#### **MINUTES**

# STATE OF NORTH CAROLINA COUNTY OF HENDERSON

BOARD OF COMMISSIONERS April 20, 1994

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: Vice-Chair Renee Kumor, Commissioner Hugh D. Randall, Commissioner William McKay, Assistant County Manager David E. Nicholson, County Attorney Don H. Elkins, Staff Attorney Angela M. Skerrett, Finance Director Carey McLelland, and Clerk to the Board Elizabeth W. Corn.

Absent was Commissioner J. Michael Edney, Mr. Edney was in court. Also absent was County Manager David F. Thompson. Chairman Vollie G. Good came in at 9:45, at beginning of item "F" under Discussion Items, "Cable TV rate regulation".

## CALL TO ORDER/WELCOME

Vice-Chair Kumor called the meeting to order and welcomed all in attendance.

# PLEDGE OF ALLEGIANCE

Commissioner McKay led the Pledge to the American Flag.

#### INVOCATION

Rev. Harold McKinnish, Interim Pastor/Tuxedo Baptist Church, gave the invocation.

# DISCUSSION/ADJUSTMENT OF AGENDA

Vice-Chair Kumor moved one item from consent agenda, item "D3" - "Land of Sky Regional Council - 1 vac., to Discussion Items as "G13" under Nominations so that an appointment could be made.

#### CONSENT AGENDA

Commissioner McKay made the motion to approve the consent agenda as presented with the exception of "D-3". All voted in favor and the motion carried.

# Consent Agenda consisted of the following:

Review of Minutes - Minutes were presented for review and approval of the March 10, 1994 meeting.

Tax Release Requests - A list of 16 tax release requests were submitted by the County Tax Assessor for approval by the Henderson

County Commissioners. Mr. Baird has reviewed these requests and has supporting documentation on file in his office.

Tax Refund Requests - A list of 6 tax refund requests were submitted by the County Tax Assessor for approval by the Henderson County Commissioners. Mr. Baird has reviewed these requests and has supporting documentation on file in his office.

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

- 1. YOUTH ADVISORY BOARD 1 vac.
- 2. NURSING HOME/DOMICILIARY HOME ADVISORY COMMITTEE 2 vac.
- 3. LAND OF SKY REGIONAL COUNCIL-Advisory Council on Aging -1 vac. These were presented for the Board's information only. They will appear under "Nominations" on the next agenda.

# INFORMAL PUBLIC COMMENTS

No one had signed up to speak. There was no one in the audience who wished to speak.

# Announcement by Vice-Chair

Vice-Chair Kumor announced that Chairman Good was at another meeting and would be coming to this meeting later.

Vice-Chair Kumor announced that this meeting would be moved to the Horticulture Center at noon.

## HOUSEHOLD TIPPING FEES

Eldon Owen, Solid Waste Director, requested an increase of tipping fees as follows:

Five bag maximum for \$2.25 disposal fee for household waste. For each additional bag after the five bag maximum, a charge of \$.50 per bag.

By increasing this fee, household tipping fees would be brought more in line with the \$26.00/ton tipping fees in the landfill. This would encourage citizens to bring household waste to the landfill more often rather than saving waste until they have a truck load; it would eliminate complaints from neighbors about individuals storing their waste; and it would eliminate complaints from waste haulers about unfairness of household waste tipping fees.

After some discussion, Commissioner McKay made the motion to approve the request as presented, effective June 1, 1994. All voted in favor and the motion carried.

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# REQUEST FOR FULL-TIME DRIVER/Solid Waste Department

Eldon Owen reminded the Board that at the Commissioners' Meeting of November 1, 1993, the Board authorized the purchase of a truck and roll-off trailer to be used to haul recyclables to GDS. He explained that this would result in an annual cost savings to Henderson County. Mr. Owen requested authorization from the Board to employ the truck diver. At the November meeting, the Board expressed concern regarding whether or not to employ a full-time driver for this vehicle. Now that the Material Recovery Facility is in operation, and the truck has been purchased, Mr. Owen believes that a driver should now be employed.

A financial comparison of the current costs was reviewed as well as the projected savings by fully utilizing this truck.

Based on the future annual savings of \$70,391, staff recommended that this position be created.

Commissioner McKay made the motion to approve this request as presented. All voted in favor and the motion carried.

