

**MINUTES****STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS  
APRIL 6, 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 Robert D. Eklund, Vice-Chair Grady Hawkins, Commissioner Vollie G. Good, Commissioner Renee Kumor, Commissioner Don Ward, Assistant County Manager/Staff Attorney Angela M. Skerrett, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

Also present were: Planning Director Matt Matteson, Finance Director J. Carey McLelland, County Planner Karen Collins and County Engineer Gary Tweed.

Absent was: County Manager David E. Nicholson.

**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**

Bob Dutton, Discipleship Training Director at Carolina Baptist Association, gave the invocation.

**Chairman's Announcement**

Chairman Eklund announced that David Nicholson was in Asheville at a deposition and he was uncertain whether he would arrive prior to the close of the meeting.

Chairman Eklund also addressed the audience regarding a petition to close Indian Cave Road. The Board received the petition late last Friday after the agenda had been set. The subject will be discussed at the next meeting, April 15, 1998.

**DISCUSSION/ADJUSTMENT OF AGENDA**

Commissioner Hawkins added one item under Staff Reports "I" - Tax Collection Report and pulled the two sets of February minutes from the consent agenda. He would like to consider those minutes with item "F" under Staff Reports - Application Approving the Use of Public School Building Capital Funds and County Capital Reserve Funds for Immediate Major Repair/Maintenance School Projects.

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Commissioner Ward added one item along with "F" under Staff Reports as 1. School Funding. Commissioner Ward pulled item "B" from the Consent Agenda - Henderson County Financial Report.

Angela Skerrett pulled one item under Staff Reports "D" - Reimbursement from NCDOT-DOA for Appraisal of Hendersonville Airport Property.

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

### **INFORMAL PUBLIC COMMENTS**

1. James R. Ballard - Mr. Ballard stated his support for the concept of the property address program but opposed the way it will be implemented in Henderson County.

2. Dixie Blumer - Ms. Blumer briefly talked about the proposed Multipurpose Center project, stating that she felt adequate planning had not been done to see what size project this should be.

3. Ann Johnson - Ms. Johnson distributed to each Commissioner a book of poetry that she had written. She also distributed her one page typed statement that she read on "The overcrowding and building in Henderson County".

4. Bryan Aleksich - Mr. Aleksich mentioned that Pitt County spent over \$1 million on a similar address change project and then pulled out. He had not called Pitt County to see why.

5. Donna Tompkin - Ms. Tompkin was an Etowah resident who spoke of her disgust in how the Board of Commissioners and Board of Education are bickering over school facility needs and funding.

### **CONSENT AGENDA**

Commissioner Kumor made the motion to approve the consent agenda as amended. All voted in favor and the motion carried.

### **Review/Approval of Minutes**

Minutes were submitted for approval of the following meetings: March 20, 1996, February 10, 1998, February 25, 1998, March 2, 1998, March 11, 1998 and March 18, 1998.

### **Henderson County Financial Report - February 1998**

The February Financial Report was submitted for information only. **This item was pulled from the Consent Agenda so some questions could be asked.**

### **Henderson County Public Schools Financial Report - February 1998**

The February Financial Report was submitted for information only.

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**Notification of Vacancies:**

The Board was notified of five vacancies on the Nursing/Adult Care Home Community Advisory Committee due to some new legislation.

**Draft Order Granting Variance to Margaret Thomas**

At their March 18 meeting, the Board of Commissioners considered the Application for Variance from Section 504.7 of the Henderson County Land Development Ordinance submitted by Margaret Thomas, owner of a 0.7 acre tract on Roper Road and applicant for the variance.

The Board conducted a Quasi-Judicial Proceeding to consider the requested variance. After hearing all of the testimony, the Board voted to grant the variance.

The Board directed Staff to prepare proposed findings of fact and conclusions of law consistent with the information presented and with the Board's vote to grant the variance.

The Order Granting the Application for Variance is attached as a part of these minutes.

**NOMINATIONS**

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

**1. Criminal Justice Partnership Board - 1 vacancy**

This nominee must be a defense attorney. A letter has gone out to the Bar Association with a second letter dated January 12, 1998. Don Elkins volunteered to check with the Bar Association regarding their recommendation for this Board. Don Elkins asked for some more time on this issue.

**2. Henderson County Industrial Facilities & Pollution Control Authority - 1 vac.**

James Hutcherson was nominated at the last meeting but we did not have a full Board present; therefore, no vote was taken.

Commissioner Kumor made the motion to appoint James Hutcherson to the Henderson County Industrial Facilities & Pollution Control Authority. All voted in favor and the motion carried.

**SET PUBLIC HEARING ON REZONING REQUEST**

**Application #R-02-98 by Michael Owenby**

Karen Collins informed the Board that Mr. Michael Owenby had requested that the County rezone approximately 12 acres which he owns on Old Spartanburg Road from an T-15 (medium density residential) district to a T-15 (medium density residential with manufactured homes) district.

