

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
JANUARY 18, 1995**

The Henderson County Board of Commissioners met for a regularly scheduled meeting on Wednesday, January 18, 1995 at 9:00 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were Chairman Renee Kumor, Vice-Chairman Vollie G. Good, Commissioner Robert Eklund, Commissioner Don Ward, County Manager David F. Thompson, Assistant County Manager David E. Nicholson, County Attorney Don H. Elkins, and Acting Clerk Avalina B. Merrill. Absent was Elizabeth W. Corn, Clerk to the Board.

Commissioner J. Michael Edney arrived at 9:50 a.m.

Also present were Planning Director, Matt Matteson; Utilities Director, James S. Erwin; Easement Representative, Doyle Freeman; Recreation Director, Larry Harmon; and Finance Director, Carey McLelland.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Robert Eklund led the pledge of allegiance to the American Flag.

INVOCATION

Invocation was led by Charles H. Carpenter, Former National VFW Chaplain.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Don Ward made a motion to remove Discussion Item C-Leasing of Vehicles at Sheriff's Department from this agenda to a future agenda due to the fact that revised costs of this lease were forthcoming from the Sheriff's Department. All voted in favor and the motion carried.

CONSENT AGENDA

Minutes of the following Commissioners' meetings were presented for approval:

December 5, 1994	Regular Meeting
December 6, 1994	1:00 P.M. Special Called Meeting
December 6, 1994	7:00 P.M. Special Called Meeting

The Henderson County Public Schools Financial Reports for November 1994 and December 1994 were presented by J. Carey McLelland, Finance Director, for the Board's information.

Vice-Chairman Vollie G. Good made a motion to accept the Consent Agenda as presented. All voted in favor and the motion carried.

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INFORMAL PUBLIC COMMENTS

The public input sign-up sheet consisted only of persons who wished to speak regarding the proposed Etowah Park. The roster of those speakers is listed under the section below regarding the "**Etowah Park**".

NORTH CAROLINA PARK AND RECREATION TRUST FUND GRANT APPLICATION AND CERTIFICATION FOR THE ETOWAH RECREATION PARK ACQUISITION AND DEVELOPMENT - PHASE I PROJECT

Larry Harmon, Recreation Director, submitted for the Board's consideration and approval a State of North Carolina Park and Recreation Trust Fund Grant Application and Certification for the proposed development of Etowah Recreation Park - Phase I. The proposed elements for the Etowah Park would be a group picnic shelter (24 x 60), little league ballfield, soccer field, walking trail (½ mile), restroom/scorekeeper building (40' x 40'), parking area (75) cars, utilities, fencing, entrance gate, (10) picnic tables, grills and trash containers, grading, seeding and site preparation and acquisition of the 17-acre site from Etowah Lions Club. Mr. Harmon explained that this was a 50/50 matching grant for a total of \$50,000 with the County share being \$25,000. The land for Etowah Recreation Park is currently owned by the Etowah Lions Club and is planned to be donated to Henderson County on July 1, 1995 for a minimum lease period of (25) years. Mr. Harmon further explained that as part of the grant application process, a public meeting was required in order to gain public input and comments on the proposed project and for the grant to be approved, public support must be evident and documented.

Chairman Kumor announced that the Board would hear anyone who wished to be heard on the proposed Etowah Park development. The names and addresses of persons who were present and summaries of their oral comments is listed below.

These citizens spoke during public input on this item.

1. **Virgil J. McClure** - Spoke in **favor** of the proposed Etowah Park. President of Etowah Lions Club. Mr. McClure presented to Acting Clerk, Avalina B. Merrill, petitions containing signatures of (271) Henderson County residents who favor the proposed Etowah Park.
2. **Bill Bingham** - Spoke in **favor** of the proposed Etowah Park.
3. **D. C. Cantrell** - Spoke in **favor** of the proposed Etowah Park. Past president of Etowah Lions Club.
4. **Jerry Cox** - Spoke in **favor** of the proposed Etowah Park. Etowah resident.
5. **Kent Benbow** - Spoke in **favor** of the proposed Etowah Park. Etowah resident.
6. **Ed Toporzyski** - Spoke in **favor** of the proposed Etowah park. Etowah resident.

