

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
NOVEMBER 18, 1992

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: Chairman J. Michael Edney, Vice-Chairman Vollie G. Good, Commissioner Hugh D. Randall, Commissioner William McKay, County Manager David F. Thompson, Assistant County Manager/Finance Director David E. Nicholson, County Attorney Don H. Elkins and Clerk to the Board Elizabeth W. Corn. Absent were Commissioner F. Richard Baker and Staff Attorney Angela Skerrett.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Randall led the pledge to the American Flag.

INVOCATION

Lt. Ken Morris of the Salvation Army gave the invocation.

REVIEW OF MINUTES

There were no minutes for review.

DISCUSSION/ADJUSTMENT OF AGENDA

David Thompson requested the Commissioners to move one page (a map) from behind item "D" to item "A".

CONSENT AGENDA1. Valley Hill Firemen Relief Fund Appointments.

Valley Hill Volunteer Fire Department requested the Board change one of the two Board-appointed members of the Fireman's Relief Fund Board of Trustees. The Board routinely appoints Valley Hill's Chief and Assistant Chief. As a result of the November 2, 1992, election in which a new chief was elected, Valley Hill requested the Board name Carlton R. Bishop to replace Gary C. Ward.

2. Notification of Vacancies.

The following Notifications of Vacancies were presented for acceptance only:

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1. HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT - 3 vac.
2. LIBRARY BOARD OF TRUSTEES - 1 vac.
3. HENDERSON COUNTY COMMUNITY CHILD PROTECTION TEAM - 5 vac.
4. NURSING HOME/DOMICILIARY HOME ADVISORY COMMITTEE - 4 vac.
5. HENDERSON COUNTY COUNCIL FOR WOMEN, INC. - 3 vac.

Commissioner McKay made the motion to adopt the Consent Agenda. All voted in favor and the motion carried.

INFORMAL PUBLIC COMMENTS

1. Bill Berry - Mr. Berry lives off Bearwallow Road between Fruitland and Edneyville. He spoke regarding the need for Land Use Planning in Henderson County. He is opposed to the construction of a mobile home park on Bearwallow Road. He was concerned about the pollution in the water. He provided a copy of his comments.

2. Dutch Burdette - Mr. Burdette wished to speak regarding the Mud Creek Sewer project and requested to be permitted to speak when that agenda item is discussed. Permission was granted.

3. Lori Holbert - Did not speak.

4. Joe Gilreath - Mr. Gilreath spoke regarding Gilreath Loop Road. He is in favor of that name for SR# 1334. Mr. Gilreath presented a new petition signed by residents to keep the road named Gilreath Loop Road.

5. Joann Turner - Ms. Turner spoke in favor of Gilreath Loop Road for SR# 1334.

6. Hal Winger - Mr. Winger spoke in favor of Gilreath Loop Road for SR# 1334.

PROPOSED KANUGA RIDGE/EVANS ROAD ZONING AMENDMENTS

Karen Collins informed the Board of the request for R-40 zoning by members of the Kanuga Ridge Subdivision and Evans Road area. A Public Hearing was held on November 2 and the Board of Commissioners deferred action pending full board review. No opposition was expressed at the Public Hearing and the Planning Department has received no written comments regarding the request. However, since the hearing Richard Polchow, a property owner with land within the study area and adjacent to the study area, has requested that 1200 acres of his family's property be included in the new zoning district. The Planning Department has submitted the Polchow request to Mr. Thompson; however, the Planning Department consulted with the Institute of Government and they advised that it would be advisable to submit the request through the formal zoning process. This would require sending the Polchow request to

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the Zoning Board and have them make a recommendation and then forward to the Board of Commissioners for consideration. David Thompson read a legal opinion from Angela Skerrett, Staff Attorney, which stated that the Polchow request must go through the Planning Board and notices sent to all the adjacent property owners. A Public Hearing must be advertised and held the same as a new request.

After discussion, Commissioner McKay made the motion to approve the original zoning amendment as presented. All voted in favor and the motion carried.

By consensus the Board referred the Polchow request to the Planning Board.

SWIMMING POOL TASK FORCE REPORT

Dan Lunsford presented a report from the Task Force. They surveyed the community and received an overwhelming support for a indoor swimming pool facility for Henderson County. The Board of Education currently has a working agreement with the YMCA for swim team time.

The Task Force recommended that the facility should be built at Jackson Park because of its central location and availability of space and parking. It also recommended that the facility be constructed of a size to meet current North Carolina High School Athletic Association standards for athletic competition. They further recommended that the operation aspect should be the responsibility of the Henderson County Recreation Department. The estimated construction costs total \$2,000,000 with estimated total operation costs of \$60-80,000 annually.

Mr. Lunsford submitted the report to the Board of Commissioners for consideration in any planning it may undertake for a capital improvements plan for Henderson County.