# RESOLUTION AUTHORIZING INSTALLMENT FINANCING for Construction of Youth Development Shelter

Carey McLelland presented a Resolution Authorizing Installment Financing for Construction of Youth Development Shelter. This project was approved some time ago. It is now time to authorize the financing so that we can stay on schedule. A calendar of events for financing and the total budget were reviewed.

Mr. McLelland requested that he be given authorization to go out for RFP's and come back to the Board with a recommendation for the financial institution. The term would be a five year period with a fixed rate of interest.

Commissioner McKay made the motion to approve the Resolution as proposed which authorizes the use of installment financing for the construction and site improvement of the new Youth Development Center. All voted in favor and the motion carried.

# FAMILY MEDICAL LEAVE POLICY

Mona Quinn, Personnel Officer, informed the Board that the Family Medical Leave Act (FMLA) of 1993 became effective on August 5, 1993. The FMLA is a federal mandate that guarantees eligible employees twelve (12) weeks of paid/unpaid leave per year for qualifying circumstances. Qualifying circumstances include the birth/adoption/foster care placement of a child; the serious health condition of the employee; or the serious health condition of the

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employee's spouse, son, daughter, or parent requiring the employee's assistance.

A final draft of the proposed Henderson County FMLA Policy was reviewed and numerous questions were answered. Ms. Quinn stressed that in meshing existing Henderson County policies and FMLA policies, the policy or regulation which is most generous to the employee must control.

Commissioner McKay made the motion to approve the Family Medical Leave Policy as outlined by Ms. Quinn and further moved that it become a part of the personnel policies of Henderson County. All voted in favor and the motion carried.

# PROPOSED HOLIDAY SCHEDULE FROM THE EMPLOYEES ADVISORY COMMITTEE (EAC)

David Nicholson presented a request from the Employee Advisory Committee that the Commissioners amend the Personnel Resolution to provide three working days as holidays at Christmas. These days would be Christmas Eve, Christmas Day, and one floating holiday. The EAC feels that employees should have a constant number of holidays each year.

No action was taken at this time. EAC will come back with a proposal of how to amend the Personnel Resolution.

#### CABLE TV RATE REGULATION

## Late Arrival

Chairman Good came in at 9:45, at the beginning of this discussion.

Matt Matteson stated that the Cable TV Review Committee met March 17 and discussed rate regulations, among other things, and made the recommendation that at this time such regulation not be initiated.

Angela Skerrett informed the Board that regulation would affect more than 80 persons and would actually affect every cable customer because the customer must have basic cable before other cable services can be added. If the county does not regulate basic cable rates, no one will.

After considerable discussion, it was the consensus of the Board to defer action at this time. Commissioner McKay stated that a number of questions have not been answered and that the Board needs further information to make a decision regarding cable rate regulation.

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#### **NOMINATIONS**

Chairman Good reminded the Board of 1 vacancy for an alternate on the Motor Vehicle Valuation Review Board (MVVRB). There were no nominations at this time so the item was rolled to the next meeting.

Chairman Good reminded the Board of 1 vacancy for an alternate on the **Hendersonville Zoning Board of Adjustment**. There were no nominations at this time so the item was rolled to the next meeting.

Chairman Good reminded the Board of 1 vacancy on the **Henderson County Industrial Facilities & Pollution Control Authority.** There were no nominations at this time so the item was rolled to the next meeting.

Chairman Good reminded the Board of 11 vacancies on the **Solid Waste Advisory Committee (SWAC)**. Ten of the 11 members are willing to continue to serve.

Following considerable discussion, Vice-Chair Kumor made the motion to make appointments as follows:

Robert E. Cathey 3 years Frank D. Drake 2 years Thomas A. Hadley 1 year Art Hazlett 3 years Joy Drew Blazey 2 years Reagan R. Houston 1 year John P. Humphrey 3 years John Russell Sacco 2 years Stefan Juchnowycz 1 year Charles W. McGrady 3 years

All voted in favor and the motion carried. One vacancy remains.

Commissioner McKay made the motion to nominate Robert E. Cathey as Chairman. Commissioner Randall made the motion to suspend the rules and appoint Mr. Cathey as Chairman. All voted in favor and the motion carried.

Chairman Good reminded the Board of 1 vacancy on the Nursing Home/Domiciliary Home Advisory Committee.

