

MINUTES

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
June 1, 1998

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 Bob Eklund, Vice-Chair Grady Hawkins, Commissioner Vollie G. Good, Commissioner Don Ward, County Manager David E. Nicholson, Assistant County Manager/Staff Attorney Angela M. Skerrett, and Clerk to the Board Elizabeth W. Corn.

County Attorney Don H. Elkins arrived a few minutes late.

Absent was: Commissioner Renee Kumor.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

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

INVOCATION

Rev. Harold McKinnish gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Hawkins added one item as "F" under Staff Reports regarding a May 14 letter from the Board of Education.

Commissioner Ward asked for an update on the "non-residence" tax.

David Nicholson pulled tax releases from the Consent Agenda. Robert Baird and Don Elkins had been working on these and he wanted Don Elkins to be present to answer any questions the Board might have.

INFORMAL PUBLIC COMMENTS

There were none.

CONSENT AGENDA

Commissioner Hawkins made the motion to approve the Consent Agenda as amended by the County Manager. All voted in favor and the motion carried.

APPROVED 8.3.98

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The CONSENT AGENDA included the following:

**Minutes**

Minutes were presented for the Board's review and approval of the April 27, 1998 meeting.

**Request for Improvement Guarantees for Hearthstone Subdivision, Section 2**

An Application for Subdivision Improvement Guarantees dated March 13, 1998 was submitted by Confederate Developers, Inc., the company that is developing Hearthstone Subdivision. By way of this application, the Developer requested permission to post a subdivision improvement guarantee to cover the estimated cost of the road improvements and water lines for Section 2 of the proposed major subdivision in Henderson County.

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 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.

First Union National Bank has extended an Irrevocable Letter of Credit for the purpose of providing the improvement guarantee for the road improvements in Hearthstone in the amount of \$145,000.00. This amount exceeds the amount listed on the cost quote plus the required additional amount of twenty-five percent (25%). The Letter of Credit and a proposed Performance Guaranty Agreement were reviewed. The Assistant 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 was to allow Planning staff to approve the final plat for section 2 of Hearthstone Subdivision prior to completion of the improvements.

**Tax Refunds (5)**

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A list of five tax refund requests was presented for approval by the Board.

**Notification of Vacancies**

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

1. Hendersonville City Zoning Board of Adjustment - 2 vac.
2. Henderson County Board of Health - 3 vac.
3. Mountain Area Workforce Development Board - 4 vac.
4. Western Carolina Community Action (WCCA) - 1 vac.
5. Youth Advisory Board - 3 vac.

**RUSSIAN VISITOR**

Richard Faulkner of Congressman Taylor's office had informed us that their intern, Mr. Wineberger would have a Russian guest at the meeting who wished to meet each of the Commissioners. Dr. Gene Novikov, a US citizen, broadcasts over Radio Free Europe. Dr. Novikov's mission is to inform and educate the nations hearing Radio Free Europe about democratic government and of course his focus on this visit was local government.

**NOMINATIONS**

The Chairman reminded the Board of the following vacancies and suggested that no appointments be made at the meeting since there was not a full Board present. There was consensus of the Board in agreement. All vacancies were rolled to the next meeting:

1. Solid Waste Advisory Committee (SWAC) - 3 vac.
2. Henderson County Planning Board - 3 vac.
3. Nursing/Adult Care Home Community Advisory Committee - 2 vac.
4. Henderson County Zoning Board of Adjustment - 1 vac.
5. Henderson County Child Fatality Prevention Team - 1 vac.
6. Nursing/Adult Care Home Community Advisory Committee - 1 vac.

Commissioner Hawkins made a suggestion to allow staff to advertise for a volunteer to assist the Clerk to the Board with various items, particularly the management of Boards and Committees. The Board and staff thought it was a good idea and agreed.

**REPORT FROM BLUE RIBBON COMMITTEE**

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The Blue Ribbon Committee presented their Report to the County Commissioners and requested endorsement of the Blue Ribbon Clearinghouse concept which included:

1. Community Needs Assessment
2. Accreditation of Human Service Agencies as measured by standards, i.e. United Way Agency Standards  
Philanthropic Advisory Service of the Better Business Bureau  
The Accountable Not-for-Profit Organization  
Minnesota Council of Nonprofits - Standards Project
3. Common Proposal Review Process

The Committee suggested the Organization be governed by a nine member Board of Directors to be appointed by the Blue Ribbon Commission with the approval of three funders (United Way, Community Foundation, Henderson County). The Community foundation Board of Directors has endorsed this proposal and has committed to funding 1/3 or \$25,000 of the Community Needs Assessment. In addition they have earmarked funding to cover expenses incurred during the first two years of the start-up of this organization.

