

MINUTES**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS
NOVEMBER 19, 1997**

The Board of Commissioners (the "Board") of the County of Henderson, North Carolina (the "County"), met in regular session in the Commissioners' Meeting Room, Room #140, at 100 North King Street, Hendersonville, North Carolina, the regular place of meeting, at 9:00 o'clock, a.m. on November 19, 1997. The following Commissioners were:

PRESENT: Grady Hawkins, Renee Kumor, Don Ward, Vollie Good.
ABSENT: Bob Eklund

The following persons were also present: County Manager David E. Nicholson, Assistant County Manager/Staff Attorney Angela M. Skerrett, County Attorney Don H. Elkins, Clerk to the Board Elizabeth W. Corn, Finance Director J. Carey McLelland, Planning Director Matt Matteson, Assistant Staff Attorney Jennifer O. Jackson, Public Information Officer Chris Coulson.

CALL TO ORDER/WELCOME

Acting Chairman Grady Hawkins called the meeting to order and welcomed all in attendance.

PLEDGE OF ALLEGIANCE

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

INVOCATION

Skip Finley, a Minister at First Baptist Church, gave the invocation.

Chairman Hawkins called a recess for the Commissioners to go downstairs for the actual cut-over of the new 911 system. They returned less than 10 minutes later.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Ward requested that one item be added under Discussion as "E", Schools, post bond referendum.

INFORMAL PUBLIC COMMENTS

1. Evelyn Nichols - Mrs. Nichols spoke as Vice-Chairman of the Clean Water Fund of North Carolina. She discussed fines for air, water, etc. that should be paid to School systems.

Mrs. Nichols requested the Board adopt a RESOLUTION FOR THE ENFORCEMENT OF ENVIRONMENTAL LAWS. She also asked that the

Commissioners contact State Legislators and ask them to enforce the laws on the books.

2. Fielding Lucas - Mr. Lucas addressed the defeated School Bond Referendum. He spoke in favor of a fair, more frugal, rational, non-extravagant plan.

3. Mary Jo Padgett - Mrs. Padgett made the Board aware of a Grant for Sedimentation Control and requested that Henderson County apply for the grant which is 100%, no match, 3 years. December 1 is the deadline to apply, a very short time frame.

Following much discussion, Commissioner Kumor made the motion to advise staff to try to meet the deadline, if possible, to make an effort to bring the information and the people together to meet this deadline. All voted in favor and the motion carried.

CONSENT AGENDA

Commissioner Kumor made the motion to approve the Consent Agenda as presented. All voted in favor and the motion carried.

CONSENT AGENDA included the following:

Review/approval of minutes

Minutes were presented for the Board's review and approval of the following meetings: February 29, 1996, March 7, 1996, October 30, 1997.

Use Less Stuff (ULS) Resolution

Americans generate 25 million tons of trash between Thanksgiving and New Year's Day - an extra million tons per week during this period compared to the rest of the year! ULS Day is a national holiday dedicated to remind people to reduce waste during the holiday season. North Carolina is a participating sponsor.

The Board adopted a ULS Resolution last year and the County enjoyed a successful campaign. Ms. Nippy Page, Solid Waste Planner, requested the Board again adopt a ULS Resolution declaring Thursday, November 20, 1997 as Use Less Stuff Day.

Notification of Vacancies

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

1. Laurel Park Board of Adjustment - 1 vacancy.
2. Blue Ribbon Committee - 2 vacancies.
3. Nursing Home/Adult Care Community Advisory Committee - 1 vacancy.

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Monthly Progress Reports on Capital Improvement Projects

Included for the Board's review were monthly progress reports on the following Capital Improvement Projects:

1. Justice Academy Sewer Project.
2. Naples Interchange Sewer Project.
3. Etowah Recreation Park #45-8100-05901.
4. Historic Henderson County Courthouse (HHCC) Rehabilitation.
5. E911 Project.
6. Solid Waste Transfer Station.

