

MINUTES**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS
JULY 19, 1995**

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 Renee Kumor, Vice-Chair Vollie G. Good, Commissioner Bob Eklund, Commissioner Don Ward, County Manager David F. Thompson, County Attorney Don H. Elkins, Staff Attorney Angela M. Skerrett, and Clerk to the Board Elizabeth W. Corn.

Also present were: Finance Director Carey McLelland, Planning Director Matt Matteson.

Absent: Commissioner J. Michael Edney had not arrived but was expected later. Commissioner Edney had to go by Court this morning. Also absent was Assistant County Manager David E. Nicholson, who was on vacation.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Ward led the Pledge to the American Flag.

INVOCATION

Commissioner Good gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Kumor added one item to "I" Nominations, #5 Hendersonville Zoning Board of Adjustment - 1 vac. Chairman Kumor reminded the Board that Regina Heaton was nominated at the last meeting but was not voted on because there were only four Commissioners present. A vote will be taken today. (this is different than the agenda item)

Chairman Kumor also added a #11 to "I" Nominations, Airport Ad Hoc Committee.

It was the consensus of the Board to approve the additions as presented.

CONSENT AGENDA

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

CONSENT AGENDA included:

Review of Minutes - minutes were presented for review and approval of the June 27 and the June 28 special called meetings.

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Tax Refund Requests - a list of eleven (11) tax refund requests was presented for the Board's approval. Supporting documentation is on file in the Assessor's office.

Tax Release Requests - a list of seven (7) tax release requests was presented for the Board's approval. Supporting documentation is on file in the Assessor's office.

Notification of Vacancies - the Board was informed of up-coming vacancies. These will appear under Nominations on the next agenda:

1. Hendersonville City Zoning Board of Adjustment - 1 vac.
2. Hendersonville City Planning Board - 1 vac.

INFORMAL PUBLIC COMMENTS

There was none.

WESTERN CAROLINA COMMUNITY ACTION, INC. (WCCA)

David Thompson reminded the Board that during budget deliberations, the Board requested that he contact Mr. Leatherwood to come before the Board and give a little detail on the programs and services that WCCA offers and to explain the county's participation.

John Leatherwood reviewed the General Community Programming which includes:

- Employment Plus
- Homeless Employment Program
- Congregate Meal Site
- Home Delivered Meals
- Discretionary Fund
- Child Care Assistance
- Plastic for Windows
- Gardens Program
- FEMA
- Fuel Assistance

Other programs they have besides General Community Programming are: Weatherization, Section 8 Rental Certificate and Rental Voucher Program, Head Start, Job Training Partnership Act Programs, WCCA Transportation Services.

Commissioners asked some specific questions which Mr. Leatherwood answered.

Commissioner Good made the motion that funds be released for WCCA. All voted in favor and the motion carried.

PROPOSED AGREEMENT WITH TALBERT & BRIGHT FOR HENDERSONVILLE AIRPORT FEASIBILITY STUDY CONSULTANT SERVICES

Bill Byrnes, who is the County's representative on the Airport Ad Hoc Committee, recognized David Reeves, who is Committee Chairman. Mr. Reeves stated that the Airport

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Ad Hoc Committee was requested to go out and find someone to do a feasibility study on our local airport. They solicited proposals from about a dozen groups and narrowed it down to three. They had an interview process and came up with the proposal from Talbert & Bright.

The Airport Ad Hoc Committee recommended that the County enter into the proposed agreement. The first phase of the feasibility study will result in the recommendation to the Board as to the economics of acquiring the existing Hendersonville Airport and converting it into a municipal airport. Upon approval, this phase of the study would be done with Talbert & Bright on the basis of a "not-to-exceed" figure of \$3,500.

The proposal was presented to the Board for their review and approval and for authorization for County Manager David F. Thompson to enter into an agreement with Talbert & Bright to conduct the feasibility study.

Commissioner Good made the motion to approve \$3,500 for the study and to authorize David F. Thompson to execute the necessary contract. All voted in favor and the motion carried.

REVISIONS - HENDERSON COUNTY PERSONNEL RESOLUTION

Mona Quinn, Personnel Officer, presented revisions to the Henderson County Personnel Resolution, Sections 3.8; 6.0; and 7.6. These revisions have been presented to County Administrative Staff; Department Heads; and Manager's Advisory Council for review and comment. The revised draft included suggested revisions as allowed by the Fair Labor Standards Act.

Section 3.8 addressed overtime. Mrs. Quinn reviewed the changes.
Section 6.0 addressed leaves of absence. Mrs. Quinn reviewed the changes.

Section 7.6 addressed disciplinary suspension. Mrs. Quinn reviewed the changes.

There was a question raised regarding the revision to exempt employees receiving monetary payment for additional/excessive hours for special projects. There was much discussion. David Thompson offered the suggestion that the County Manager be responsible for reporting the utilization of this section at the next meeting of the Board following occurrence. The Board agreed. Ms. Quinn will revise this section.

Commissioner Good made the motion that the Henderson County Personnel Resolution revisions be approved as presented with the one amendment stated above. All voted in favor and the motion carried.

REGIONAL WATER SUPPLY AND WATER SERVICE AGREEMENT

Commissioner Edney stated that Chairman Good was very instrumental in leading this effort in the beginning. In June 1994, the County entered in to a preliminary Regional

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Water Agreement with the Asheville Buncombe Water Authority (ABWA), and the City of Asheville for the provision of water to Northern Henderson County in the future. The final details have been negotiated, with a resulting document. The document has been approved by ABWA.

Under the terms of the agreement, the County will grant permission to the Asheville Buncombe Water Authority to build a water treatment plant in Henderson County at the confluence of Mills River and the French Broad River. In exchange for this permission, ABWA agrees to build water distribution lines in Henderson County at ABWA's expense where the revenues from such lines will reimburse ABWA in nine years or less. In addition, the City of Asheville will convey property located along Bent Creek to the County for the future placement of a wastewater treatment plant. Membership of the ABWA board has been extended by two members, both to be Henderson County appointees. The agreement also provides that the Mills River Water provided to Henderson County citizens will never be reduced in order to provide water to Buncombe County citizens.

This Agreement is a monumental achievement by the County, in that it is a cooperative regional undertaking which provides a cost effective solution to a problem that will face future generations: the provision of safe drinking water. The Agreement was presented to the Board for consideration and approval.

Commissioner Edney stated that this Agreement is a major step toward regionalism on water and sewer issues and is probably one of the first of its kind in the entire state.

Commissioner Ward asked for a short break so the Board could review a letter he had just received from a property owner regarding the water treatment plant and its effect on his property.

Recess - Chairman Kumor called a ten minute break.

David Thompson stated that the letter in question was from a citizen (Donnie Justus) who farms some property that ABWA just closed on. Mr. Justus can farm and bring in his crops before vacating the property.

Commissioner Edney made the motion that Henderson County sign off on the Regional Water Supply and Water Service Agreement as the Henderson County Board of Commissioners and as Cane Creek Water and Sewer District. The Agreement will be with ABWA, the City of Asheville, and Buncombe County. All voted in favor and the motion carried.

CANE CREEK WATER AND SEWER DISTRICT

Commissioner Edney made the motion for the Board to go into Cane Creek Water and Sewer District. All voted in favor and the motion carried.

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Commissioner Edney made the motion to adjourn as the Cane Creek Water and Sewer District and reconvene as the Henderson County Board of Commissioners. All voted in favor and the motion carried.

OFFER TO PURCHASE TAX FORECLOSED PROPERTY

Don Elkins informed the Board that Henderson County foreclosed on a piece of property in 1979. The property is located in Blue Ridge Estate subdivision and contains approximately 1 1/4 acre. We have received an Offer To Purchase this property from Mr. Robert A. Rogers. Mr. Rogers offered \$2,000 for the property. The property is in the Hendersonville Township and was formerly owned by William J. Medlin at the time of its foreclosure. The property identification number for the property is PIN# 99-07416. The appraised value for tax purposes of this property is \$10,600.

