Facilities Committee to look at delivering future buildings because we expect

this to be a successful cooperative effort.

6. School Goals Committee - 1 Commissioner vacancy.

Commissioner Ward nominated Commissioner Kumor. Chairman Eklund made the motion to suspend the rules and appoint Ms. Kumor. All voted in favor and the motion carried.

TAX REFUNDS AND RELEASES

Vice-Chairman Hawkins had requested that the Tax Refunds and Releases be pulled from the August 3, 1998 agenda.

Robert Baird, Tax Assessor, was present.

Commissioner Hawkins had some questions regarding the documentation on the refunds and releases he had asked to be pulled from the previous meeting agenda. NCGS prohibit the Board from releasing or refunding any portion of taxes except under certain provisions. Those taxes the Board releases, they are personally liable for. Mr. Hawkins had specifically a question about the taxpayer making a written request for the release. It appears that sometimes a written request is not filled out in the tax assessor's office, such as in the case of a clerical error. However, the action of the Governing Body requires receipt of a taxpayers written statement.

When tax releases and refunds come before the Board for their approval, Commissioner Hawkins wants clarification as to whether or not a written request has been received.

Following much discussion, it was the consensus of the Board that the County Attorney work with Robert Baird on a statement to meet the statutory requirements. It was the recommendation of the County Attorney that Mr. Baird inform the Commissioners that he has on file a request for release from the taxpayer. He further suggested that a letter be styled so that if sent and no response is received in a specified time, that it be considered that the taxpayer is making the request and the assessor will present it to the county commissioners.

Commissioner Kumor made the motion to approve these tax releases and refunds presented at this meeting. All voted in favor and the motion carried.

STAFF UPDATE OF THE 1999 REAPPRAISAL

Robert Baird presented an outline of the 1999 Reappraisal Update as follows:

CALENDAR OF EVENTS

- ▶ January 1996 - December 1998
Collect Sales Information
- ▶ August 1996 - December 1998
Develop Schedule of Values

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- ▶ January 1997 - September 1998
Field Review Process
- ▶ September 1998 - December 1998
Quality Control
- ▶ December 1998
Approval of Schedule of Values
- ▶ January 1999
Value Notices Mailed
- ▶ February 1999
Informal Hearings
- ▶ May 1999
Board of Equalization and Review
- ▶ July 1999
Property Tax Commission

Mr. Baird discussed the items in the calendar in some detail. The magical date for having all your data is December 31. The data is then applied on January 1.

Chairman Eklund called a ten minute recess.

UPDATE ON SEWER PROJECTS

County Staff updated the Board of Commissioners on several sewer issues:

1. Justice Academy - David Nicholson asked Gary Tweed to update the Board on this project. Mr. Nicholson also said that the Board needs to talk about what rate structure the Board wishes to use to bill the Justice Academy.

Gary Tweed, County Engineer, informed the Board that construction is complete on the sanitary sewer system for the Justice Academy. It has been in operation about 4 weeks. A rate structure needs to be established for the Justice Academy. He presented two options to the Board:

1. Actual costs & return of capital
2. Flat rate based on Mud Creek Sanitary District rate

Mr. Tweed's recommendation was that a flat rate be established for the WNC Justice Academy wastewater service in the amount of \$5,500 per month. This rate should cover operating expense while recovering capital construction costs and should build some revenue for future capital

expenses. This rate is somewhat in line with what would be incurred by using the Mud Creek rate at 20,000 GPD.

Following discussion, Commissioner Kumor made the motion to approve the recommendation of the County Engineer in setting a monthly rate at \$5,500 for the Justice Academy. All voted in favor and the motion carried.

2. Town of Fletcher - David Nicholson informed the Board that he had been working with the Town of Fletcher to install sewer lines along US#25. Originally when the project was discussed and approved by the voters in the Fletcher area to set up the Cane Creek Water & Sewer District, there were lines planned to serve downtown Fletcher. Costwise, those lines were done as an alternate and there was not money to fund the alternate.