Proposed Resolution to Request more equitable geographic distribution of Community Development Block Grants

Henderson County has received a resolution from McDowell County concerning Community Development Block Grant funding for community revitalization projects. McDowell County is requesting the other western North Carolina counties consider adopting a similar resolution requesting more equitable distribution of CDBG funds for community revitalization projects. The CR Award and Distribution Analysis indicated that a substantial percentage of the monies goes to the eastern counties. This is due in part to the criteria established for awarding funds. Currently the funding is awarded based upon density of population in communities requiring revitalization projects. In the western counties, very few communities have densely populated areas but rather have scattered sites needing revitalization monies. A change in the criteria to establish some funding for scattered sites could level the playing field for western North Carolina Counties.

A draft resolution was presented for the Board's consideration as per McDowell County's request.

Pawnbrokers License Application Renewal - Etowah Pawnbrokers, Inc.

Mr. Bruce Gosnell has filed an application/petition to continue to operate a Pawn Shop at the Etowah Shopping Center.

Mr. Gosnell first applied for a Pawnbroker's License in 1990 and has renewed his application/petition on an annual basis ever since.

Mr. Gosnell's most recent Pawnbroker License was for the term of October 1, 1996 to September 30, 1997. Mr. Gosnell submitted a complete application. The only item that Mr. Gosnell presented which was not reviewed was his financial statement. Ms. Jackson informed the Board that if the Board wished to review his financial statement, it would be appropriate for the Board to go into closed session to do so. Mr. Gosnell's permit bond does not expire until October 1, 1998. It would be appropriate for the new license to be

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dated October 1, 1997 with an expiration date of September 30, 1998.

Jennifer Jackson had reviewed the application and agreed that it was in order. Staff's recommendation was to renew Mr. Gosnell's permit for another year.

PUBLIC HEARING - To Consider the Installment Financing Contract for the Renovations to the Historic Henderson County Courthouse

Commissioner Hawkins Stated that the Board adopted a Resolution on November 3, 1997, titled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA, AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF AN INSTALLMENT PURCHASE CONTRACT FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20". A copy of this Resolution is attached hereto as "Exhibit B".

Commissioner Hawkins then stated that a notice of public hearing had been published in the Times News on November 7, 1997, and that the Board would hold a public hearing on the question of the County's proposed installment financing for the renovation of the Historic Henderson County Courthouse.

At 9:53 o'clock a.m., Commissioner Hawkins declared the public hearing open and announced that the Board would hear anyone who wished to be heard on the proposed installment financing.

There were no public comments, as indicated on attached "Exhibit A" and the public hearing was adjourned upon motion by Commissioner Kumor. All voted in favor and the motion carried.

Finance Director, Carey McLelland, stated that the County's application for installment financing has been submitted to the Local Government Commission and is scheduled to be reviewed on December 2, 1997, pending the LGC's receipt of the extract from the public hearing and an opinion letter from the County Attorney, Don Elkins.

NOMINATIONS

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

Western Carolina Community Action Board of Directors - 1 vac.

Commissioner Hawkins nominated Susan Diegan. Commissioner Good made the motion to suspend the rules and appoint Ms. Diegan. All voted in favor and the motion carried.

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

Commissioner Kumor nominated Rev. Martha Sachs to fill the designated position. No vote was taken since this must go through the process.

Mountain Area Workforce Development Board - 1 vac.

We had not heard from the Chamber of Commerce regarding their nominee. This item was rolled to the next meeting.

Community Child Protection Team - 1 vac.

Commissioner Good nominated DeWayne A. Moore for reappointment. Commissioner Good made the motion to suspend the rules and appoint Mr. Moore. All voted in favor and the motion carried.

Henderson County Zoning Board of Adjustment - 2 vac.

Commissioner Hawkins nominated Gwen Thornburg for reappointment. A vote will be taken at the next meeting.

Criminal Justice Partnership Board - 1 vac.

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

Library Board of Trustees - 1 vac.

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

Henderson County Travel & Tourism Committee - 4 vac.

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

Asheville Regional Housing Consortium - 1 vac.

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

Long Range Planning Committee - 2 vac.