Don Elkins reminded the Board that the County can only offer a quit claim deed, which is not considered marketable. This procedure is designed to allow the property to be put back on the tax records.

Don Elkins informed the Board of two options:

1. the Board can either reject the Offer and direct the Clerk to return the bid deposit to the prospective purchasers, or
2. the Board can propose to receive the offer and direct the Clerk to advertise for upset bids.

Following some discussion, Commissioner Edney made the motion that the Board proposes to receive the foregoing offer and the Clerk is directed to cause legal notice thereof to be published one time in the Times-News, Hendersonville, NC. In the event that an increased bid is filed, the Clerk is directed to re-advertise as required by law, and to repeat this procedure until ten days have elapsed from date of last publication without a qualifying upset bid having been received.

All voted in favor and the motion carried.

LEASE BETWEEN COUNTY AND GENEALOGICAL SOCIETY - Old Tax Building

David Thompson asked a couple of questions of the County Attorney regarding the Lease for the Old Tax Building, between Henderson County and the Genealogical Society.

Don Elkins stated that the law requires that you give 10 days notice before the Board makes the final determination. Today the Board could express their intent to approve the lease and then a formal resolution could be approved at the next meeting. Mr. Elkins would prepare a notice to go in the Times-News of the Board's intent to approve the lease at the next meeting. Final determination could be made at the time of the next meeting.

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Commissioner Eklund made the motion of the Board's intent to approve the lease, after a ten day period following publication of intent. All voted in favor and the motion carried.

I-26/UPWARD ROAD INTERCHANGE ZONING STUDY

Matt Matteson reminded the Board that the Board of Commissioners met for a work session on July 3, 1995 to discuss the zoning proposal for the I-26/Upward Road Interchange Study Area. During the work session, the Board and Staff discussed making some modifications to the proposal as follows:

- (1) change the proposed RM-2 (Rural Mixed Use 2) district to the new RM-1 (Rural Mixed Use 1) district;
- (2) change the proposed R-T (Residential Transient) district to the new RM-1 district; and
- (3) change the proposed T-20 (Low Density Residential with Manufactured Homes) district to an O&I (Office and Institutional) district.

Mr. Matteson reviewed these changes on a map.

In response to a question raised at the work session, staff confirmed on a recent site visit that there is one manufactured home on the north side of Crest Road which is within the study area.

Mr. Matteson stated that if the Board is satisfied with the modified zoning proposal, the next step would be to set a public hearing on the proposal.

Following much discussion, Commissioner Edney made the motion to set a Public Hearing for September 5 at 7:00 p.m. All voted in favor and the motion carried.

UPDATE ON PENDING ISSUES/Request to the Chair

1. Retail Task Force - Chairman Kumor passed around a letter she received today from the Chamber of Commerce. The letter listed the Chamber's nominees for the Retail Task Force. She had previously received nominees from Downtown Hendersonville, Inc., the Downtown Retailers Association, and the Hendersonville Merchants Association. The Board must name a designee and the Chair of the Committee.

DOWNTOWN HENDERSONVILLE, INC. nominees: Bob Ross and Dave Knotts

DOWNTOWN RETAILERS ASSOCIATION nominees: Bette Carter and Tom Smith

HENDERSONVILLE MERCHANTS ASSOCIATION nominees: Bill Reese and Danny Williams

CHAMBER OF COMMERCE nominees: Hall Waddell and Pete Bonesteel

Commissioner Eklund nominated Don Ward to serve as the Board designee and as Chairman of the Task Force. It was the consensus of the Board to approve Commissioner Don Ward to serve as Chair of the Retail Task Force.

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Commissioner Eklund made the nomination to appoint the above nominees (9 in all) as the Retail Task Force with Commissioner Ward serving as the Chairman. All voted in favor and the motion carried.

2. Annual Volunteer Appreciation Banquet - Chairman Kumor reminded the Board that annually the Board of Commissioners has had a Volunteer Appreciation Banquet. Chairman Kumor asked for discussion regarding whether the Board wished to have a Banquet this year, the best day of the week for the Board members, the date and place, appreciation gift for volunteers, and speakers.

It was the consensus of the Board to have a Banquet and have it at the Chariot if they can accommodate us. The best day of the week for the Commissioners is Tuesday and Thursday. It has traditionally been held in late September or early October and that was agreeable with the Board. It was the consensus of the Board to have speakers to talk about their respective board/committee.

The Clerk was directed to call and check on dates at the Chariot.

3. Conflict of Interest Statement - Chairman Kumor reminded the Board that during budget deliberations, folks asked if it were appropriate for Commissioners to determine whether or not certain groups would receive money, groups that individual Commissioners were active in. Chairman Kumor asked the County Attorney to give an opinion regarding conflict of interest.

Don Elkins reviewed his opinion with the Board. He recommended a procedure:

1. That any complaints or allegations of "conflicts of interest" received from the public or third parties or entities against a Board member be reduced to written form addressed to the individual Board member by the complaining party or parties, and same be delivered to the particular Board member (copy to be retained by the Clerk to the Board).
2. It shall be the initial responsibility of the particular Board member to determine if a request for excusal is necessary after review of the allegations of "conflict of interest".
3. If the Board member does not request excusal within a reasonable time and if the matter is pursued by the public or third parties within a reasonable time, then the Board should hear the matter and decide the issue or question of excusal.

4. Manager's response to public input requests - David Thompson reviewed a letter in response to Dutch Burdette's public input, concerns of whether the City of Hendersonville was paying Henderson County for the customers that were annexed in Brooklyn Manor. The City of Hendersonville is currently paying \$1,500 per month to the County for those customers.

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David Thompson reviewed a letter in response to Vivian Hill's request received at the June 21 meeting regarding alleged violations of the consent judgment entered August 15, 1994 by the Honorable Robert P. Johnston by the developers of Orchard Valley Subdivision, Michael and Elaine Kreckovsky.

David Thompson read the "Conclusion" and requested staff direction. Don Elkins recommended the Board authorize David Thompson to inform Vivian Hill that the County believes she has no legal authority to do anything, that she should file a motion unto cause in this case to have the order modified, set aside, or whatever. Whatever the judge orders the County would comply with.

If Mrs. Hill is not satisfied with the County's position, she should be advised that her only further recourse would be to attempt to invoke the jurisdiction of the Courts. Mrs. Hill would be required to demonstrate that she has standing to appeal to the Courts and that there is a valid claim to appeal.

5. R. Stone Sales, Inc. mining permit - David Thompson received notice of issuance of a mining permit. Application for a mining permit was filed by J. R. Stone Sales, Inc. to conduct mining activities off Hoopers Creek Road in Henderson County. The mining permit (#45-12) was issued on July 6, 1995. He pointed out that there was nothing that the County Commissioners could do either for or against the permit. The public has 60 days, if they are an aggrieved party, to file a petition for a contested case.

6. Criminal Justice Partnership Act Program Facilities - David Thompson asked that this item be rolled to the next meeting.

NOMINATIONS

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

1. Private Industry Council (PIC) - 1 vacancy

At the last meeting Dr. Pace and Mr. Jordan were reappointed. The Chamber of Commerce had suggested a third nominee, Cindy Dabaibeh. Commissioner Edney made the motion to accept the nomination of the Chamber of Commerce and appoint Cindy Dabaibeh to the Private Industry Council. All voted in favor and the motion carried.

2. Jury Commission - 1 vacancy

At the last meeting, Mr. Dutch Burdette was nominated. No further nominations were offered. All voted in favor of the appointment of Mr. Burdette to serve on the Jury Commission.

3. Board of Health - 2 vacancies

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The Board of Health has two vacancies, one must be filled by a dentist and one by a private citizen. At the last meeting Dr. Chapman was nominated to fill the Dentist position. All voted in favor of the appointment of Dr. Chapman to fill the Dentist position.

