

**MINUTES**

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
AUGUST 20, 1997

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

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

Also present were: Finance Director J. Carey McLelland, Planning Director Matt Matteson, Assistant Staff Attorney Jennifer Jackson, and Public Information Officer Chris Coulson.

**CALL TO ORDER/WELCOME**

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

**PLEDGE OF ALLEGIANCE**

Commissioner Hawkins led the Pledge to the American Flag.

**INVOCATION**

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

**DISCUSSION/ADJUSTMENT OF AGENDA**

David Nicholson added one discussion item to follow the Public Hearing, Sale of Lot 5-A (Appleland Business Park).

Mr. Nicholson also added as the last agenda item "Fireworks at Jackson Park" on August 31.

Commissioner Hawkins added an item #4 to Update, Update on the Blue Ribbon Committee status.

Commissioner Ward added an item #5 to Update, potential water line to Edneyville Elementary School off our spur going to the WNCJA.

**CONSENT AGENDA**

Commissioner Ward made the motion to approve the Consent Agenda. All voted in favor and the motion carried.

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CONSENT AGENDA included the following:

**Review/approval of Minutes**

Minutes were presented for the Board's review/approval of the February 19 and June 2, 1997 meetings.

**Tax Collection Order**

As per General Statute 105-321, the Board of County Commissioners must order the Tax Collector to collect taxes levied by the County on or before the first day of September each year. A draft order was presented.

**Proposed Text Amendments to the Henderson County Water Supply Watershed Ordinance**

The proposed amendments are required as a result of boundary modifications to the Upper French Broad River Watershed recently approved by the North Carolina Environmental Management Commission.

At their meeting on June 24, 1997, the Henderson County Planning Board voted to send these proposed amendments forward with a *favorable recommendation*. The amendments were formally presented to the Board of Commissioners, for their first reading, at the August 4, 1997, meeting.

**Set Public Hearing to Consider Renewal of Industrial Park Option**

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 September 30, 1997. If approved, this renewal will extend the option for another three month period to expire on December 31, 1997. The price to renew the option until December 31, 1997 will be the quarterly interest at the Nationsbank prime rate of interest determined as of September 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,

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22.3709 acres.) As the agenda was prepared prior to September 10, 1997, the actual option renewal price is not reflected here. However, Nationsbank prime rate as of August 13, 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 September 20, 1997. Therefore, if the Board desires to renew the option, it would be appropriate to set a Public Hearing to consider the renewal for Wednesday, September 17, 1997 at 9:00 a.m.

#### **Road Petitions**

The County has received a road petition for addition to the State Maintenance System for East Walker Street in East Flat Rock. It has been the practice of this Board to accept road petitions and forward them to NC Department of Transportation for their consideration.

#### **Notification of Vacancies**

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

1. Child Fatality Prevention Team - 1 vacancy
2. Western Carolina Community Action - 1 vacancy

#### **INFORMAL PUBLIC COMMENTS**

Chairman Eklund informed those present that some of the Commissioners went on a tour last evening of some of the county parks. He stated that he was very proud of our new and expanded facilities. They visited the new park at Etowah, the new park at East Flat Rock, the new ballfields at Jackson Park, and the new pavilion at Dana Park. He stated that they are all being used and he thinks that "quality of life" is better for all of us. He invited all present to go visit some of the parks.

1. Sharon Alexander - Mrs. Alexander is Council for Margaret R. Pardee Memorial Hospital. She wanted to clear up some inaccurate information that has been given out during meetings regarding hospital reorganization.

She stated that what we call "this thing" that is going to run Pardee Hospital is really irrelevant. What it is going to be capable of doing is of utmost importance to this community. Of equal importance is the fact that we all work together to position

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this entity to continue to deliver the high quality of health care we've all become accustomed to on into the 21st century. In order to do so, it is going to have to be a competitive animal, financially viable, must be an institution that is well managed, successful, but most importantly is committed to this community, involved in all aspects of health care in Henderson County.

2. Kathy Askew - Ms. Askew owns and operates Sunnybrook Nursing Home. She spoke of the grave need for trained personnel in the nursing field. She asked that the county get involved in helping to see that training is offered so that nursing homes in Henderson County will have a good pool of personnel to pull from. She stated that Henderson County's population is getting older and older. She proposed that Henderson County spend money creating more workforce not creating more jobs.

3. Jerold Ellis - Spoke in opposition of the proposed site for the wastewater treatment plant in Edneyville behind the Fire Department. He stated that treatment plants are not normally put in a residential area. He recommended that the treatment plant be put on another site that was proposed, on the Riley Jones property.

4. Diane Phillips - Ms. Phillips spoke in favor of a noise ordinance in Henderson County. She stated that she has one disturbing neighbor making an outrageous amount of noise. She called law enforcement officers to her home because there was no respectful response from the neighbor after requesting half a dozen times that the noise be minimized. The neighbors have threatened her, jeered at her and her husband, and intimidated her, all because of one unruly teen.

Because of the noise that comes from another home into her home, she cannot use her reading room. She cannot study and is losing supplemental income (\$50 hr.) which she needs badly.

