

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
AUGUST 2, 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, Commissioner Hugh D. Randall, Commissioner William McKay, Commissioner Renee Kumor, County Manager David F. Thompson, Assistant County Manager David E. Nicholson, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn.

Absent was Vice-Chairman J. Michael Edney.

CALL TO ORDER/WELCOME

Chairman Good called the meeting to order and welcomed all in attendance. He announced to an overflow crowd that the overflow speakers were on in the hall and waiting area of the building. He informed them that the Public Hearings would be held first.

PLEDGE OF ALLEGIANCE

Commissioner Randall led the Pledge to the American Flag.

INVOCATION

Commissioner McKay gave the invocation.

DISCUSSION/ADJUSTMENT OF AGENDA

David Nicholson added item "G" Resolution to amend the Personnel Resolution.

CONSENT AGENDA

Commissioner Kumor made the motion to approve the consent agenda as presented. All voted in favor and the motion carried.

ITEMS ON THE CONSENT AGENDA:

A. Notification of Vacancies:

1. Community Child Protection Team - 5 vacancies
2. Henderson County Planning Board - 1 vacancy

These required no action, for information only. They will be on the next agenda as "nominations".

B. 1. Request for Public Hearing for Public and Private Road Names.

It was requested that the next Public Hearing be set for October 4, 1993.

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2. Designation of Non-Conflicting State Road Names.

A list was supplied of public roads that are in agreement with State Road names and numbers that the Board of Commissioners need to re-adopt at this time.

3. Property Addressing Report.

This report was for information only.

INFORMAL PUBLIC COMMENTS

1. Ramona H. Bryson - request to become a Commemorative Community/50th Anniversary of World War II.

Chairman Good recognized Mrs. Bryson who addressed the Board. Mrs. Bryson was selected to represent the State of North Carolina at the Department of Defense National History Day Institute in Washington, D.C. There were 50 teachers present, one from each State. Mrs. Bryson teaches 8th grade N.C. History and American History.

To qualify as a "Commemorative Community" one must:

1. Organize a Commemorative Committee.
2. Plan three (3) or more events per year from 1993 through 1995.
3. Submit a completed application form.
4. Agree to keep the Department of Defense informed of activities through brief reports.

Upon approval of our application, our committee would receive:

1. An official WW II commemorative flag and authorization to use the 50th anniversary logo.
2. A certificate from the Secretary of Defense designating our organization as an official "WW II Commemorative Community".
3. Informational and educational materials pertaining to WW II, including maps, posters, fact-sheets and a historical chronology.
4. A subscription to the "World War II Dispatch," a quarterly newsletter and a source of official information on WW II Commemorative Events.

Mrs. Bryson was excited and committed to this project.

Commissioner McKay, as a Veteran of World War II, made the motion to approve this request and apply to become a Commemorative Community for the 50th Anniversary of WW II and set the process in place. All voted in favor and the motion carried.

2. Donald J. Godehn - Mr. Godehn is the current President of the United Way Board of Henderson County. Mr. Godehn spoke in support of the funding of FOCUS.

3. Paul Connell - Mr. Connell requested that his road be named so that emergency vehicles could locate him and his tenants.

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4. Gary Warsop - Mr. Warsop spoke regarding a microwave tower which is being erected on Butt Mountain. He expressed concerns regarding radiation and safety of individuals and pets. He also expressed concerns about a drop in property values in the vicinity.

CHAIRMAN'S COMMENTS

Chairman Good was informed of this tower this week and followed up on it. He found that the tower is being erected by Cellularone, who is associated with Sunrise Trust. Cellularone is headquartered in Shelby, N.C. and the phone number is listed in our telephone directory. The tower is on land leased by Mr. John Potts. A permit was acquired in Mr. Pott's name to erect the tower. The tower will be approximately 400 feet tall. It is not suppose to interfere with T.V. satellite dishes because of the difference in frequencies. Mr. Good visited the site one day last week with one of the local residents, Mr. Burrell.

5. Norma W. Frost - Mrs. Frost spoke in favor of the County funding of FOCUS.

PUBLIC HEARING - Courthouse Installment Financing Contract

Commissioner McKay made the motion to go into Public Hearing (7:27 p.m.) to hear public comments on the Courthouse Installment Financing Contract. All voted in favor and the motion carried.