Commissioner Good nominated Bobby P. Huskey to fill the private citizen position. Commissioner Edney made the motion to suspend the rules and appoint Mr. Huskey. All voted in favor and the motion carried.

4. Youth Advisory Board - 3 vacancies

At the last meeting, Sonja Hollingsworth was nominated for reappointment. Chairman Kumor nominated Fran Schneider and Mary McDuffie for reappointment. Commissioner Edney made the motion to suspend the rules and appoint all three ladies. All voted in favor and the motion carried.

5. Hendersonville Zoning Board of Adjustment - 2 vacancies

At the last meeting, Regina Heaton was nominated to fill an unexpired term of a regular member. All voted in favor of the appointment of Regina Heaton as a regular member on the Hendersonville Zoning Board of Adjustment.

We now have a vacancy for an alternate member, Mrs. Heaton just vacated. This appointment must be a resident of the ETJ. No nominations were made at this time so the item was rolled.

6. Hospital Board of Trustees - 1 vacancy

At the last meeting Mark White was nominated for reappointment. All voted in favor of the appointment of Mark White to the Hospital Board of Trustees.

7. Land of Sky Regional Council - Advisory Council on Aging - 1 vacancy

This item was rolled, awaiting recommendations from Joan Tuttle of Land Of Sky.

8. "Year of the Mountains" Commission - 1 vacancy

Commissioner Edney nominated Bob Eklund. Commissioner Edney made the motion to suspend the rules and appoint Commissioner Eklund. All voted in favor and the motion carried.

9. Nursing Home/Domiciliary Home Advisory Committee - 3 vacancies

At the last meeting three people were nominated, Claire Boo, Fred Peters, and Tina Trimboli. Letters have been sent to the Nursing Homes and we must wait at least ten days before making these appointments. This item was rolled to the next meeting.

10. Retired Senior Volunteer Program Advisory Council - 1 vacancy

Chairman Kumor nominated Billie Sue Robertson. There were no other nominations. Commissioner Edney made the motion to suspend the rules and appoint Ms. Robertson to fill this unexpired term. All voted in favor and the motion carried.

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11. Airport Ad Hoc Committee -

Commissioner Good stated that Mr. Jim Granere has been attending all the meetings and is very interested. Commissioner Good nominated Jim Granere to the Airport Ad Hoc Committee. Commissioner Edney made the motion to suspend the rules and appoint Mr. Granere. All voted in favor and the motion carried.

IMPORTANT DATES

David Thompson discussed the Master Sewer Plan and requested that a work session be set after September 15 on the Master Sewer Plan.

David Thompson also requested that the Board of Commissioners set a joint work session for a brain storming session regarding the Mission Statement. This work session should be scheduled after the NACo Conference, July 21-25, as David would like to begin the work session with presentation of the NACo awards.

It was the consensus of the Board to cancel the July 25 breakfast meeting.

CLOSED SESSION

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

1. (a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. To consult with an attorney employed or retained by the public body in order to consider and give instructions to the attorney with respect to a claim.
2. (a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
3. (a)(6) to consider the qualifications, competence, performance, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

All voted in favor and the motion carried.

Commissioner Good made the motion for the Board to go back into Open Session. All voted in favor and the motion carried.

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

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privilege is hereby acknowledged, to discuss the case of Rhodes v. Henderson County Department of Social Services and Henderson County.

All voted in favor and the motion carried.

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

WORK SESSION - CAPITAL IMPROVEMENT PROGRAM (CIP)

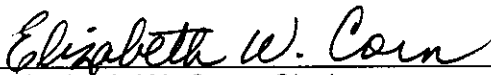
The following are the absolute criteria which a proposed capital project must meet before it will be considered by the Board of Commissioners for inclusion in the Capital Improvements Program:

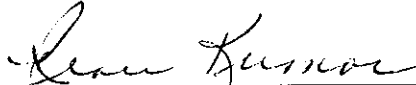
1. total project cost (as defined) must be greater than \$100,000
2. must be a public purpose
3. must be legally permissible

Angela Skerrett then reviewed the scale of value for prioritizing the evaluative criteria. She explained how this works and sent these forms home with the Commissioners. They will individually prioritize the evaluative criteria and return the forms to her. She will then combine them into a chart for presentation to the Board at the next meeting.

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

ATTEST:


Elizabeth W. Corn, Clerk


Renee Kumor, Chairman

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**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

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RENEE KUMOR
CHAIRMAN
VOLLIE G. GOOD
J. MICHAEL EDNEY
BOB EKLUND
DON WARD

DAVID F. THOMPSON
COUNTY MANAGER

**RESOLUTION TO AMEND
THE PERSONNEL RESOLUTION**

WHEREAS, there currently exists a Personnel Resolution for Henderson County, originally adopted on September 21, 1988 and amended on August 2, 1993, which governs all personnel policies and procedures for the employees of Henderson County; and

WHEREAS, Sections 3.8, Overtime, and 6.0, Leaves of Absence, and Article 7, Separation, Disciplinary Action, and Reinstatement, of the Henderson County Personnel Resolution have been revised and updated as appropriate to include the current provisions required by the Fair Labor Standards Act and Family Medical Leave Act, and

WHEREAS, the revisions noted above will enhance Henderson County's efforts, as an Employer, to continue and maintain adherence to State and Federal Regulations with regard to the employment of individuals, and

NOW, THEREFORE BE IT RESOLVED that the Henderson County Board of Commissioners adopts the following revisions to Sections 3.8, Overtime; 6.0, Leaves of Absence; and Article 7, Separation, Disciplinary Action, and Reinstatement; of the Henderson County Personnel Resolution:

SECTION 3.8 OVERTIME

The policy of Henderson County is to comply with all requirements of Chapter 8, Fair Labor Standards Act (FLSA), 29 USC Chapter 8 of the FLSA Regulations, Title 29, CFR.

3.81 Definitions: Henderson County utilizes the following definitions in administering compensation for additional and overtime hours as prescribed by the FLSA.

3.81.1 Additional Hours: Additional hours are those hours worked in excess of 37.5 up to 40 hours per week at the regular rate of pay.

3.81.2 Overtime Hours: Overtime hours are those hours worked in excess of 40 hours in a work week.

3.81.3 Regularly Scheduled Work Week: The regularly scheduled work week represents the hours during which an employee's department is scheduled to operate.

- 3.81.4 Actual Hours Worked:** Actual hours worked are those hours during which an employee performs job duties as required and/or authorized, including travel/training time as defined by Sections 3.810/3.811. If an employee is required by his/her Department Head/Supervisor to seek medical attention (EAP/Occupational Health), time spent complying with such request counts as actual hours worked. Periods of annual leave, sick leave, compensatory time, administrative leave, holidays during which the employee does not work, and leave without pay do not count as actual hours worked.
- 3.81.5 Job Site:** Job site shall be defined as a location other than the employee's department at which the employee performs job duties as required and/or authorized.
- 3.81.6 Travel Time:** Travel time shall be defined as all hours between departure and arrival at an authorized destination excluding regularly scheduled meal periods. Travel time does not include normal home to work travel.
- 3.81.7 Compensatory Time:** Compensatory time is accrued in lieu of monetary payment for additional/overtime hours worked by a Non-Exempt Employee. Compensatory time off represents hours during which an employee is not working, which are not counted as actual hours worked during the applicable work week and/or work period for purposes of overtime compensation, for which the employee receives monetary payment at the regular rate.
- 3.81.8 Exempt/Non-Exempt:** The term exempt employee refers to an employee which occupies a Henderson County position that meets either the Executive, Administrative or Professional exemptions as defined by the FLSA. Exempt employees are not subject to the overtime provisions of the FLSA. A non-exempt employee occupies a Henderson County position that does not meet either the Executive, Administrative or Professional exemptions. Such non-exempt employee is subject to the overtime provisions of the FLSA.
- 3.82 Accrual:** Additional/overtime hours shall only be accrued as follows:
- 3.82.1 Two & One Half (2.5) Hour Maximum:** Department Heads may allow employees, who are scheduled to work 37.5 hours per week, to accrue up to two and one half (2.5) additional hours per workweek without County

Manager approval. Employees may accrue such additional hours only with the Department Head's approval. Additional hours accrued must be exhausted as specified in Section 3.83.1.