The Town of Fletcher agreed to fund the cost of those lines with a total line length of approx. 11,000 feet. The approx. costs for the construction and design is \$490,000. The proposed time schedule is to bid the project out around October 1 and possibly open the bids in November. Depending upon the weather, the construction period should be 90 days. The Town of Fletcher will deed the lines to Cane Creek Water & Sewer District.

3. Wildwood Garden's Maintenance Request - David Nicholson informed the Board that Mr. Tweed received a letter from the Wildwood Garden's Homeowner's Association regarding the possibility of Cane Creek Water & Sewer District taking over the maintenance on their system inside their subdivision.

Gary Tweed gave a brief description of the location of Wildwood Gardens in the Fletcher area. Mr. Tweed stated that when the sewer lines were installed in that area, they were built by using small diameter sewers without manholes, combined to a common collector line (small diameter) which ties into the MSD interceptor along Kimzey Creek. The system has had some problems off and on, blockages and flooding in the area. The system is not built to today's standards. If we were to take over the system, we may be obligated to upgrade it to 8 inch diameter lines and manholes. For that reason, Mr. Tweed said he could not recommend taking over the system. He stated we must be careful how we assess this, if we take over a private system here we may be setting a precedence elsewhere.

Two residents of the subdivision were in the audience and one came forward, Mr. Bill Woods. He stated that they are paying Cane Creek Sewer dues and have been for eight years. When they have problems and try to contact someone to get something done they are told that the lines are not standard. He has tried to go through county offices to find out who approved the lines when they were installed. If they were approved by the county, he feels it is the county's responsibility. If they need to be upgraded then it would be the county or Cane Creek that should upgrade them and bring them up to current standards. He stated the development was built in 1984-85.

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Through discussions, it was determined that the developer probably went directly to MSD and bypassed Cane Creek

Mr. Nicholson stated that staff will meet on this issue and come back to the Board with a comprehensive report.

4. Marlow Elementary School - Angela Skerrett informed the Board that staff has been working with the School System and with property owners in the area to locate the Marlow School Line in the location that Mr. Tweed had originally recommended. They have both been very receptive to it. Staff is continuing to work with them and have not received any cost estimates or projection as to what the county's portion of that line will be.

Mr. Tweed stated that we will build a gravity line from Butler Bridge Road to our existing system which will run through Broadpointe Park, along Fanning Field Road.

TAX COLLECTOR'S REPORT

Terry F. Lyda, Tax Collector, presented the Tax Collector's Report to the Commissioners which was current as of yesterday. A copy of that report is attached as a part of these minutes.

Discussion ensued between Commissioners Kumor and Hawkins about the fact that the Tax Collector could better spend his time in his office collecting taxes. The request had been to receive the tax report, as required by the NC General Statutes. Commissioner Hawkins requested that Mr. Lyda stick to what is required by the General Statutes which would tell the Board three things:

- What you've collected
- What is uncollected
- What you're doing to collect the uncollected taxes

Chairman Eklund stated that this would be on the Consent Agenda in the future, a report rather than a personal appearance.

UPDATE ON PENDING ISSUES

1. Revenue Neutral - Budget Development Resolution and Time line

Commissioner Ward had asked that this item be put on the agenda. He had distributed a draft copy of a "Budget Development Resolution" in each Commissioners' mailbox. He had taken Ms. Kumor's Budget Development Resolution and modified it some. Commissioner Kumor asked that she and Commissioner Ward work together to blend the two draft Resolutions and they will bring one Resolution back to the Board for consideration. It was the consensus of the Board for them to do so.

2. EMS Substation

David Nicholson reminded the Board that they had asked that a letter be written to both Hospital Boards, Pardee and Park Ridge, about the possibility of helping with the costs associated with

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looking at a Northwest EMS Substation. The Board had specifically asked for a letter to be written to Pardee Hospital after receiving the first correspondence from both hospitals about utilizing their offer somewhere in the Southeastern area of the county.

