

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
MAY 1, 1995

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 7:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Renee Kumor, Vice-Chair Vollie G. Good, Commissioner J. Michael Edney, Commissioner Bob Eklund, Commissioner Don Ward, County Manager David F. Thompson, Staff Attorney Angela M. Skerrett, and Clerk to the Board Elizabeth W. Corn.

Also present were: Planning Director Matt Matteson, Planner Karen Collins, E-911 Coordinator Susan Sneed, and members of the media.

Absent were: Assistant County Manager David E. Nicholson and County Attorney Don H. Elkins.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Edney led the Pledge to the American Flag.

INVOCATION

David McEachern, Pastor of Bat Cave Baptist Church, gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Kumor added one item to the Consent Agenda, a Proclamation for "Foster Parent Appreciation Month". It was the consensus of the Board to approve this addition.

CONSENT AGENDA

Commissioner Eklund made the motion to approve the Consent Agenda as presented with the addition of the Foster Parent Proclamation. All voted in favor and the motion carried.

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CONSENT AGENDA included:

Review of Minutes - Minutes were presented for review and approval of the April 3, 1995 meeting.

Notification of Vacancies - The Board was notified of the following vacancies:

1. Western North Carolina Tomorrow - 1 vacancy.
2. Private Industry Council (PIC) - 4 vacancies.
3. Social Services Board - 1 vacancy.

These will appear on the next agenda under "Nominations".

Foster Parent Appreciation Month Proclamation - Henderson County Department of Social Services, Foster Care Program requested county participation in honoring our licensed foster parents by issuing the presented proclamation recognizing May 1995 as Foster Parent Appreciation Month.

INFORMAL PUBLIC COMMENTS

Gwen Cradle - Mrs. Cradle is a Mills River resident and was concerned that there is no Ordinance in the county that will make a property owner keep up their property. She spoke of vacant property with tall grass and rodents. She questioned why the county didn't have such an Ordinance and the City of Hendersonville does have.

David Thompson stated that the city is more of a defined area and it is easier to enforce such an ordinance in a defined area. He stated that you won't find many counties enforcing things such as grass growing high or minimum housing standards. In a rural area there is more freedom to do with your property what you want to do.

Murray Stephens - Mr. Stephens declined to speak. He wished to address the scheduled Public Hearing on road names.

L. Burnett - Mr. Burnett expressed the same concerns as Mrs. Cradle, of neighbors who do not keep up their property.

Molly Rutter - Miss Rutter requested that the Board of Commissioners consider extending the hours of the Henderson County Public Library. She asked that the Library be open on Sunday afternoons and Thursday evenings until 9:00 p.m.

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Miss Rutter has talked with Tom Orr, Chairman of the School Board. Mr. Orr stated that Miss Rutter had their full support. She has also addressed the Library Board and they made it clear to her that it was a decision that the Board of Commissioners would have to make.

PUBLIC HEARING for Public and Private Road Names

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

Susan Sneed asked that the Board pull the following names from the "B" list:

Dorothy Lane, Hidden Valley Drive, Jose Lane, and Roark Lane. The residents will get together and try to come to a decision. Susan will bring these back to another Public Hearing on Road Names.

"D" Conflicting Private Street - Existing Names (documented). Mrs. Sneed called names of those who wished to speak to names on that list:

Bliss Drive/Summey Acres Drive

John Summey - Mr. Summey favored Summey Acres Drive.

John Hill - Mr. Hill favored Bliss Drive, in honor of his Wife. The development at the end of the road is Blissful Hills subdivision. He stated that there is no Summey Acres development.

Susan Sneed stated that the road is only 580 feet in length. During discussion, the name Summey Lane was suggested since there is no Summey Acres development.

Byers Drive/Bitha Drive

Jack McClung - Mr. McClung favored Byers Drive.

Mary McClung - Mrs. McClung favored Byers Drive, in memory of her Father Paul Byers.

Jerry McClung - Mr. McClung favored Byers Drive. Paul Byers founded Byers Precision.

Pam Sumner - Ms. Sumner favored Byers Drive.

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Sandra Wingate - Ms. Wingate favored Bitha Drive, after Bitha Hill, her great Aunt.

Curtis L. Hill - Mr. Hill favored Bitha Drive for his Aunt Bitha Hill.

Ruth Place/Sterling Place

Donald Napp - Mr. Napp owns Sterling Tool & Mold and favored Sterling Place. He stated that it would be quite expensive to change the road name on all their documents and stationery.

Steve Marlowe - Mr. Marlowe favored Ruth Place in memory of his late Mother, Ruth Marlowe.