Vice-Chair Kumor nominated Dorothy Martin to fill the vacancy on the Nursing Home/Domiciliary Home Advisory Committee. Commissioner McKay made the motion to suspend the rules and appoint Ms. Martin. All voted in favor and the motion carried.

Chairman Good reminded the Board of 1 vacancy on the Youth Advisory Board. There were no nominations at this time so the item was rolled to the next meeting.

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Chairman Good reminded the Board of 1 vacancy on the **Henderson** County Agriculture Advisory Committee.

Commissioner McKay nominated Kenneth T. Allison to serve an additional term. Vice-Chair Kumor made the motion to suspend the rules and reappoint Mr. Allison. All voted in favor and the motion carried.

Chairman Good reminded the Board of 2 vacancies on the **EMS Council**. There were no nominations at this time so the item was rolled to the next meeting.

Chairman Good reminded the Board of 2 vacancies on the **Hospital Board of Trustees**. There were no nominations at this time so the item was rolled to the next meeting.

Chairman Good reminded the Board of 3 vacancies on the **Henderson** County Board of Health.

Commissioner McKay made the motion to reappoint Dr. Karen L. Davis; Larry Baber, Pharmacist; and Pam Miller. Vice-Chair Kumor made the motion to suspend the rules and re-appoint these three members to the Henderson County Board of Health. All voted in favor and the motion carried.

Chairman Good reminded the Board of 2 vacancies on the **Private** Industry Council.

Commissioner McKay made the motion to reappoint John Murdock and Dr. David Sink to fill these two positions. Vice-Chair Kumor made the motion to suspend the rules and reappoint these two members. All voted in favor and the motion carried.

Chairman Good reminded the Board of 1 vacancy on the **Henderson** County Regional Water Forum.

Vice-Chair Kumor nominated William McKay to serve an additional term. Commissioner Randall made the motion to suspend the rules and reappoint Mr. McKay. All voted in favor and the motion carried.

Chairman Good reminded the Board of 1 vacancy on the Land Of Sky Regional Council - Advisory Council on Aging. Mr. John Berube has resigned. This was moved from the consent agenda so an appointment could be made before the next meeting of the Executive Committee.

Commissioner McKay nominated Alice Young. Vice-Chair Kumor made the motion to suspend the rules and appoint Ms. Young. All voted in favor and the motion carried.

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# IMPORTANT DATES

It was noted that the Town Meetings for May, June, July, and August have been cancelled. The Board was notified that those meetings should commence again in the fall.

David Nicholson reminded the Board of the Legislative Briefing in June and asked them to notify the Clerk if they plan to attend.

There was discussion of setting a date for a work session on Indian Cave Road. A Special Called Meeting was set for April 28 at 2:00 p.m. for a work session on the proposed closing of Indian Cave Road.

Chairman Good asked the Board to consider appointing two commissioners from our Board to serve on a subcommittee to study the merging of city/county services.

After some discussion, Commissioner Randall made the motion to appoint Vollie Good and J. Michael Edney to serve on this subcommittee. All voted in favor and the motion carried.

## **EXECUTIVE SESSION**

Commissioner McKay made the motion for the Board to go into Executive Session as allowed under General Statute 143-381.11 to discuss the following matters:

- A. To consult with the County Attorney to the extent that confidentiality is required.
- B. To consider the selection of a site or the acquisition by any means or lease as lessee of interests in real property. All voted in favor and the motion carried.

Vice-Chair Kumor made the motion for the Board to go out of Executive Session. All voted in favor and the motion carried.

# CONTINUATION OF MEETING AT MOUNTAIN HORTICULTURAL CENTER Joint Meeting to Discuss Studying the Creation of a Regional Water & Sewer Authority

Chairman Good called the meeting to order. He welcomed all in attendance to Henderson County. He thanked Mrs. Janice Dotson of the Mountain Horticulture Center for her help in organizing the meeting and thanked Dr. David Burnette for granting the use of the facility. Chairman Good recognized Sara McComb and Avalina Merrell for their hard work in setting up this meeting.

Chairman Good stated that the common reason for the meeting was the belief that a joint effort is needed to address the large and

complex issues of providing water and sewer services to our growing populations in the region.

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Robert Shepherd, Executive Director of Land Of Sky Regional Council, gave the invocation.

**LUNCH** - A delicious meal was enjoyed by all. There were approximately 72 people in attendance.

Chairman Good called the meeting back to order. He introduced Dr. Gene Rainey, Buncombe County Commission Chairman.