Peter Molleur, Finance Director, informed the Board that we are nearing completion of the financing portion of the courthouse construction, with this public hearing. The public hearing is on the financing documents.

The financing will be provided by Southern National Leasing Corporation of Charlotte, N.C. at an interest rate of 3.97% paid quarterly over a seven year period. The total payments for the loan will be \$7,736,694.56. The total amount of financing cost on the \$6,725,805.00 borrowed will be \$1,105,242.08. After the public hearing a Resolution will need to be adopted by the Board of Commissioners for the financing with Southern National.

David Thompson stated that staff will be sending out a five page questionnaire to each of the references of the low bidders. When you talk about responsive bidders, you're not only talking about their ability to do this size of project but also do they have the financial capabilities to do the project and to be sure that the quality of their work in the past has been judged as acceptable. He envisioned the Board of Commissioners being able to determine the final dollar amount of the project at the August 18 meeting.

Staff will be going to the Local Government Commission (LGC) tomorrow to get the financing package approved so that the Board of

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Commissioners can actually award construction bids on August 18.

Chairman Good stated that a notice of hearing had been published on July 19, 1993, in the Hendersonville Times News and the Asheville Citizen Times, and the Board will hold a public hearing on the question of the County's proposed installment financing 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.

At 7:27 o'clock p.m., Commissioner McKay declared the public hearing open and announced that the Board would hear anyone who wished to be heard on the proposed financing. The names and addresses of the persons who were present, summaries of their oral comments and copies of their written comments are attached as Exhibit "A" hereto.

Public Input

1. Paul Connell - Mr. Connell did not wish to speak.
2. Robert Hansen - Mr. Hansen stated that he would not have signed up to speak had he known how far along the project was. He stated that it appears we have good financing lined up. He questioned the use of the old courthouse. He also questioned suitable parking.

David Thompson asked Mr. Hansen to call his office to set up a time to go over the courthouse plans with him and to discuss his ideas for downtown Hendersonville.

Chairman Good then asked the Board to consider and take action on a Resolution approving the proposed installment financing subject to further action of the Board.

Commissioner McKay then introduced and moved the adoption of a Resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, APPROVING INSTALLMENT FINANCING FOR THE CONSTRUCTION AND EQUIPPING OF A NEW COUNTY COURTHOUSE AND THE SITE PREPARATION FOR A NEW LAW ENFORCEMENT CENTER AND COUNTY JAIL" which was read at length (by Peter Mollieur) and incorporated in the minutes of the meeting as Exhibit "B".

Commissioner Kumor seconded the motion and, after discussion, the Resolution was adopted by the following vote:

AYES: Chairman Good
 Commissioner Kumor
 Commissioner McKay
 Commissioner Randall

NAYS: None

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Commissioner McKay made the motion for the Public Hearing to be closed. All voted in favor and the motion carried.

Action - Commissioner McKay made the motion to adopt the Resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, APPROVING INSTALLMENT FINANCING FOR THE CONSTRUCTION AND EQUIPPING OF A NEW COUNTY COURTHOUSE AND THE SITE PREPARATION FOR A NEW LAW ENFORCEMENT CENTER AND COUNTY JAIL". The motion was seconded by Commissioner Kumor. A vote was taken as follows:

AYES: Chairman Good
 Commissioner Kumor
 Commissioner McKay
 Commissioner Randall

NAYS: None

The motion carried.

PUBLIC HEARING - Road Names

Commissioner Kumor made the motion to open the Public Hearing to receive public input regarding the naming of public and private roads. All voted in favor and the motion carried.

Susan Sneed informed the Board of a list in the agenda packet of non-conflicting private streets. These are on list "A". They result from petitions signed by property owners stating that they want to name their private street. Staff has reviewed the street name for duplication/and or multiple identity. Staff has posted the road and placed notice of the hearing in the local newspaper.

Susan Sneed has seven people who have signed cards, wishing to address one of the roads on this list. Mrs. Sneed recognized those wishing to speak:

1. Gladys Fisher - Mrs. Fisher spoke regarding **Gilbert Brook Lane**. She would like to have the name MACE incorporated somehow in the road name. The road enters into the Mace's 46 acres and is the only outlet to the main highway.

This road name was pulled from the list, for further review.

2. Gladys C. Wilson - Mrs. Wilson spoke in opposition of the name **Mountain Haiku Road**. She would like the family name Rhodes incorporated in the road name.

