

MINUTES**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS
SEPTEMBER 7, 1993**

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 Vollie G. Good; Vice-Chairman J. Michael Edney; Commissioner Hugh D. Randall; County Manager David F. Thompson; County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

Also present were Finance Director Peter a Molleur; Staff Attorney Angela M. Skerrett; and Planning Director Matt Matteson.

Absent were Commissioners Renee Kumor and William McKay and Assistant County Manager David E. Nicholson.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Chairman Good led the Pledge to the American Flag.

INVOCATION

Martin Luecke, Pastor of Mt. Pisgah Lutheran Church, gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

There was none.

CONSENT AGENDA**REVIEW OF MINUTES**

The minutes of the 07/22/93 and 08/02/93 meetings were presented for review and approval.

NOTIFICATION OF VACANCIES

Four vacancies on the Hendersonville Zoning Board of Adjustment were reviewed for information only. These vacancies will appear as Nominations on the next agenda.

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PROCLAMATIONS

The following proclamations were presented for approved by the Board:

- (1) National Hunting and Fishing day-September 25, 1993
- (2) Let's Talk Month-October 1993

PUBLIC HEARINGS

The Board was requested to schedule the following Public Hearings:

- (1) Carriage Park PUD -- Monday, September 27, 1993 at 1:00 p.m.
- (2) Bearwallow Valley New Zoning District -- Monday, September 27, 1993 at 7:00 p.m.

Commissioner Edney asked that the August 2 minutes be pulled for discussion. A letter was received from Commissioner Edney regarding the August 2 meeting (he was absent) requesting that action be delayed on two items. Commissioner Edney requested that his letter be made part of the minutes of that meeting.

There was considerable discussion. It was the consensus of the Board that these minutes be pulled and held until an interpretation and recommendation from the County Attorney is received regarding these minutes.

Commissioner Edney made the motion to approve the Consent Agenda with the exception of the August 2 minutes. All voted in favor and the motion carried.

INFORMAL PUBLIC COMMENTS

1. Lela McBride- Ms. McBride presented a letter from the League of Women Voters of Henderson County commending Nippy Page and the Solid Waste Advisory Committee on their efforts toward implementing a Solid Waste Management Plan.
2. Max Hammonds, MD- Dr. Hammonds, President Elect of the Henderson County Medical Association, urged the Commissioners to enact a local ordinance limiting smoking in public places.

CABLEVISION PRESENTATION

Craig L. Simon, Regional General Manager with CableVision made a presentation to the Board concerning the 1992 Cable Act, which limits cable rates, must-carry/retransmission procedures, and service requirements. Mr. Simon also reviewed with the Board the new rate structure and premium packages offered by CableVision. No action was necessary.

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This was an informational presentation only.

PUBLIC NUISANCE APPEAL

Commissioner Randall made a motion to go into Public Hearing on the public nuisance appeal. All voted in favor and the motion carried.

Mr. Rick Maxwell, who was making the appeal, was not properly notified that the appeal was to occur on this date. He was not in attendance; therefore, this appeal was rescheduled for the October 4, 1993 Board of Commissioners' meeting. Mr. Maxwell will be notified by Certified Mail.

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

REQUEST TO NAME NC 191 BRIDGE

1. Ms. Ramona Bryson informed the Board of the names of the people who will be serving on the Commemorative Community Committee. She reviewed briefly the commemorative events that will take place in Henderson County through 1995.

2. Ms. Ramona Bryson requested that the Board of Commissioners support naming the bridge in South Mills River on NC Hwy. #191 after Mr. James Davenport. She presented a petition with 799 signatures and requested a letter of support from the Board of Commissioners.

By consensus the Board agreed to show support for Ms. Bryson's request to the North Carolina Department of Transportation. The Board of Commissioners will request the N.C. Department of Transportation to act on this item based on their current policy which would require action within 60 days.