5. Milton Byrd - Mr. Byrd is a councilman for the Town of Fletcher but was not present to speak in that capacity. He is also an employee of Pardee Hospital but did not wish to speak as an employee but rather as a concerned citizen regarding the hospital authority issue. He asked the Board to consider granting a full authority to the Hospital.

Commissioner Ward asked if Ms. Askew's and Mr. Ellis' concerns could be addressed?

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David Nicholson spoke regarding the work force issue, stating that maybe Liston Smith could get involved with the Work First program. He stated it is a Chamber of Commerce issue and said that this might have to be a real community effort to address the problem. Mr. Nicholson will try to bring these people together.

Mr. Nicholson addressed the Edneyville sewer plant, stating that it was a wash costwise at either location. The Board learned this at the last meeting and the article in the *Times News* that Mr. Ellis quoted from was done earlier than the last meeting.

The noise ordinance will be addressed this afternoon at the scheduled work session.

**PUBLIC HEARING - To Consider An Amendment to the Restrictive Covenants for Appleland Business Park**

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

Angela Skerrett informed the Board that this public hearing was being held to consider an amendment to the Restrictive Covenants of Appleland Business Park. Under the terms of the Restrictive Covenants the Board sits as the Park Owner's Association, and has the authority to amend the Restrictive Covenants after giving the Park owners thirty days in which to comment. A notice was mailed to all property owners within the Park on July 14, 1997. Staff has received no comments.

The proposed amendment clarifies allowable industrial use for the entire park and creates a new "O/I Area" for a proposed Lot 5A. The proposed amendment also extends the time (from two years to four years) for commencement and completion of construction of improvements within the Park.

Ms. Skerrett stated that this Board has expressed a desire to subdivide the remaining parcel, Lot 5, which consists of 22 acres into two parcels, one fronting Upward Road and consisting of six acres and a back acreage of sixteen acres remaining. She showed the proposed division on a map.

**Public Input** - There was none.

Commissioner Good made the motion to close the Public Hearing. All voted in favor and the motion carried.

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Commissioner Hawkins made the motion to accept the amendment as listed on the notice that sets up and establishes the O & I District. All voted in favor and the motion carried.

**SALE OF LOT 5-A - Appleland Business Park**

Ms. Skerrett stated that the Board has been considering the various options that it has with regard to Lot 5A in Appleland Business Park.

In anticipation of the Board's desire to proceed with the sale of Lot 5A, staff (Jennifer Jackson) had prepared a Resolution authorizing the County Attorney and Staff to advertise the sale of Lot 5A pursuant to the sealed bid procedure (NCGS 160A-268).

Mrs. Jackson stated the Resolution contemplates the Board setting a minimum bid on the lot and setting the dates of the advertisement and opening of the sealed bids. When setting the dates, attention should be given to the time frames related to the County's option renewal on the Appleland property. Mrs. Jackson stated that the sale would be subject to a 20 foot wide permanent utility easement and a 50 foot wide temporary construction easement for the installation of any future utilities.

Staff requested the Board to set the minimum bids (if desired) and authorization to Staff to put the Lot out for sealed bid.

Following discussion, Commissioner Hawkins made the motion to set the low bid at \$75,000 per acre and to authorize staff to put the lots out for sealed bid.

David Nicholson asked if the Board felt that 30 days would be long enough to advertise. Mr. Nicholson requested authorization for the County Attorney and staff to fill in the final dates for opening and closing on the property. Staff will insert the dates after consulting with the County Attorney.

Commissioner Hawkins amended his motion to include authorization as requested. All voted in favor and the motion carried.

**REZONING REQUEST by HULDA M. STEPP - Application #R-02-97**

Matt Matteson informed the Board that on July 29, 1997, the Henderson County Planning Board voted unanimously to send the Board of Commissioners a *favorable recommendation* on an application to

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amend the Official Zoning Map of Henderson County submitted by Ms. Hulda M. Stepp. Ms. Stepp has requested that the County rezone a 4.18 acre parcel located on the east side of US #176, near the US #25 Connector, from an R-20 (low density residential) district to a C-4 (highway commercial) district. The site is undeveloped except for a single family dwelling.

The applicant, Mrs. Hulda M. Stepp, presented her request to the Board. She stated that her property adjoins commercial. She has an 800 foot frontage on Hwy.#176 which is a five lane highway. Ms. Stepp stated that there are two trailer parks across the road from her.

Mr. Matteson stated that the Board of Commissioners must hold a public hearing prior to taking action on this application. Planning staff recommended that the hearing be scheduled for Tuesday, September 2, 1997 at 7:00 p.m.

Commissioner Kumor made the motion to set the Public Hearing for Tuesday, September 2 at 7:00 p.m. All voted in favor and the motion carried.

**REZONING REQUEST by DEWEY PUTNAM, JANICE BROWN & GREG GOSNELL**  
**Application #R-03-97**

Mr. Matteson informed the Board that on July 29, 1997, the Henderson County Planning Board voted 6-1 to send the Board of Commissioners a *favorable recommendation* on an application to amend the Official Zoning Map of Henderson County submitted by Mr. Dewey Putnam, Ms. Janice Brown and Mr. Greg Gosnell. The application requests that the County rezone approximately 13 acres of land on the west side of US#176, near the US#25 Connector, from an R-20 (low density residential) district and a C-4 (highway commercial) district to a T-15 (medium density residential with manufactured homes) district.