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

REQUEST TO SET ECONOMIC DEVELOPMENT PUBLIC HEARING

Jennifer Jackson reminded the Board that the Board of Commissioners had previously received a request from Kimberly-Clark Corporation for some assistance with the cost of construction of an expansion of their facility. Staff has received a letter dated November 4, 1997 which outlines some of the particulars regarding the expansion. The expansion that Kimberly-Clark proposes will enable them to retain approximately twenty jobs that they would not have

otherwise refilled. The overall cost of the project is estimated to be around \$41.5 million. Construction costs are estimated at between \$2-3 million. This expansion should result in approximately \$226,000 annual tax revenue to Henderson County.

The Board has previously indicated that it would consider reimbursing Kimberly-Clark an amount of \$250,000.00 toward construction costs of the expansion of their facility, to be reimbursed over a period of three years. Before this could be accomplished, the Board must set and hold a public hearing pursuant to NCGS 158-7.1(c).

A representative from Kimberly-Clark was present and answered some questions.

Staff requested that a public hearing be set for Wednesday, December 17, 1997 at 9:00 a.m. for the purpose of receiving public comments on the Board's consideration of assisting Kimberly-Clark Corporation with the construction costs associated with their expansion. A special order for use in setting the public hearing and a draft notice of hearing were reviewed.

Commissioner Good made the motion to set the Public Hearing for Wednesday, December 17 at 9:00 a.m. All voted in favor and the motion carried.

OFFER ON LOT 5A APPLELAND BUSINESS PARK

There are two remaining lots in Appleland Business Park, Lot 5A and Lot 5. Jennifer Jackson informed the Board that staff has received an Offer to Purchase and Contract for sale of Lot 5A of Appleland Business Park. Lot 5A is the 6.00 acre tract that fronts on Upward Road and was shown on a map attached to the Offer as Exhibit B.

William D. McKibbin had made an offer on Lot 5A, 6 acres, of \$195,000.00.

If the Board wishes to proceed with the sale of Lot 5A, Ms. Jackson advised that the procedures outlined in NCGS 160A-269 would need to be complied with. This process requires the publication of a Notice of Offer and period of time to receive upset bids. The Board, at any time prior to final acceptance, has the authority to reject the Offer and/or upset bids submitted as a result of the publication of the Notice of Offer.

This negotiated offer procedure was used by the Board for the sale of the 0.046 acre strip adjacent to Lot 2 in Appleland Business Park.

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Following discussion, Commissioner Kumor made the motion to authorize publication of the Notice of Offer pursuant to NCGS 160A-269. All voted in favor and the motion carried.

SET PUBLIC HEARING TO CONSIDER RENEWAL OF INDUSTRIAL PARK OPTION

Angela Skerrett reminded the Board that a public hearing must be held as required by NCGS 158-7.1 to consider the renewal of the Option which the County currently has for the development of the Appleland Business Park. The County entered into an option on 69.4 acres of property owned by Mrs. Cynthia Whitted located at the intersection of Upward Road and the I-26 connector. The total purchase price for this property is \$1,500,000.00 The County has partially exercised the option and purchased the Roadway, the Park Property, Lots 1, 1A, 2, 3, 3A, 4, 4A, 6, 7(revised), 7A, 8 and two lots dedicated to NCDOT, for a total acreage purchased of 47.0131 acres at a price of \$1,099,697.20.

The current option will expire on December 31, 1997. If approved, this renewal will extend the option for another three month period to expire on March 31, 1998. The price to renew the option until March 31, 1998 will be the quarterly interest at the Nationsbank prime rate of interest determined as of December 10, 1997 on the unpaid portion of the purchase price of \$400,302.76 (the remaining acreage to be purchased includes Lot 5 and Lot 5A, 22.3709 acres). As the agenda was prepared prior to December 10, 1997, the actual option renewal price is not reflected in agenda materials. However, Nationsbank prime rate as of November 7, 1997 was 8.50% which would put the option payment at \$8,506.41.

The payment to renew the option for an additional three month term is due on December 20, 1997. It would be appropriate for the Board to set a Public Hearing to consider the renewal for Wednesday, December 17, 1997 at 9:00 a.m.