In a letter from Park Ridge Hospital dated April 6, it talks about the Northwest precinct in the Mills River area. Park Ridge is willing to donate 3/4 acre of land for an EMS Substation, at the intersection of 280 and 191 North. They will provide Henderson County \$100,000 for the construction of the EMS building on the property. They will also donate \$10,000 for equipment to be located in the Mills River substation. In the future if Henderson County decides to build an additional EMS substation within three years, Park Ridge would be willing to donate \$10,000 toward that facility.

In response to the Board's request that we utilize the Board's offer anywhere across the county, Mr. Nicholson reviewed a letter from Park Ridge dated May 4 from Michael Gentry, President of Park Ridge, which says that they are willing to modify their proposal to allow Henderson County to choose where to locate that substation.

Mr. Nicholson stated that the letter dated August 18 from Frank Aaron (Pardee Hospital) indicated that the current Board of Trustees has discussed it and feels that they would support the current offer to assist with the construction of a facility in the Mills River area. They do not feel comfortable with making any decision that is going to effect the new Board of Directors of the Hospital Corporation. At this point in time they have no comment upon the Board's request, specifically would they assist with a substation somewhere in the southeast area of the county. They did note that their land is pretty well used up between the Hospital and Hospice.

Staff requested direction from the Board. Considering that there is a 2-3 year timeframe to plan for personnel to man the second substation, Commissioner Ward made the motion to accept Park Ridge's offer to go into the North section of the county with our EMS service substation and offer the consideration to Pardee Hospital for the South side as a possible joint venture with BRCC, Pardee and Henderson County. A vote was taken and the motion carried unanimously.

IMPORTANT DATES

The Commissioners' calendar was reviewed. Mr. Nicholson informed the Board that staff failed to put on the agenda the discussion of having a public hearing to extend the option on Appleland Business Park. We will be closing on September 18 with DuraLine on one piece of property. He currently knew of no other parties interested in property at Appleland. Our opportunity to renew the option runs out December 31, 1998.

Following much discussion, Commissioner Hawkins made the motion that the Board not hold a public hearing on the renewal of the option of Appleland Business Park, but let the option run out December 31, 1998. All voted in favor and the motion carried.

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Mr. Nicholson then asked the Board if they would like to have the annual Volunteer Appreciation Banquet that the Board has held every fall for the past 6 years. It was the consensus of the Board to again hold that, probably in October. The Clerk was directed to check with Tommy Shipman about dates and get back with the Board.

Commissioner Ward asked that staff work with the School Board in finding a suitable date for the School Facilities Committee to meet.

It was the consensus of the Board that the Chairman send a letter to Mr. Bill Blalock asking him if he would serve with Commissioners Hawkins and Ward on the School Facilities Committee as technical support.

RECREATION - add on by Commissioner Ward

Mr. Ward stated that on the annual tour last night of county parks, it was obvious that we have some recreation needs in the outlying part of the county. It was brought to the Board's attention that every sector of our citizens have something to do at Etowah except for the very young people. They have no playground equipment. This was their next priority on their list. He recommended some playground equipment similar to what has been done at East Flat Rock, Jackson Park and what we're doing at Edneyville. He stated that the Board has money in their contingency that had been put in their for the Commissioners' pay raise. He suggested taking that money and putting it toward playground equipment for Etowah and ask the County Manager to come up with the balance out of contingencies or from other recreation appropriations.

Commissioner Ward stated that the Recreation Board had a big concern because the Board had a dollar figure on the Recreation priority list.

It was the consensus of the Board that Larry Harmon present a plan to the Board of Commissioners showing the money that is already budgeted for playground equipment and the Commissioners' raise monies, and whether we can come up with equipment for both Edneyville and Etowah by adding just a small amount of money.

PRESENTATION ON ECONOMIC DEVELOPMENT - David Nicholson explained to the Board that this presentation is going to take some time and there are several people in the audience to hear other items.

Mr. Nicholson suggested either postponing the presentation until this afternoon or having it at a future meeting. The people who have requested to see this presentation are not in attendance.