Mr. Putnam was present and made the request to the Board.

Mr. Matteson informed the Board that they must hold a Public Hearing prior to taking action on this application. Planning Staff recommended that the hearing be scheduled for Tuesday, September 2, at 7:00 p.m.

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Commissioner Kumor made the motion to set a Public Hearing for Tuesday, September 2, 1997 at 7:00 p.m. All voted in favor and the motion carried.

INTRODUCTION OF THE SCHOOL BOND ORDER AND THE COMMUNITY COLLEGE BOND ORDER

Carey McLelland introduced the following bond orders which were read by title:

"BOND ORDER AUTHORIZING THE ISSUANCE OF  
\$46,500,000 SCHOOL BONDS  
OF THE COUNTY OF HENDERSON"

WHEREAS, the Board of Commissioners of the County of Henderson has received and considered a resolution from the Henderson County Board of Education including a request that the Board of Commissioners provide and improve school facilities in the County; and

WHEREAS, the Board of Commissioners of the County of Henderson deems it advisable to make the improvements hereinafter described; and

WHEREAS, the Board has caused to be filed with the Secretary of the Local Government Commission of North Carolina an application for Commission approval of the bonds hereinafter described as required by The Local Government Finance Act, and the Secretary of the Local Government Commission has notified the Board that the application has been filed and accepted for submission to the Local Government Commission;

NOW, THEREFORE, BE IT ORDERED by the Commissioners of the County of Henderson, as follows:

Section 1. The Board of Commissioners of the County of Henderson has ascertained and hereby determines that it is necessary to provide additional school facilities and improvements to existing school facilities in the County of Henderson, including the construction of new elementary schools and the renovation of existing elementary schools, and including the acquisition and installation of necessary furnishings and equipment and the acquisition of land or rights-in-land required therefor and to pay capital costs of such improvement.

Section 2. In order to raise the money required to pay capital costs of providing the improvements as set forth above, in addition to any funds which may be made available for such purpose from any other sources, bonds of the County of Henderson are hereby authorized and shall be issued pursuant to The Local Government Finance Act of North Carolina. The maximum aggregate principal amount of said bonds authorized by this bond order shall be \$46,500,000.

Section 3. A tax sufficient to pay the principal of and interest on said bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the County's debt has been filed with the Clerk to the Board of Commissioners and is open to public inspection.



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Section 5. This bond order shall take effect when approved by the voters of the County at a referendum.

**"BOND ORDER AUTHORIZING THE ISSUANCE OF  
\$8,000,000 COMMUNITY COLLEGE BONDS  
OF THE COUNTY OF HENDERSON"**

WHEREAS, the Board of Commissioners of the County of Henderson has received and considered a resolution from the Board of Trustees of the Blue Ridge Community College including a request that the Board of Commissioners provide and improve additional community college facilities at the Blue Ridge Community College; and

WHEREAS, the Board of Commissioners of the County of Henderson deems it advisable to make the improvements hereinafter described; and

WHEREAS, the Board has caused to be filed with the Secretary of the Local Government Commission of North Carolina an application for Commission approval of the bonds hereinafter described as required by The Local Government Finance Act, and the Secretary of The Local Government Commission has notified the Board that the application has been filed and accepted for submission to The Local Government Commission; NOW THEREFORE,

BE IT ORDERED by the Commissioners of the County of Henderson, as follows:

Section 1. The Board of Commissioners of the County of Henderson has ascertained and hereby determines that it is necessary to provide additional community college facilities for Blue Ridge Community College, including construction of a new building, and including and the acquisition and installation of necessary furnishings and equipment and the acquisition of land or rights-in-land required therefor and to pay capital costs of such improvements.

Section 2. In order to raise the money required to pay capital costs of providing the improvements as set forth above, in addition to any funds which may be made available for such purpose from any other sources, bonds of the County of Henderson are hereby authorized and shall be issued pursuant to The Local Government Finance Act of North Carolina. The maximum aggregate principal amount of said bonds authorized by this bond order shall be \$8,000,000.

Section 3. A tax sufficient to pay the principal of and interest on said bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the County's debt has been filed with the Clerk to the Board of Commissioners and is open to public inspection.

Section 5. This bond order shall take effect when approved by the voters of the County at a referendum.

The Commissioners must call a public hearing on each Bond Order. Staff recommended setting the public hearing for each Bond Order for the Commissioner's regularly scheduled meeting on September 17,

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1997 at 9:00 a.m. Formal approval of each Bond Order by the Board will take place after each public hearing on September 17.

Upon setting the public hearings, each Bond Order must then be publicized as introduced with notice of public hearing in the local newspaper. These publications are tentatively scheduled to be made on August 25, 1997.