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7. **Ralph Bastedo** - Spoke in **favor** of the proposed Etowah Park. Etowah resident.
8. **Barbara Cox** - Spoke in **favor** of the proposed Etowah Park. Etowah resident and representative of the Etowah/Horse Shoe VFD.
9. **Melody Owenby** - Spoke in **favor** of the proposed Etowah Park. Etowah resident and Vice-President of the Etowah PTO.
10. **George Cagle** - Spoke in **favor** of the proposed Etowah Park. Chairman of the Henderson County Recreation Advisory Board.
11. **Ray Parkinson** - Spoke in **favor** of the proposed Etowah park. Charter member of the Etowah Lions Club.
12. **Mike Earl** - Spoke in **favor** of the proposed Etowah Park. Horse Shoe resident.

Recreation Director Larry Harmon then asked for a show of hands of citizens who favored the proposed Etowah Park. Of approximately (30) in attendance, there was a show of hands of (24) citizens. No one spoke in opposition to the proposed Etowah Park.

Vice-Chairman Vollie G. Good clarified that the proposed Etowah Park would be for the use of the general public, not just the residents of the Etowah/Horse Shoe community.

Commissioner Robert Eklund made a motion to approve the trust fund grant application and certification as a demonstration of the Board's support of this effort to establish the Etowah Recreation Park.

Vice-Chairman Vollie G. Good seconded that motion. All voted in favor and the motion carried. Commissioner J. Michael Edney was not present when this vote was taken.

After the Board had heard all persons who requested to be heard, the public input session was closed.

APPROVAL OF WESTFELDT PARK LEGAL DOCUMENTS

In order to request and receive partial reimbursement for the Westfeldt Park Development Project, L.W.C.F. #37-00957, it was necessary that the deed be recorded for the property in accordance with federal guidelines. In addition, the property could not be used for any other purpose except recreation as stipulated in the **Notice of Limitation of Use**. As part of these requirements, it was necessary that the Board adopt a resolution to this effect and sign an affidavit.

Vice-Chairman Good made a motion to adopt the resolution as presented. All voted in favor and the motion carried.

Vice-Chairman Good made a motion to accept the deed to the property and record as

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requested. All voted in favor and the motion carried.

ENGINEERING SERVICE AGREEMENT FOR UPWARD INTERCHANGE PROJECT

Easement Representative Doyle Freeman reminded the Board that the Upward Interchange sewer line extension was approved at their Commissioners' meeting on November 21, 1994. In the same meeting, a Resolution was approved to proceed with negotiations for engineering services with Jon Laughter, Registered Engineer with Laughter, Austin and Associates. The Utilities Department was directed to bring a final draft of an Engineering Service Agreement between Mud Creek Water and Sewer District and Laughter, Austin and Associates back to the Board for the Board's approval.

The Utilities Department recommended approval of the final draft of an Engineering Service Agreement between Mud Creek Water and Sewer District and Laughter, Austin and Associates.

Mr. Jon Laughter from Laughter, Austin and Associates had executed the Agreement. The agreement would be presented to Chairman Kumor for her signature upon Board's request and approval of the agreement.

County Attorney Don Elkins had approved the service agreement as to form. Staff Attorney Angela Skerrett had redesigned the agreement to place greater responsibility for the engineer to oversee the project.

Vice-Chairman Good made a motion to approve the engineering service agreement. All voted in favor and the motion carried.