JOINT MEETING - Henderson County Interim School Board and the Henderson County Board of Commissioners

David Thompson, along with Dan Lunsford, requested the Board to set aside the evening of December 17 to meet with the Henderson County Interim Board of Education to discuss a plan of action for addressing school facility needs.

A special called meeting was set for Thursday, December 17 at 6:30 p.m at Ramada Inn for a dinner meeting.

SWEETWATER ROAD/GILREATH LOOP (SR# 1334)

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Susan Sneed informed the Board of a request from the Planning Department to name SR# 1334 using the core name of Sweetwater with some other suffix than Road, such as Sweetwater Loop since the road does loop. It should be distinguishable from SR# 1333 Sweetwater Road. This request is the result of a petition signed in January of 1991 with the majority of the property owners at that time requesting Sweetwater Road.

Property owners submitted a newer petition today requesting SR# 1334 be named Gilreath Loop Road. The Planning Department has not had time to access this new information.

It was the consensus of the Board to roll this item to give the Planning Department and themselves time to review the new information. The Board requested that the Planning Board submit a map incorporating the new information received today at the December 7 Board Meeting.

REQUEST FOR APPROVAL OF ACQUISITION OF AN EQUITY INTEREST IN
U.S. CABLE TELEVISION GROUP (MultiVision)

David Thompson reminded the Board that at the November 2 meeting MultiVision requested a transaction in which V.Cable, Inc. would acquire an equity interest in the U.S. Cable Television Group. The County Commissioners had previously authorized staff to contact Rice, Williams Associates (cable consultants) to determine whether or not the proposed acquisition was in the best interest of the citizens of Henderson County. David Thompson emphasized that our staff cannot state whether this acquisition is in the best interest of the County citizens, in that we do not have the technical capabilities to make that assessment. He suggested that it would be wise to wait to make a decision on the matter until we have received a level of comfort from the consultants as to the technical and financial implications of the transaction.

David Thompson received a FAX from Rice, Williams Associates approx. 45 minutes before the meeting. Rice, Williams Associates gave a favorable recommendation: "Therefore, Rice, Williams Associates recommends that the transfer be conditioned upon implementation of the fiberoptic network within a specified period of time (six months or sooner) and the system be brought into compliance with the existing FCC rules within 30 days as evidenced by proof of performance test to be provided to the county."

Chairman Edney called for a motion to adopt the Resolution that would allow for the transfer and the Resolution needs to reflect these two conditions: 1. Implementation of the fiberoptic system be done within the next six months, and 2. That the company provide proof of compliance with FCC regulations within 30 days. Chairman Edney added one additional condition based on our Ordinance - that we be provided with a copy of the documentation

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with original signatures of the transfer. According to our Ordinance this must be filed with the Clerk to the Board.

Commissioner Good made the motion to adopt the Resolution and direct staff to prepare the Resolution for the Chairman's signature. All voted in favor and the motion carried.

FORECLOSURE POLICY

David Thompson reminded the Board that this policy had been in the agenda packet for the November 2 meeting. The Board requested time to review the policy and that it be brought back at a later meeting. It is now ready for the Board's approval.

Chairman Edney requested that the policy state that before an offer to purchase is presented to the Board that the Board have full back up such as maps, deeds, etc.

David Thompson recommended approval of the policy. There was some discussion and a few changes were suggested. It was the consensus of the Board for the County Attorney and Staff Attorney to review the policy and make the suggested changes and bring the policy back for the Board's approval at the next meeting.

NOMINATIONS

It was the consensus of the Board to discuss the nominations during Executive Session and prepare a list of names discussed for public inspection. These nominations will be on the agenda for the next meeting.

COUNTY MANAGER'S UPDATE

CONSENT ORDER WITH THE CITY OF HENDERSONVILLE - David Thompson reminded the Board that under the Open Meetings Laws consultation is allowed in Executive Session. The consent order is presented today to make it a public document.

Chairman Edney stated that a letter has gone to the Mayor asking him to give us some dates where the City and County as full Boards could sit down and discuss some issues regarding the 1986 sewer agreement. No dates have been received as yet.

Terms of the Consent Order:

1. Pending further Order of this Court, Plaintiff (Henderson County) shall be allowed to discharge collected domestic wastewater pursuant to the permits granted for Blue Ridge Community College, East Henderson High School, Mud Creek (Phase I, Sec.I), Mud Creek (Phase I, Sec.II), and East Flat Rock by the State of North Carolina, Division of Environmental Management.

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2. That all other issues regarding the 1986 Agreement shall remain open pending further hearings in this matter.