3.82.2 Exceeding the Two & One Half (2.5) Hour Maximum: Overtime hours in excess of the two and one half (2.5) hour maximum shall only be accrued during events such as special projects/activities, emergency situations, travel, training. Department Heads shall be required to obtain the County Manager's approval before allowing an employee to accrue overtime hours.

3.82.2.1 County Manager Approval: Each Department Head must obtain advance approval from the County Manager one week prior to authorizing all overtime hours. The request must be in writing and include: proposed schedule of additional and overtime hours; number/names of employees participating; description of task including justification as to the reason the task cannot be performed during regularly scheduled work hours. The Department Head must also affirm to the County Manager that sufficient monies are budgeted to make payment for the proposed additional/overtime hours. In emergency situations the Department Head has the authority to authorize overtime hours but must submit justification containing the above information immediately following the emergency situation.

3.82.2.2 Departments Exempted From Prior Approval Requirements: Departments in which monetary compensation is granted on an ongoing basis and as a matter of practice include Emergency Medical Services; Fire Marshal; Landfill; other Departments as designated by the County Manager. These Departments are exempted from prior approval requirements for accrual of overtime hours.

3.82.3 Additional/Overtime Hours Calculations: The following methods shall be used when calculating additional/overtime hours.

3.82.3.1 Additional Hours: Additional hours are those hours between 37.5 and 40 per work week and accrue at the regular rate.

- 3.82.3.2 Overtime Hours: Overtime hours are accrued at a rate of one and one half times the regular rate.
- 3.82.4 Travel Time: Travel time which qualifies as compensable must be counted as actual hours worked. Regularly scheduled meal periods occurring during travel time are not counted as actual hours worked.
- 3.82.4.1 Home to Work Travel Time: Time spent by a Non-Exempt Employee in normal travel between home and his/her department/job site is not counted as actual hours worked.
- 3.82.4.2 Emergencies: If a Non-Exempt Employee is called out during hours not falling within his/her regularly scheduled work week to respond to an emergency situation, all travel time involved counts as actual hours worked.
- 3.82.4.3 One-Day Assignment/Overnight Travel: All time a Non-Exempt Employee spends traveling shall count as actual hours worked whether within or outside his/her regularly scheduled work week.
- 3.82.5 Training Time: Training time is compensable when the training is required and/or authorized by the Department Head/Supervisor.
- 3.82.6 Law Enforcement: The Sheriff's Department shall document all actual hours worked in accordance with the FLSA 7(k) Exemption. All hours accrued in excess of the maximum designated per work period by 7(k) shall be considered overtime hours.
- 3.82.8 Rounding Hours: Additional/overtime hours which add or calculate to a total of less than the next quarter hour must be rounded to the next quarter hour. (Example: Employee's additional/overtime calculates to 22 minutes, which is then rounded to 30 minutes.)
- 3.83 Compensation: Employees are compensated for additional/overtime hours worked as follows:
- 3.83.1 Non-Exempt Employees/2.5 Hours Maximum Accrual: Additional hours accrued according to Section 3.82.1 shall be compensated with

compensatory time. Employees must exhaust all accumulated compensatory time before taking vacation leave. Accrued compensatory time not taken within the next pay period shall be paid in the employee's following payroll check. The Finance Department shall submit a list of employees who have been paid for accrued compensatory time to the County Manager each pay period. This list shall include the name, department, number of compensatory hours paid, and amount of payment.

- 3.83.2 Non-Exempt Employees/Exceeding 2.5 Hour Maximum Accrual:** In the event that a Non-Exempt Employee has accrued in excess of the two and one half (2.5) hour maximum allowed, all additional and overtime hours shall be compensated with monetary payment in the employee's next payroll check. The Finance Department shall submit a list of employees who have been paid for such additional and overtime hours to the County Manager each pay period. This list shall include the name, department, number of compensatory hours paid, and amount of payment.
- 3.83.3 Law Enforcement Personnel:** Law Enforcement Personnel accruing overtime hours as specified by the FLSA 7(k) Exemption shall receive compensatory time. Employees must exhaust all accumulated compensatory time before taking vacation leave. Accrued compensatory time not taken within the next designated work period (28-days) shall be paid in the employee's following payroll check. The Finance Department shall submit a list of employees who have been paid for accrued compensatory time to the County Manager each pay period. This list shall include the name, department, number of compensatory hours paid, and amount of payment.
- 3.83.4 Separation:** Employees shall be compensated by monetary payment for all accrued compensatory time upon separation/termination from employment with Henderson County.
- 3.83.5 Exempt Employees:** Employees classified as Exempt according to the FLSA are not eligible to accrue compensatory time for hours worked in excess of the standard work week. At the discretion of the County Manager, Exempt Employees may receive monetary compensation for special projects or activities, which require an unusual and excessive amount of additional hours. Such monetary compensation shall be an additional amount over and above the Exempt Employee's guaranteed minimum salary. The County Manager shall report all such additional payments made to Exempt

Employees to the County Commissioners during their next regularly scheduled Commission Meeting.

3.83.5.1 County Manager Approval: Each Department Head must obtain advance approval from the County Manager before authorizing payment to Exempt Employees for unusual, excessive additional hours resulting from a special project. The request must be in writing and include: proposed schedule of additional hours; number/names of employees participating; description of the special project. The Department Head must also affirm to the County Manager that sufficient monies are budgeted to make payment.

3.83.5.2 Departments Exempted From Prior Approval Requirements: No County Department is exempted from the prior approval requirements for monetary payment to an Exempt Employee for unusual, excessive additional hours worked as the result of a special project.

3.83.5.3 Rate of Monetary Payment: At the discretion of the County Manager, such monetary payment to Exempt Employees shall be calculated and made at a straight-time rate, flat sum, or other basis.

3.86 Employee Responsibilities: Each Non-Exempt Employee must adhere to the following requirements in performing his/her job duties according to this Section:

- ▶ Perform job duties only during regularly scheduled work hours except as authorized or required by the Department Head/Supervisor.
- ▶ Take the full hour's lunch period provided, completely relieved of all duties.
- ▶ Refrain from performing job duties earlier or later than regularly scheduled work hours.
- ▶ Obtain supervisory approval of additional/overtime hours prior to accrual.
- ▶ Document all Travel/Training Time accurately for use in determining whether or not the Travel/Training Time should be counted as Actual Hours Worked.
- ▶ Calculate accrued compensatory time at the regular and/or overtime rate as required by this Section and according to the regulations of the FLSA.

- ▶ Exhaust all accrued compensatory time before using annual leave.
- ▶ Maintain and submit Time Records/Sheets in an accurate and timely manner.

3.87 Supervisor(s)/Department Head(s) Responsibilities: Each Supervisor/Department Head must adhere to the following requirements in performing his/her job duties according to this Section:

- ▶ Ensure that Non-Exempt Employee(s) adhere to the 37.5/40 hour regularly scheduled work week standard established for the Department except in emergency situations.
- ▶ Develop a work schedule for Non-Exempt Employee(s) under his/her supervision so that the required duties are accomplished within the regularly scheduled work day/week in order to minimize additional/overtime hours, except in emergency circumstances.
- ▶ Ensure that additional/overtime hours are managed according to this Section.
- ▶ Ensure that all time (travel/training/required medical attention) qualifying as actual hours worked is documented and compensated appropriately.
- ▶ Authorize additional hours and/or seek approval of the County Manager for overtime hours as prescribed by this Section.
- ▶ Obtain approval for monetary payment from the County Manager before authorizing overtime hours as prescribed by this Section for both Non-Exempt and Exempt Employees.
- ▶ Ensure that Time Records/Sheets for Non-Exempt Employees are completed accurately and submitted in a timely manner.
- ▶ Ensure compliance with this Section and the regulations of the FLSA by personnel under his/her supervision.