Staff was prepared to make a presentation to explain to the public the County's economic development efforts, and the methodology used by the Board in evaluating and approving economic incentives for industrial prospects.

Following discussion, it was the consensus of the Board to schedule this presentation for the September 8, 5:30 meeting.

IMPACT FEE - EDNEYVILLE ELEMENTARY SCHOOL

The Board reviewed a letter that Chairman Eklund had received requesting that Henderson County waive its share of the Impact Fee for the waterline to Edneyville Elementary School. Under this agreement with the City of Hendersonville to construct this waterline, Henderson County receives 60% of this fee. The Board of Public Education requested that Henderson County forego its share of the \$3,100.00 fee.

County staff has been working with the City of Hendersonville concerning their possible waiver of their share during the past few months. As of this date, the City had not taken any formal action concerning the school system's request. Staff expected the City Council to address this issue at their next meeting.

Mr. Nicholson informed the Board that there is no mechanism in the agreement allowing Henderson County to waive the Impact Fee. However, the Board of Commissioners could reimburse its share of the fee to the school system following their payment. He stated he believed this action would also encourage the City of Hendersonville to reimburse the schools.

It was the consensus of the Board to approve this contingent upon the City reimbursing their portion.

VILLAGE OF FLAT ROCK ZONING RESOLUTION

Jennifer Jackson presented a joint resolution that had been drafted by the Village of Flat Rock in expectation of the Village's adoption of a zoning ordinance and map. The Village of Flat Rock held its public hearing on August 13, 1998, and adopted the ordinance and map following the close of the public hearing.

The Village, pursuant to its Resolution No.34 which was adopted on June 11, 1998, requested that the County relinquish zoning jurisdiction in the municipal boundaries of the Village upon the Village's adoption of its zoning ordinance. A copy of this Resolution No.34 was reviewed. Related to this request, Staff had been working with the Village in drafting a joint resolution pertaining to the transfer of zoning jurisdiction from the County to the Village which was presented for the Board's consideration. It was Staff's understanding that the Village intends to adopt this resolution after the County's adoption.

One of the effects of the Village taking over zoning jurisdiction in the boundaries of Flat Rock, is that our "Flat Rock" zoning area will be split into two zoning areas. At the Board's request Staff had advertised the potential Zoning Board of Adjustment positions, but has not yet received any applications from the areas.

The County Attorney discussed with the Board the potential effect that adopting the proposed resolution may have on the Henderson County Zoning Board of Adjustment.

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It was the opinion of the Staff Attorney that it would not be effective until the Board of Commissioners grants them the authority to take over that zoning jurisdiction. Flat Rock's opinion is that it became effective on August 13, which is the date they adopted their Ordinance because they previously asked that you relinquish that jurisdiction in their Resolution #34 which was adopted in June. In order to clarify the discrepancy, Mrs. Jackson recommended that the Board consider changing the terms of the Resolution to reflect that the Board agrees that the zoning jurisdiction would be taken over by the Village of Flat Rock on August 13 or the effective date of their Ordinance.

Commissioner Hawkins raised a question about item #4 in the Resolution which he felt was inappropriate.

Don Elkins recommended waiving the 2 year notice because this will be connected with our Zoning Board of Adjustment as far as trying to figure out the districts we have and getting the appointments made. He has read Jennifer Jackson's comments and agreed with them. He stated the Board could go either way.

Jennifer Jackson stated she was concerned about the gap between August 13 and whatever time the Board of Commissioners acts on this. There is a big gray area as to which law applies.

Ken Swing - Mr. Swing had not been present at the beginning of the meeting for informal public comments. He asked Chairman Eklund if he could speak to this issue.

Mr. Swing owns property in Flat Rock. He came here as a representative for approx. 10 parcels of land in Flat Rock, owned by 4-5 owners. They have concerns and asked the Board to delay divesting the county of its zoning rights in Flat Rock. They felt that they were not getting response from the Village Council on some of their concerns. He read a letter to Mayor Highlander from a family in Flat Rock who represent about five tracts of land. The letter was mailed July 25 and no response had been received yet.