Mr. McLelland also presented a copy of the County's Debt Statement, which must be filed with the Clerk to the Board by the Finance Officer after introduction of the Bond Orders, but prior to the public hearings. NCGS 159-55(c) states that a Bond Order may not be adopted unless a Debt Statement shows that the County's net debt does not exceed 8 percent of the assessed value of the property subject to taxation by the County. Including the proposed bond financings, Henderson County's ratio of net debt to the assessed value of taxable property is 1.72 percent.

Commissioner Ward made the motion to set the two public hearings for Wednesday, September 17, 1997 at 9:00 a.m. All voted in favor and the motion carried.

**PROPOSED AMENDMENTS TO THE HENDERSON COUNTY ZONING ORDINANCE REGARDING WIRELESS TELECOMMUNICATION TOWERS(as defined)**

David Nicholson reminded the Board that on August 4, 1997, the Commissioners held a public hearing on a set of proposed amendments to the Henderson County Zoning Ordinance designed to regulate wireless telecommunications towers in zoned areas. At the time of the hearing, Planning Staff offered some general comments regarding items which they had not fully addressed in the proposed text. A copy of the list of twelve items which staff distributed at the hearing was reviewed. The Board had directed staff to continue working on the proposed amendments and to present a revised draft at the August 20 meeting.

For the Board's information, staff included information which they received on August 8 at a statewide planning conference. Among other things, the material reviews the five conditions which local zoning regulations governing wireless telecommunication towers must meet in order to conform with the 1996 Telecommunications Act.

Mr. Nicholson informed the Board that they have several options:

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One option is that they don't have to do anything yet because the moratorium runs to October 5 so there is still a window available to the Board.

One alternative is that the Board could adopt the skeleton Ordinance that staff had prepared for the public hearing.

The Board could wait until staff has a chance to formally present the updated Zoning Ordinance. Staff has gotten the impression that the Board would like to revisit the idea of a countywide ordinance. Staff feels that the community should be involved as well as the providers. Staff would need 30-60 days to develop a county-wide ordinance.

Ms. Skerrett reminded the Board that there would still be a need to amend the Zoning Ordinance because currently by the terms of the Zoning Ordinance and with the recent ruling of the Zoning Board of Adjustment, they are not allowed anywhere in zoned areas. The county-wide police power ordinance won't over-ride that. There are two separate issues.

Following much discussion, it was the consensus of the Board for staff to proceed with the latter option for a county-wide ordinance.

#### INSPECTION ORDINANCE/Personnel

The Board of Commissioners was requested by Mr. Nicholson to change the current Henderson County Inspection Ordinance to allow for the appointment of the county inspectors by the County Manager. Currently, the ordinance calls for the appointment of inspectors by the Board of Commissioners. However, in the revised codification of this ordinance, this power is delegated to the County Manager. The Board reviewed the current Inspection Ordinance and the change that was approved by the Board of Commissioners during the codification workshops. It was recommended that Article I - Section I - Number (2) and (3) be deleted and the language contained in the new code be substituted. All Inspection Department employees would then be covered under the Henderson County Personnel Resolution.

Also during the Fiscal Year 1997-1998 Budget deliberations, the Board of Commissioners approved an increase in the inspection fees. A portion of this increase was appropriated for school maintenance and the remaining was set aside for an additional inspector. It

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was requested that the Board of Commissioners approve the establishment of the additional inspection position.

Mr. Nicholson recommended the approval of the above requests. The County Manager has the authority/responsibility to appoint county employees. He serves only as a coordinator of the inspection department as the Board's representative. The Inspection Department is different because of this ordinance. With the current vacancies, now is the time to put into place the changes that the Board of Commissioners approved during the codification workshops.

The additional position was requested to be established by the Board to allow for more timely service to the building industry. Currently there is a backlog in inspections. We previously in most cases gave one day service. Now we are several days behind on providing these required inspections. We are holding up contractors from proceeding with their work. Mr. Nicholson met recently with several officers from the Home Builders Association and they strongly support this request.

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

Commissioner Good made the motion to allow the County Manager to advertise to fill the positions in the inspection department. All voted in favor and the motion carried.

#### DELEGATION OF PURCHASING AUTHORITY TO THE COUNTY MANAGER

Angela Skerrett reminded the Board that North Carolina Law governs the purchasing procedures which are followed by local governments. As part of the 1997 Session, the North Carolina General Assembly enacted some changes to the purchasing laws. A summary of the purchasing statute, NCGS 143-129, was included in the agenda packet.

One of the changes enacted by the General Assembly is to allow a Board of Commissioners to delegate purchasing authority to the County Manager for purchases falling within the threshold requiring that the formal bid process be followed. Previously, these purchases had to be made by the Board of Commissioners. (Note: The County Manager has always had the authority to approve purchases where no bids are required, or where informal bids are authorized.)

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Staff felt it was important to bring this issue forward to the Board for consideration as it is an option not previously available to the Board. A draft Resolution was included in the agenda packet in the event the Board wished to implement this option in Henderson County.

Ms. Skerrett explained that the Resolution is to delegate authority to the County Manager to handle the formal bid process for purchases. She reviewed the Resolution with the Board.