Commissioner Kumor made the motion to set the Public Hearing for Wednesday, December 17, 1997 at 9:00 a.m. All voted in favor and the motion carried.

UNITED WAY CAMPAIGN

Chris Coulson presented the results of the 1997-1998 United Way Campaign for Henderson County Employees. Last year 96 employees participated with donations totaling \$10,293.00. This year 189 employees participated with donations totaling \$17,586.00 which was a 70% increase over last years participation.

The United Way Committee was commended for doing such a good job and Ms. Coulson presented certificates to those in attendance:

Jennifer Jackson, Debi Ward, Tina Rutledge and Carolyn Vaughan. Members of the committee which were not present at the meeting included: Sandy Allison, Karen Hebb, Selena Coffey, Karen Saine and Shannon Allison. Chris Coulson served on the United Way Committee also.

JAIL PLANNING PROJECT BUDGET

Carey McLelland informed the Board that Mr. Bill Blalock, Jail Project Director, has identified the need to establish a budget for the jail planning process for the current fiscal year. An area in the new courthouse has been identified as office space to accommodate Mr. Blalock for this project. He currently has an agency secretary as clerical staff assisting him. Converting this person to a project employee will be less costly for the County. Renovations are currently being made to the office space area in the new courthouse. He will also need to purchase some furniture and support equipment for the planning process.

The Board of Commissioners appropriated \$10,000 in the current fiscal year budget for jail planning. Based on Mr. Blalock's estimates, \$12,000 will be needed for planning and project management, which includes the cost of the project employee, supplies and materials, travel, and telephone and copier lease payments, \$8,000 for office space renovations, which includes telephone wiring, and \$17,000 for furniture and support equipment. This equals a total budget of \$37,000. Therefore, an additional appropriation of \$27,000 will be needed to cover this budget. The furniture and office equipment will be a long term investment because it will be used in one of the jail offices at a later time.

Following discussion, Commissioner Kumor made the motion to approve the budget amendment with the additional appropriation of \$27,000 to come from contingencies. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES

Personnel - Replacing Positions and Job Descriptions

Commissioner Ward had requested this item be put on the agenda. He addressed the passing of Mr. Smith and the reposting of his job. David Nicholson stated that when a job becomes vacant, he reviews it to ensure that it is a necessary position and then reviews the job description and takes the time to revise it, if needed, when posting the job for applicants.

Pardee Hospital up-date

Angela Skerrett handed out a draft proposed Guidelines for Appointment to the Board of Trustees of the Henderson County

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Hospital Corporation. The Board can take time to review this document as well as a proposed Resolution she handed out before the next Commissioners' meeting. It will be an agenda item at that time.

Justice Academy Sewer Project Schedule

David Nicholson reviewed the time schedule with the Board which Gary Tweed, County Engineer, had supplied for this project. Mr. Nicholson stated that we would have to do some pump and haul operation before the project is complete. He further stated that we will have to cross about twenty properties. County staff is working on sewer easements at this time. The State did approve an easement to the site and the County has those easements.

911 Center

Mr. Nicholson was handed a note stating the actual cut-over for the new 911 center took place at 10:16 a.m. It is now fully operational. Mr. Nicholson stated that this will greatly enhance public safety in Henderson County.

Human Services Issues:**Electing County**

David Nicholson reviewed notes of the Welfare Reform Committee with the Board, discussing meeting dates and discussing persons needed to fill the advisory committee on Welfare Reform. The Board will continue to get updates as this committee meets and works.

Trend

Mr. Nicholson had been discussing the possibility with the Board of using a consulting firm to help with the Trend issues. He has gotten a proposal from the company and a copy of a plan they had written for Iredell County. Mr. Nicholson plans to get with Artie Wilson to discuss Transylvania County's plans regarding mental health. He wants to see if Transylvania County is interested in the two Boards meeting and discussing mental health. Transylvania County may help share the cost of the consultant. Of course, the issues Henderson County will address will be some of the same issues Transylvania County will have to address. Mr. Nicholson will report back following discussion with Mr. Wilson, Transylvania County Manager.