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)-
MOUNTAIN HOME PROJECT**

Matt Matteson, Planning Director, distributed information to the Board and explained the purpose of this agenda item. Two major industries in the County, Printpack, Inc. and Kyocera, located in the Mountain Home section, had an immediate need for public sewer to their facilities because their private septic systems had failed and were cost prohibitive to maintain. Through a program with the North Carolina Department of Commerce, these industries could obtain funding to assist them with getting public sewer contingent upon new jobs being created. These funds were going to be used to build a lift station and force main to connect these two industries to the existing sanitary sewer system, the last man hole being located on US 25 North across from Kimberly-Clark. The grant is with the NC Department of Commerce, called the CDBG which is Community Development Block Grant, but they have a separate area for economic development and this project is considered economic development. The project was to expedite the extension of public sewer to these industries and an allocation was received by the City of Hendersonville so that the project could go forward. The two industries would be the County's customers and the lines would be maintained by the County.

The project as it developed was always a private project. There was never an assumption that the County was going to be funded. The way the funding works with the State is basically once the grant is awarded, the money is available, expenditures are made,

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invoices are produced and we draw down money. It is not an advance; it's a draw down situation which is typical of block grant situations. The money would not go to the industries. In the event that the industries did not make good on their promises to create jobs, then there are provisions for paying the State back. These provisions were discussed later by Staff Attorney, Angela Skerrett. The design of the sewer line project was done by Lapsley Engineering and Associates hired by Kyocera who was the lead industry in this project. To accommodate traffic flow on US 25 North while road widening takes place, DEM notices of violation to these industries, and also the Department of Commerce funding time frames of (1) year, it was necessary for some changes to the design be made. Projected completion date of the project was September 1995. The County's investment would be \$18,900.

A formal acceptance of the grant from the NC Department of Commerce and a formal acceptance of the funding resolution were required. The total amount of the grant that would be awarded was \$292,000.

Mr. Matteson explained that it was necessary for the Board to appoint a project engineer for this project. Mr. Matteson and Utilities Director Jim Erwin made a recommendation, based on the (2) requests for proposals that were submitted, for the project to hire the firm of Lapsley & Associates to do the project.

Mr. Matteson explained that it was necessary to approve the Facilities Agreement with Kyocera Industrial Ceramics Corporation and Printpack, Inc. Staff Attorney Angela Skerrett explained that the State viewed the County, as the recipient of the grants funds, as the enforcer of the requirements of the grant. The grant was based upon the creation of a total of (22) jobs. Kyocera would be creating (10) jobs and Printpack, Inc., would be creating (12) jobs. Those jobs must benefit primarily low to moderate income persons. A low to moderate income person is someone who has a family income that is less than 80% of the median family income in the County. The State looks to the County to make sure that those jobs get created and retained. So the State has a form agreement that these agreements were based upon that the County enters into with the industries whereby we have a contractual remedy to enforce the creation of the jobs. The jobs must be created and retained throughout the grant term which began on October 17, 1994, the date of the letter of notice of award. The agreement allows for one-half of the jobs to be created in the first year and half in the second year to lessen the burden on the industries. However, if the industries chose to create all of the jobs in the first year they could. The State requires that in the event that the jobs are not created, the State would require a reimbursement of the CDBG monies, possibly as much as the entire grant amount, if both industries failed to comply with job creation as specified. However, the State may seek a partial reimbursement if only (1) of the industries failed to comply with the job creation. Under this agreement, the County would not incur any liability for this reimbursement due to lack of non-compliance of job creation and retention by these industries. The industries would pay the reimbursement to the County and the County in turn would reimburse the State. The County or its designated administrator is responsible for monitoring the administration of this funding to assure that it is used in accordance with the guidelines for the proposed project. The agreement requires that the industries document that the number of jobs were created and retained that they were required to.

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Matt Matteson explained that it was necessary for the Board to approve the Sewer Reimbursement Policy which is a direct requirement of the grant that states once the sewer line is in place that those people who would be using that system would not get a free ride.