Following much discussion, Commissioner Hawkins made the motion to accept the prepared Resolution giving this authority to the County Manager for equipment purchases from \$30,000 to \$100,000. There was discussion of the motion.

A vote was taken on the motion and the motion carried three to two with Commissioners Ward and Good voting nay.

Chairman Eklund called a 10 minute recess.

#### UPDATE ON PENDING ISSUES

##### **Update on Hospital Reorganization**

Angela Skerrett had been asked to provide a break-down of the pertinent issues and compare and contrast the differences between the Resolution on the table before the Board and the Hospital's proposal that the Board received at the Special Called Meeting on Monday evening and the relative positions with respect to its issue. She hoped to get some final consensus from the Board in light of what was presented to the Board on Monday evening. This is related to the specific powers and controls that the Board wishes to delegate or retain without regard to the type of entity created. If the Board can come to some consensus on the issues first then the resulting entity can be designed around that.

Ms. Skerrett reviewed a five page document entitle "SUMMARY OF PERTINENT ISSUES CONCERNING THE REORGANIZATION OF PARDEE HOSPITAL" There was very much discussion with the Board reaching a consensus on each item, one by one.

The Board had some legal questions when discussing joint ventures.

#### CLOSED SESSION

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Commissioner Hawkins made the motion for the Board to go into Closed Session as allowed under NCGS 143-318.11(a)(3) To consult with an attorney 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. All voted in favor and the motion carried.

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

Angela Skerrett reviewed the questions that the Board had asked in Closed Session. The Board asked about their legal ability to do the following (her answers are in bold):

1. Can the Board limit the aggregate percentage of assets at risk? **Yes you can.**  
Can the Board specify the percentage in/percentage out? **Yes you can, specify that any joint venture that is entered into there is an expressed stipulation that if it is ever dissolved that Pardee Hospital would get back the same percentage of assets that are remaining that they put into the venture.**  
Risk analysis? **Yes you can require a risk analysis be done.**
2. Public reporting, can the Board require public reporting to the extent that it is legally permissible? **A certain amount of that can be public and joint ventures, it's managed care contracts specifically that may not be public.**  
Can the Board put in a requirement that they present in conjunction with any joint venture specific findings that the joint venture is in the best interest of the community and make those findings available to the public? **Yes, you can do that.**

Ms. Skerrett asked if it was the Board's desire to limit the aggregate percentage that could ever be put at risk at one time in any joint venture, if so what would you want that percentage to be? There was discussion that the hospital (all encompassing) would have to be appraised. The hospital would have to come up with what their value is. After much discussion, it was the decision of the Board to limit the amount of assets (intangible assets and personal property less the real property value) that could be placed at risk at 40-50%.

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Sharon Alexander, Attorney for Pardee Hospital, was present and answered questions for the Board of Commissioners throughout the review.

Ms. Skerrett passed around another hand-out titled "Additional Points to be Considered by the Board of Commissioners in the Reorganization of Pardee Hospital"

In creating an entity, Ms. Skerrett informed the Board of four choices:

- 1. Little A with controls as specified in the Resolution
- 2. Little A with less controls, i.e. more closely matching what the Hospital has requested
- 3. Big A with limitations imposed by a lease
- 4. Other

Little A with Controls as Specified in the Resolution

Little A with less Controls

- 1. May be amended at any time
- 2. Ultimate control rests with Board of Commissioners

Big A with Limitations Imposed by Lease

- 1. Harder to amend
- 2. Lease is law until expiration or renegotiation
- 3. Ultimate control only as good as lease provisions
- 4. Harder to bind the hospital to future obligations
- 5. Lease is temporary - has an expiration date

Other

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There was much discussion.

Commissioner Kumor proposed creating a Public Non-Profit (other) which she believes, based on research that Ms. Skerrett has done for her, allows the Board to do the same things everyone has wanted to do. It creates the kind of atmosphere that she feels the hospital is looking for in the Big A and the kind of control the Commissioners were looking for in the Little A.

Sharon Alexander stated that the Board of Trustees would want to review the recommendations from today.

It was the consensus of the Board to charge Ms. Skerrett to get with the County Manager and to consult with Mrs. Alexander to come

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up with a non-profit entity based on today's discussion and decisions. The Board of Commissioners requested this item to be brought back to the Board at the September 2 meeting. Mr. Nicholson stated that staff would be prepared to have an update for the Board by September 2 but wasn't sure how much action will have taken place by then.

**CLOSED SESSION & lunch**

Commissioner Good 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.

2. (a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

All voted in favor and the motion carried.

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

Chairman Eklund made the announcement that Don Ward had to leave for the day. Don Elkins also left.

**Update on WNCJA - Sewer**

David Nicholson took representatives from DEHNR to the proposed site. There were some concerns about the size of the site. Mr. Jon Laughter, Consulting Engineer, has been authorized to do a survey, which is required by the State. It is the goal to keep the sewer project in the NCDOT roadway, between ditch and ditch.