The United Way Board of Directors will formally vote on endorsement in June but has indicated their support for the Needs Assessment and shared staffing to carry out the proposal review process.

The Blue Ribbon Commission requested the County Commissioners:

1. Endorse the Clearing house concept and the formation of the Board of Directors
2. Commit funding 1/3 or \$25,000 of the Community Needs Assessment
3. Allow the Clearinghouse to review the County Donations proposals for the next fiscal year in the new common proposal review process.

Commissioner Hawkins made the motion to accept the recommendations and set aside funding for same. All voted in favor and the motion carried.

Don Elkins arrived during this report.

**EDNEYVILLE LIBRARY CONSTRUCTION BIDS**

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The bids were received on the Edneyville Branch Library Project in October of 1997. On October 15, 1997, those bids were rejected in part due to being considerably over budget. The architectural firm of Craig Gaulden & Davis has been assisting the County in developing the plans and specifications for the construction of a permanent library facility located off Highway 64 East, adjacent to the Edneyville Fire Station. Their work has included a redesign of the facility in order to bring the cost of construction down.

The Invitation to Bid on the re-designed project was advertised on April 23, 1998 for an opening of bids on May 14, 1998. Only two bids were received on that day and, pursuant to NCGS 143-132, they were returned unopened. A second Invitation for Bid was advertised on May 18, 1998, and bids were opened on May 26, 1998. The Bid Tabulation Sheet was reviewed.

As indicated by the Bid Tabulation Sheet, two single prime bids were received and the lowest apparent bidder was Cooper Construction Company, Inc., with a base bid amount of \$342,597.00.

Staff recommended that the construction contract be awarded to Cooper Construction Company, Inc. for the construction of the Edneyville Branch Library with an enclosed deck which was designed as an add-alternate. This would make the total construction bid \$362,497.00. This amount is within the budget that has been established for this project.

Commissioner Hawkins made the motion to accept the bid and award the construction contract to Cooper Construction Company, Inc. as recommended by staff. All voted in favor and the motion carried.

**SET PUBLIC HEARING ON PROPOSED TEXT AMENDMENT (#TX-01-98) TO THE HENDERSON COUNTY ZONING ORDINANCE REGARDING THE MINIMUM AREA FOR PLANNED UNIT DEVELOPMENTS**

On May 4, 1998, the Board of Commissioners reviewed an application (#TX-01-98) to amend the text of the Henderson County Zoning Ordinance submitted by Joe Crowell Construction, Inc., and referred it to the Planning Board for a recommendation.

Karen Collins informed the Board that the application requests a change to Section 700.01(4) of the Zoning Ordinance which specifies that the minimum area required for a Planned Unit Development is fifteen (15) contiguous acres. The applicant originally requested

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that the minimum area be changed to ten contiguous acres. However during review of the amendment on May 26, 1998, the Henderson County Planning Board asked if the applicant would consider changing the minimum area to five acres. The applicant decided to amend the application and request that the minimum area be changed to five acres. **The Planning Board subsequently voted unanimously (6 to 0) to send the Board of Commissioners a favorable recommendation on the application as amended.**

Ms. Collins reminded the Board that they must hold a public hearing prior to taking action on the application. Planning Staff had recommended that the hearing be scheduled for Tuesday, July 7, 1998, at 7:00 p.m.

Commissioner Ward made the motion to set the Public Hearing for July 7 at 7:00 p.m. All voted in favor and the motion carried.

**SET PUBLIC HEARING ON PROPOSED TEXT AMENDMENT (#TX-02-98) TO THE HENDERSON COUNTY ZONING ORDINANCE REGARDING FAMILY CARE HOMES**

Karen Collins informed the Board that on April 28, 1998, the Henderson County Planning Board directed Staff to prepare a proposed amendment to the Henderson County Zoning Ordinance to specifically allow "family care homes," as defined in State law, in residential zoning districts provided that new family care homes be separated from existing family care homes by one-half mile. NCGS 168-22 requires that local governments treat family care homes as residential uses for zoning purposes and that family care homes be allowed by right in all residential zoning districts. Local governments cannot require that such homes obtain a conditional or special use permit, special exception or variance from a zoning ordinance. However, they may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

Planning Staff drafted two related amendments for Planning Board consideration. The first amendment would add definitions of "family care home" and "handicapped person" to the Zoning Ordinance. Such definitions are based on similar definitions in NCGS 168-21. The second amendment would add family care homes as a permitted use in residential districts provided that new family care homes are separated from existing family care homes by one-half mile. **On May 26, 1998, the Planning Board voted unanimously (6 to 0) to send a**

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favorable recommendation on both amendments to the Board of Commissioners.