3.88 Grievance: No retaliation or discrimination against any Employee who asserts a right or claim under the FLSA will be permitted. Employees may utilize the grievance procedure as provided in Article 8, Grievance Procedure, or the Post Disciplinary Action Appeals process as outlined in Section 7.5.4 of the Henderson County Personnel Resolution.

- 3.89 Violation: It is the responsibility of each Non-Exempt/Exempt Employee, Supervisor, and Department Head to perform his/her job function/duties in accordance with this Section and the regulations of the FLSA. A failure to adhere to this Section and/or the FLSA shall be considered a violation and may result in disciplinary action as allowed in Section 7 of the Henderson County Personnel Resolution.
- 3.810 FLSA: To the extent that an individual situation is not covered under the terms of this policy, reference shall be made to the FLSA. To the extent that this policy conflicts with the FLSA or other applicable State, Federal and Local Laws, the policy or law which provides the greater rights to the Employee shall be deemed to control.

ARTICLE 6. LEAVES OF ABSENCE

Section 6.0

Holidays

The following days and such other days as the Board of Commissioners may designate are holidays with pay for employees and officers of the County working the basic work week:

- | | | |
|------------------|---------------------------|-----------------|
| New Year's Day | Labor Day | * Christmas - 3 |
| Good Friday | Veteran's Day | workdays |
| Memorial Day | Thanksgiving Day | |
| Independence Day | Friday after Thanksgiving | |

*The last business day preceding Christmas Day; Christmas Day; the first business day following Christmas Day.

When a holiday falls on a Saturday or Sunday, Monday shall be observed as the holiday.

Holiday leave earned by Non-Exempt Employees having a work week with greater or fewer hours than the basic work week shall be determined in accordance with the formula set forth in Section 6.2 of this Article.

Non-Exempt Employees required to work on a holiday shall be compensated by receiving eight hours holiday pay in addition to their regular pay.

Non-Exempt Employees whose weekly work schedule differs from the standard Monday through Friday/37.5 (40) hour work schedule shall receive eight hours holiday pay regardless of whether or not the employee actually worked the holiday. Therefore, if a Non-Exempt Employee's regularly scheduled day off falls on the holiday, the employee shall receive eight hours holiday pay.

Exempt Employees may receive monetary compensation for work performed on a holiday if requested and approved as required by Section 3.8 of this policy.

In order to be eligible for holiday pay, a temporary or new Employee must have worked a full regularly scheduled work day before and after the holiday, unless excused by the County.

Section 6.1 Effect of Holidays on Other Types of Paid Leave

Regular holidays which occur during a vacation, sick, or other paid leave period of any officer or employee of the County shall not be charged as vacation, sick, or other paid leave.

Section 6.2 Holiday--When Work Required

Non-Exempt Employees required to perform work on regularly scheduled holidays must document additional and/or overtime hours as required by Section 3.8. Depending upon the total number of actual hours worked during the workweek in which the holiday falls, a Non-Exempt Employee may accrue additional and/or overtime hours. The Non-Exempt Employee shall receive compensation for such additional/overtime hours as appropriate according to Section 3.8 in addition to any holiday pay to which he/she may be entitled.

Section 6.3 Vacation Leave

Vacation leave shall be used as requested by the employee and approved by his/her Department Head/Supervisor. Such Department Head/Supervisory approval is required before any employee uses vacation leave. All Department Heads/Supervisors reserve the right to approve or deny any employee request to use vacation leave. No employee shall be advanced vacation leave. During any absence, no amount less than one half (½) hour may be taken.

6.301 Non-Exempt Employees: Non-Exempt Employees must use all accumulated compensatory time before using vacation leave as required by Section 3.8. Compensatory time and/or vacation leave must be used by Non-Exempt Employees for absences due to inclement weather when administrative leave has not been scheduled and/or approved by the County Manager. Non-Exempt Employees must exhaust compensatory time and vacation leave on an hour-for-hour basis during all absences.

6.302 Exempt Employees: An Exempt Employee may be absent from work for less than a full day without exhausting vacation leave. When an Exempt Employee is absent from work for one (1) full day or more, the appropriate leave balance must be exhausted on an hour-for-hour basis. Any absences are subject to the approval of the Exempt Employee's Supervisor.

Section 6.4Vacation Leave--Probationary Employee

Employees serving a probationary period following initial appointment may accrue vacation leave but shall not be approved to use vacation leave during the probationary period unless the denial of such leave will create an unusual hardship. Vacation leave may be taken during this period only with the prior approval of the appointing authority. Law enforcement officers shall be allowed to take accumulated vacation leave after six (6) months of service.

Section 6.5Vacation Leave--Rate Earned

Permanent, full-time employees earn vacation leave at the following rates according to their work week:

| YEARS OF AGGREGATE SERVICE | 37.5 Bi-Weekly | 40 Bi-Weekly | 24 Bi-Weekly | ALL Annual |
|----------------------------------|-------------------|-----------------|-----------------|---------------|
| Less than 2 years | 2.88 hrs. | 3.12 hrs. | 4.5 hrs. | 10 days |
| 2 than 5 years | 3.46 hrs. | 3.69 hrs. | 5.07 hrs. | 12 days |
| 5 than 10 years | 4.38 hrs. | 4.61 hrs. | 6.00 hrs. | 15 days |
| 10 than 15 years | 5.19 hrs. | 5.53 hrs. | 6.92 hrs. | 18 days |
| 15 than 20 years | 6.12 hrs. | 6.46 hrs. | 7.84 hrs. | 21 days |
| 20 years or more | 6.92 hrs. | 7.38 hrs. | 8.76 hrs. | 24 days |

Section 6.6Leave of Part-Time Employee Prorated

Permanent, part-time employees shall earn Vacation Leave prorated on the basis of the number of hours worked by the employee each period.

Section 6.7Granting Service Credit for Prior Experience

When hiring a new employee from another governmental unit in a similar job class or rehiring a former County Employee who left County employment in good standing, the County Manager may grant service credit for the purpose of earning leave in the future up to 50 percent of prior creditable experience.

Section 6.8 Vacation Leave--Annual Leave Conversion

Vacation (Annual) Leave may accumulate to an amount over and above 225/240 hours (Six Weeks) during the calendar year. The amount of Vacation/Annual Leave accumulated above 225/240 hours may be used by the employee during the calendar year as appropriate according to this Resolution. As of December 31 each year, the employee must convert any excess Vacation/Annual Leave over and above 225/240 hours to Sick Leave. The North Carolina Local Government Employees Retirement System will grant credit for accumulated Sick Leave up to a maximum of twelve (12) days' Sick Leave per membership year at retirement. Employees convert excess Vacation/Annual Leave to Sick Leave in order to work toward this twelve (12) day per membership year maximum or utilize accumulated Sick Leave, including converted Vacation/Annual Leave, as appropriate according to this Resolution. Upon termination of employment with Henderson County, payment for accumulated Vacation/Annual Leave shall not exceed the 225/240-hour (Six Week) maximum.

Section 6.9 Vacation Leave as Terminal Pay

An employee separated from employment with Henderson County shall be paid for Vacation Leave accumulated to the date of separation not to exceed a maximum of 225/240 hours. Payment will be issued within a reasonable period of time provided the employee has returned to his/her Department Head or the County Finance Office all types of Henderson County Identification (Picture IDs, Name Tags, etc.), keys to County Facilities or Vehicles, and any other property owned by Henderson County. Final payment shall be withheld until all items have been returned.

Section 6.10 Payment for Accumulated Vacation to Estate

In the event that an employee is deceased while employed with Henderson County, the estate of the deceased employee shall receive payment for the employee's accumulated Vacation Leave not to exceed a maximum of 225/240 hours' leave.

Section 6.12 Sick Leave

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Board of Commissioners for the benefit of an employee when sick.