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On March 31, 1998, the Henderson County Planning Board voted unanimously (7 to 0) to send the Board of Commissioners an **unfavorable recommendation** on the application submitted by Mr. Owenby.

The Board of Commissioners must hold a public hearing prior to taking action on the application. Planning Staff recommended that the hearing be scheduled for Monday, May 4, 1998 at 7:00 p.m.

Commissioner Ward made the motion to set the public hearing for Monday, May 4 at 7:00 p.m. All voted in favor and the motion carried.

### **IMPLEMENTATION OF FLAT FEE**

#### **Residential Solid Waste Disposal**

#### **Solid Waste Department**

Gary Tweed reminded the Board that as a result of the increase in tipping fees effective January 1, 1998 at the Stoney Mountain Road Solid Waste Management Facility, more and more County residents are hauling their own solid waste to the facility. During the week days, traffic conditions have not changed significantly; however, on Saturdays increased traffic volumes have created severe congestion at the entrance to the landfill. On Saturday, February 28, 1998 the landfill staff issued 299 weigh tickets. With reweighs, this means that approximately 500 to 600 vehicles had to be processed across the scales. In addition, many vehicles bypassed the scales going to the recycling center. When traffic congestion is high, numerous vehicles bypass the scales. Also vehicles going to the animal shelter must pass through the same entrance. The existing site is not capable of processing this level of traffic.

At times there are as many as 50 vehicles waiting to enter the landfill facility on Saturdays. With traffic backed into Stoney Mountain Road, public safety is of concern and vehicles are allowed to bypass scales to reduce congestion. Staff reviewed the situation and recommended the implementation of a flat fee for cars and pickups. This would allow these vehicles to be processed quickly and eliminate the need to reweigh the vehicle. The proposed fee schedule would set a \$5.00 flat fee for cars, station wagons, and other passenger vehicles. All pickups without side boards and cargo type vans would be set at \$5.00 for up to five bags and \$15.00 for above five bags or loose loads. These amounts are in line with weights and charges currently being made by using scales and a tipping fee.

All permitted haulers, ton size or larger trucks, pickups with side boards, and vehicles pulling trailers would continue to be weighed and charged by the ton. Implementation of a flat fee system would encourage citizens to maximize their loads which would decrease the volumes of traffic. Not having to reweigh vehicles will reduce scale traffic by 50 percent.

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In addition, should the Board eliminate the "bag of waste for bag of recyclables" program at the recycling center, this will eliminate the need for a cashier at the recycling center. This position could be used for better policing at the gate and/or recycling center.

These recommended changes to the fee system were reviewed with the Solid Waste Advisory Committee on March 12, 1997 and unanimously approved.

Ms. Skerrett informed the Board that it would be appropriate to approve this request as a first step towards reducing the congestion at the landfill, especially on Saturdays. The impact of this action should be evaluated in the future to determine its effectiveness. The only other alternative to controlling the congestion which staff has been able to determine at this point is to purchase a second set of scales which would be costly. The flat fee is an inexpensive and more timely approach which could be pursued prior to the second, more expensive option of purchasing the scales. If the flat fee does not produce an appreciable reduction in the congestion, staff will nevertheless be recommending the second set of scales in the future.

Commissioner Good made the motion to approve the flat fee schedule as proposed. Commissioner Ward asked that the motion be amended to do so for a trial basis of 3 months. Commissioner Good accepted that amendment to his motion. All voted in favor and the motion carried.

#### **TERMINATION OF "BAG PER BAG" PROGRAM**

##### **Residential Solid Waste Disposal**

##### **Solid Waste Department**

At the February 26, 1998 meeting between the Solid Waste Advisory Committee and the Solid Waste Haulers Association, the Solid Waste Haulers requested the SWAC to recommend elimination of the "Bag for Bag" Program at the County's Recycling Center. Currently the County allows recyclables to be disposed of for free and equal amounts of trash for free. This program has been hard to police and some citizens have abused the "bag of waste for bag of recyclable" program. The SWAC unanimously voted to eliminate this program.

Following much discussion, Commissioner Hawkins made the motion to support SWAC's unanimous vote to eliminate the bag for bag program on a 90 day trial basis along with the flat fee program. All voted in favor and the motion carried.

#### **EXTERNAL AUDIT SERVICES PROPOSAL**

Carey McLelland informed the Board that Henderson County requested and has received a proposal to provide audit services for the fiscal year ending June 30, 1998 from Dixon Odom PLLC, a North Carolina-based regional certified public accounting firm. A copy of the proposal was submitted for Board review.

Dixon Odom PLLC has provided audit services to the county for the last three fiscal years and is the State's largest provider of governmental financial services. Their commitment to the governmental sector is strong. The extensive governmental accounting and financial experience that they bring has helped the county improve its financial reporting responsibilities as evidenced by the successful completion of GFOA Certificates of Achievement for Excellence in Financial Reporting. The professional attitude displayed by this firm while working with county staff has been excellent.