**Update on Codification Project**

Jennifer Jackson handed out an outline of the Codification Procedure. She informed the Board that we are close to the end of this project. The expected number of pages is 775-800 in a two volume code set. Forty volumes will be delivered to the County and an expected cost of \$16,000 (excluding electronic format and Internet). Electronic Format cost is \$2,000 plus \$400 per year license fee and Internet access cost is \$200 plus \$25 per month maintenance fee.



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Ms. Jackson expects delivery of the Code and draft resolution in early October with the Board reviewing the draft Resolution to Adopt the Code at the October 6 meeting. The proposed date for Public Hearing on the Code is December 1, 1997 with adoption of the Code at that time.

No action was required at this time.

**"BLUE RIBBON COMMISSION"**

David Nicholson informed the Board that the Blue Ribbon Committee on Human Resources has been through a very long process of fact gathering. They have worked with all the non-profits in the community, public agencies that provide the human services, and have a substantial amount of data gathered.

United Way has come to the table and Mr. Nicholson feels that they will contribute much to the committee. The committee members feel very strongly that the community can correct the duplications, clarify the role of what Henderson County should be funding, clarify the role of the Community Foundation , and clarify the role of United Way.

**WATER LINE TO EDNEYVILLE ELEMENTARY SCHOOL**

The City of Hendersonville is running the waterline to the Justice Academy site. Commissioner Ward had brought up the issue that it might be timely to build a spur to the Edneyville Elementary School.

Mr. Nicholson will be at a meeting with the School Superintendent tomorrow and will raise the question and will call the City Manager tomorrow also. The City of Hendersonville would have to amend their contract with Cooper Construction to build the spur.

**FIREWORKS AT JACKSON PARK**

David Nicholson asked for permission, on behalf of the Recreation Department, to have fireworks at Jackson Park on Sunday, August 31 at approximately 9:00 p.m.

Commissioner Hawkins made the motion to approve this request. All voted in favor and the motion carried.

**NOMINATIONS**

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

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1. **Western Carolina Community Action Board of Directors - 1 vac.**  
There were no nominations at this time so this item was rolled to the next meeting.
2. **Youth Advisory Board - 2 vac.**  
There were no nominations at this time so this item was rolled to the next meeting.
3. **Land of Sky Regional Council Advisory Council on Aging - 1 vac.**  
Commissioner Kumor made the motion to appoint Amy Young. Ms. Young was nominated at the last meeting. All voted in favor and the motion carried.
4. **Henderson County Child Fatality Prevention Team - 3 vac.**  
Commissioner Kumor made the motion to appoint three nominees from the last meeting, Walter Harper, Nancy Underwood, and Etta Canon. All voted in favor and the motion carried.
5. **Jail Committee - 4 vac.**  
There were no nominations at this time so this item was rolled to the next meeting.
6. **Nursing/Adult Care Home Community Advisory Committee - 4 vac.**  
Commissioner Kumor made the motion to appoint the three nominees from the last meeting, Shirley Ann Taylor, Laura E. Blackwell, and Carl W. Lintjer. All voted in favor and the motion carried.
7. **Community Child Protection Team - 2 vac.**  
It was questioned whether Walter Harper might serve in this capacity. David Nicholson said he would follow up with Mr. Harper regarding whether he was interested in serving on this team.
8. **Mountain Valleys Resource Conservation & Development Program - 1 vac.** There were no nominations at this time so this item was rolled to the next meeting.

**IMPORTANT DATES**

David Nicholson asked the Board to mark their calendars for the afternoon of September 17 for a workshop on Subdivision Regulations.

He also informed the Board that Henderson County will host a state-wide conference on Factory Built Homes on September 18 & 19.

He asked the Board to set a date to meet with the Planning Board. It was scheduled for Thursday, September 11 at 7:00 p.m.

August 20, 1997

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**WORK SESSION "Quality of Life" Issues**

David Nicholson reminded the Board that at the May 21 meeting, the Board briefly discussed reviewing several of the "quality of life" issues with the purpose of determining whether to pursue them and develop new or revised ordinances or programs, or whether to table them for future consideration.

Mr. Nicholson stated that what the Board has to determine is what the role of County Government is. He also reminded the Board that there is a cost of development and also a cost of implementation of an ordinance.

Following is a list of a number of such issues:

**Existing ordinances which may need revisiting**

1. Junkyard Ordinance
2. Abandoned Motor Vehicle Ordinance
  
3. Animal Control Ordinance
4. Outdoor Advertising Ordinance
5. Zoning Ordinance

**Enhancements to existing State programs**

6. Erosion and Sedimentation Control Ordinance
7. Air Quality Ordinance

**Items which could be addressed by developing new ordinances**

8. Manufactured Home Park Ordinance
9. Noise Ordinance
10. Stormwater Management
11. Flood Damage Prevention Ordinance
12. Minimum Housing Code Ordinance
13. Environmental Impact Ordinance

**Items which could be addressed by new programs**

14. Greenways Program
15. Illegal Sign Removal Program

After reviewing this list, it was the consensus of the Board that they wish to revisit all these items.

The Commissioners were interested in prioritizing these 15 items. Ranking sheets will be given to the Commissioners individually and

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then they will be tallied so that staff knows which items are priorities of the Board, which ones to work on first.