Sick leave with pay will be granted to an employee if the employee is absent from work for any of the following reasons: sickness, bodily injury, quarantine, physical or dental examinations or treatment, or exposure to a contagious disease when continuing to work might jeopardize the health of others. Sick leave may be used for death or funeral in the employee's immediate family but may not exceed three (3) days for any one occurrence. Immediate family shall include: grandfather/mother; father/mother; brother/sister; wife/husband; son/daughter; corresponding in-laws/step relatives; grandson/daughter; and other significant relationships at the Department Head's discretion. Employees may use sick leave to care for a sick family member with the Department Head's approval. Such sick leave is limited to the acute phase of the illness and no more than three consecutive working days except for FMLA qualifying circumstances. All sick leave exhausted for FMLA qualifying circumstances must be used as required by the Henderson County Family Medical Leave Policy.

Notification of the desire to take sick leave must be submitted to the employee's Department Head/Supervisor prior to the leave or not later than one-half (½) hour after the beginning of the scheduled work day.

Section 6.13 Sick Leave--Amount Earned and Accumulation

Each employee will earn sick leave at the rate of one (1) day for each completed month, or twelve (12) days for each completed year of service. Each permanent, part-time employee will earn sick leave prorated on the number of hours worked by the employee each month. A "completed month" will be deemed to mean any month in which an employee works at least one-half the work days. A "completed year" will mean a period of twelve (12) months in which an employee is in active pay status or is receiving worker's compensation payment while on leave without pay. The minimum amount of sick leave which may be taken is one-half (½) hour.

Section 6.14 Sick Leave--No Maximum Accumulation

There is no maximum amount of sick leave which may be accrued.

Section 6.15 Sick Leave--Physician's Certificate

An employee may be required to submit a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume his/her duties for each occasion on which an employee uses sick leave. The employee's Department Head is responsible for the application of this provision to protect the

health of all employees and to insure that no employee abuses sick leave privileges.

Section 6.16 Sick Leave--Retirement Credit for Unused Sick Leave

One month of retirement credit is allowed at time of retirement for each 20 days accrued in an employee's sick leave account. Employees who retire, resign in good standing, or are separated from employment because of reduction in force and are reinstated will be credited with their previously accumulated sick leave. Employees who are dismissed for reasons other than reduction in force will lose all sick leave credits. No employee shall be paid for accumulated sick leave.

Section 6.17 Sick Leave--Transfer of Unused Leave

The Board of Commissioners will accept transfer of certified unused sick leave from another agency or unit of government which is participating in a retirement plan and which has transfer rights to the plan administered by the State of North Carolina, Division of Retirement and Health Benefits, as long as the employee being transferred is transferred in a similar job classification and/or department. Transfers of sick leave in excess of 30 days must be approved by the Board of Commissioners. Employee transfers not in the same job classification and/or department are limited to transfer of a maximum of 30 days of sick leave.

Section 6.18 Leave Without Pay--Policy

A permanent or probationary employee may be granted a leave of absence without pay for up to one (1) year by the appointing authority. The leave shall be used for reasons of personal disability, continuation of education, special work that will permit the County to benefit by the experience gained or the work performed, or for other reasons deemed justified by the appointing authority. In case of a personal disability, all sick leave must be exhausted before leave without pay is granted.

The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the appointing authority. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor should be notified immediately. The supervisor shall report this decision to the appointing authority. Failure to report at

the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

Section 6.19Leave Without Pay--Retention of Benefits

An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the County's group insurance plan, subject to any regulations adopted by the Board of Commissioners, regulations of the respective insurance carriers, and State and Federal Regulations.

Section 6.20Workers Compensation Leave

An employee absent from duty because of sickness or disability arising out of and in the course of County Employment is covered by the North Carolina Workers Compensation Act and may receive Worker's Compensation benefits. Employees must use accumulated sick leave during the first week of disability before compensation payments begin as required by the Henderson County Family Medical Leave Policy. During any period of time that an employee receives worker's compensation payment(s) while taking Sick Leave, the Employee must reimburse the County to the extent that worker's compensation benefits were received. When reimbursement is made to the County, the employee's leave accounts will be credited appropriately.

Section 6.21Civil Leave

An employee called for jury duty or as a court witness for the Federal or State Government or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated vacation or sick leave. An employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation, except that employees must turn over to the County witness fees or travel allowances awarded by that Court for Court appearances in connection with official duties.

While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 6.22Educational Leave With Pay

A leave of absence at full or partial pay during regular working hours may be granted to an employee to take one (1) course which will better equip the employee to perform assigned duties upon the recommendation of the Department Head, and with the approval of the appointing authority. The County may pay the full cost of the education or training course.

Education leave at full or partial pay for a period not to exceed twelve (12) calendar months may be granted to an employee to take a course that will better equip him to perform assigned duties upon the recommendation of the Department Head and the appointment authority with the approval of the Board of Commissioners. An employee granted such extended educational leave with pay shall agree to return to the service of the County upon completion of training and remain in the employ of the County for a period equal to twice the educational leave received, or the employee shall reimburse the County for all compensation received while on educational leave.

An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which County Employees are entitled. An employee on educational leave with partial pay shall earn proportional leave credits.

Section 6.23Tuition Refund

An employee may receive reimbursement for one (1) course at a time taken outside of working hours which will better equip the employee to perform assigned duties, subject to the approval of the Department Head and the County Manager or appointing authority. The County shall reimburse the employee for tuition, fees, and books for the course, provided the employee submits a receipt of course expenses and a notice of successful completion (passing grade or better) of the course.

Section 6.24Child School Leave

In accordance with General Statute 95-28.3, Henderson County Employees are entitled to a minimum of four (4) hours of Child School Leave per calendar year. Child School Leave must be taken at a time mutually agreed upon by the employee and the employee's Department Head. Employees must request Child School Leave 48 hours in advance of leave commencement. Such request is subject

to the Department Head's approval. It is within the Department Head's discretion to waive the 48-hour notice requirement in emergency situations.

When taking Child School Leave, Non-Exempt Employees must exhaust all accumulated Compensatory Time before taking Annual Leave. In the absence of Compensatory Time, a Non-Exempt Employee must exhaust Annual Leave. If Annual Leave has been exhausted, a Non-Exempt Employee may go on a leave-without-pay status up to the four (4) hour maximum allowance. Use of Compensatory Time, Annual Leave, and/or Leave Without Pay for Child School Leave purposes must be documented on the Non-Exempt Employee's Time Record/Sheet by making a "Child School Leave" notation.

Exempt Employees are required to use Annual Leave while taking Child School Leave. If Annual Leave has been exhausted, Exempt Employees may not be subject to a loss of pay for absences of less than one (1) day. Exempt Employees must document the use of Child School Leave on the Leave Notification Form.

No adverse action may be taken against an employee who requests to use accrued Compensatory Time, Annual Leave, or Leave Without Pay for purposes of Child School Leave in accordance with this Section.

ARTICLE 7. SEPARATION, DISCIPLINARY ACTION, AND REINSTATEMENTSection 7.0Types of Separation

All separations of employees from positions in the service of the County shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, dismissal, death or other. All equipment, keys, etc. shall be turned in by the employee upon separation from County employment, and prior to issuance of final paycheck. Upon an employee's separation, the Department Head shall sign a statement to be placed in the employee's personnel file that all such equipment, keys, etc. has been received.

Section 7.1Resignation

A minimum of two (2) weeks' notice is required of all resigning personnel. Such notice should be given to the Department Head (or in the case Department Heads, to the County Manager). Vacation leave cannot be substituted for the required notice. Said required notice may be waived by the County Manager.

Section 7.2Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organization needs, and seniority in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least two (2) weeks' notice of anticipated lay-off. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary employee.

Section 7.3Disability

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action for disability separation may be initiated by the employee or the County, but in all cases consideration for disability separation shall be supported by medical evidence as certified by a competent physician. The County may require a physical and/or mental examination at its expense and by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the County's service for which the employee may be suited; however, nothing in this Resolution shall be deemed to require Henderson County to create a new position of employment for the disabled employee.