Their proposed fee of \$26,500 to audit the county's financial statements for the fiscal year ending June 30, 1998 is a four percent increase over the audit fee charged for the previous fiscal year. They have also provided associated fees for the next two fiscal years if the county chooses to continue contracting with them. A standard contract, provided by the Local Government Commission, must be executed each fiscal year for audit services. Staff recommended that the county contract with Dixon Odom PLLC to provide audit services as outlined in the proposal for the fiscal year ending June 30, 1998, with an option to renew for the next two fiscal years.

Commissioner Ward made the motion to approve the contract with Dixon Odom PLLC for one year only. All voted in favor and the motion carried.

#### **MINUTES from February 25, 1998**

Commissioner Hawkins had asked that this set of minutes be pulled from the consent agenda. This was a special called meeting with the school board. On the second page of the minutes Commissioner Hawkins read "... it was the consensus of the Board to reimburse the County from these funds for the architectural and engineering expenses". Commissioner Hawkins stated "on June 17, 1997, the Board of Education and Board of Commissioners sent forward a letter to the office of State Budget Management indicating that we wanted to draw down \$1.2 million out of the ADM funds and match that with \$400,000 from county funds for a total of \$1.6 million. These funds were to be used for planning and design of primarily the schools being proposed on the ballot. Unfortunately before the ballots were cast, the Board of Education had made commitments and/or paid for Architect/Engineering fees in excess of \$1 million, about \$1.1 million for those services. Additionally the amount of monies that were committed according to the January 22 report from the Board of Education - not only were those funds either committed or spent but several of them were overspent. In the case of Fletcher, for example, by over \$100,000. They kind of counted their chickens before the eggs hatched and so those bills are there to be paid or some of them have already been paid. Additionally, in that letter of June 17, was \$200,000 set aside to air condition the Edneyville Elementary School which obviously hasn't occurred to date. In the agreement as I understood it when we worked with the School Board, was to take now \$900,000 versus the \$1.2 million and \$300,000 out of our reserve fund to draw down \$1.2 million to cover these expenses. And I think it's important that we be sure that we understand that both the Commissioners and the Board of Education because otherwise there would be a discrepancy in our reserve fund for some

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long range plans that we have discussed as a Board earlier. ... I think that the other part that we need to take note of is that those things have already occurred and that the money that was put into a dispersing account is still in the account, is that not correct Carey?" Carey McLelland responded that was correct. Commissioner Hawkins stated "we all need to understand the amount of money involved and where it is so that we can warrant that out to the school system to either pay those bills or reimburse themselves for Architect/Engineer bills that they have already paid pursuant to the failed bond issue." Commissioner Hawkins wished this to be spelled out more clearly as a matter of record.

Angela Skerrett asked the Board "Of the \$2.4 million that you all have proposed to come up with from ADM and county capital reserve funds - the first \$1.2 million, is that new money on top of reimbursing them for the Architectural/Engineering fees or is that included in that"? She asked what the full Board's understanding was. She understood what Commissioner Hawkins intent was. Her opinion and Mr. Nicholson's opinion of the Board's intent did not agree. She asked for clarification for staff.

Following much discussion, it was the consensus of the Board that currently sitting in the disbursing account from the ADM fund from the state is \$1.2 million. The proposal is to draw down \$900,000 of that now with the other \$300,000 reverting back to the ADM fund and would be available. It is the school's money and will remain so. The only thing you can use it for is capital improvements. That would be matched with the county's \$300,000. That happens immediately, you can draw that down tomorrow. That money will likely go to pay the bills or reimburse the Board of Education for bills that they have already paid for Architect/Engineer fees for the school buildings that will not be built by the bonds.

**APPLICATION APPROVING THE USE OF PUBLIC SCHOOL BUILDING CAPITAL FUNDS AND COUNTY CAPITAL FUNDS FOR IMMEDIATE MAJOR REPAIR/MAINTENANCE SCHOOL PROJECTS**

At its January 28, 1998 meeting, the Board of Commissioners reached a consensus to provide a funding program to address short-term facility issues of the school system. The short-term was defined as January 1998 through June 30, 1998 and July 1, 1998 through June 30, 1999.

The Board identified a funding program to provide \$1.2 million in fiscal year 1997-1998 and \$1.2 million in fiscal year 1998-1999. This funding program will utilize the Public School Building Capital Fund, commonly known as the State ADM Fund, and the county's capital reserve fund. For every three dollars of State ADM Funds used, the county is required to match one dollar. This match requirement will come from the county's capital reserve fund. An application to the state must be made to utilize these funds requiring approval from the Board of Commissioners and the School Board. A draft copy of the application was reviewed.

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This funding is in addition to the \$1 million budgeted by the county annually for school capital outlay.

Based on discussions of the former agenda item, Ms. Skerrett reminded the Board that this application is for the second \$1.2 million, which will be in the next budget cycle.

Dr. Dan Lunsford came forward and asked some funding questions. There was some discrepancy in opinions or interpretations. It was the consensus of the Board to request that correspondence between both Boards and minutes of all joint meetings be copied for the Board's review prior to the next Commission meeting.