3. Mary Rhodes Ritchie - Mrs. Ritchie spoke in opposition of the name **Mountain Haiku Road**. She would like the name Rhodes End as the road name.

4. Kay Rhodes Reese - Mrs. Reese spoke in opposition of the name **Mountain Haiku Road**. She would also like the name Rhodes End.

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5. Stephani Oshima - Mrs. Oshima spoke about nature. Haiku is a poem about nature. She thought that Mountain Haiku would make us think about the beauty of nature around us.

6. Maxine Banks - Mrs. Banks spoke in opposition of **River Crest Drive**. She requested the name Dudley Drive for the road.

7. Paul Jackson - Mr. Jackson spoke in opposition of **River Crest Drive**. He also requested the name Dudley Drive instead of River Crest Drive.

Chairman Good requested that Mountain Haiku Road and River Crest Drive both be pulled from the list, for further study.

"B" Non-Conflicting Private Streets

These street names have been documented from one or more of the following sources: United States Postal Service, Land Records Maps, Southern Bell Master Street Address Guide, Champion Map, Existing Street Name Sign, or Local Reference. Staff has reviewed the street name for duplication/and or multiple identity. Staff has posted the road and placed notice of the hearing in the local newspaper.

8. Don Painter - Mr. Painter spoke in opposition of **Carroll Lane**. He suggested the name Craig Drive.

9. Max Hutchins - Mr. Hutchins spoke in opposition of **Creekside Court**. He suggested the name Forge Valley Drive.

Chairman Good requested that both Carroll Lane and Creekside Court be pulled from the list, for further study.

"E" Conflicting State Roads

These street names may result from petitions received by property owners stating that they want to rename their street due to a name duplication or multiple identity.

These street names may also result from the planning staff posting one street name for a street that has multiple names. The decision of one street name over another is derived from the street name being documented from more than one of the following sources: United States Postal Service, Land Records Maps, Southern Bell Master Street Address Guide, Champion Map, or Existing Street Name Sign. Staff has posted the road and placed notice of the hearing in the local newspaper.

10. James E. Darity - Mr. Darity spoke in opposition of **Collins Street** (SR #1466). He suggested the name Thomas Road.

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11. Azalea Collins Davidson - Mrs. Davidson spoke in favor of **Collins Street**.

12. William Collins - Mr. Collins spoke in favor of **Collins Street**.

13. Barbara Darity - Did not speak.

14. Helen Collins White - Mrs. White spoke in favor of the name **Collins Street** but if it can't be, then she would like for a name to be submitted that everyone living in the area would be comfortable with.

15. Joseph Lee Darity - Mr. Darity wanted to be sure that the name **Darity Street** would not be changed (SR #1364).

16. Lula Mills - Mrs. Mills did not speak.

17. Peter Mills - Did not speak.

18. John Darity - Did not speak.

19. Ruth Darity - Did not speak.

20. Sandra Smith - Mrs. Smith spoke in favor of **Old Souther Road** staying Souther Road (SR #1567).

21. Wade Souther - Mr. Souther spoke in favor of **Souther Road**, not Old Souther Road.

22. Elizabeth Taylor - Mrs. Taylor spoke in opposition of **Old Sunset Drive**. She would prefer Sunset Hill Road or Old Sunset Hill Road.

23. Patricia L. Tripp - Mrs. Tripp spoke in opposition of **Tankersley Road**. She preferred either Zircon Ave. or White Oak Drive, which were old names for the same road.

24. Paul R. Connell - Mr. Connell spoke in favor of **Lindsay Drive**.

Chairman Good asked that the following road names be pulled, for further study:

Collins Street, Lindsay Drive/Specht Drive, Little Mexico Road, Old Souther Road, Old Sunset Drive, and Tankersley Road.

Commissioner Kumor made the motion to close the public hearing. All voted in favor and the motion carried.

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ACTION

All the names discussed were pulled for further study. Commissioner Kumor made the motion to accept documentation as presented excluding the names pulled from the list. All voted in favor and the motion carried.

PUBLIC HEARING - Carriage Park/Special Use Permit

Commissioner McKay made the motion to go into Public Hearing to receive public comments. All voted in favor and the motion carried.