Dr. Rainey stated that this is an event that will serve as a model to other parts of N.C. as well as other parts of the nation on how to solve local problems. He stated that county boundaries, city boundaries, and utility boundaries are no longer walls that separate us. By working together we can solve our problems cheaper than trying to work individually.

Chairman Good introduced the members of the head table: Ben Slossman, Vice-Chairman of MSD; Ernest Ferguson, Chairman of the Asheville/Buncombe Water Authority; Dr. Gene Rainey, Chairman of the Buncombe County Board of Commissioners; Russell Martin, Mayor of the City of Asheville; Bob Shepherd, Executive Director of Land Of Sky Regional Council of Governments; and Fred Niehoff, Mayor of the City of Hendersonville.

Chairman Good introduced the members of his Commission - The Henderson County Board of Commissioners: Vice-Chair Renee Kumor, Commissioner J. Michael Edney, Commissioner Hugh D. Randall, Commissioner William McKay.

Chairman Good called on the other Board Chairmen to recognize their Board Members.

Chairman Gene Rainey recognized Vice-Chairman Tom Sobol, Commissioner Bill Stanley, and Commissioner Patsy Keever, all of the Buncombe County Board of Commissioners. Also present with them were the County Manager, the Planning Director and one of their County Attorneys.

Mayor of Asheville Russell Martin recognized Herb Watts, Lenny Sitnick, and Vice-Mayor Chris Peterson, City Manager Bill Ferris, Bill Slaughter, Attorney and Billy Wilcup.

Mayor of Hendersonville Fred Niehoff recognized Councilwoman Barbara Volk who is also Mayor Pro Tem. Also present with them was Tom Kilpatrick, Director of Hendersonville Water & Sewer.

Ernest Ferguson, Chairman of Asheville/Buncombe Water Authority recognized his Board members who were in attendance: Charles

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Worley, Bill Gruell, Roy Harris, Dr. Rick Moss, Tom Sobol, Chris Peterson, Director Mike Holcombe, and Attorney Phillip Smith.

Ben Slossman, Vice-Chair of MSD recognized his Board members who were present: Mike Holcombe, Carolyn Wallace, Bob Selvey, Joe Joyner, Executive Director Bill Mull, Attorney Jack Stevens. Chairman Good recognized Henderson County Manager David F. Thompson, Assistant County Manager David Nicholson, Staff Attorney Angela Skerrett. He also recognized the Executive Director of the Hendersonville Chamber of Commerce Ray Cantrell. He recognized the Mayor of the Town of Fletcher Bob Parrish. Mr. Parrish introduced the Town Manager Craig Honeycutt.

Chairman Good recognized the Mayor of Asheville, Russell Martin, who introduced and read the RESOLUTION OF INTENT TO STUDY THE CREATION OF A REGIONAL WATER AND SEWER AUTHORITY in its entirety which is hereby made a part of these minutes... NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE, THE BOARD OF COMMISSIONERS FOR THE COUNTIES OF BUNCOMBE AND HENDERSON, THE ASHEVILLE/BUNCOMBE WATER AUTHORITY AND THE METROPOLITAN SEWAGE DISTRICT AS FOLLOWS:

It is the intent of those governmental entities adopting this resolution to study the creation of a regional water and sewer authority to serve the citizens within the communities represented by such governmental entities.

The Staff of each governmental entity is directed to study and draft an agreement to create a regional water and sewer authority for recommendation to the governmental entities.

This Resolution shall be effective upon adoption.

# RECOGNITION FOR COMMENTS

Fred Niehoff, Mayor of the City of Hendersonville, expressed some concerns that we're focusing a little too narrowly on a possible solution to the problems. He agreed with all the WHEREAS statements in the Resolution. He felt that moving to a regional water and sewer authority may be a little premature. He passed around copies of a hand-out for review. He would like to see the following happen:

That the entities concerned set up an organization to discuss and study the short and long-term needs of the two counties,

That those needs be considered as each entity plans for the future,

That the water resources in the two counties be inventoried,

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That we examine the impact that potential siting of future sewage treatment facilities has on those water resources,

To examine the possibility of joint ventures and the development of new treatment facilities and to examine the possibility of permanently linking the system to the two counties so that service can be transferred back and forth as needs arise and that the entities involved commit to the continuing of the spirit of cooperation that has existed in the past.