Gary Byer - Mr. Byer is Mr. Napps business partner and favored the name Sterling Place. He stated that the adjoining road is Marlowe.

"E" Conflicting State Roads.

Big Hungry Road/Jackson Loop Road/King Road

Jake Pace - Mr. Pace strongly favored the name Big Hungry Road.

Joseph Russell - Mr. Russell favored Big Hungry Road.

Joyce Russell - Mrs. Russell favored Big Hungry Road.

C. H. Jones - Mr. Jones favored Big Hungry Road.

Etowah Park Road

Ralph Bastido - Mr. Bastido favored Etowah Park Road. He spoke on behalf of the Etowah Lions Club. The name would give direction to the newly evolving park in Etowah.

Valley Clinic Road

Murray Stephens - Mr. Stephens requested that the name Valley Clinic Road be changed to Cave Inn Road or Cave Inn Drive. Valley Clinic is relocating and Mr. Stephens is opening an Inn in the old Valley Clinic which will be called Cave Inn.

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It was Susan Sneed's suggestion that the Commissioners pull Valley Clinic Road from the list of road names for action.

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

ACTION

Commissioner Edney made the motion regarding list "A" Non-Conflicting Private Streets - New Names (Undocumented) to approve the list as presented. All voted in favor and the motion carried.

Commissioner Edney made the motion regarding list "B" Non-Conflicting Private Streets - Existing Names (Documented) to approve as presented except for Dorothy Lane, Hidden Valley Drive, Jose Lane, and Roark Lane. All voted in favor and the motion carried.

Regarding list "D" Conflicting Private Street - Existing Names (Documented) :

Bliss Drive/ Summey Acres Drive - Commissioner Edney made the motion to approve the road name Bliss Drive on the portion of the road on the Hill property and off the Hill property the name Summey Lane. All voted in favor and the motion carried.

Byers Drive/Bitha Drive - Commissioner Good made the motion to approve the road name Bitha Drive. Commissioner Edney felt it should be Byers Drive. Commissioner Good withdrew his motion and staff was requested to contact the property owners to try to work with them on coming to a road name decision. This will be brought back to the Board at a future Public Hearing for road names.

Ruth Place/Sterling Place - Commissioner Edney made the motion to approve the road name Ruth Place. There was much discussion. Commissioner Edney withdrew his motion and staff was requested to contact the property owners to try to work with them on coming to a road name decision. This will also be brought back to the Board at a future Public Hearing for road names.

Commissioner Edney made the motion to approve the remaining portion of list "D":

Duncan Creek Road (renaming Ravenwood drive)
Princeton Drive (renaming 2nd Ave.)

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Wild Iris Lane (renaming Iris Lane)
Wilkie Road (renaming portion of Ben-Ray Lane)
All voted in favor and the motion carried.

Regarding List "E" Conflicting State Roads:

Big Hungry Road/Jackson Loop Road/King Road - Commissioner Edney moved the adoption of the name Big Hungry Road as well as **Etowah Park Road, North Ridge Road, and Possom Hollow**. He agreed to take Valley Clinic Road off the list. All voted in favor and the motion carried.

PUBLIC HEARING on Proposed Rural Zoning Text Amendments

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

Public Input - There was none.

Karen Collins stated that the purpose of the Public Hearing was for seven proposed amendments to the Henderson County Zoning Ordinance. The amendments are as follows:

- (1) Add Section 619, Rural Mixed Use 1 District (RM-1), a new zoning district text;
- (2) Add Section 620, Rural Conservation District (RC), a new zoning district text;
- (3) Add Section 705, Site Conditions for Uses in the RM-1 and RC Districts, new text which specifies conditions for certain uses in the proposed RM-1 and RC districts;
- (4) Amend Section 401.16, Definition of Customary Incidental Home Occupations, to list examples of uses typically considered customary incidental home occupations;
- (5) Add Section 401.391, Definition of Rural Accessory Business, to define a use listed in the proposed RM-1 and RC districts;
- (6) Amend Section 704, Medical, Institutional Care Developments, to add references to the proposed RM-1 district;
- (7) Amend Section 701, Manufactured Home Parks, to include references to the proposed RM-1 district.

In accordance with Section 1204 of the Henderson County Zoning Ordinance, notices of the public hearing were published in the April 13 and April 20, 1995 editions of The Times-News.

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The proposed RM-1 and RC amendments would set standards for new zoning districts which would be available for future use in the County's zoning jurisdiction. These are text amendments only. Neither of these districts are being considered for specific locations in the county at this time.