IMPORTANT DATES

During the meeting the following dates were added to the Board calendar:

Economic Development Public Hearing on December 17, 1997 at 9 a.m.

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Public Hearing to consider Renewal of Industrial Park Option on December 17, 1997 at 9 a.m.

The Hendersonville Christmas Parade is scheduled for December 6. David asked if any Commissioners were interested in riding in the parade. Several of the Commissioners had earlier commitments. It was the consensus that the Commissioners would not ride in the parade.

Chairman Hawkins announced that the Register of Deeds office will be closed a couple of hours on Friday for a funeral. Mr. Nicholson said staff would get a press release out about that.

Chairman Hawkins called a ten minute recess.

PROPOSED DESIGNATION OF FRENCH BROAD RIVER AS AMERICAN HERITAGE RIVER

Karen Cragolin reminded the Board that President Clinton announced this initiative on February 4, 1996. On February 5 a committee was formed to begin to look at the potential of the French Broad River for this designation. There will be ten rivers selected in 1998. Those rivers will receive a lot of national attention, a special recognition, get technical assistance and will get first preference in streamlined access to existing federal resources.

A lot of people are concerned at having better river access because they wish to utilize the river. In North Carolina and Tennessee it has been designated as a state trail. Henderson County has several river access parks as do Buncombe, Transylvania, and Madison counties. The largest industry in Madison County today is the whitewater industry.

One of the first things the Committee did was adopt a Resolution which would recognize the importance of private property rights. Ms. Cragolin read that Resolution as follows:

"The American Heritage River designation for the French Broad River and its tributaries creates an opportunity for each community and the entire region as a whole to develop its own plans to utilize the French Broad River, its tributaries and the entire corridor for economic development, environmental protection and preservation of our region's cultural heritage by being informed of, and having streamlined access to the available resources of the Federal Government as each community and property owner deems appropriate, while maintaining absolute respect for the heritage of the river and each individuals property rights."

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They have asked for resolutions and support for this designation from a variety of agencies. They have received them from all of the four counties of Western North Carolina. They have endorsements from the four county newspapers, from the State Travel and Tourism Industry Board of Directors, from the State Chamber of Commerce, the NCBBI, Asheville Chamber of Commerce, Greater Hendersonville Chamber of Commerce. They have a number of endorsements from similar sister/brother type agencies for the State of Tennessee.

Ms. Cragolin shared many documents with the Board. She stated that we're in the last leg of this project. The application will actually go in on December 10.

SALE OF CABLEVISION TO MEDIACOM

Angela Skerrett reminded the Board that on September 15, 1997, the County received notice from Cablevision that they were planning to sell the Henderson County system to Mediacom, LLC. On Friday, October 3, 1997, representative from Mediacom met with local officials from the County and all the municipalities to discuss the proposed sale and to raise any questions or concerns. After the meeting, staff contracted with Rice, Williams, and Associates to review the financial transaction on the County's behalf. At agenda preparation, staff had not received a written report from Rice, Williams; however, verbally Jean Rice has indicated that they foresee no major concerns regarding the transaction. Additionally, she has been discussing additional items with Mediacom on the County's behalf such as designating all or a portion of the PEG channel for government, provision of production equipment to the County and system upgrades. Correspondence from Maggie Blythe, Director of Governmental Affairs for Cablevision indicates that Mediacom is willing to discuss all of these issues further with the County.

The Cable TV Advisory Committee met on Monday, November 17, 1997 at 7:00 p.m. to discuss the proposed sale. Their recommendation to the Board of Commissioners was to require a letter of Commitment from the purchaser (Mediacom Southeast, LLP) to renegotiate, within a reasonable period of time, the existing 1991 Franchise Agreement, whereby such renegotiation will produce, at a minimum, a rebuild/upgrade of the entire cable plant in Henderson County to provide additional channel capacity.

Mediacom has indicated that they are agreeable to hold discussions concerning the renegotiations of the current cable franchise agreement. The Town of Laurel Park is interested in joining with the Board in renegotiating a franchise. It was suggested if there are renegotiations to include all the municipalities involved.