**David Nicholson arrived during the discussion of this item.**

Chairman Eklund called a 10 minute recess.

Commissioner Ward made the motion to request staff to pull minutes of the meetings between the Board of Commissioners and the Board of Education so motions can be reviewed. He further requested copies of all the correspondence between both Boards. Commissioner Good also asked to have verification of the date that both Boards met at Upward School. All voted in favor and the motion carried.

**PUBLIC HEARING - Request to Amend the Official Zoning Map**  
**Proposed Rezoning of 0.75 Acre Parcel off Upward Road from C-4 to R-20**  
**Application #R-01-98 by Mr. & Mrs. Luke Case**

Commissioner Ward made the motion for the Board to go into Public Hearing. All voted in favor and the motion carried.

Karen Collins informed the Board that Mr. & Mrs. Luke Case have requested that the County rezone a 0.75 acre parcel which they own from a C-3 (highway commercial) district to a R-20 (low density residential) district. The subject parcel is located off Upward Road, between Vine Road and South Allen Road.

On March 3, 1998, the Planning Board voted to send the Board of Commissioners a **favorable recommendation** on the rezoning application as submitted by the Cases.

In accordance with Section 1204 of the Henderson County Zoning and State law, a notice of the public hearing was published in the March 25, 1998, edition of the Times-News. A second notice was published on April 1, 1998. On March 25, 1998, the Planning Department mailed notices of the hearing to the applicants and to the owners of property adjacent to and near the parcel proposed for rezoning. Planning staff posted a sign advertising the hearing on the Case property on March 26, 1998.

**Public Input**



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There was none.

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

Commissioner Kumor made the motion to grant the request to rezone a 0.75 acre parcel off Upward Road from C-4 to R-20, as presented. All voted in favor and the motion carried.

### **SCHOOL FUNDING**

Commissioner Ward thanked the Board for allowing him to add this item to the agenda. Commissioner Ward stated that schools is one of his priorities.

Commissioner Ward requested a joint meeting with our State Legislators to discuss the proposed 1 cent sales tax. He felt that the tax should be dedicated to school construction. The meeting could be held here or in Raleigh, whichever is most convenient for our Representatives and Senators. Henderson County could also send a Resolution to the other counties in the State showing Henderson County is supporting this 1 cent sales tax for school construction.

Commissioner Ward made the motion that a letter be sent requesting such a meeting. All voted in favor and the motion carried.

### **THE JUSTICE ACADEMY SEWER PROJECT**

#### **Selection of Bids**

Gary Tweed informed the Board that this project was divided into two parts, each of which was bid separately. Part one is the force main and part two is the wastewater treatment plant/lift stations.

#### **Force Main**

The six bids submitted were opened on February 16, 1998. The Bid Sheet was reviewed. Terry Brothers Construction Company was the low bidder with a bid of \$118,255.00.

#### **Wastewater Treatment Plant/Lift Stations**

The three bids were opened on March 16, 1998. The Bid Sheet was reviewed. Cooper Construction Company, Inc. was the low bidder with a bid of \$263,903.00.

Commissioner Hawkins made the motion to accept the bids as presented (both Terry Brothers and Cooper Construction). All voted in favor and the motion carried.

### **PARDEE HOSPITAL RE-ORGANIZATION**

Angela Skerrett reminded the Board that they had adopted a Resolution and authorized the filing of the Articles of Incorporation for the new non-profit that is going to operate

Pardee Hospital after a couple of things had occurred. The first of those was the completion of a due diligence review. The due diligence review has been completed. Ms. Skerrett and Ms. Jackson spent the greater part of a week a couple of weeks ago going through the documents that had been identified during this due diligence report. As a result of the due diligence, many items came up procedurally that will have to be taken care of to complete the reorganization.

The second condition that the Board said must be met before the Articles of Incorporation could be filed was that the Board of Trustees adopt a Resolution agreeing to the terms and conditions of that same Resolution that the Board of Commissioners adopted (which contained the lease and the Draft Articles).

Ms. Skerrett presented the Resolution that the Board of Trustees adopted. They adopted this Resolution a week ago last Friday. The Resolution agrees with the Board of Commissioners' Resolution with a few exceptions. She asked the Board if they felt that this Resolution met their intent agreeing with the terms of their original Resolution so that the Articles of incorporation could be filed.

Following discussion, Commissioner Hawkins made the motion that the Board of Commissioners consent to the filing of the Articles of Incorporation. All voted in favor and the motion carried.

Ms. Skerrett then presented a time line to the Board. If everything goes as scheduled we anticipate that the reorganization will be effective midnight August 15, 1998.

Ms. Skerrett informed the Board that this will be on the next agenda for advertisement of the Resolution. The Board must readopt the Resolution after giving 10 days public notice.

Ms. Skerrett stated that she and Mrs. Jackson were very impressed after having gone through all the documentation, with the way the hospital has been run and how thoroughly organized that they are. They pay close attention to details.