Before the Board acted upon any of these items, County Attorney Don Elkins recommended that the motions for action be made both as the Board of Commissioners and as the Mud Creek Water and Sewer District Board because the agreements covered both entities. Chairman Kumor asked for a motion that the Henderson County Board of Commissioners act upon items 2 through 7 in this action. Commissioner Edney made the motion that as the Board of Commissioners, they accept staff's recommendation as to items 2 through 7 as presented which included: approval of the grant agreement with N.C. Department of Commerce; approval of the amended funding resolution; approval of William G. Lapsley and Associates, P.A. as the project engineer and authorized the County Manager to negotiate an engineering services agreement with Lapsley and Associates; approval of the proposed facilities agreement with Kyocera Industrial Ceramics Corporation and Printpack, Inc.; approval of the proposed sewer reimbursement policy for the sewer line extension project; and authorized the County Manager to negotiate a technical services agreement with the Land-Of-Sky Regional Council for technical services on an "as needed" basis for the project. There was no further discussion. All voted in favor and the motion carried.

MUD CREEK WATER AND SEWER DISTRICT

Chairman Kumor asked for a motion to go into the Mud Creek Water and Sewer District.

Commissioner Don Ward made that motion. All voted in favor and the motion carried. Commissioner Eklund made a motion to accept items 2 through 7 as presented by staff as referenced above. All voted in favor and the motion carried.

Vice-Chairman Vollie G. Good made a motion to adjourn as the Mud Creek Water and Sewer District. All voted in favor and the motion carried.

HENDERSON COUNTY COURTHOUSE INSTALLATION OF TELECOMMUNICATIONS SYSTEMS

County Manager David Thompson explained to the Board that it was necessary to let out for bid installation of a telecommunication system or approve an additional change order to allow M.B. Kahn Construction who is the contractor for the new courthouse to install a telecommunications system. Mr. Thompson further explained that due to close time frames for the final completion of the new courthouse and readying it for occupancy, it would be more cost effective and timely to issue a change order to M.B. Kahn Construction not to exceed \$75,000 for the installation of the telecommunication system.

Commissioner J. Michael Edney made a motion to preapprove a proposed change order not to exceed \$75,000 for M. B. Kahn Construction with the stipulation that the County Manager allow Chairman Renee Kumor to review it first. There was no further discussion on this motion. All voted in favor and the motion carried.

GRAND OPENING/DEDICATION OF NEW COURTHOUSE

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Mr. Thompson reminded the Board that a date should be set for the grand opening and dedication of the new courthouse. Although the expected occupancy for the new facility was early March, an April date for the grand opening was discussed to allow ample time for completion and occupancy. Commissioner Edney suggested that Melody Heltman, Director of Travel and Tourism, coordinate the activities surrounding the celebration. After much discussion, it was the consensus of the Board to set the grand opening\dedication ceremonies of the new courthouse for Saturday, April 29, 1995 beginning at 11:00 a.m.

PROPOSED FISCAL YEAR 1995-1996 BUDGET CALENDAR

County Manager David F. Thompson reviewed with the Board the proposed Fiscal Year 1995-1996 Budget Calendar. The projected submittal of the County Manager's proposed budget was Monday, May 1, 1995 with a projected adoption of the budget for Wednesday, June 21, 1995. Commissioner J. Michael Edney made a motion to adopt the budget calendar as presented. All voted in favor and the motion carried.

Robert Baird, County Assessor, presented to the Board of Commissioners information on the reassessment process. The Board had previously raised questions concerning the impact of appraised values in the East Flat Rock Superfund area as well as the newly annexed areas in Hendersonville. Mr. Baird informed the Board that the tax bills with the reassessed values would be mailed by the end of January 1995. Mr. Baird explained to the Board his approach to determining the impact, if any, to the Superfund area. Information that Mr. Baird and his staff gathered indicated that there was well water contamination as well as some surface soil contamination. The class of property that was affected in the Superfund area was single-family residences primarily on the east side or G.E. side of Highway 176. Based on 1991 real estate sales for properties in that area, some properties were sold for less than comparable residences outside of the Superfund area; however, most of the sales in that area remained at market standards. Based on data gathered by the Assessor's staff, the homes in the defined area were evaluated at approximately 20% economic depreciation in value. This evaluation would be effective 1/1/95. Residents in and around the area defined for the economic depreciation in value may appeal their evaluation before the Board of Equalization and Review.