Mediacom has indicated it is their intend to upgrade the system to provide a minimum of 62 channels within the next five years.

Angela Skerrett reviewed a prepared RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA AUTHORIZING THE TRANSFER OF CONTROL OF A CABLE TELEVISION FRANCHISE FROM EEC HOLDING CORPORATION TO MEDIACOM SOUTHEAST, LLC.

Following discussion, Commissioner Kumor made the motion that the Board adopt the RESOLUTION (approving the sale) presented including the amendments recommended by Ms. Skerrett. All voted in favor and the motion carried.

CARRIAGE PARK SPECIAL USE PERMIT AMENDMENT

Jennifer Jackson reminded the Board that at the Board of Commissioners meeting on October 6, 1997, the Board directed Staff to prepare Findings of Fact, Conclusions and an Order consistent with the evidence and arguments presented at the quasi-judicial hearing on the proposed amendment to allow a fire sub-station in Carriage Park. Carriage Park's request for amendment is attached for the Board's review. Staff has drafted Findings of Fact, Conclusions and an Order and they were part of the agenda for the Board's review.

Staff has met with Carriage Park concerning the issues raised directly and indirectly by their request for amendment. Not only does this draft Amendment address the fire sub-station issue which was specifically addressed at the quasi-judicial hearing but the Amendment also attempts to resolve certain issues that were brought forward by Carriage Park in discussions concerning the Findings of Fact, Conclusions and Order. Some of those issues include procedures for approval of common areas and procedures for amendments to approved development parcels and approved common areas. Staff has also been in contact with the other parties to the proceeding to ensure that their interests have been adequately represented in the draft Amendment. It has taken some time to reconcile SP-93-13 and the amendments thereto with the interests of the parties to accomplish this new Amendment.

The draft Findings of Fact, Conclusions and Order have been forwarded to all parties in the proceeding. Staff may be bringing back comments from parties and Staff and possible revisions stemming from the parties' review of the same.

The Board's Rules of Procedure, as they pertain to quasi-judicial proceedings, require the Board to take action and adopt the

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Findings of Fact, Conclusions and Order either as presented or as the Board may see fit to revise.

Commissioner Kumor made the motion that the Board accept the Findings of Fact. All voted in favor and the motion carried.

GREENWAYS CONFERENCE

A few months ago, the Board of Commissioners held a work session on Quality of Life Issues in Henderson County and basically a priority order for the new issues. A greenways program ranked fourth of ten issues. Recently, staff received a brochure concerning the first International Greenways Conference to be held in San Diego California in January, 1998. It may be appropriate to send one or more people to this conference to assist in planning efforts. The conference information is being presented to the Board to see if the Board is interested in sending anyone to this conference.

There was some interest that someone attend from Henderson County as it could be beneficial to our county.

SCHOOLS, POST BOND REFERENDUM

Don Ward requested this be put on the agenda since the School Bond Referendum was defeated last evening. In a joint meeting with the Board of Education in January of 1996 there was discussion of the one cent sales tax. Mr. Ward feels that the Commissioners should pursue the one cent sales tax. He also suggested more joint meetings with the Board of Education to pursue a better plan.

Commissioner Good suggested a meeting with our local legislators to get their input as to how best to handle this.

Much discussion followed. David Nicholson explained what 160A-20 Financing is. There are a number of counties who are able to use this type of financing for schools. Henderson County has never been put on the list. Henderson County may want to pursue this. This is the type financing that Henderson County used for the new Courthouse and is using for the renovation of the Historic Courthouse.

There was discussion of the RESOLUTION FOR CONSTRUCTION OF ELEMENTARY SCHOOLS that the Board adopted in March of 1997.

CLOSED SESSION

Commissioner Good made the motion for the Board to go into Closed Session as allowed under NCGS 143-318.11 for the following reasons:

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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.

All voted in favor and the motion carried.