Karen Collins explained that requirements in both districts include minimum lot sizes for new lots, set backs, and also lists of permitted and conditional and special uses. Both districts were designed to maintain low density residential uses and agricultural uses while allowing some limited non-residential uses to compliment the others. Both districts include a newly defined use - a use that will be defined with one of the other amendments for Rural Accessory Business which is a home occupation that you can do in a building separate from your home.

Sam Laughter, Code Enforcement Administrator, had a concern with the cellular towers being classified separately in the RC and the RM-1 districts. In all other zoning districts of Henderson County, cell towers and communication towers are considered a public utility. They are classified quite similar to telephone transmission lines and power transmission lines. These towers are permitted in all residential zones in Henderson County including the RM-2 district as a matter of right with no special hearings required.

If the cellular towers are singled out in the two proposed districts, that would indicate that they are no longer considered a utility but a separate use. Mr. Laughter felt that if cell towers are to be regulated separately as special use permits, then he would strongly recommend that all other sections of the Ordinance which refer to utilities as a permitted use also include under the special use section cellular and communication towers.

Planning staff suggested that the specific reference to cellular towers as a special use be stricken from both the RM-1 and the RC district. For now, the zoning department would treat cellular towers in these districts the same way they are treated in the other residential districts. It would be a permitted public utility by right.

Matt Matteson stated that Planning Staff is supportive of the recommendation of the Planning Board. In summary, Mr. Matteson

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stated that both texts, particularly the RM-1 text, are very permissive compared to other zoning districts that we have.

There was much discussion with suggestions offered. There was discussion of buffer areas and the need for a definition for neighboring dissimilar uses. Suggested changes will be made and the Planning Staff will bring a clean copy back to the Board for approval.

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

This item will be on the agenda for action at the next meeting.

Chairman Kumor stated that the Board would consider item "C" next as there were several people in the audience waiting on that discussion item and due to the lateness of the hour.

REPORT BY LAND USE PLAN STEERING COMMITTEE on Study of
Zoning and Alternative Land Management Systems (LUGS)

Chairman Kumor recognized Evelyn Barker, Chairman of the Henderson County Land Use Plan Steering Committee, to present their report and recommendations.

In February of 1994, the Henderson County Board of Commissioners requested that the members of the Land Use Plan Steering Committee reconvene to begin a study of zoning and alternative land management techniques as proposed in the 1993 Henderson County Land Use Plan.

Since July, between 11 and 14 of the original Committee members have met regularly with Sue Green of the Isothermal Planning and Development Commission and Karen Collins, Senior Planner of the Planning Department, to act on the Board's request.

At a meeting on April 13, 1995, the Steering Committee unanimously approved a recommendation to the Board of Commissioners concerning the future direction of land use management in Henderson County. A draft report which summarizes the findings of the Steering Committee and which states its recommendation was presented.

Following the Board's instructions, the Steering Committee carefully investigated a variety of zoning options and their

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applicability in Henderson County. Taking into account all of the findings, plus the recommendations of the 1993 Henderson County Land Use Plan, it was the Committees's unanimous recommendation that the Commissioners adopt a countywide Land Use Guidance System (LUGS) and amend the Henderson County Zoning Ordinance to include the proposed "Rural Mixed Use 1" and "Rural Conservation" districts.

It was the Committee's opinion that these modifications in Henderson County zoning practices will promote liveable communities, allow for change, promote quality development, reflect community values, manage growth and support mixed land uses.

Planning staff recommended the Board set a work session.

It was the consensus of the Board to set a work session on LUGS at the May 17 Commission meeting.

Break - Chairman Kumor called a ten minute recess.

REQUEST TO SET A PUBLIC HEARING for Public and Private Road Names

Planning staff recommended Monday, June 5 for the Public Hearing date. Commissioner Eklund made the motion to set the Public Hearing for Monday, June 5 at 7:00 p.m. All voted in favor and the motion carried.

SET WORK SESSION TO DISCUSS STREETS TABLED FROM PREVIOUS MEETINGS

Following discussion, it was the consensus of the Board to set this work session sometime in July.

CONVALESCENT AMBULANCE SERVICE APPLICATION

Angela Skerrett reminded the Board that at the April 19 meeting, the Board of Commissioners received an application for a franchise to operate a non-emergency ambulance transport service from the Odin Corporation, owned by Aaron Edney. The proposed ambulance service would be operated by Odin Corporation doing business as Arc' Angel Trans'Support Services. The Ordinance for the Operation of Ambulance Service in Henderson County 1983 requires a County franchise before anyone may operate an ambulance service in Henderson County.