PURCHASE OF BUILDING FOR TRAVEL & TOURISM

Frank Todd, Jr., Chairman of the Travel & Tourism Committee, and Melody Heltman, Executive Director of Travel & Tourism, requested that the Board of Commissioners consider purchasing a building for the Henderson County Travel & Tourism Visitor Center. Representatives from Travel & Tourism shared with the Board statistics on the current facility in order to illustrate the need for a new facility. The Travel & Tourism Committee recommended to the Board of Commissioners that Henderson County purchase this property to be utilized as the Travel & Tourism Visitor Center and that Henderson County enter into an installment contract for financing purposes including sufficient funds for renovating the building to meet ADA requirements. Mr. Todd presented to the Board of Commissioners a five-year projection on occupancy tax revenues prepared by Peter Molleur, Finance Director, and reviewed the manner in which additional rooms would

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affect these revenues. The Commissioners took no action upon the request at this time. The Board agreed to discuss the details of this proposed purchase in Executive Session.

REMOVAL OF ROOM TAX PENALTY REQUESTS

Peter Molleur, Finance Director, presented to the Board requests from Bee Hive Cottages #1 and Orchard Lake Campground for removal of the late penalty associated with the Henderson County Room Occupancy Tax.

After discussion, Commissioner Randall moved to deny the requests based on Mr. Molleur's recommendation. All voted in favor and the motion carried.

MATERIALS RECOVERY FACILITY (MRF)

David F. Thompson, County Manager, and Nippy Page, Integrated Solid Waste Planner, presented to the Board a contract with GDS to operate a MRF in Henderson County. GDS proposes in the contract to lease a site, equip the facility, and provide operational services of a full recycling center. The term of the contract with GDS would initially be three years.

Following discussion, Commissioner Edney made a motion to approve the contract with GDS with an amendment that the contract cannot be assigned without the Board of Commissioners' approval. All voted in favor and the motion carried.

SMOKING ORDINANCE

Angela Skerrett, Staff Attorney, presented to the Board a draft Smoking Ordinance, regulating smoking in County-owned Buildings. The Ordinance provides for the County Manager to designate smoking areas in County Buildings at his discretion. The General Statutes do not require a public hearing on this Ordinance; however, a unanimous vote would be required to adopt the Ordinance during this meeting.

Vice-Chairman Edney made a motion to hold a public hearing on this Ordinance on November 1, 1993. The motion was defeated.

After much discussion, Commissioner Randall made a motion to adopt the draft Ordinance as presented by the Staff Attorney, effective upon adoption. A vote was taken and the motion carried unanimously.

A short recess was taken.

PROPOSED WATER SUPPLY/WATERSHED PROTECTION ORDINANCE

Matt Matteson, Planning Director, presented a proposed Water Supply/Watershed

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Protection Ordinance for the Board's consideration. The Henderson County Planning Board reviewed this document during their August 31, 1993 meeting and recommended its adoption. Henderson County must enact an ordinance by January 1, 1994. Mr. Matteson presented a list of all actions, including public hearings, the Board is required to take in order to enact this ordinance.

After much discussion the Board scheduled a workshop on October 13, 1993 at 1:00 p.m. on this proposed ordinance.

FRENCH BROAD RIVER WEEK

The Board of Commissioners considered a resolution proclaiming September 11 through 19, 1993 as French Broad River Week.

Vice-Chairman Edney made a motion to adopt this resolution. All voted in favor and the motion carried.

There was discussion regarding the Mayor's Cup Raft Race. There were two volunteers: Angela Skerrett and Melody Heltman.

SET PUBLIC HEARING ON ROAD NAME- Soapstone Rd./Connelly Road

The Planning Department presented a road name petition requesting that Connelly Road, which was previously approved by the Board of Commissioners on September 18, 1993, be changed to Soapstone Road.

Vice-Chairman Edney made a motion to schedule a public hearing for November 1, 1993 at 7:00 p.m. All voted in favor and the motion carried.

LOCAL EMERGENCY PLANNING COMMITTEE

The Commissioners considered adding three members to the Local Emergency Planning Committee. Catherine Ayscue of the Fire Marshal's Office; Don Bowen, Chief of Fletcher Volunteer Fire Department; and Rick Livingston, Chief of Mills River Volunteer Fire Department.

Vice-Chairman Edney made the motion to appoint these three persons to the Local Emergency Planning Committee. All voted in favor and the motion carried.

COURTHOUSE FINANCING DOCUMENTS

Peter Molleur, Finance Director, presented to the Board of Commissioners a final draft of the Courthouse financing documents. These documents were prepared by Henderson County's bond counsel and include the Financing Contract, Declaration of Easements,

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Deed of Trust, Security Agreement, and a draft Resolution.