ACTION FOLLOWING CLOSED SESSION

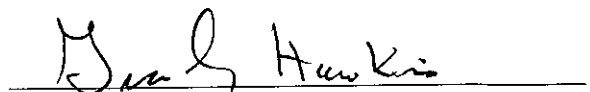
Chairman Hawkins opened the floor for a motion regarding a Budget Amendment.

Commissioner Kumor made the motion for the Board of Commissioners to approve \$40,000 from undesignated fund balance to be moved to the County Attorney's professional services line item. All voted in favor and the motion carried.

There being no further business to come before the Board, the meeting was adjourned at 1:12 p.m.

Attest:


Elizabeth W. Corn, Clerk


Grady Hawkins, Acting Chairman

HENDERSON COUNTY BOARD OF COMMISSIONERS

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Hendersonville, North Carolina 28792-5097
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BOB EKLUND
CHAIRMAN
GRADY HAWKINS

VOLLIE G. GOOD
RENEE KUMOR
DON WARD

RESOLUTION**A RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA
AUTHORIZING THE TRANSFER OF CONTROL OF A CABLE TELEVISION
FRANCHISE FROM ECC HOLDING CORPORATION TO
MEDIACOM SOUTHEAST, LLC**

WHEREAS, ECC Holding Corporation ("ECC"), owns, operates, and maintains a cable television system ("System") in the County of Henderson, North Carolina (the "Franchising Authority") pursuant to the Franchise granted under AN ORDINANCE ESTABLISHING THE CONDITIONS FOR AWARDED NON-EXCLUSIVE FRANCHISES FOR COMMUNITY ANTENNA TELEVISION SYSTEMS, effective June 19, 1991 (the "Franchise"); and

WHEREAS, ECC, as the current authorized holder of the Franchise, has advised the Franchising Authority that it has entered into an agreement to transfer control of the Franchise, including all right, interest and obligations of the Franchisee under the Franchise, to Mediacom Southeast, LLC ("Mediacom"), subject to, among other considerations, any required approval of the Franchising Authority with respect thereto; and

WHEREAS, the Franchise and Ordinance requires that prior to a transfer of control of the Franchise, the County must grant its prior written consent thereto; and

WHEREAS, ECC and Mediacom have submitted a written Application including Federal Communications Commission Form 394 requesting consent by the County for the transfer of control of the Franchise from Cablevision to Mediacom Southeast, LLC and have submitted other information regarding the transfer (the "Application"); and

WHEREAS, Mediacom has indicated its intent to upgrade the system to provide a minimum of 62 channels within the next five years; and

WHEREAS, Mediacom and the County have negotiated and Mediacom has agreed, at no charge to the County or subscribers, to playback County programming on the access channel and continue to provide and maintain playback equipment for the access channel at no charge and to allow the County to use all or a portion of the access channel as requested by the County.

WHEREAS, Franchise is in full force and effect and to the knowledge of the County, ECC is not in default thereof; and

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WHEREAS, the County has determined that Mediacom has the requisite legal, technical, and financial capability as described in the Application and as further clarified, and that it is appropriate to grant its consent to the transfer of control of the Franchise provided that the County has assurances from Cablevision and Mediacom that the County's rights will be protected.

NOW, THEREFORE, THE COUNTY COMMISSION OF THE COUNTY OF HENDERSON, HEREBY ORDAINS.

SECTION 1. The County hereby consents to the transfer of control of the Franchise from ECC to Mediacom ("Franchisee"), pursuant to the conditions described in the Application, that such consent to transfer of control is granted subject to the following conditions:

(a) The Franchisee has represented to the County that the proposed merger will not affect the current identity of the Franchisee. That the Franchisee continues to have all obligations and liabilities under the Franchise and Ordinance, any covenant, condition and agreement, including, without limitation, all obligations, if any, of the Franchisee as are currently required to have been performed but have not been performed.

(b) That the transfer approval shall not in any way waive, diminish or otherwise affect adversely any right that the County has, may have, or may at any time or in any manner subsequently acquire, with respect to any matter.

(c) That these conditions are based upon Franchisee's representations upon which the County has relied, and Franchisee shall execute and deliver to the County, documents embodying their agreement to and implementing the above conditions, in form and substance satisfactory to the County Attorney.