REASSESSMENT PROCESS

Mr. Baird addressed the assessment of properties in the newly annexed areas by the City of Hendersonville using a few examples of real estate sales in those defined areas. However, before the Assessor could determine what, if any, impact the annexation would have on assessed property values in the defined area, it would be necessary to gather more data. The Assessor would report back to the Board his findings at some point in the future.

CHILD MEDICAL/CHILD MENTAL HEALTH EVALUATION PROGRAM

The Board of Commissioners approved establishing a fund to pay for Child Medical/Child Mental Health Evaluations at their July 20, 1994 meeting. The total amount approved by the Commissioners for funding this program is \$4,500. Henderson County's program was set up based on the program at the State level and that fee structure changed in July 1, 1994. Finance Director Carey McLelland recommended to the Board that the fee structure in Henderson County's Child Medical/Child Mental Evaluation Program be amended to

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reflect the changes in the fee structure at the State level. Commissioner Edney made a motion to amend the fee structure to the State level as outlined by the Finance Director. All voted in favor and the motion carried.

READJUSTMENT OF PLANNING BOARD'S TERMS

Planning Director Matt Matteson requested that the Board consider amending the Planning Board terms to bring members back "in sync". The by-laws of the Planning Board established 3-year staggered terms. Over a period of years, the Planning Board terms had strayed from the preferred "3 members per year" term rotation. In 1995, terms for five (5) of nine (9) members of the Planning Board would expire, (4) in 1996 and none in 1997. Mr. Matteson presented to the Board (2) options to correct this situation:

Option 1 was to adopt a resolution establishing "interim terms" as presented. This would take until 1998 to actually complete the cycle whereby all nine members would be back on three-year rotation. **Option 2** would be for the Board of Commissioners to summarily dismiss all nine of the members, suspend the rules and immediately reappoint them for new terms, some of which should be shorter than others. This option would eliminate much administrative work but would not allow all members' 3-year terms to run out naturally.

Staff Attorney Angela Skerrett had not reviewed the proposed options so the item was tabled until a future meeting.

NOMINATIONS

Chairman Kumor reminded the Board of the following vacancies and accepted nominations for appointments to those vacancies. Commissioner Don Ward had left the meeting to attend a funeral of a relative and thereby only (4) Commissioners were in attendance for this segment of the meeting. Thus, Chairman Kumor only accepted nominations for these vacancies and the actual appointments were rolled to the next Board meeting.

Community Child Protection Team - (5) vacancies. The current members had agreed to serve again: Steve Briggs, Thomas E. Hanson, Ken Lanning, Rebecca S. Banadyga and Larry Swabe. Commissioner Ecklund nominated those members to serve again.

Nursing Home/Domiciliary Home Advisory Committee - (3) vacancies. The members whose terms were expiring in February and March 1995 were: June Loor, Burgan A. Stepp and Mr. Webb Warren. Ms. Loor and Mr. Warren did not wish to serve again and as of this meeting date, no response had been received from Burgan Stepp. Chairman Kumor informed the Board that she had spoken with Walter Johnson, Chairman of the Nursing Home/Domiciliary Home Advisory Committee, and offered to help this committee to recruit new members. No nominations were made and those appointments were rolled to the next meeting.

Private Industry Council (PIC) - (2) vacancies. The members whose terms would expire were nominees for the Chamber of Commerce positions: Gary D. Jones and Buddy Frazier. William G. Lapsley, president of the Chamber, nominated Lamar Jordon who was

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an employee at G.E. Lighting Systems. The Board agreed to nominate Mr. Jordan for that vacancy.