Mayor Niehoff stated that today's meeting could be the starting point of a much broader discussion on regional cooperation rather than just jumping right into one question.

Chairman Good asked his Board to adopt the resolution at this point in time. He recognized Commissioner Bill McKay who spoke in favor of the resolution to study the matter. He will look at this as one option. Commissioner McKay moved adoption of the Resolution by the Henderson County Board of Commissioners. Commissioner Edney seconded the motion. The motion carried by a unanimous vote.

Dr. Gene Rainey asked his Buncombe County Commissioners to join him. Commissioner Bill Stanley made the motion to adopt the Resolution. Commissioner Patsy Keever seconded the motion. The motion carried by a unanimous vote.

Mayor Fred Niehoff, City of Hendersonville, did not have a quorum present. He stated that he is optimistic that this is the beginning of a satisfactory conclusion that is going to benefit all of us.

Mayor Russell Martin, City of Asheville, asked his Commissioners to join him. Commissioner Lenny Sitnick made the motion to adopt the Resolution. Commissioner Herb Watts seconded the motion. The motion carried by a unanimous vote.

Ernest Ferguson, Asheville/Buncombe Water Authority, asked his board members to join him. Asheville/Buncombe Water Authority adopted the Resolution by a unanimous vote.

Ben Slossman, MSD, spoke in favor of the concept of the resolution. MSD will discuss the resolution at their meeting this afternoon.

Chairman Good adjourned this part of the meeting (at 1:35 p.m.) and thanked all who came.

# 2:00 Work Session - Water Supply Watershed Protection Ordinance/ French Broad River Watershed Work Session

Present: Chairman Vollie G. Good, Vice-Chair Renee Kumor, Commissioner William McKay, Commissioner Hugh D. Randall, County

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Manager David F. Thompson, Assistant County Manager David E. Nicholson, Staff Attorney Angela M. Skerrett, and Clerk to the Board Elizabeth W. Corn.

Also present were Matt Matteson, Karen Collins, Stuart Rohrbaugh, and Sam Laughter.

Absent was Commissioner J. Michael Edney.

Matt Matteson stated that the purpose of this meeting was to discuss the French Broad River Watershed. Staff has met on this item and discussed it at great length. The recommendation was that high density be allowed in this watershed to achieve a 70% built upon area. WS IV (French Broad River Watershed) differs from WS II. The most significant difference is that WS IV does not allow a 5/70 or 10/70 option without stormwater controls.

There was much discussion. It was the consensus that the Henderson County Board of Adjustment be named at a later date as the Watershed Review Board.

"Curb and Gutter" vs. "Natural Filter and Drainage System" was discussed at length. Use of natural filter and drainage system allows a 12% bonus or additional built upon area.

Sam Laughter discussed building trends based upon building permits that have been issued over the past several years. There was a large amount of mobile home and residential activity which roughly represents 9% of county development that would fall within this area. There were commercial trends here that were not seen in the Mills River Watershed area. Along the recommended corridors, there was much industrial and commercial development occurring frequently.

Karen Collins stated that the Town of Fletcher's Watershed Ordinance went into effect in October of 1993. They have the high density option available throughout the town of Fletcher. Any areas that are annexed will also have high density available. Stuart Rohrbaugh pointed out on a map other areas that are being studied for annexation by the town of Fletcher.

Matt Matteson discussed development in this watershed, stating that a developer does not need an erosion and sedimentation control plan because no more than one acre will be developed or disturbed. If that is the case, the developer can go to Sam Laughter and show proper evidence and receive an exemption certificate. The exemption certificate would mean that not only does the developer not have to build a stormwater detention device to get 70% but would be exempt from the entire watershed water supply ordinance. It was felt that development of less than an acre would not measurably impact the water quality.

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It was the consensus of the Board to accept the recommendation of staff and allow high density in the French Broad River Watershed area.

Staff will prepare additional drafts now that they know the consensus of the Board and prepare a map for the Boards review and approval at a later date. An additional work session will be held.

The work session was adjourned at 3:25 p.m.

## **EXECUTIVE SESSION**

Commissioner Kumor made the motion for the Board to go into Executive Session. All voted in favor and the motion carried.

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

As there was no further business, the meeting was adjourned.

ATTEST:

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