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At the April 19 meeting, the Board directed staff to bring a draft franchise to the Board at this meeting. The draft franchise has been reviewed and approved by the EMS Director and the Applicant. The draft franchise grants the franchise only for the unincorporated areas of the County, but provides that upon an amendment to the Ambulance Ordinance making the Ordinance applicable throughout the County, incorporated and unincorporated areas, the franchise would be applicable in the entire County as well.

Staff recommended the granting of the draft franchise to the Odin Corporation, d/b/a Arc' Angel Trans'Support Services for the provision of non-emergency transport in Henderson County.

Angela Skerrett reviewed the Franchise Grant and the proposed changes to it.

Following much discussion, Commissioner Ward made the motion to grant the franchise to Odin Corporation, as presented by Angela Skerrett. All voted in favor and the motion carried.

The application was for a five (5) year non-exclusive franchise to serve the entire county, subject to the right of the County or the Applicant to cancel the franchise with 60 days prior notice.

REQUEST TO SET PUBLIC HEARING FOR AMENDMENT TO AMBULANCE ORDINANCE

Angela Skerrett informed the Board that while preparing the draft franchise for Odin Corporation, staff discovered that Section XV of the Ambulance Ordinance, "Territorial Jurisdiction" stated that the ordinance is applicable only in the unincorporated areas of the County. However, N.C.G.S. 153A-250 gives the County the authority to make it applicable to the incorporated areas as well; in fact, the County's ability to regulate franchises of ambulance preempts the cities and townships abilities to do so in their own city and town limits. Staff therefore recommended that the Board amend the Ambulance Ordinance to make it applicable to the incorporated areas as well as the unincorporated areas so that the Board will have the ability to regulate the provision of emergency and non-emergency transport services throughout the entire County.

Staff also requested the addition of a new Section XVI(2), a severability clause. A severability clause protects the County in that it allows the entire Ordinance to remain in full force and

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effect if any portion or paragraph is deemed unenforceable by a court of competent jurisdiction. It is just a housekeeping item that can be addressed at the same time as the amendment to Section XV to avoid having to hold another public hearing later.

Before the Board can amend the Ambulance Ordinance, the Board must hold a public hearing to consider the amendment. Notice of the public hearing must be published at least once per week for two successive weeks before the hearing. A copy of the proposed notice was reviewed. Staff requested that a public hearing be set for the mid-month May, 1995 meeting.

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

UPDATE ON PENDING ISSUES/Request for Direction to the Chair

There was discussion of the following:

1. Change CIP meeting date. Chairman Kumor informed the Board that Commissioner Eklund would be out of town May 8, the date that had been set for the CIP workshop. She asked that the date be changed. By consensus the CIP workshop was set for May 30, the date of the Manager's Budget presentation, 5:30 p.m.

2. Breakfast meetings. Chairman Kumor stated that the Commissioners would like to begin the informal breakfast meetings again, about 7:15 a.m. on Tuesdays of the weeks that we do not have a scheduled meeting.

David Thompson recommended the second and fourth Tuesdays at 7:15 a.m. at Heritage House. They can accommodate us at that date and hour. It was the consensus of the Board to set May 9 and 23 and June 13 and 27 at the Heritage House. The meetings will be analyzed and a decision made whether to continue them following the scheduled May and June breakfast meetings.

3. Update on Rock Quarries. Chairman Kumor reminded the Board that on Thursday, May 4 at 7:00 p.m. there will be a public hearing on the quarry in Hoopers Creek, based on the request from this Board and Mr. Thompson. This hearing will be in the Fletcher Town Hall offices.

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David Thompson stated that if the Board wished any staff comments to be made at the public hearing, the comments cannot be just that we don't want it. Specific damage to the environment or threat to health, safety, or welfare would have to be proven. The State will issue a mining permit regardless of what is said at the public hearing, unless it can be shown that the company cannot be in compliance with the air quality permit or water quality or the mining permit.

David Thompson requested a file on the quarry in Green River. The State answered that if we wished to see the complete file, we need to send someone to Raleigh to see it. There are numerous maps included. There was a question of whether, under State law, they have to provide the information with the County paying for the copies. The State is not going to have a Public Hearing.

4. CJPP application. Chairman Kumor presented the Board with the Criminal Justice Partnership Program application.

A CJPP Advisory Board, representatives from the community, criminal justice agencies, and the County Commission met regularly over the past 3 months to plan Henderson County's CJP program and grant application. Planning activities included: charting the criminal justice process and collecting data; targeting offender populations to be served; and developing a plan which will enhance existing community sentencing activities.