Chairman Good stated that the Board must consider and take action on a Resolution concerning the installment financing to provide for (i) the construction and equipping of a new County courthouse; and (ii) the site preparation for a new law enforcement center and county jail (the "Facilities").

Vice-Chairman Edney introduced the following Resolution which was read by title, and moved that it be adopted:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN INSTALLMENT FINANCING CONTRACT AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, there have been available at this meeting forms of the following:

1. A draft dated September 2, 1993 of the form of Installment Financing Contract to be dated as of September 10, 1993 (the "Contract") between the County and Southern National Leasing Corp. (the "Corporation");
2. A draft dated September 2, 1993 of the form of Deed of Trust and Security Agreement to be dated as of September 10, 1993 (the "Deed of Trust") from the County to a trustee for the benefit of the Corporation;
3. A draft dated September 2, 1993 of the form of Declaration of Easement to be dated as of September 10, 1993 (the "Declaration") to be executed by the County; and
4. A draft dated September 7, 1993 of the form of Escrow Agreement to be dated as of September 10, 1993 (the "Escrow Agreement") among the County, the Corporation and Southern National Bank of North Carolina; and
5. A draft of the form of the Conditional Assignment of Construction Contract and Plans and Specification to be dated as of September 10, 1993, to be executed by the County and M.B. Kahn Construction Co., Inc.; and
6. A draft of the form of the Rebate Compliance Agreement to be dated 9/10/93 and executed by the County.

WHEREAS, the Board duly conducted a public hearing on August 2, 1993 regarding the Contract to finance the Facilities and, by resolution duly adopted on August 2, 1993, the installment financing of the Facilities was approved to further action of the Board; and

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WHEREAS, the North Carolina Local Government Commission approved the County's application for approval of the Contract on August 3, 1993; and

WHEREAS, the Board desires to approve the Contract and to authorize other actions in connection therewith.

NOW, THEREFORE, BE IT RESOLVED by the Board, as follows:

1. All actions of the County effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the documents referred to above.

2. Each of the Contract, the Deed of Trust, the Declaration and the Escrow Agreement in the form submitted to this meeting, is hereby approved, and the Chairman of the Board, the County Manager and the Clerk to the Board, as the case may be, are hereby authorized and directed to execute and deliver each of these documents on behalf of the County, with such changes, insertions or omissions as they may approve, their execution thereof to constitute conclusive evidence of their approval.

3. The Chairman of the Board, the County Manager, the Clerk to the Board, and Finance Officer, the County Attorney and the Staff Attorney are hereby authorized to take any and all such action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this Resolution and to effect the installment financing pursuant to the Contract. Without limiting the generality of the foregoing, the Chairman of the Board, the County Manager, the Clerk of the Board and the Finance Officer are authorized to approve all details of the financing, including, without limitation, the amount advanced under the Contract (which will not exceed \$6,725,805), annual payments under the Contract, the interest rates with respect to such payments (which shall not exceed 3.97% per annum) and the term of the Contract (which shall not exceed seven years). Execution of the Contract by the Chairman of the Board or the County Manager, as the case may be, shall conclusively evidence approval of all such details of the financing.

4. The County hereby appropriates the sum of \$2,300,000 from cash on hand to be deposited in the Project Fund (as defined in the Contract), which amount shall represent the County's contribution in aid of construction of the Project.

5. The County hereby represents that it reasonably expects that the County, together with all subordinate entities thereof and any other entities which issue obligations on behalf of the County, will not issue more than \$10,000,000 of tax-exempt obligations (other than private activity bonds, except for qualified 501(c)(3) bonds) during calendar year 1993. The County hereby designates its obligations under the Contract as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Internal Revenue Code.

6. This Resolution shall become effective immediately upon its adoption.

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Commissioner Randall seconded the motion and the motion was adopted by the following vote:

AYES: Chairman Good
Commissioner Edney
Commissioner Randall

NAYS: None

NOMINATIONS

1. **Motor Vehicle Valuation Review Board:** Chairman good nominated William V. (Bill) Powers as a regular member. Vice-Chairman Edney made the motion to suspend the rules and make the appointment. All voted in favor and the motion carried. There are two remaining vacancies as alternates which were rolled to the next meeting.
2. **Solid Waste Advisory Committee:** Commissioner Randall nominated Mrs. Joy Blazey. Vice-Chairman Edney made the motion to suspend the rules and make the appointment. All voted in favor and the motion carried.
3. **Henderson County Planning Board:** Vice-Chairman Edney nominated William Patterson. Chairman Good made the motion to suspend the rules and make the appointment. All voted in favor and the motion carried.
4. **Land-of-Sky Retired Senior Volunteer Program:** Vice-Chairman Edney nominated Garry Sherrill to serve an additional term. Commissioner Randall made the motion to suspend the rules and make the appointment. All voted in favor and the motion carried.