Matt Matteson, Director of Planning, informed the Board that the Henderson County Planning Board reviewed and discussed the application for a new Special Use Permit to develop the remaining areas of the project site at their meeting on July 27, 1993.

The reasons for the new application, since the existing permit was amended by the Board of Commissioners in January of 1992, are as follows:

1. A new owner has acquired the site.
2. Two new adjacent tracts have been acquired (40 acres)
3. A new concept of "neighborhood developments" has been offered which differs significantly from the old Master Plan.
4. The existing permit was issued in 1988 and does not conform to present day marketing strategies.

The Planning board, after considerable discussion, recommended approval of the proposal and listed several items which the Board of Commissioners could consider as specific conditions to the Special Use Permit. Numerous specific conditions were discussed.

After the Public Hearing, the Board would like to have a work session before taking action.

Luther Smith reviewed the development process they plan to take. It will be a 10-15 year process.

Public Input

1. Joe Hope - Mr. Hope is an adjoining property owner. He spoke in opposition of the proposed Special Use Permit. He has had some damage to his property as a result of the building of the club house. His property has not been restored as yet. He requested that the Special Use Permit not be approved until restoration of his property has been made.

2. Merwin Ray - Mr. Ray is an adjoining property owner. According to maps his right-of-way has been eliminated and a lake designed

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over it. He has experienced continuous silt and water run off damage to the right-of-way from Carriage Park.

3. Virginia Burke - Mrs. Burke is a homeowner and resident of Carriage Park for the past 4 1/2 years. She supports the overall plan and concept and request for a new Special Use Permit.

4. Dean Malsbary - Mr. Malsbary is a homeowner and resident of Carriage Park. He spoke of the needless cutting of numbers of trees in the development of Carriage Park as well as other developments. He was also concerned about the additional housing planned around the club house.

5. Lou Gerard - Mr. Gerard is a homeowner and resident of Hunter's Crossing, which is adjacent to the new development at Carriage Park. He spoke in opposition of the amount of flexibility built into the development plan. He would prefer to know if the site would house an apartment, a condominium, or a cottage.

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

There was discussion as to when to hold the work session. The work session was set for August 18 at 3:00 p.m., here.

RELEASE OF CONTINGENCY FUNDS/FOCUS

David Thompson reminded the Board that previously the Board instructed staff, during the budget work sessions, to put aside the \$2,000 that the Board was considering for FOCUS in contingencies. It is in the budget. It would have to be released from contingencies. There is also an amount for BRCC, a separate issue.

The Board instructed staff to bring this issue forward at the first meeting in August.

Pam Sacco, President of FOCUS (Friends of Children United Services), presented over 1,000 petitions of persons who support FOCUS. She also has received letters of support from the county agencies who work with FOCUS.

Ken Feagan, Vice President of FOCUS, requested that \$1,500 - \$2,000 be considered for FOCUS from Henderson County.

Polly Penland - Mrs. Penland is a member of the original Task Force. In the past 3 1/2 years they have handled 500+ allegations of child sexual abuse.

Monica Beck - Ms. Beck is a survivor of sexual abuse. She spoke about the benefits of the coordination of services and the support she received from FOCUS.

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Pam Sacco - Mrs. Sacco thanked all those who attended the meeting in support of FOCUS.

ABSENCE OF COMMISSIONER EDNEY

Chairman Good announced that Mr. Edney was absent at the meeting because of a court case he is involved with, he is preparing for that case tonight.

Commissioner Kumor made the motion to release the \$2,000 to FOCUS from contingencies. Commissioner Kumor referred to the budget deliberations in which Commissioner Edney very clearly stated that the process of the group interview and the concern that is given to children in this community is not something that he has ever questioned and he supports that entirely. He had some other issues that were not related to the delivery of the program.

A vote was taken and the motion carried unanimously.

RELEASE OF CONTINGENCY FUNDS/BLUE RIDGE COMMUNITY COLLEGE

David Thompson reminded the Board that they had reserved \$36,000 in contingency for Blue Ridge Community College. It has to be released from contingency before Blue Ridge Community College can access the funds.

There was some discussion. Commissioner McKay made the motion that the Board of Commissioners release the funds to Blue Ridge Community College from contingencies, in the amount of \$36,000. All voted in favor and the motion carried.