Bill Moyer - Mr. Moyer is current Chairman of the Henderson County Planning Board. He stated that they have an item on the Planning Board Agenda for August 25 which will be directly impacted by this decision. As far as he is concerned, if the Board of Commissioners puts off the date, the Planning Board will continue to apply county zoning in these various areas.

Matt Matteson stated that since the Village of Flat Rock adopted their zoning, the Planning Department has received one or two routine zoning requests and have acted on neither of those at the suggestion of the County Attorney. They have also received a petition for a 10 foot variance for a garage in the Village of Flat Rock on August 14 and they did not act on it. They were referred to the Village of Flat Rock. They also have an application for a Board of Adjustment hearing for a temporary use permit, not in Flat Rock.

Following much discussion, it was the consensus of the Board to ask advice of the County Attorney in Closed Session.

PROPOSED WORK PLAN FOR IMPLEMENTATION OF PROPOSED COUNTY-WIDE LAND USE REGULATIONS

David Nicholson reminded the Board that on April 27, 1998 the Henderson County Planning Board met with the Board of Commissioners at a joint meeting to discuss county-wide land use regulations. The Planning Board reviewed and approved the work plan outline at their meeting of June 30, 1998.

Matt Matteson stated that the work plan that the Planning Board approved may need adjusting depending on when actual work begins. The work plan elements are as follows:

- ▶ **Element One - Open Use Zoning.**
Design both text and map amendments for a new "open use" zoning district that will cover all existing unzoned areas of Henderson County. The new district is intended to provide a base level of regulation for selected uses only.
- ▶ **Element Two - Zoning Ordinance.**
Rewrite the Zoning Ordinance to make it more user-friendly and to bring it up to date with recent changes in land use policy.
- ▶ **Element Three - Corridor Studies.**
Designate a procedure to study selected areas for traditional county zoning, such areas or "corridors" being those having the potential for continued rapid and unregulated growth. A portion of this element may include a study of the proposed extension of the Hendersonville ETJ.
- ▶ **Element Four - Timetable.**
Outline a proposed timetable for implementing such plan including a schedule for initial staff work, Planning Board review, community input and Board of Commissioners review and action.
- ▶ **Element Five - Staffing.**
Recommend a level of staff resources as well as related administrative, legal, public information or intergovernmental requirements necessary to implement the plan.

Mr. Moyer will take this plan back to the Planning Board with the Board of Commissioners' support. The Commissioners felt that the time periods were reasonable. When the Board of Commissioners gets these items back from the Planning Board they will be given due consideration.

PETITION TO ABANDON MUD CREEK CEMETERY ROAD (SR#1165)

Jennifer Jackson informed the Board that the County has received a petition from Mud Creek Baptist Church, Inc., and Joe Crowell Construction, Inc. (the developer of Rutledge Subdivision) asking that

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the County request NC Department of Transportation (NCDOT) to abandon and remove from the State maintenance system Mud Creek Cemetery Road (SR#1165). This petition was presented for the Board's review along with a map showing the location of the road.

NCGS 136-63 sets out the procedure by which a road may be abandoned. This statute requires that before NCDOT abandons a road in the manner requested, the Board of Commissioners must adopt a resolution requesting that the road be abandoned. In addition, this resolution must be based upon a finding that "the best interest of the citizens of the County will be served thereby."

Although no public hearing is required to abandon a road, it would be appropriate to hear from the interested public, as well as public safety professionals before making such a determination.

Following discussion, it was the consensus of the Board to investigate further, send some letters out, and receive public comments.

PARDEE HOSPITAL BUDGET

Frank Aaron, Chief Executive Officer of Margaret R. Pardee Memorial Hospital, presented their FY 99 Budget. A copy of this document is attached as part of these minutes.