(d) No consent from the County shall be required for a transfer in trust, mortgage or other instrument of hypothecation, in whole or in part, to secure an indebtedness incurred by Franchisee to a reputable financial institution on or near the closing date of the transfer (as defined in the Purchase Agreement) provided that: (1) such transfer in trust, mortgage or other instrument of hypothecation does not result in a transfer of control of Franchise or Franchisee, and (2) such transfer in trust, mortgage or other instrument of hypothecation is under materially the same terms and conditions as the documents provided to the County.

(e) Mediacom and the County have negotiated and Mediacom has agreed, at no charge to the County or subscribers, to playback County programming on the access channel and continue to provide and maintain playback equipment for the access channel and to allow the County to use all or a portion of the access channel as is requested by the County.

(f) Further, this consent shall not in any way waive, diminish or otherwise adversely

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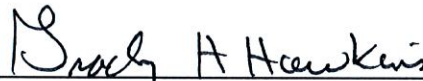
affect any right the County would have had including, but not limited to, any past due franchise fees under the Franchise, had the transfer or the County's consent to the transfer of control of the Franchise pursuant to the Application never occurred.

SECTION 2. The County Manager is authorized to prepare and execute any agreements or other documents necessary or appropriate to implement this Transfer Resolution, provided such have been approved as to form by the County Attorney.

This resolution shall take effect and be in force from and after the earlier of the date of the final passage hereof or the earliest time permitted by law.

PASSED AND ADOPTED this 19th day of November, 1997.

Henderson County Board of Commissioners



Grady H. Hawkins, Vice Chairman

ATTEST:

(County Seal)



County Clerk

Approved as to form:



Staff Attorney

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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

**To Request More Equitable Geographic Distribution of
 Community Development Block Grants**

Whereas, the distribution of North Carolina Community Development Block Grant Funding is designed to benefit all citizens of the State; and

Whereas, the geographic distribution of these funds favors the eastern section of North Carolina when compared to the percentages of the State's population within each region; and

Whereas, this inequity occurs each year and is historically consistent; and

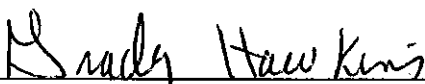
Whereas, an equitable distribution of funding is in the interest of all North Carolina citizens; and

Whereas, an equitable formula that takes into consideration funding based at least in part on geographic areas has been advocated and discussed by certain counties for years.

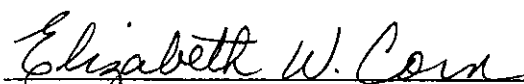
NOW THEREFORE, BE IT RESOLVED that the Henderson County Board of Commissioners again supports the "Proposed CDBG Program Modifications to Promote A MORE EQUITABLE GEOGRAPHIC DISTRIBUTION OF COMMUNITY DEVELOPMENT BLOCK GRANTS."

Adopted this the 19th day of November, 1997.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: 
 Grady H. Hawkins, Vice-Chairman

ATTEST:


 Clerk to the Board

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**USE LESS STUFF
RESOLUTION**

WHEREAS, North Carolina has signed on as an official sponsor of the national program of the 3rd annual ULS Day (Use Less Stuff) scheduled for the Thursday preceding Thanksgiving (November 20th) highlighting the amount of waste created between Thanksgiving and New Year's Day; and

WHEREAS, the North Carolina Department of Environment, Health & Natural resources has targeted *select* counties, such as *Henderson County*, with aggressive waste reduction activities in place; and


WHEREAS, this program will raise awareness of source reduction, highlight the amount of waste created over the holidays and offer citizens alternatives to generating waste in the first place;

NOW, THEREFORE, BE IT RESOLVED that the Henderson County Board of Commissioners proclaims **THURSDAY, NOVEMBER 20, 1997** as **USE LESS STUFF DAY** (ULS day) in Henderson County on this 19th day of November 1997.



**GRADY HAWKINS, VICE-CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS**

ATTEST:



**ELIZABETH W. CORN
CLERK TO THE BOARD**

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