Section 7.4Death

All compensation due in accordance with the terms of this Personnel Resolution will be paid to the estate of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

Section 7.5Disciplinary Actions

An employee may be subject to disciplinary action including suspension, demotion, or dismissal, because of failure in performance of duties or failure in personal conduct. With the concurrence of the Assistant County Manager, the Department Head shall have the authority to take disciplinary action against the employees of his department. The disciplinary action taken by the Department Head shall be subject to review by the County Manager if the employee appeals in accordance with Section 7.5.4 Post Disciplinary Action Appeals. If the employee does not appeal, the joint decision rendered by the Department Head and the Assistant County Manager shall be final. Nothing in this Resolution shall preclude the County Manager from taking any appropriate disciplinary action against any employee without the involvement of either the Department Head or the Assistant County Manager.

Department Heads shall be held to a higher standard of job performance and personal conduct than non-department-head employees. Disciplinary actions for general county employees (both Department Heads and non-department-head employees) shall be taken in accordance with the procedures outlined below. Where job performance or personal conduct of a Department Head is at issue, any references to "the Department Head" below shall be deemed to refer to "the County Manager".

Disciplinary actions for competitive service employees shall be taken in accordance with the State Personnel Act.

Section 7.5.1Failure in Performance of Duties

An employee may be subject to disciplinary action up to and including dismissal for repeated failures in the performance of the employee's duties. The following procedure is designed to correct an employee's performance through a system of progressive discipline. An employee suspended, demoted, or dismissed for unsatisfactory performance of duties shall receive two warnings before disciplinary action is taken: a verbal warning with written documentation, and a written warning.

Section 7.5.1.1Verbal Warning with Written Documentation

Where, in the Department Head's discretion, initiation of the disciplinary procedure is necessary to correct the performance of an employee, the Department Head shall give the employee a verbal warning, with written documentation reflecting the content of the verbal warning signed by the

Department Head and employee. A copy of the written documentation shall be provided to the employee.

Section 7.5.1.2 Written Warning

If an employee's unsatisfactory performance of their duties continues after a verbal warning with written documentation has been issued, the Department Head shall give the employee a written warning. The written warning shall state the specific facts supporting the determination of unsatisfactory performance, shall identify the corrective measures to be taken by the employee, and shall identify a time frame within which the corrective measures must be in place. The written warning shall state that it is the Final Warning, and that further unsatisfactory performance by the employee will result in disciplinary action being taken. All written warnings must be copied to the County Manager for placement in the employee's personnel file.

Section 7.5.1.3 Initiation of Disciplinary Action

If an employee's unsatisfactory performance of their duties continues after a written warning has been issued, the Department Head shall initiate disciplinary action. To initiate disciplinary action against the employee, the Department Head shall notify the Assistant County Manager in writing that disciplinary action is necessary for the employee. The notice shall include facts and documentation supporting the recommended disciplinary action. The Assistant County Manager shall meet with the Department Head to discuss the proposed disciplinary action and shall then proceed in accordance with the procedures outlined in Section 7.5.3 below.

Section 7.5.2 Failure in Personal Conduct

An employee may be suspended, demoted or dismissed without prior warning for just cause relating to personal conduct detrimental to County service.

The following causes relating to failure in personal conduct are representative of those considered to be adequate grounds for suspension, demotion, or dismissal.

- (a) Fraud in securing appointment;
- (b) Conduct unbecoming a public officer or employee, whether on or off duty;
- (c) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or entering a plea of "no contest" to either;
- (d) Misappropriation of County funds or property;
- (e) Falsification of County records;
- (f) Reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property where prohibited, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary, which are not disruptive to the employee's regular duties and/or job performance and which have

- been approved by the Department Head or the County Manager;
- (g) Willful or grossly negligent damage or destruction of property;
 - (h) Willful or grossly negligent acts that would endanger the lives and property of others;
 - (i) Acceptance of gifts or favors in violation of the ARTICLE 5, Section 5.1 of this Personnel Resolution;
 - (j) Incompatible employment or conflict of interest;
 - (k) Violation of political activity restrictions; and
 - (l) Other serious reasons.

If a Department Head deems disciplinary action appropriate for an employee's failure in personal conduct, he shall initiate the disciplinary process as follows. The Department Head shall conduct an investigation of the personal conduct incident, gathering enough evidence to determine the facts which are involved. The Department Head shall then notify the Assistant County Manager in writing that disciplinary action is necessary for the employee. The notice shall recommend to the County Manager a proposed disciplinary action to be taken, and shall include facts and documentation supporting the recommended disciplinary action. The Assistant County Manager shall meet with the Department Head to discuss the proposed disciplinary action and shall then proceed in accordance with the procedures outlined in Section 7.5.3 below.

Section 7.5.3 Predisciplinary Conference Required

Before being subjected to a disciplinary suspension for more than three (3) days, disciplinary demotion, or dismissal, an employee shall be entitled to a predisciplinary conference to be conducted by the employee's Department Head and the Assistant County Manager. With the concurrence of the Assistant County Manager, the Department Head shall have the authority to impose a disciplinary action under the terms of this Resolution. For Department Heads, the County Manager shall be solely responsible for carrying out all procedures outlined below without the presence or concurrence of the Assistant County Manager.

Section 7.5.3.1 Notice of the Predisciplinary Conference

The Assistant County Manager shall notify the employee of the date, time and place of the predisciplinary conference. The notice shall also contain a statement of the allegations made against the employee, and the disciplinary action which has been recommended by the Department Head.

Section 7.5.3.2 Predisciplinary Conference

The predisciplinary conference is intended to give the employee a chance to tell the employee's side of the story, and to provide an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to believe that the charges are true and are sufficient grounds for disciplinary action. No attorneys shall be allowed at the

predisciplinary conference. Other persons may be present in the discretion of the Assistant County Manager.

At the beginning of the predisciplinary conference, the Department Head shall inform the employee of the following:

- a. The allegations pending against the employee;
- b. The investigatory procedure which was followed, plus the results of the investigation (if an investigation was necessary);
- c. The facts and conclusions as the Department Head had determined them to be;
- d. The documentation supporting the Department Head's determinations;
- e. The procedure followed by the Department Head to initiate the disciplinary process; and
- f. The disciplinary action which the Department Head recommended to the Assistant County Manager.

The employee shall then be allowed to tell his side of the story, and to present any information which the employee feels would enable the Department Head and the Assistant County Manager to make a fair decision. After the completion of the disciplinary conference the Department Head and the Assistant County Manager shall again discuss the proposed disciplinary action before rendering a final joint decision.

Within five (5) working days of the disciplinary conference, the Department Head and the Assistant County Manager shall make a decision.

Section 7.5.3.3 Notification of Decision

Upon making a decision of whether disciplinary action is appropriate or not, the Department Head shall notify the employee by letter of the decision, the Assistant County Manager's concurrence in the decision, the facts and documentation supporting the decision, the reasons for the decision, and the employee's right to appeal the findings or decision contained therein. A copy of the appeals procedure shall be attached to the notification letter. If the Department Head and the Assistant County Manager have decided that disciplinary action is appropriate, the notification shall also state the disciplinary action to be taken, and the effective date(s) of such action.

Section 7.5.4 Post Disciplinary Action Appeals

An employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions as stated below:

- (a) Within ten (10) working days of the effective date of any disciplinary action taken against an employee, the employee may submit a letter requesting an

appeal to the County Manager's Office. Within ten (10) working days of the receipt of an appeal request, the County Manager shall set a date for the appeal to be heard, and shall so notify the employee in writing.