#### **EMS SUBSTATION**

David Nicholson informed the Board that since the agenda was put together he has received the two proposals, one from Pardee Hospital and one from Park Ridge Hospital. He asked the Board to take the two proposals and review them prior to the April 15 meeting.

#### **911 PROPERTY ADDRESSING**

Stuart Rohrbaugh, Property Address Coordinator as well as a Land Use Planner, updated the Board on the "Switch For Life" addressing project. He discussed briefly the public education efforts they have undertaken. They have published several articles on the

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address project as well as created a "Switch for Life" video which plays on Mediacom, Channel #10, three times a week. They have distributed approx. 50 videos to folks around the county.

Before we began this project, staff contacted all 100 counties in North Carolina, some of which have gone through or are in the process of going through this project. They have all stated that the number one thing needed is public education of the need for the address changes.

Stuart Rohrbaugh reminded the Board of the new area code for Western North Carolina of 828. The new zip codes will be used starting about July. These two changes brings about the window of opportunity for our county to implement the new addressing to allow residents and businesses to go through zip code, area code and address changes at the same time.

The county has spent almost nine years on this. We've held over 29 public hearings about addressing and naming of roads. A public referendum was passed in 1989 asking the citizens if they wanted the 9-1-1 system. Along with the 9-1-1 system the county contracted (on Sept.6, 1989) to start doing street addresses in Henderson County. NCGS 153A - 239 allows counties to name and number on public roads. Since Henderson County has so many private roads, we had special legislation passed to allow us to name and number private roads (in 1991). The original Property Address Ordinance was reviewed by the Planning Board and passed to the Board of Commissioners in 1990. On October 17, 1990 there was a Public Hearing to adopt a Property Address Ordinance. The Board adopted that Ordinance effective April 1991.

Amendments have been made to that Ordinance. On April 17, 1996 the addressing system was changed to the distance based (5.28) addressing.

On May 13, 1996, staff made a presentation to the Fletcher Town Council. Fletcher unanimously agreed to be readdressed and renumbered. On June 11, 1996 a letter of intent was received from the City of Hendersonville to do the same. On May 16, a Public Hearing was held for the Fletcher/Mills River Fire Districts to renumber and readdress. Public Hearings are still necessary. Mr. Rohrbaugh stated that staff will be back before this Board within the next 30 days to ask for a Public Hearing to name approximately 2,000 unnamed roads in the county. Another Public Hearing will be necessary to actually renumber the residents in Henderson County. Public Hearings will be held in the next 60 - 90 days.

Mr. Rohrbaugh then reviewed some of the most frequently asked questions regarding the property addressing:

The number one asked question - Why not just change the duplicate road names and those roads that don't have names and those roads that have rural routes?

**Answer** - The number one reason is consistency, to have one unique system. He stated that they have identified 609 duplicated road names that need to change, there are actually more. There are approximately 4,800 roads in our county, of which approx. 1,200 are public roads which means there are 3,600 private roads in Henderson County, 2,000 of which are unnamed at this time. With those statistics, a majority of the road names will already effect an address change.

One reason is to build a data base for our EMS and emergency services can rely on in locating folks in times of emergencies. BellSouth is the current addressing system we use. Assessor's Office data base is shared with private utility companies. There are basically 43,490 deliverable addresses being used currently. 8,425 of these are P.O. Boxes or about 20% of Henderson County. P.O. Box addresses will not change in the "Switch for Life" readdressing project. Almost 20,000 addresses are rural route and box or 45% of residents. This means that almost 65% of our county use either rural routes or P.O. Boxes for mail delivery. This leaves only about 35% who actually use a street address.

Out of the 35% of the residents that use street addresses, 609 are duplicates that need to be changed. This is over 70% of all residents in Henderson County who would go through an address change if we just changed the duplicated road names and name the un-named roads.

Stuart Rohrbaugh asked "Why change the other 30%?" CONSISTENCY, to have a consistent addressing system.

Mr. Rohrbaugh stated that the #2 asked question is about the cost. He briefly discussed the real cost versus the perceived cost.

Mr. Rohrbaugh reminded everyone that they are working in coordination with many different agencies, the main one being the U.S. Postal Service. They don't want to give new addresses to everyone in the county all in the same week. They hope to be completed with the addressing project by October 22, 1998, the same time that the 704 area code (new code 828) is totally out of existence.

Mr. Rohrbaugh stated that Pitt County did not pull out of the distance based addressing system, it was the municipalities. That put the county over a year behind in their readdressing effort. The county did survive a readdressing 5.28 system. Some of the

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municipalities chose not to and some of those same municipalities are now hiring expensive consultants to go back to link their residents to Pitt County's 911 center.

#### **TAX COLLECTION REPORT**

Commissioner Hawkins had asked this be added to the agenda. In February, the Board received a brief report from the Tax Collector. At that time, he indicated that about 90% of the tax levy had been collected. At that time, Commissioner Hawkins made an inquiry as to what actions the tax collector was taking to collect the remaining 10% and what percentage of those were business and what percentage were individuals. He asked that the Tax Collector provide the Board of Commissioners with this information.