ROAD PETITIONS

The Board of Commissioners reviewed road petitions on Huntley Road and Bowman Ridge Road. Vice-Chairman Edney made the motion to submit these road petitions to the North Carolina Department of Transportation with the stipulation that they not be taken out of priority on the list for paving. All voted in favor and the motion carried.

IMPORTANT DATES

The Commissioners reviewed the calendar of upcoming meetings and added the October 13, 1993 meeting at 1:00 p.m. on the Water Supply/Watershed Protection Ordinance and the November 1, 1993 Public Hearing scheduled for 7:00 p.m. on Connelly Road.

EXECUTIVE SESSION

Vice-Chairman Edney made the motion that the Board go into Executive Session as allowed under General Statute 143-318.11 to discuss the following matters:

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1. To consult with the County Attorney to the extent that confidentiality is required.
2. To consider the selection of a site or the acquisition by any means or lease as lessee of interests in real property.
3. To consider a personnel matter.


All voted in favor and the motion carried.

Vice-Chairman Edney made the motion that the Board go out of Executive Session. All voted in favor and the motion carried.

There being no further business, the meeting was adjourned.

ATTEST:


Elizabeth Corn
Clerk to the Board


Vollie G. Good
Chairman

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

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VOLLIE G. GOOD
CHAIRMAN
J. MICHAEL EDNEY
HUGH D. RANDALL
WILLIAM MCKAY
RENEE KUMOR

DAVID F. THOMPSON
COUNTY MANAGER

**PROCLAMATION
FOR
"LET'S TALK MONTH"**

WHEREAS, the family has always been and remains the source of community values in a society; and,

WHEREAS, open communication enables family members to share their joys, sorrows, successes and failures, and thereby build honesty, trust, self-respect, and love among each other; and,

WHEREAS, broken lines of communication among family members fracture traditional stability of domestic life and increase the likelihood of young people being drawn into the confusion of teenage pregnancy, substance abuse, delinquency and suicide; and,


WHEREAS, parents should retain an open mind and listen to their children, whatever their questions, problems, and concerns; and,


WHEREAS, children should learn to talk to their parents, honestly sharing with them their thoughts, feelings, and concerns; and,

WHEREAS, the family should be given community support in this vital area of parenting to improve the quality of family life;

NOW, THEREFORE BE IT RESOLVED that the Henderson County Board of Commissioners does hereby proclaim **October 1993** as "**Let's Talk Month**" in Henderson County, and urges all family members to open the lines of communication and work to solve adolescent pregnancy, drug abuse, and other problems facing youth in our county.

Adopted this the 7th day of September, 1993.


Elizabeth W. Corn, Clerk


Vollie G. Good, Chairman

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

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COUNTY MANAGER

RESOLUTION

FRENCH BROAD RIVER WEEK

WHEREAS, the French Broad River and its tributaries are a vital part of our mountain environment, lending natural beauty to the area, and providing sources of water supply and recreation, and are linked closely to our historical and cultural heritage; and

WHEREAS, local citizens, their elected officials and other interested groups have an active interest in protecting and enhancing the streams of this area and encouraging enjoyment of the scenic beauty and recreational potential of the French Broad River system;

NOW, THEREFORE, BE IT RESOLVED that Henderson County joins with other units of local government in proclaiming:

FRENCH BROAD RIVER WEEK

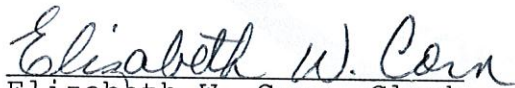
SEPTEMBER 11 - 19, 1993

This, the 7th day of September, 1993.



Vollie G. Good, Chairman
Henderson County Board of
Commissioners

Attest:



Elizabeth W. Corn, Clerk