PROPOSED ZONING AMENDMENTS - Bearwallow Valley

Karen Collins, Planner, reminded the Board that this zoning request came before them on June 7, 1993, with a Planning Board request that the Board of Commissioners submit it back to the Planning Board for further study. At their July 27, 1993 meeting, the Planning board voted to send the Board of Commissioners a favorable recommendation on the proposed Bearwallow Valley Zoning Amendments.

It is now appropriate for the board to set a public hearing or work session for this request. The first possible date for a public hearing is September 7, 1993. The study area is large and this date is the first possible to ensure that all notices are sent out.

This is a new zoning classification - MR-2 Rural Mixed Use.

A work session was set for August 23, 1993 at 9:00 a.m., here.
A Public Hearing will be set after the work session.

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REQUEST FOR SUBDIVISION IMPROVEMENT GUARANTEES
2600 Old Kanuga

Karen Collins, Planner, informed the Board of a request from R. Michael Gilboy, on behalf of W. Stephen Gilboy, for the Board of Commissioners to approve an improvement guarantee for road construction improvements and installation of a fire hydrant for the subdivision called "2600 Old Kanuga". The developer intends to provide a certified check to the County in the amount of \$17,125, which includes a 25% overhead factor. A sample agreement was provided for review.

The property is located adjacent to Atkinson School on Old Kanuga Road. The preliminary plan was approved on October 27, 1992 by the Planning Board. The developer would like to put the plat on record and be able to sell lots.

After some discussion, Commissioner McKay made the motion to approve the request. All voted in favor and the motion carried.

FORECLOSED PROPERTY of James Franklin, Et Ux

Don Elkins reminded the Board that they had previously accepted the bid in the amount of \$1,000, subject to the property being advertised for upset bids. No upset bids were received.

Upon approval tonight, bid money would be collected and a deed prepared for Dennis C. & Marie I. Waters.

Commissioner Kumor made the motion to adopt the Resolution of Final Approval of Offer and Authorization of Sale of the above property. All voted in favor and the motion carried.

NOMINATIONS

1. Motor Vehicle Valuation Review Board (MVVRB) - 3 vacancies + 2 alternates. Commissioner Kumor nominated R.E. Harmon and Lisa Young. Commissioner McKay made the motion to suspend the rules and appoint these two to the MVVRB. All voted in favor and the motion carried.

2. Private Industry Council - 2 vacancies
Commissioner McKay nominated Margaret Blocker and Joanie Fischer to fill these two vacancies. Commissioner Kumor made the motion to suspend the rules and appoint both Mrs. Blocker and Mrs. Fischer. All voted in favor and the motion carried.

3. Nursing Home/Domiciliary Home Advisory Council - 2 vacancies
Commissioner McKay nominated Gladys Georgi for reappointment. Commissioner Kumor made the motion to suspend the rules and reappoint Mrs. Georgi. All voted in favor and the motion carried.

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4. Land-Of-Sky Regional Council, Action Committee - 1 vacancy
There were no nominations at this time so the item was rolled to the next meeting.

5. Solid Waste Advisory Committee (SWAC) - 1 vacancy
There were no nominations at this time so the item was rolled to the next meeting.

6. Western Carolina Community Action, Inc. - 2 vacancies
There were no nominations at this time so the item was rolled to the next meeting.

IMPORTANT DATES

Important dates were reviewed. Some new dates were discussed and added to the list. A revised calendar will be printed and distributed.

PERSONNEL RESOLUTION

Angela Skerrett has addressed the concerns that the Board of Commissioners had at their last meeting. Ms. Skerrett reminded the Board that the concerns were that the grievance procedure as presented had the predisciplinary conference and the appeals both going to the County Manager. Legally it afforded the employee due process but did not create the appearance of fairness.

There was also concern over the accountability of department heads. This has also been addressed in the personnel resolution as well as concessions regarding employees injured on the job.

There was discussion. Commissioner McKay made the motion to adopt the RESOLUTION TO AMEND THE PERSONNEL RESOLUTION as amended and presented. All voted in favor and the motion carried.

MUD CREEK WATER & SEWER DISTRICT

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

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

ACTION

Commissioner McKay made the motion to transfer \$39,600 out of contingencies to fund the Balfour School Sewer Project. All voted in favor and the motion carried.

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EXECUTIVE SESSION

Commissioner Kumor made the motion that the Board go into Executive Session as allowed under General Statute 143-318.11 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 means or lease as lessee of interests in real property.
- C. To consider a personnel matter.