David Nicholson stated that the information will be provided at the next meeting.

#### **Henderson County Financial Report**

Commissioner Ward had asked that this item be pulled from the Consent Agenda. He asked a question regarding funding for the Historic Courthouse which he did not see in the report.

David Nicholson will have those numbers for the Board at the next meeting. The monies were spent out of the capital projects fund and as we collect the 911 project surcharge, they will be reimbursed back to the Capital Projects Fund.

#### **IMPORTANT DATES**

The Commissioners' calendar was reviewed.

Mr. Frank Blazey called Chairman Eklund on April 1 to inform him that eleven state funded positions will be made available to help with children's services. Some of the personnel could go to DSS, some to Trend and some to Dispute Settlement Center or other agencies.

Mr. Blazey had requested a special called meeting to discuss this and has requested about one hour the morning of April 23. Some Commissioners had previous commitments. The afternoon of April 15, the mid-month meeting was suggested. Chairman Eklund would check with Mr Blazey to see if that is a convenient time.

The Board of Commissioners wished to meet with the Henderson County Planning Board to discuss county wide land use regulation options. Staff had polled the Planning Board and submitted several possible dates for the joint meeting to begin at 5:30 p.m. and last for no more than one and one half hours. Tuesday, April 27 was chosen. Matt will confirm with the Planning Board.

#### **STONERIDGE ESTATES APPEAL OF PLANNING BOARD DECISION**

Jennifer Jackson reminded the Board that Grant Mountain Properties, Inc. is the owner and developer of Stoneridge Estates which is a subdivision located on Tom's Fall Road in Henderson County. On December 23, 1997, the Developer submitted an application for Phase III of Stoneridge Estates. On February 3, 1998, the Planning Board considered the preliminary plan for Phase III and denied the plan. The Planning Board's decision was reviewed along with the minutes of their February 3 meeting. On March 2, 1998, Grant Mountain Properties, Inc. submitted a notice of appeal pertaining to the Planning Board's denial of the preliminary plan.

Grant Mountain Properties and the Planning Department had stipulated to certain facts which were included in the agenda packet.

Mr. Craig Justus presented the appeal on behalf of Grant Mountain Properties, Inc. Mr. Justus asked to waive the Petitioner's right to a quasi-judicial proceeding and requested that the hearing proceed based upon the stipulated facts. The Chairman asked if there were any other parties who had standing because they would have to waive the petitioner's right as well. There were none.

Mr. Justus stated that this is the third time he had come before the Board for the same scenario. The client had submitted a preliminary plan for Phase III of this subdivision depicting roads of ten feet in width which are the same as the roads that were in the previous phases. Based upon the ten foot wide road, the Planning Board turned down the preliminary plan even though the Planning Board was aware of the previous two orders that this Board had entered basically setting forth the law in this county that there are no private road standards concerning width of a road. The law, as the Board amended, has not changed. There have been no amendments of the subdivision ordinance which would change the law. The Planning Board is to administer the law of the Board of Commissioners. Mr. Justus stated that he hoped, based on the two previous orders, that the Board would overturn the Planning Board's decision and approve the preliminary plan.

Planning Staff had mailed a letter on February 6, 1998 to Mr. David Caulder stating "The Planning Board holds the position that Stoneridge Phase III does not provide for such orderly growth and development because the proposed design creates a condition which is detrimental to the public health, safety and welfare". Questions were asked of Mr. Matteson regarding this letter.

Mr. Matteson referred to Section 504.6 of the Ordinance pertaining to public streets which has a requirement that the roads be built to NCDOT standards. He also referred to Section 504.7 pertaining to private streets which does not have specific standards.

Mr. Justus stated that according to the law, until it is amended, a developer can designate what the private road widths are in his development. Public health and safety concerns

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about how wide the road is are not pertinent to a decision of whether the Planning Board should approve the preliminary plat.

Bill Moyer, Chairman of the Planning Board, came forward and spoke on behalf of the Planning Board. He stated that the Planning Board is asking that the Board of Commissioners re-examine this decision. Mr. Moyer stated "It is clear to me, under the Ordinance, that we can require public roads but we also have the right under certain circumstances, if certain conditions are met, to permit private roads. We were asked in this particular case, in the first instance to permit private roads. The Ordinance requires us to look at public safety in doing so and we got testimony that ten foot was not, from the Fire Dept. and others, a safe road to put in anywhere in the county."

David Nicholson recommended the County Attorney address this issue with the Board of Commissioners in Closed Session regarding the previous orders and advice concerning this particular decision. The Board was in agreement.

Chairman Eklund stated that the Board would respond back to Mr. Justus at the next meeting.

#### **MULTI-PURPOSE CENTER STEERING COMMITTEE**

The Multi-purpose Center Steering Committee appeared at the Board's March 2, 1998 meeting and presented a report to the Board. At that meeting, the Board of Commissioners invited the committee to come back to this meeting for a response.