Mr. Aaron briefly reviewed the Budget Timetable, Expenses, Revenues, Future Capital Reserve Requirements and Current Capital Requirements. He also briefly discussed the "Adjusted Value" Calculation.

Hospital Administration is proposing to the Hospital Board to have a charges increase of 2% next year. They have not had a charge increase for four years.

This was presented to the Board for information purposes only, no action was required.

911 MONTHLY SURCHARGE

On July 7, 1997, the Board adopted an Ordinance to Establish Countywide 911 Service and a related Resolution which set \$2.50 as the amount of monthly surcharge for 12 months beginning November 10, 1997. Beginning November 10, 1998, the surcharge was to be reduced to \$.55 per month.

BellSouth, through its own error, did not place the \$2.50 surcharge on the monthly telephone bills until January of 1998. They were ordered to place the surcharge on beginning November 10, 1997. The Board directed that the County Attorney attempt to resolve the two-month financial discrepancy with BellSouth.

Mr. Elkins has been able to get some indication of what corrective action BellSouth would be willing to take in response to the Finance Director's letter dated January 15, 1998, a copy of which was presented for review. Mr. Elkins has talked with the Attorney for Bell South and Bell South agreed to some things in Carey's letter: paragraphs #1, 2, 3, and 4

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they rejected : paragraphs #5, 6, 7, and 8. Their Attorney said that he would not recommend that Bell South agree to these things.

Jennifer Jackson stated that based on Mr. Elkins conversations with Bell South, Staff has prepared several options that could be utilized in resolving this matter:

1. Amend the ordinance to allow for collecting the additional \$5.00;
 - a. Public hearing; and
 - b. 120 days notice;
2. Bill each customer \$5.00 for the entire 2 month discrepancy;
 - a. Financially burdensome;
 - b. Billed as a separate item with BellSouth acknowledging its error;
 - c. Potential increase in nonpayment/uncollectibles;
 - d. Prompt resolution;
3. Prorate the \$5.00 and bill each customer over a period of months;
 - a. 5 month period (from 11/98 through 4/99);
 - b. Billed as a separate item with BellSouth acknowledging its error;
 - c. Customers actually see a decrease from \$2.50/month to \$1.55/month for 5 months, then a further decrease to \$.55/month.
 - D. Resolution within FY 98/99;

Staff recommended that the Board consider option #3 as it appears to be the least burdensome on the customers. In addition, Staff would recommend that the County look to BellSouth for the interest that the County will not have earned as a result of its error.

Commissioner Good made the motion to approve option #3, as recommended by staff. All voted in favor and the motion carried.

CONSIDERATION OF BID RECEIVED FOR THE OPERATION OF A MATERIALS RECOVERY FACILITY IN HENDERSON COUNTY

Angela Skerrett reminded the Board that at the recent Solid Waste Work Session, the Board directed staff to seek proposals from vendors who might be interested in leasing the equipment owned by the County, currently being utilized in the operation of a Materials Recovery Facility (MRF) by the County's contractor, Garbage Disposal Service, Inc. (GDS). On July 3, 1998, requests for pricing for the leasing and operation of a materials recovery facility in Henderson County were sent. Bids were received on Friday, August 7, 1998 at 5:00 p.m. Only one bid was received which was presented for review. That bid was submitted by GDS. GDS proposes to operate the MRF in Henderson County for no support fee but they are unwilling to pay a lease fee to the County. The

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County's payment would therefore be the services rendered to the citizens of Henderson County on the County's behalf. (Currently the County pays a support fee to GDS in the amount of \$16,500. In exchange for this support fee, GDS must currently accept all recyclables generated in Henderson County, including those that are difficult to market). The Request for Pricing also requires the successful vendor to accept all recyclables generated in Henderson County at no cost to Henderson County. In their enclosure letter, GDS has taken exception to this requirement with regards to materials that are not marketable.

GDS included a letter in their proposal that said since they are no longer receiving a support fee, they would like to reserve the right to work with the Board and the county in the event that the market drops out for a particular item. The material they specifically mentioned was mixed paper.