She reminded the Board that they must hold a public hearing prior to taking action on the proposed amendments. Planning Staff had recommended that the hearing be scheduled for Tuesday, July 7, 1998, at 7:00 p.m.

Commissioner Hawkins made the motion to set the Public Hearing for July 7 at 7:00 p.m. for the Proposed Text Amendment (#TX-02-98). All voted in favor and the motion carried.

#### CLEAN WATER FUND APPLICATION

David Nicholson stated that Bill Lapsley is one of the consulting engineers working with the Regional Water Authority of Asheville, Buncombe and Henderson Counties, who has been working with several agencies to develop an application for a sanitary sewer system for the Mills River Community. The Water Authority is constructing a water plant in this area. This water plant requires a sewer treatment facility. Mr. Lapsley has developed this application to develop a system that would provide treatment capabilities to the Water Authority as well as eliminate four current treatment plants and provide sewer service to Mills River Elementary School.

The cost for this project is projected at \$1,257,500. This application requested \$1,044,500 from the Clean Water Management Trust Fund. The balance of the cost/match would be equally distributed between the Water Authority, the Cane Creek Water and Sewer District and private contributions. The system would be a part of, and user fees would be paid to, the Cane Creek Water and Sewer District.

The application was due to be filed with the Clean Water Management Trust Fund by this date. The Chairman gave his permission to file the application subject to the Board of Commissioners approving the request. If the Board does not approve the filing of this application, it will simply be withdrawn. Mr. Nicholson stated that we also need to seek letters of support from the Water Authority, the Public School System, and the businesses in the Mills River Community. The application was filed for alternative # 2.

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Mr. Lapsley had volunteered his time to develop a grant application as well as a preliminary engineering report to be submitted to the State to consider utilizing the Water Authority's sewer treatment plant to replace four plants as well as looking at Mills River Elementary School needs. The contribution from Cane Creek would be \$50,000 and in about 1 ½ years we could repay that by our fees.

Bill Lapsley talked about the growth in the county and the need for this project. Mills River community, and mainly the intersection around NC Hwy.#191 and Hwy. #280, found themselves in a situation where the property owners were forced to put in their own package sewer treatment plants. Over the years there have been numerous package type wastewater treatment facilities with private money, i.e. the Mills River Restaurant, the Reuben Oil Co./Mills River Grocery/Texaco facility, Van Wingerden's Green House, the subdivision known as Mills River Village. All four of these have their own privately owned and operated on-site wastewater treatment systems that discharge into the receiving waters near their development. The City of Hendersonville Water Treatment Plant has a treatment facility. It is not for domestic wastewater but for the treatment of the sludge from the water treatment plant. All these systems have been used for many years. As the community continues to grow, there is more stress on the facilities to add more connections and more wastewater to allow development to occur in the area.

Mr. Lapsley discussed the reclassification of the Mills River as a water supply (water protection area). For about three years this project has been discussed and planned. Some day there will be a sewer line coming up the French Broad River from the Buncombe/Henderson County line and will work its way up past the Mills River and probably up to Etowah in order to provide public sewer service as growth occurs in the Mills River and French Broad valley. Mr. Lapsley has done a preliminary study to look at the area and recommends alternatives for providing sewer service for the Mills River community. He prepared a report in 1996 and submitted it, but it was shelved. In the last 4-6 months there has been more attention to the Mills River. The problems with Mills River School have put this project back out in the forefront.

Mr. Lapsley up-dated the report and reviewed the cost estimates and brought them up to date for preparation of a grant application.



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The report reviews three alternatives for providing sewer service to the Mills River community:

1. Extend the public sewer line that the Cane Creek district already owns at the Broadpoint Industrial Park all the way up the French Broad to the Mills River and then up Mills River into the community to Hwy.#280. To connect all those treatment plants and to provide a sewer line for the Mills River School, the project is estimated to cost \$2,324,400.

2. The second alternative was to construct a new wastewater treatment facility, locate it on the new Regional Water Authority's water plant site, and to run a gravity sewer line up the Mills River, toward Mills River School, and connect the same facilities. The difference between alternative 1 and 2 is that with the first alternative we have a gravity sewer line quite a long distance to get from Mills River to the existing sewer line of Broadpoint. The cost of that interceptor line is \$1.1 million. The alternative is to not build that collector sewer but to build one package sewer treatment plant and treat the wastewater there so that at some future date it could be connected when the interceptor comes up the French Broad. To go this route, constructing a new package wastewater system would cost \$1,257,500.