There being no further business to come before the Board, the meeting was adjourned at 3:35 p.m.

ATTEST:

  
Elizabeth W. Corn, Clerk

  
Robert D. Eklund, Chairman

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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

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

**TO THE TAX COLLECTOR OF THE COUNTY OF HENDERSON**


You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of Henderson County Tax Assessor and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Henderson, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 20<sup>th</sup> day of August, 1997.

  
\_\_\_\_\_  
Robert D. Eklund, Chairman  
Henderson County Board of  
Commissioners

RDE/ewc

ATTEST:

  
\_\_\_\_\_  
Elizabeth W. Corn, Clerk  
to the Board of Commissioners  
of Henderson County

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BOB EKLUND  
CHAIRMAN  
GRADY HAWKINS

VOLLIE G. GOOD  
RENEE KUMOR  
DON WARD

**RESOLUTION AUTHORIZING THE HENDERSON COUNTY MANAGER  
TO RECEIVE BIDS, AWARD BIDS REJECT BIDS, READVERTISE TO RECEIVE  
BIDS, OR WAIVE BID BONDS OR DEPOSITS OR PERFORMANCE AND  
PAYMENT BOND REQUIREMENTS FOR THE PURCHASE OF APPARATUS,  
SUPPLIES, MATERIALS, OR EQUIPMENT**

**WHEREAS**, N.C.G.S. 143-129 outlines the laws of the State of North Carolina applicable to local governments for the purchase of apparatus, supplies and equipment; and

**WHEREAS**, N.C.G.S. 143-129 permits the Henderson County Board of Commissioners to delegate certain authority for purchasing to the Henderson County Manager; and

**WHEREAS**, the Henderson County Board of Commissioners is desirous of delegating certain authority to the Henderson County Manager for the purchase of apparatus, supplies and equipment, within the terms and conditions as contained hereinbelow.

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

1. The Henderson County Manager is hereby authorized to receive bids, to award contracts, to reject bids, to readvertise to receive bids on behalf of the County, to waive bid bonds or deposits, and to waive payment and performance bonds for the purchase of apparatus, supplies, materials and equipment, on behalf of the Henderson County Board of Commissioners, subject to the terms and conditions as contained in this Resolution.
2. In exercising the authority granted by the terms of this Resolution, the Henderson County Manager shall at all times adhere to applicable State, Federal and local laws concerning the purchase of apparatus, supplies, materials and equipment.
3. The Henderson County Manager shall be required to provide a report to the Henderson County Board of Commissioners of each purchase made or contract awarded pursuant to the authority granted in this Resolution where the cumulative cost of the apparatus, supplies, materials, and/or equipment acquired

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pursuant to a purchase or contract exceeds thirty thousand dollars (\$30,000), excluding associated maintenance, service, and repair costs and is less than one hundred thousand dollars (\$100,000). The content of the report shall be sufficient to apprise the Board of Commissioners of the procedure followed, the price(s) received, the justification for any prices(s) or bids which were rejected, and the amount of the contract entered or purchase made.

4. The Henderson County Manager shall not be authorized to act pursuant to this Resolution where the Henderson County Budget Ordinance in effect would necessitate action by the Henderson County Board of Commissioners before an award of a contract or approval of a purchase could be made.

Resolved this the 20<sup>th</sup> day of August, 1997.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: *Robert D. Eklund*  
Robert D. Eklund, Chairman

ATTEST:

*Elizabeth W. Corn*  
Clerk to the Board

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## HENDERSON COUNTY BOARD OF COMMISSIONERS

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

VOLLIE G. GOOD  
RENEE KUMOR  
DON WARD

### RESOLUTION

**WHEREAS**, Henderson County owns an option on that certain real property known as Lot 5A of Appleland Business Park, as shown on a plat thereof recorded in Slide \_\_\_\_\_, Henderson County Registry, North Carolina, hereinafter referred to as "Lot 5A";

**WHEREAS**, Lot 5A consists of a +/- 6.00 acre unimproved tract, and is classified O/I; and

**WHEREAS**, the Henderson County Board of Commissioners is desirous of exercising its option and declaring Lot 5A as surplus property, selling Lot 5A and returning said lot to the tax rolls;

**WHEREAS**, the Henderson County Board of Commissioners believes Lot 5A to be valued at greater than \$450,000.00; and

**WHEREAS**, the Henderson County Board of Commissioners is desirous of selling Lot 5A by sealed bids as authorized by N.C.G.S. 160A-268;

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

1. Lot 5A of Appleland Business Park is hereby declared to be surplus property;
2. Lot 5A shall be advertised for sale in the Henderson County Times News using the sealed bid method authorized by N.C.G.S. 160A-268. The advertisement shall be advertised once, not later than August 31, 1997. The County Attorney is directed to prepare an advertisement for sale consistent with the terms of this Resolution and applicable laws. The County Attorney shall have the discretion to include such other proper matters as may, in his opinion, be necessary so long as such matters do not conflict with the intent of this Resolution.
3. The County Attorney shall prepare an Offer to Purchase and Contract consistent with the terms of this Resolution. The Offer to Purchase and Contract shall state that the sale of Lot 5A shall be subject to a 20 foot wide permanent utility easement and a fifty foot wide temporary construction easement for future utility construction both along the entire boundary of the property. All Bidders shall be required to submit their bid using the Offer to Purchase and Contract prepared by the County