Bob Neese was present from GDS and came forward to answer questions the Commissioners had.

The Solid Waste Advisory Committee (SWAC) had recommended renewal of the contract with GDS.

Commissioner Good made the motion to authorize staff to negotiate an agreement with GDS. All voted in favor and the motion carried.

CLOSED SESSION

Commissioner Ward made the motion that the Board go into Closed Session as allowed under 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, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to a claim.
2. (a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease, (II) the amount of compensation and other material terms of an employment contract or proposed employment contract.

All voted in favor and the motion carried.

Commissioner Ward made the motion for the Board to go out of Closed Session. All voted in favor and the motion carried.

ACTION FOLLOWING CLOSED SESSION

RESOLUTION - Village of Flat Rock Zoning Resolution

Commissioner Kumor made the motion that the Board adopt the Resolution with the deletion of item #4. All voted in favor and the motion carried.

RESCIND THE REQUIREMENT THAT SWAC IS TO REVIEW BIDS

Commissioner Ward made the motion to rescind the requirement that SWAC review bids. All voted in favor and the motion carried.

TAX COLLECTOR - Order of Collection - This had been pulled from the Consent Agenda and placed after Closed Session.

Staff requested that the Board adopt the order directing the Tax Collector to collect taxes. They had prepared a draft order for consideration by the Board of Commissioners.

The prerequisites have been met for the Board to approve this order including the Tax Collector's annual settlement and report of pre-payments and the Board of Commissioner's approval of the bond.

Staff requested Board action to authorize the execution of the presented order.

Commissioner Kumor made the motion to authorize the execution of the tax order. A vote was taken and the motion carried, three to two with Commissioners Hawkins and Ward voting nay.

2:00 p.m. WORK SESSION ON PROPERTY ADDRESSING

Chairman Eklund called the meeting to order and turned it over to Robert Baird, Tax Assessor. Mr. Baird explained that he and his staff will:

- ▶ go over an overview
- ▶ explore our options
- ▶ look at other benefits
- ▶ proposed helpline

Stuart Rohrbaugh explained that the major purposes for the Switch For Life Addressing Project are:

- ▶ to improve response to enhanced 911 calls and subsequent service to the point of an emergency
- ▶ to provide a locating system

There has been an increase in 911 calls from just under 40,000 in 1992 to just under 60,000 in 1997.

The property addressing system aids the dispatch office by:

- ▶ providing a locating system which is used to pinpoint a caller's location

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- ▶ providing dispatchers with geographic information needed in routing emergency vehicles to the scene
- ▶ providing the emergency vehicles with a consistent address
- ▶ providing the emergency response teams with information before arriving to the scene

Mr. Rohrbaugh then explained how a current 911 call works including the information the E-9-1-1 center gets presently.

What are our options? There are four basic options:

1. Distance Based Addressing

- ▶ Address all Henderson County residents using the prescribed method of 5.28 feet distance based addressing.
- ▶ Rename and renumber duplicate roads.
- ▶ Assign and verify each new address.
- ▶ Implement schedule for 12 postal jurisdictions, complete by July 1, 1999.

PROS:

- ▶ Everyone is assigned a consistent address
- ▶ No question for emergency personnel on how far down a street or road someone's driveway is
- ▶ Allows for growth
- ▶ Better delivery services
- ▶ Better record keeping

CONS:

- ▶ Citizens will be required to change their mailing address
- ▶ Citizens will be required to purchase and post their new address number
- ▶ Citizens will have to implement the change

2. Combine the Old and New

- ▶ Change routes to distance based addressing, new names and numbers
- ▶ Change duplicate names and numbers
- ▶ Change odd and even numbers
- ▶ Don't change road that have numbers

CONS

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- ▶ This will cause confusion among all citizens (part of the county with new and part with old addressing)
- ▶ Dispatch will not know which is new number or old post office number
- ▶ MIS maintenance will be a nightmare

3. Dual Addresses

Dual addressing is just that - two addresses per residence. This would be very confusing.