The Advisory Board proposed a two part plan:

1. A Day Reporting and Restitution Center (DRRC) to be established with the implementation grant. The DRRC would enhance supervision of offenders in the community by designing and coordinating risk management plans to structure offenders' time during the period of probation. DRRC would be administered by the County and the CJPP Advisory Board and would be located in the Courthouse Annex. A case manager and part-time assistant would be hired to coordinate the program.

2. A Wide Area Network (WAN) would be established with discretionary funds. WAN would monitor offenders in the criminal justice system, track victim restitution collection, improve inter-agency communication, and collect data for future evaluation and targeting of the CJP Program. WAN would be administered by the County and the CJPP Advisory Board and would be located in the new Courthouse.

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An Information Officer would be hired to operate the WAN, collect data, and verify information for judges before bond is set.

Chairman Kumor asked for a motion to approve the two applications and the plan.

Following discussion, Commissioner Eklund made the motion to approve the plan as presented and adopt the two applications and allow the Manager the responsibility to move the funds within the budget, should this grant be accepted. Land of Sky can modify any documents with response to comments received from the State once the document has been received and voted on. Following discussion on the motion, all voted in favor and the motion carried.

5. Airport Ad Hoc Committee. Chairman Kumor reminded the Board that at the last meeting the Board accepted an Airport Task Force and gave them some direction. Mr. Thompson wanted to be reassured that it would be OK for them to go out for a request for proposal on the airport study.

David Thompson read the following charge:

This task force will be charged by the Board of County Commissioners with the responsibility of requesting proposals from engineering consultants to prepare an airport master plan, if feasible, that the airport study task force be charged with oversight of this consultant study for the purpose of making a recommendation as to the future possibilities concerning this private airport and a recommendation for the county participation or nonparticipation and the possibility of state or federal funding at this site in the future. He asked permission to meet with the task force one time and relay this charge to them so that they will be real specific when they talk to the engineer for proposals. He will ask staff to be prepared to assist drafting proposals for engineering studies and will bring that back to the Board before they actually send it out.

Commissioner Good made the motion to request the Manager to relay this charge to the Airport Ad Hoc Committee. All voted in favor and the motion carried.

NOMINATIONS

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

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1. **Social Services Board** - 1 vacancy. Chairman Kumor reminded the Board of a letter received from the State regarding their re-appointment. Chairman Kumor suggested that we appoint Doris Thompson as a county appointee and allow the State to appoint someone else. Commissioner Edney nominated Doris Thompson as a county appointee. Commissioner Good made the motion to suspend the rules and appoint Doris Thompson to fill Clyde Groover's vacancy. All voted in favor and the motion carried.

2. **Nursing Home/Domiciliary Home Advisory Committee** - 1 vacancy. This is currently going through the process as it is a designated position. No nominations were made.

3. **Nursing Home/Domiciliary Home Advisory Committee** - 2 vacancies. This is currently going through the process as it is a designated position. No nominations were made.

4. **Henderson County Planning Board** - 1 vacancy. Chairman Kumor stated that Mr. Carpenter, who is the current chairman and whose term expired as of 5/1/95, has indicated that he is willing to continue to serve. Commissioner Edney nominated Walter Carpenter. Commissioner Ward made the motion to suspend the rules and reappoint Walter Carpenter. All voted in favor and the motion carried.

5. **Hospital Board of Trustees** - 1 vacancy. Chairman Kumor reminded the Board that at the last meeting the Board appointed Mr. Tate. There was a question of Mr. Tate's law firm representing Park Ridge and Mr. Tate has graciously withdrawn his name and declined to serve. It was the consensus of the Board to roll this vacancy to the next meeting.

IMPORTANT DATES

The Clerk was requested to add the discussed Public Hearings and workshops and get a new calendar out to everyone concerned.

MUD CREEK WATER AND SEWER DISTRICT

The Board adjourned as the Henderson County Board of Commissioners and convened as the Mud Creek Water and Sewer District.

The Board adjourned as the Mud Creek Water and Sewer District and reconvened as the Henderson County Board of Commissioners.

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COURTHOUSE DEDICATION CEREMONY

Commissioner Edney requested that a program from Saturday's Courthouse Dedication (April 29) be made an official part of these minutes and will be attached as such.

CLOSED SESSION

Commissioner Eklund made the motion as allowed under N.C.G.S. 143-318.11, that the Board go into Closed Session 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.

All voted in favor and the motion carried.

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

There being no further business, the meeting was adjourned at 10:10 p.m.

ATTEST:

Elizabeth W. Corn
Elizabeth W. Corn, Clerk

Renee Kumor
Renee Kumor, Chairman

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