Henderson County Travel and Tourism Committee - (1) vacancy. The (1) vacancy was formerly held by Mr. Robert S. Seigler who did not wish to serve again. An application from Connie Hudson Backlund was presented to the Board. Ms. Backlund filled the requirements of membership by being an individual interested in development of tourism but does not own a hotel or motel or a taxable tourist accommodation. Connie was the National Park Service Superintendent at the Carl Sandburg Home National Historic Site in Flat Rock. Commissioner Edney nominated Ms. Backlund to fill that vacancy. The appointment was rolled to the next meeting.

IMPORTANT DATES

Chairman Kumor reviewed the **Important Dates** calendar. A Board Retreat had been scheduled for February 11 and 12 at the auditorium of the Library but County Attorney Don Elkins would be unable to attend due to a conflicting business appointment. Chairman Kumor recommended that the Board Retreat be scheduled for February 18 and 19 at the same location and upon agreement of the Board the date was set accordingly. Due to several Board members and the County Manager attending the NACo Legislative Conference in Washington, D.C. on March 3 through 8, the Commissioners' Meeting for March 6 was canceled. The continuation of the Public Hearing from 12/5/94 previously scheduled for March 6 was rescheduled to March 15. The public hearing for the Green River Classification was moved from June 6, 1995 to June 1, 1995 at 7:00 p.m. at East Henderson High School.

WORK SESSION ON PROPOSED MANUFACTURED HOME PARK ORDINANCE

A work session on the Proposed Manufactured Home Park Ordinance was held. This work session was a continuation of the work session held on January 3, 1995. At that time, the Board asked staff to research, among other things, manufactured home park development costs and rental costs. Planning Director Matt Matteson informed the Board that Planning staff would discuss three general issues related to manufactured home park development costs and rental costs:

1. Design standards needed for reasonable regulation of manufactured home parks based on public health, safety and welfare.
2. Impact of the proposed Ordinance on manufactured home park developers.
3. Impact of the proposed Ordinance on manufactured home park space rental fees and the ability of tenants to find affordable housing.

For Issue 1, the Planning staff discussed the proposed Manufactured Home Park Ordinance that the Planning Board recommended in July 1993. Planning staff reviewed comments and responses to the proposed Manufactured Home Park Ordinance that were

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made by the Planning Board and subcommittee in July 1993. A model ordinance for the Manufactured Home Rental Communities prepared by the North Carolina Manufactured Housing Institute was presented to the Board by the Planning staff as a reference.

For Issue 2, Planning staff presented a listing and summary of existing manufactured home parks in Henderson County. As of January 1995, there were (117) manufactured home parks in Henderson County providing a total of (2079) lots. A manufactured home park, for this summary, was defined as having (3) or more occupied unit spaces. Planning staff discussed excerpts from Manufactured Housing Site Development Guide (American Planning Association publication, 1993) and listed factors affecting development costs of manufactured home parks.

For Issue 3, the Planning staff provided the Board with general information on rental assistance and discussed factors affecting rental rates. Based upon data gathered from surveys of rental rates for selected manufactured home parks in the County, the Planning staff concluded that the rates charged by park owners appear to be driven by what the market will bear and is not necessarily due to location or the cost of park improvements.

After much discussion, it was the consensus of the Board to tour some of the manufactured home parks in the County. The tour was scheduled for Thursday, February 2, 1995 at 4:00 p.m. with another work session on the proposed Manufactured Home Park Ordinance following at 7:00 p.m.

CLOSED SESSION

Commissioner Edney made a motion to go into Closed Session as allowed under General Statutes:

1. N.C.G.S. 143-318.11(a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged;
2. N.C.G.S. 143-318.11(a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

ACTION

A motion was made by Commissioner Eklund to authorize the County Manager to appropriate \$500,000 for water and sewer improvements, \$400,000 for site improvements and reserve \$250,000 for (2) years for a prospective industrial client. All voted in favor and the motion carried.

Vice-Chairman Good made a motion to go out of Closed Session. All voted and the motion carried.

All business being concluded, the Meeting adjourned at 4:20 p.m.

ATTEST:

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Avalina B. Merrill

Renee Kumor

Avalina B. Merrill
Acting Clerk to the Board

Renee Kumor, Chairman

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