4. Do Nothing

Leave addresses as is.

TECHNOLOGICAL ALTERNATIVES TO PROPERTY ADDRESSING

Kelly Pounder, Information Technologies (IT Dept.) Director, distributed a hand-out and made a presentation on "Technological Alternatives to Property Addressing":

- Dual Address Database
- Mobile Data Terminals (MDT's) in Emergency Vehicles
- Navigation Technology

Ms. Pounder explained some advantages and disadvantages for each alternative.


HELP LINE

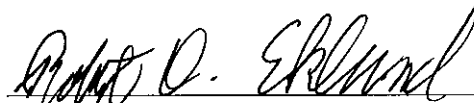
Rocky Hyder, Henderson County Fire Marshal, explained that staff realizes that there will be people who are frustrated, anxious, or uncertain about how to change their property address. They propose to use WCCA and the Council on Aging as helpers, especially for the elderly, in changing their property address.

Commissioner Kumor made the motion to proceed with the distance based addressing system for Henderson County as well as establishing a Help Line. A vote was taken and the motion carried three to two with Commissioners Ward and Hawkins voting nay.

There being no further business to come before the Board, the meeting was adjourned.

Attest:


Elizabeth W. Corn, Clerk


Robert D. Eklund, Chairman

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607

HENDERSON COUNTY BOARD OF COMMISSIONERS

100 North King Street
Hendersonville, North Carolina 28792-5097
Phone 828-697-4808 • Fax: 828-698-6183
TDD: 828-697-4580

BOB EKLUND
Chairman
GRADY HAWKINS
Vice-Chairman

VOLLIE G. GOOD
RENEE KUMOR
DON WARD

RESOLUTION

WHEREAS, on September 17, 1997, pursuant to NCGS 47-30.2, the Henderson County Board of Commissioners adopted a Resolution appointing one or more named persons experienced in mapping or land records management as Review Officers, with the same being recorded in the Office of the Register of Deeds for Henderson County;

WHEREAS, the Henderson County Board of Commissioners desires to appoint Chris Timberlake as Review Officer.

WHEREAS, PURSUANT TO NCGS 47-30.2, said appointment must be made by resolution with said resolution being recorded in the Office of the Register of Deeds for Henderson County;

NOW THEREFORE, BE IT RESOLVED BY THE Henderson County Board of Commissioners as follows:

1. That Chris Timberlake is experienced in mapping and/or land records management; and, pursuant to NCGS 47-30.2, is hereby appointed as Review Officer in Henderson County;
2. That Chris Timberlake, as a Review Officer, shall comply with all statutory requirements and shall follow all procedures, statutorily prescribed and as prescribed in that Resolution adopted September 17, 1997;
3. That the Resolution adopted September 17, 1997 will continue in effect except as modified by this Resolution;
4. That this Resolution shall be recorded in the Office of the Register of Deeds for Henderson County as soon as practicable after its adoption.

THIS the 19th day of August 1998.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____

Robert D. Eklund
Robert D. Eklund, Chairman

ATTEST:

Elizabeth W. Corn
Elizabeth W. Corn, Clerk to the Board

(COUNTY SEAL)

Inter-mail

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STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, Margaret Street, Notary Public for said County and State, certify that Elizabeth W. Corn personally came before me this day and acknowledged that she is Clerk to the Board of Commissioners of Henderson County, a municipal corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chairman of the Board of Commissioner, sealed with its corporate seal, and attested by herself as its Clerk.

Witness my hand and official seal, this the 25th day of August, 1998.



Margaret Street
Notary Public

North Carolina, Henderson County The foregoing certificate(s) of Margaret Street Notary Public (~~Notaries Public~~) is/are certified to be correct. this instrument presented for registration and recorded in this office this 9 day of Sept, 1998, at 8:40 AM in Book 963, page 607

Nedra W. Moler
Register of Deeds

Doris N. Saxon
(Assistant Deputy)

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