Chairman Eklund stated that the Steering Committee was formed by the Board of Commissioners in the Spring of 1996. They have met their charges. They have done a good job.

The Committee had asked the Board the following questions:

- Do the Commissioners wish the Committee to continue.
- Will the Commissioners agree to make the requested land available for as long as one year to give the Committee and community time to secure the additional money to construct the building and to negotiate with hotel corporations, and
- Will the county agree to assume ownership of the building, thereby making it truly a center for all the people of Henderson County.

Following Board discussion, it was the consensus of the Board this should be pursued in the private sector. It was the Board's opinion that the Committee had done a good job and wished a letter of thanks to be sent to the Committee. With all the other needs of our county, the Board felt that they could not ask the tax payers to foot the bill for the civic center.

**UPPER BROAD RIVER WATERSHED PROTECTION PROJECT**

Robert H. Washburn, Chairman of the Upper Broad River Watershed Protection Committee requested support from Henderson County in their submission of an application for a grant from the Clean Water Management Trust Fund. The grant requested would support a comprehensive program targeted at reducing the sedimentation in to Lake Lure and streams located within the Upper Broad River Watershed. The Watershed lies in four counties - Buncombe, Rutherford, McDowell and Henderson, and two municipalities - Lake Lure and Chimney Rock. The Committee is requesting support from all four counties and both municipalities.

The program would involve creating a watershed district to be managed uniformly over the entire watershed. The district would be managed by a Board of Directors, created and appointed jointly by the affected local governments. The program would provide monitoring and analysis to determine the success of the program and to pinpoint the areas producing the most sedimentation. It would also provide education to the community on sedimentation and its prevention. The program would employ an erosion control specialist to administer the program and identify sites in violation of state and local (if any) regulations regarding sedimentation. The program is non-regulatory.

He presented a Resolution for the recommendation and support for the concept of a Multi-County, Watershed-based, Land Treatment Project and stated that the Town of Lake Lure, the Village of Chimney Rock, Rutherford County, and Buncombe have all passed the Resolution at this time.

Mr. Nicholson stated that the program, as presented would not involve any expenditures by Henderson County government. It would require that the Board of Commissioners enter into the creation of a joint agency, at some point, if the Board wants the portions of the watershed located in Henderson County to be able to benefit from the program. If approved, he anticipated the Committee bring back a proposed agreement for consideration by all local governments involved.

Following Board discussion, Commissioner Kumor made the motion to adopt the Resolution, as presented. All voted in favor and the motion carried.

**RESPONSE FROM MUNICIPALITIES:**

Recently, the Board requested that letters be sent to the municipalities located within Henderson County concerning two issues: the formation of a water and sewer authority and the establishment of a local sedimentation and erosion control program. All municipalities have responded.

**1. Formation of a Water and Sewer Authority**

They have all stated that they do not have an interest in this.



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## **2. Sedimentation and Erosion Control Ordinance**

They have all responded yes to this one.

It was the consensus of the Board that the Chairman begin working with the municipalities to start developing a program with them and begin the development of some education information.

### **MUTUAL AID AGREEMENT**

Rocky Hyder, Emergency Management Coordinator, had requested that the County execute a mutual aid agreement between the County and the City of Hendersonville. It provides for the coordination of all resource requests made to the Statewide Emergency Management Mutual Aid through the County's Emergency Management Office. This would streamline the process of requesting State Aid in an emergency situation.

Mr. Nicholson informed the Board that the City of Hendersonville has already executed the agreement. It was his recommendation to approve the agreement to assist Mr. Hyder in more efficiently carrying out his responsibilities in a time of crisis. Laurel Park and Flat Rock are considering this issue.

The Board had some questions and wished Mr. Hyder to be present so this item was rolled to the next meeting.

### **MUD CREEK WATER & SEWER DISTRICT**

Commissioner Kumor made the motion for the Board to adjourn as the Henderson County Board of Commissioners and convene as the Mud Creek Water & Sewer District Board. All voted in favor and the motion carried.

Commissioner Kumor made the motion that the Board adjourn as the Mud Creek Water & Sewer District and reconvene as the Henderson County Board of Commissioners. All voted in favor and the motion carried.

### **CLOSED SESSION**

Commissioner Kumor made the motion for the Board to 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)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

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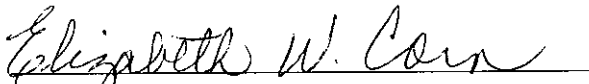
3.(a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (1)the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, 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 Hawkins made the motion for the Board to go out of Closed Session. All voted in favor and the motion carried.

There being no further business to come before the Board, the meeting was adjourned at 10:40 p.m.