Commissioner McKay 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 W. Corn
Elizabeth W. Corn, Clerk

Vollie G. Good
Vollie G. Good, Chairman

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

The Board of Commissioners (the "Board") of the County of Henderson, North Carolina, met in regular session in the Commissioners' Meeting Room at 100 North King Street, Hendersonville, North Carolina, the regular place of meeting, at 7:00 P.M., on August 2, 1993.

The following Commissioners were:

PRESENT: Chairman Vollie G. Good
Commissioner Hugh D. Randall
Commissioner William McKay
Commissioner Renee Kumor

ABSENT: Vice-Chairman J. Michael Edney

Commissioner Vollie G. Good ^v et stated that a notice of hearing had been published on July 19, 1993, in the Hendersonville Times News and the Asheville Citizen Times, ^{and July 23, 1993 v.B. ec} and that the Board would hold a public hearing on the question of the County's proposed installment financing 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.

At 7:27 o'clock P.M., Commissioner vollie G. Good declared the public hearing open and announced that the Board would hear anyone who wished to be heard on the proposed financing. The names and addresses of the persons who were present, summaries of their oral comments and copies of their written comments are attached as Exhibit "A" hereto.

After the Board had heard all persons who requested to be heard, the public hearing was adjourned.

Commissioner Vollie G. Good then asked the Board to consider and take action on a resolution approving the proposed installment financing subject to further action of the Board.

Commissioner William McKay then introduced and moved the adoption of a resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, APPROVING INSTALLMENT FINANCING FOR THE CONSTRUCTION AND EQUIPPING OF A NEW COUNTY COURTHOUSE AND THE SITE PREPARATION FOR A NEW LAW ENFORCEMENT CENTER AND COUNTY JAIL" which was read at length and incorporated in the minutes of the meeting as Exhibit "B".

Commissioner Renee Kumor seconded the motion and, after discussion, the Resolution was adopted by the following vote:

AYES: Chairman Good, Commissioner Randall, Commissioner McKay, and Commissioner Kumor
NAYS: None

EXHIBIT A

SUMMARY OF PUBLIC COMMENTS

[TO BE INSERTED]

One speaker only.

Mr. Robert Hansen - He raised a concern about what would be done with the vacated courthouse. He also raised the issue of parking. He thought we had very favorable financing.

EXHIBIT B

**RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE COUNTY OF HENDERSON, NORTH CAROLINA,
APPROVING AN INSTALLMENT FINANCING FOR THE
CONSTRUCTION AND EQUIPPING OF A NEW COUNTY COURTHOUSE AND
THE SITE PREPARATION FOR A NEW LAW ENFORCEMENT CENTER AND
COUNTY JAIL**

I. UNDERTAKING

WHEREAS, the Board of Commissioners (the "Board"), of the County of Henderson, North Carolina (the "County"), desires to provide for the construction and equipping of a new County Courthouse and the site preparation for a new Law Enforcement Center and County Jail (collectively the "Facilities") on certain County owned real property (collectively "the Sites"); and

WHEREAS, the Board proposes to finance the Facilities through an installment financing contract (the "Contract") with Southern National Leasing Corp. ("Southern National"), obligating the County to repay in installments an amount not to exceed \$6,725,800 (including construction and financing costs) financed at a fixed annual interest rate of not more than 3.97% over a term of approximately 7 years, resulting in an average annual payment of approximately \$1,105,242.08, and total payments of approximately \$7,736,694.56, pursuant to a proposal submitted by Southern National; and

WHEREAS, pursuant to N.C.G.S. Section 160A-20, the County is authorized to finance the construction, equipping and site preparation of the Facilities by entering into the Contract and

a deed of trust and security agreement (the "Deed of Trust") which create in the Facilities and the Sites a security interest to secure payment of the obligation thereby created; and

WHEREAS, subject to the prior approval of the Local Government Commission of North Carolina (the "LGC"), pursuant to N.C.G.S. Section 159-148, the County intends to finance the Facilities pursuant to said Section 160A-20, by executing and delivering to Southern National the Contract providing for the financing of a principal amount not to exceed \$6,725,800; and