- (b) The County Manager shall be the presiding officer at the appeals hearing and shall conduct said hearing in accordance with the procedures outlined below:
- (1) The hearing shall be informal, not bound by the Rules of Evidence. However, the hearing shall be conducted so that a competent, and informed decision can be rendered by the hearing officer. To this end, employees shall have the right to offer evidence, to cross-examine adverse witnesses, and to inspect documentary evidence or exhibits offered against the employee. The hearing officer shall at all times have the right to question witnesses, or to question those present concerning any evidence or testimony presented at the hearing. All testimony shall be made under oath.
 - (2) The County Manager shall be required to state his prior involvement, if any, in the appeal pending before him at the beginning of the appeal.
 - (3) The hearing shall be closed and not open to the public unless the employee requests, and the County Manager consents, that it be open. The employee's request shall be submitted in writing to the County Manager.
 - (4) The County Manager shall render a written decision within ten (10) working days from the hearing. Such decision shall state the findings of fact made by the County Manager, and shall state the decision of the County Manager of whether to uphold, modify, or overturn the disciplinary action from which the employee appealed.
 - (5) The decision rendered by the County Manager shall be based on competent, material, and substantial evidence presented at the hearing, and shall not be arbitrary, nor capricious.
 - (6) The employee may appeal the decision of the County Manager to a court of competent jurisdiction within thirty (30) calendar days of the date of the County Manager's decision.

Section 7.6Disciplinary Suspension

A Department Head may suspend a Non-Exempt Employee up to three (3) days for disciplinary reasons without the prior approval of the County Manager, or the concurrence of the Assistant County Manager.

Exempt Employees may not be subject to less than a five (5) day or full week disciplinary suspension without pay unless the disciplinary suspension results from a violation of safety rule(s) of major significance. Safety rules of major significance include only those relating to the prevention of serious danger to Henderson County or other employees.

Any suspension for more than three days shall be carried out in accordance with the procedures in Section 7.5 Disciplinary Actions. An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension.

Nothing in this section shall preclude the County Manager from suspending any employee for up to three days without the request or recommendation of the Department Head, or for more than three days in accordance with Section 7.5 Disciplinary Actions, above.

Section 7.7Immediate Disciplinary Suspension

An employee may be suspended by the employee's Department Head with pay and without notice for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property or for other serious reasons. This suspension shall remain in effect pending any internal investigations which may be conducted, and until disciplinary procedures have been instituted in accordance with Section 7.5 above.

A written summary giving the circumstances and facts leading to the immediate suspension shall be prepared by the Department Head and sent to the County Manager. One copy shall be delivered to the employee by certified mail, and one copy shall be filed in the employee's personnel file.

Nothing in this section shall preclude the County Manager from suspending any employee in accordance with the terms of this Section.

Section 7.8Non-Disciplinary/Investigatory Suspension

A Department Head may request to the County Manager that an employee may be suspended with pay pending the internal investigation of any allegations made against an employee which, if true, would constitute grounds for disciplinary action against an employee. Upon the completion of the internal investigation, the employee shall be notified of the results and conclusions drawn as a result of the investigation.

If the Department Head feels that the results of the investigation warrant disciplinary action against an employee, the Department Head proceed according to Section 7.5 above. If the results of the investigation indicate that no disciplinary action is warranted, the employee shall be permitted to return to work immediately.

Nothing in this section shall preclude the County Manager from suspending an employee pending an internal investigation without the request or recommendation of the Department Head. If the County Manager, or the Manager's designee, conducts an internal investigation, the Manager (or designee) shall summarize the results of the investigation and shall provide a copy of the results to the employee. The County Manager may take any disciplinary actions which the Manager feels are necessary as a result of the investigation. Such disciplinary actions shall be conducted in accordance with the procedures outlined in Section 7.5 of this Article.

Section 7.9Dismissal

Employees may be dismissed for repeated failures in job performance, or for a failure in personal conduct. The procedures for dismissal of an employee shall be carried out in accordance with Section 7.5 above.

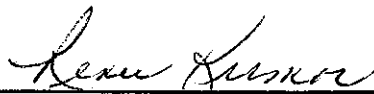
Section 7.11Reinstatement

An employee, who, while in good standing, is separated because of reduction in force may be reinstated within three (3) years of the date of separation, with the approval of the Department Head, the County Manager, and in the case of Competitive Service Employees, the Personnel Policies for Local Government Employees Subject to the State Personnel Act.

An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. An employee who is reinstated shall be credited with previous service time and previously accrued sick leave.


Adopted on this the 19th day of July, 1995.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS



Renee Kumor, Chairman

ATTEST:



Elizabeth W. Corn, Clerk to the Board

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: Wednesday, July 19, 1995

SUBJECT: Tax Releases

ATTACHMENTS: Release Report

SUMMARY OF REQUEST:

The enclosed release requests (7) have been reviewed by the County Assessor and as a result of that review, it is the opinion of the Assessor that these findings are in order. The supporting documentation is on file in the County Assessor's Office.

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

Taxpayer Name Taxbill Total Reason
BERGER, WILLIAM D 94A9935254 \$230.31 SOLD TO BOARD OF EDUCATION

GODSEY, LANE 93A9945740 \$688.18 HOUSE MOVED. PARCEL CORRECT.
GODSEY, JUDITH DEE BILL NOT CORRECT

JOHN S DALTON D/B/A 94A92165.05 \$75.54 EQUIPMENT DBL LISTED

RAYFIELD AND ASSOCIATES 93A96435.01 \$59.40 ARBITRARY ASSESSMENT

RAYFIELD AND ASSOCIATES 94A96435.01 \$118.80 ARBITRARY ASSESSMENT

SITTON, HARRIETT J 95A0801402.1 \$702.00 DISCOVERY VALUE TOO HIGH
RELEASE 30,000 FOR 94,93,92,91

SMITH, REBECCA 94A0113451 \$35.10 CLERICAL ERROR IN COLLECTOR'S OFFICE

TOTAL RELEASES >>> \$1909.33

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: Wednesday, July 19, 1995

SUBJECT: Tax Refunds

ATTACHMENTS: Refund Report

SUMMARY OF REQUEST:

The enclosed refund requests (11) have been reviewed by the County Assessor and as a result of that review, it is the opinion of the Assessor that these findings are in order. The supporting documentation is on file in the County Assessor's Office.

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

| Taxpayer Name | Taxbill | Total | Reason |
|--|----------------|-----------|--|
| BLUE RIDGE VENDING SERVICE OVERGAARD, ALLAN D/B/A | 94A100359.01.1 | \$16.30 | DISC-BASED ON AUDIT VERIFICATION VALUE WAS A-TAGGED. MV REFUND IS FOR FORD VAN |
| JUSTUS, JOSEPH D JR | 90A0503217 | \$27.01 | CLERICAL ERROR IN DIMENSIONS OF HOUSE |
| JUSTUS, JOSEPH D JR | 91A0503217 | \$27.72 | CLERICAL ERROR IN DIMENSIONS OF HOUSE |
| JUSTUS, JOSEPH D JR | 92A0503217 | \$27.22 | CLERICAL ERROR IN DIMENSIONS OF HOUSE |
| KYOCERA ENGINEERED CERAMICS IN | 94A94749.01 | \$2172.27 | AMENDED DEPRECIATION SCHEDULE NOT APPLIED TO ACCT WHEN RECEIVED |
| OWENS, WALTER EARL OWENS, CLARA BELLE | 93A0802266 | \$5.28 | JUDGEMENT CHANGED BOUNDARY IN 1991 |
| OWENS, WALTER EARL OWENS, CLARA BELLE | 91A0803266 | \$9.23 | JUDGEMENT CHANGED BOUNDARY IN 1991 |
| OWENS, WALTER EARL OWENS, CLARA BELLE | 92A0802266 | \$5.02 | JUDGEMENT CHANGED BOUNDARY IN 1991 |
| PITTILLO, WAYNE PITTILLO, DONNIE | 94A0301299 | \$211.11 | INACTIVE PARCEL |
| RUBIN, IRENE K | 94A0108855 | \$556.14 | PAID IN ERROR |
| SIGN-EXPRESS | 93A86936.07 | \$228.99 | ARBITRARY ASSESSMENT AMENDED RETURN |

TOTAL REFUNDS >>> \$9286.29