Attest:

  
Elizabeth W. Corn, Clerk

  
Robert D. Eklund, Chairman

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BEFORE THE HENDERSON COUNTY  
BOARD OF COMMISSIONERS

IN THE MATTER OF THE APPLICATION FOR VARIANCE  
OF MARGARET THOMAS,  
Applicant,

to the

HENDERSON COUNTY BOARD OF COMMISSIONERS

---

ORDER GRANTING THE APPLICATION FOR VARIANCE

The HENDERSON COUNTY BOARD OF COMMISSIONERS having held a quasi-judicial public hearing on March 18, 1998, to consider an application for a variance from the Henderson County Land Development Ordinance submitted by MARGARET THOMAS and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

FINDINGS OF FACT

1. Margaret Thomas, hereinafter referred to as "Applicant" is the owner of a 0.7 acre tract of land located on Roper Road in Henderson County, North Carolina. This lot contains two (2) existing dwellings (one dwelling fronting on Roper Road, the other dwelling situated on the back of the tract without road frontage), and an existing 12 foot wide driveway servicing both dwellings.
2. Applicant desires to subdivide the 0.7 acre tract into two (2) lots in order to sell the two (2) dwellings separately.
3. In order to ensure that the back lot has road access a dedication of a right of way is needed. The Land Development Ordinance requires that a 45 foot wide right of way be dedicated for that purpose; however the existing dwellings and the shape and size of the 0.7 acre tract will not accommodate a 45 foot wide right of way, but will accommodate a 20 foot wide right of way.
4. Section 504.7 of the Henderson County Land Development Ordinance provides that the Board of Commissioners may grant variances from the Land Development Ordinance provisions.
5. Margaret Thomas submitted to Henderson County an application for variance on February 23, 1998, requesting a variance from Section 504.7 of the Land Development Ordinance, a copy of which is attached hereto as Exhibit A.

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6. The existing driveway is situated in the only practical or reasonable location for the same, due to unique conditions peculiar to the site, specifically the location of the existing dwellings.
7. The Planning Board conducted on March 3, 1998, a Quasi-Judicial Proceeding relative to this application. As a result of that proceeding, the Henderson County Planning Board unanimously recommended to the Henderson County Board of Commissioners that the variance sought by Applicant be granted.
8. The 12 foot wide existing driveway and the 20-foot wide road right of way is suitable for access by emergency equipment.
9. The granting of this variance will accommodate unique conditions peculiar to this development site, will accommodate design flexibility, and will avoid unnecessary hardship. All of these positive results will not in any fashion jeopardize the public health or safety, or the general public interests.

#### CONCLUSIONS OF LAW

1. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance.
2. That the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
3. That in granting the variance, the public safety and welfare have been assured and substantial justice has been done.

NOW THEREFORE, MARGARET THOMAS, Applicant, is hereby GRANTED a variance from Section 504.7(c) of the Henderson County Land Development Ordinance to the extent requested in her application dated February 23, 1998.

THIS the 18th day of March, 1998.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_

*Robert D. Eklund*  
Robert D. Eklund, Chairman

ATTESTED BY:

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

[OFFICIAL SEAL]



**HENDERSON COUNTY BOARD OF COMMISSIONERS**

100 North King Street  
 Hendersonville, North Carolina 28792-5097  
 Phone: 704-697-4808 • Fax: 704-698-6183  
 TDD: 704-697-4580

BOB EKLUND  
 CHAIRMAN  
 GRADY HAWKINS

VOLLIE G. GOOD  
 RENEE KUMOR  
 DON WARD

**RESOLUTION**

**RECOMMENDATION AND SUPPORT  
 FOR THE CONCEPT OF A  
 MULTI-COUNTY, WATERSHED-BASED,  
 LAND TREATMENT PROJECT**

- WHEREAS**, environmental protection and maintenance of the scenic beauty is important for the health and welfare of citizens and visitors to the area; and
- WHEREAS**, water quality improvement of our streams and rivers leads to improved wildlife habitat and recreational uses, and
- WHEREAS**, the Upper Broad River Watershed encompasses a significant portion of Henderson County; and
- WHEREAS**, the need exists to address the sediment load and non-point pollution problems associated with land use issues in the Upper Broad River watershed.

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

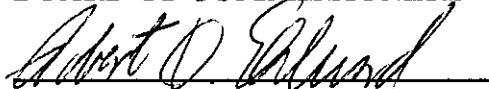
1. That this Board recommends and supports the concept of a multi-county watershed-based, land treatment project to address the Upper Broad River Watershed.
2. That this Board recommends the effort involve all units of government including Buncombe, Henderson, and Rutherford counties, and the municipalities of the Town of Lake Lure and Chimney Rock Village, as well as the Mountain Valleys Resource Conservation and Development Council and the Soil and Watershed Conservation Districts in all counties.
3. That this resolution is effective upon its adoption.

Adopted this 6th day of April 1998.

**ATTEST:**

**HENDERSON COUNTY  
 BOARD OF COMMISSIONERS**

  
 Elizabeth W. Corn  
 Clerk to the Board

  
 Robert D. Eklund, Chairman

Approved as to Form:

  
 Don H. Elkins, County Attorney