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Attorney. All Bidders shall be required to state the offered purchase price (minimum of \$450,000.00) in the Offer to Purchase and Contract, and to execute the Offer to Purchase and Contract and submit the same in a sealed opaque envelope, clearly identifying the purchase, and clearly stating that the envelope contains an Offer to Purchase Lot 5A of Appleland Business Park. All Offers to Purchase and Contract must be received by the Henderson County Clerk to the Board of Commissioners not later than 2:00 pm on September 30, 1997, in Room 140 of the Henderson County Administration Building located at 100 North King Street, Hendersonville, NC, 28792, at which time the Offers to Purchase and Contract will be opened and read publicly. All Offers to Purchase and Contract must be timely submitted. Failure to meet the submission deadline shall render an Offer to Purchase and Contract ineligible for consideration.

4. The County Attorney is directed to prepare a Request for Offer to Purchase and Contract package containing Instructions to Bidders, a Non-Collusion Affidavit, an Offer to Purchase and Contract to be executed and submitted by Bidder, and a copy of the Restrictive Covenants pertaining to Lot 5A and all amendments thereto, and any other proper documentation to be received or submitted by Bidder which, in his opinion, is necessary for inclusion, so long as such other proper documentation is not inconsistent with the terms of this Resolution.
5. All nonresponsive Offers to Purchase and Contract shall be ineligible for consideration. A nonresponsive Offer to Purchase and Contract is an Offer that does not contain all of the requested information, is submitted in a manner or form that is inconsistent with the terms of this Resolution or the Request for Sealed Offers to Purchase and Contract, or seeks to alter the terms of this Resolution or the Request for Sealed Offers to Purchase and Contract.
6. The standard for award shall be the highest responsive Offer to Purchase and Contract exceeding the minimum bid amount of \$450,000.00.
7. Henderson County reserves the right to reject any and all Offers to Purchase and Contract and to waive informalities.
8. No facsimile transmissions or communications will be accepted related to the Offers to Purchase and Contract.
9. Markings on the envelope containing the Offer to Purchase and Contract not required to be written on the envelope such as numbers, changes to the proposal, etc., will be disregarded.
10. Any corrections or strike throughs on the Offer to Purchase and Contract must be initialed by the person signing the Offer to Purchase and Contract.
11. All Offers to Purchase and Contract must be signed by one with authority to bind the purchaser to the terms and conditions of the Offer to Purchase and Contract.

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12. The closing shall occur not later than December 5, 1997. Time shall be of the essence with respect to all matters contained herein and in the Offer to Purchase and Contract.
13. Upon acceptance of an Offer to Purchase and Contract by Henderson County, the Offeror of such Offer to Purchase and Contract shall be legally bound to close on Lot 5A in accordance with the terms and conditions of this Resolution and the Offer to Purchase and Contract.
14. All Bidders shall be responsible for all costs associated with the submission of the Offer to Purchase and Contract. The successful bidder shall be required to procure the survey, title insurance, and title opinion with respect to Lot 5A. Henderson County will be responsible for preparation of the deed to the successful bidder.
15. Lot 5A will be sold "as is." Henderson County makes no express or implied warranties with respect to Lot 5A, its fitness for any particular purpose, nor its habitability. The principal of "caveat emptor" shall be in full force and effect with respect to Lot 5A.
16. Henderson County makes no warranties nor guarantees with respect to any environmental conditions with respect to Lot 5A.
17. All Bidders shall be required to include with their Offer to Purchase and Contract an earnest money deposit in the amount of ten percent (10%) of the proposed purchase price of Lot 5A. The earnest money deposit shall be in the form of a bank certified or official check made payable to the Don H. Elkins Trust Account.
18. The County Attorney shall tabulate all Offers to Purchase and Contract received, and shall present them to the Henderson County Board of Commissioners in open session for consideration not later than October 6, 1997, or within such reasonable time thereafter. Notwithstanding the foregoing, the Henderson County Board of Commissioners reserves the right to go into closed session for consideration of any proper matter with respect to the Offers to Purchase and Contract received, authorized by N.C.G.S. 143-318.11.
19. It shall be the Bidder's sole responsibility to ensure that the Offer to Purchase and Contract is submitted to Elizabeth W. Cork, Clerk to the Board of Commissioners at the date, time, and place for submission of Offers to Purchase and Contract indicated in Paragraph 3 above. Henderson County assumes no responsibility with respect to any Bids/Offer submitted to any other person, or submitted at any other date, time, or place other than indicated in Paragraph 3 above.
20. The County Attorney is authorized to take such further actions as may be necessary to put Lot 5A for sale in accordance with the intent of this Resolution.

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THIS the 20<sup>th</sup> day of August, 1997.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: *A.D. Edmund*  
Chairman/Vice Chairman

ATTEST:  
*Elizabeth W. Corn*  
Clerk to the Board

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