II. UNDERTAKING NECESSARY

WHEREAS, the County staff has advised the Board, and the Board hereby finds and determines (i) that the County must construct and equip a new County Courthouse to replace the existing courthouse which was built in 1904 and does not contain adequate space for the current needs of the County, (ii) that the County must begin the site preparation work for a new Law Enforcement Center and County Jail which will replace the current facilities which are now located in the existing courthouse, and iii) that the Facilities will benefit the County and its residents; and

WHEREAS, the Board conducted a public hearing on the date hereof to receive public comment on the desirability of installment financing for the Facilities, and the Board received evidence supporting the need for such financing as described below; and

WHEREAS, the Board finds and determines that the undertaking is necessary and expedient for the aforesaid reasons and that the Facilities be financed under the terms and conditions heretofore stated; and

III. FUNDS NOT EXCESSIVE

WHEREAS, the sums to fall due under the Contract are approximately \$1,105,242.08 per year for 7 years and can be included in the County's budget without difficulty; and

WHEREAS, the above factors lead to the conclusion that the payments under the Contract are not excessive for the stated purposes of constructing and equipping the Facilities; and

IV. TRANSACTION A PUBLIC PURPOSE

WHEREAS, the County Attorney has advised the County that the Facilities are authorized by law and are purposes for which public funds may be expended pursuant to the Constitution and laws of North Carolina; and

V. INSTALLMENT PURCHASE FINANCING DESIRABLE

WHEREAS, the Board finds and determines that short term or pay-as-you-go financing would place strains on the County's ability to fund general operations and education without a significant tax increase; and

WHEREAS, use of the County's unobligated fund balance to finance the Facilities would reduce the fund below the guideline established by the LGC and would not be in the County's best interest; and

WHEREAS, the use of authorized non-voted debt would not provide sufficient funds to complete the Facilities in a timely manner; and

WHEREAS, installment contract financing would be preferable to general obligation bond financing because general obligation bond authorization probably could not be obtained in a timely manner and would not permit the alternative financing structures and repayment provisions available in the proposed negotiated installment contract financing; and

WHEREAS, the proposed cost of financing the Facilities amounts to approximately 19% of the County's budget for the fiscal year ending June 30, 1994, and the Board deems this too great an amount to be funded by current appropriations; and

WHEREAS, the Board finds and determines that installment contract financing is therefore the only viable and efficient alternative and that the cost of such financing is reasonable; and

VI. COMPLIANCE WITH DEBT MANAGEMENT CONTROLS

WHEREAS, past audit reports of the County indicate that its debt management and contract obligations payment policies have been carried out in strict compliance with the law and the County has not been censured by the LGC, external auditors, or any other regulatory agencies in connection with such management; and

VII. ESTIMATED TAX INCREASE

WHEREAS, the Board estimates that the County's ad valorem tax rate will be required to be increased by approximately 1 cent per \$100.00 assessed valuation; and

VIII. NO DEFAULT

WHEREAS, the County is not in default in meeting any of its debt service or contract obligations; and

IX. APPLICATION

WHEREAS, it is the Board's intention to adopt this Resolution for the purpose of authorizing the Facilities, approving the submission of an application for approval of the Contract to the LGC, and authorizing such other acts deemed necessary and advisable to carry out the construction and equipping of the Facilities.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, as follows:


Section I. The Board hereby authorizes the construction, equipping and site preparation of the Facilities. The Chairman of the Board, the County Manager, the Finance Officer, the County Attorney and the Clerk to the Board are hereby authorized and directed on behalf of the

County to proceed with the preparation of the Contract providing for the financing of an amount not to exceed \$6,725,800 at an annual interest rate not to exceed 3.97% and a term not exceeding 7 years, and otherwise proceed with the plan of financing for the Facilities described at this meeting.

Section 2. The Chairman of the Board, the County Manager, the Finance Officer, the County Attorney and the Clerk to the Board are hereby authorized and directed to submit an application for the LGC'S approval of the Contract pursuant to N.C.G.S. Section 160A-20 and Section 159-148, and to execute a sworn statement of debt of the County pursuant to N.C.G.S. Section 159-150, in connection with the financing of the Facilities.

Section 3. This Resolution shall become effective immediately upon its adoption.

Adopted this the 2nd day of August, 1993.



Vollie G. Good, Chairman
Henderson County Board of
Commissioners

ATTEST:



Elizabeth W. Corn
Clerk to the Board