3. The third alternative would shorten the collector line and have a new wastewater treatment plant constructed at the Mills River Village subdivision which is the last discharging system into the river, negotiate with the land owners there, and put in a package treatment plant and save the cost of some of the interceptor line along the Mills River. That alternative would cost \$955,700.

Mr. Lapsley recommended the second alternative, based on all the information available and recognizing the objective to avoid any kind of discharges into this section of the Mills River. Mr. Lapsley showed this alternative by map and explained the reasons for locating it in the proposed area.

Following much discussion, Commissioner Ward made the motion to approve the filing of this application. All voted in favor and the motion carried.

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**DISCUSSION OF A LETTER FROM BOARD OF EDUCATION CHAIRMAN, Linda R. Hawk, dated May 14, 1998 re: their Purpose 9100 account**

Commissioner Hawkins asked questions regarding this account and asked the County Manager to explain.

Board of Education was charging the ADE expenditures to their regular capital account. When Mr. McLelland tried to balance the account out, it would not balance.

David Nicholson wrote Dr. Lunsford and asked them to only charge things to the regular reoccurring capital account that are regular reoccurring capital account items. If they have any other reimbursements he asked that they put those separately, don't mix the money. Mr. Nicholson has asked them to review all their fund balances, current expense fund balance, the regular capital fund balance, and any major capital reserve fund balance.

**NON-RESIDENCE TAX**

Commissioner Ward had asked for an update on the non-residence tax. David Nicholson stated that he has written three letters to local governments as well as the State of S.C. to get information on the program. He has heard nothing back yet.

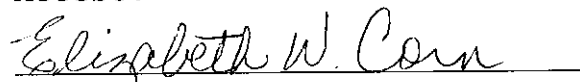
**IMPORTANT DATES**

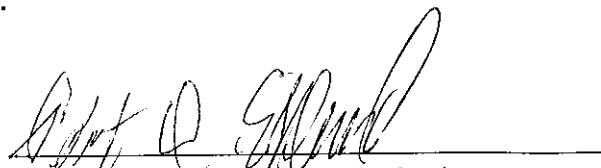
Dr. Lunsford had called the County Manager this morning stating that he could not get a quorum of his Board together for the joint meeting scheduled for June 8. The Board discussed the rescheduling of that meeting and settled on Monday, June 15 at 5:30 p.m.

David Nicholson asked for some Commissioner leadership for Sunday, June 28 for the annual Mayor's Cup Raft Race in Asheville. The Land of Sky Regional Council sponsors this race every year. There were no volunteers. Chairman Eklund stated he would contact Mr. Harmon of Parks and Recreation to try to get a team together to represent Henderson County.

There being no further business to come before the Board, the meeting was adjourned at 6:50 p.m.

Attest:

  
Elizabeth W. Corn, Clerk

  
Robert D. Eklund, Chairman

**REQUEST FOR BOARD ACTION****HENDERSON COUNTY  
BOARD OF COMMISSIONERS**

**MEETING DATE:** June 1, 1998  
**SUBJECT:** Tax Refunds  
**ATTACHMENTS:** Refund Requests

The enclosed refund requests (5) have been reviewed by the County Assessor and as a result of that review, it is the opinion of the Assessor that these findings are in order. The supporting documentation is on file in the County Assessor's Office.

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

05/22/98

REFUNDS

REL. REFUND  
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Taxpayer Name

Taxbill

Total

Reason

DARITY, ANTHONY VARNELL

96AB802955

\$54.19

DARITY DOES NOT OWN MH  
GILLILAND DOES #95183

DARITY, ANTHONY VARNELL

95AB802955

\$53.29

DARITY DOES NOT OWN MH  
DBL LISTED #95183

HERITAGE LODGE INC

97A124110.07

\$3000.80

DOUBLE LISTED AND DOUBLE  
PAID/ ACCT #170326  
97A170326.07

MCMINN, JAMES A  
MCMINN, OLIVIA

97A0701574

\$93.24

HOUSE INCORRECTLY ASSIGNED  
TO THIS PARCEL.

MORROW, J E

97A0201510

\$139.07

DM MH IS OWNED BY  
W. EDWARD MORROW #155335

TOTAL REFUNDS >>>

\$3340.59

3579