SOLID WASTE MANAGEMENT ISSUES - David Thompson explained that we have some problems with the Henderson County Landfill monitoring well samples. David Thompson has sent a letter to the Hydrogeologist II with the State Department of Health and Natural Resources and Solid Waste Section. We have received a report from Pace Laboratories (they do our independent testing) that we had some contamination in one of the test wells at the landfill site.

In the past the County has just sent a report to the State to check for compliance as per State rules and regulations. Mr. Thompson initiated a contract with William Lapsley and Associates, a local engineering firm, to investigate this matter and make recommendations to us. He asked for a cover letter stating whether we were out of compliance in any parameter and for a copy of that cover letter to go to the State of N.C. at the same time. We have had no problems with being out of compliance in the past.

David Thompson informed the Board that we are having resampling of nine different points at the landfill. We are doing both filtered and nonfiltered samples. Lead, magnesium, and iron were found and we want to locate the source. It could be the surface water run off from our site or adjoining property or in the wells themselves.

David Thompson further informed the Board that we have Methane Gas showing up in samples. The report states that Methane Gas is migrating 150+ feet onto adjacent property. The State has been informed as have William Lapsley and Associates. We are awaiting the recommendations from the State.

NAPLES AREA WASTEWATER TREATMENT/Cane Creek and Mud Creek Sewer Projects - Cane Creek - Jim Erwin announced that the system should be operational by January 8, 1993. It is expected to be completed within budget. Naples - Jim Erwin discussed the gravity collection system and wastewater treatment plant. There were some problems along the way and it was decided to build a pump station and pump the wastewater and MSD treat it for us. MSD has offered to treat this wastewater for us on a short term basis and when we build our treatment plant we would get it back and treat it ourselves. David Thompson suggested that the Board draft a letter to MSD thanking them for their cooperation. Funding options are being reviewed now. Mud Creek - Jim Erwin announced that the Mud Creek project is scheduled to be complete on December 10, 1992. The majority of the project will be operational by December 15 and the remainder by January 15, 1993. This project is expected to be completed within budget. Mr. Erwin passed around a map indicating the lines and discussed them along with completion dates. Citizens have been invited to come in and file their application and when the system is ready to use permits will be issued.

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Dutch Burdette - Mr. Burdette had requested during Public Input that he be allowed to make his comments after the Mud Creek presentation. Mr. Burdette is President of the Brooklyn Manor Property Owners Association. He complimented the Board of Commissioners for the work on the Mud Creek project. Mr. Burdette had numerous questions about the project so there was much discussion.

Courthouse Work Session Date --- Proposed for November 30.

David Thompson reminded the Board of the Courthouse Work Session scheduled for November 30, 1992 at 2:00 p.m. at the Library.

October 1992 Financial Report.

David Nicholson directed the Board's attention to the financial report in the agenda packet. The county received \$2.3 million in revenues during the month (primarily property tax). We expended just short of \$2.7 million meaning we actually spent \$330,000 more than we collected. Mr. Nicholson stated that we are right at where we should be for this time of the fiscal year. We are 1/3 through the year and have spent 31.65% of the budget for the year.

EXECUTIVE SESSION

Commissioner Good made the motion for the Board to 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 acquisition of real property.

All voted in favor and the motion carried.

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

Action

1. Possible Nominees (discussed during Executive Session):

- 1. HENDERSON COUNTY BOARD OF HEALTH
 - Mrs. James Fisher
 - Mrs. Pam Miller
 - Mr. Rick Wood
- 2. HENDERSON COUNTY TRAVEL & TOURISM COMMITTEE
 - Mr. Frank Todd, Jr.
 - Mr. John Sheiry
 - Mr. Kenneth Hulick

2. Commissioner Good made the motion to approve the Resolution, as presented by the County Attorney, to issue a Quit Claim Deed to

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Ravenel D. Owensby. All voted in favor and the motion carried. Mr. Elkins will prepare the deed.

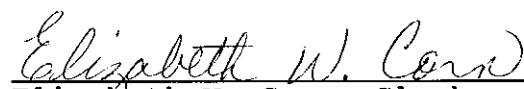
2:00 TAX ASSESSMENT WORK SESSION

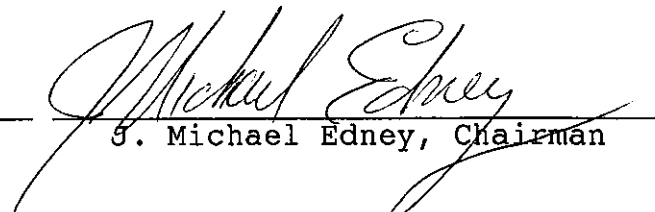
Robert Baird, County Tax Assessor, discussed at length some tax assessment issues with the Board:

1. Henderson County Reassessment Program
2. Mobile Home Assessments
3. New Era Assessments
4. Audit Program

There being no further business, the meeting was adjourned at 4:05 p.m.

ATTEST:


Elizabeth W. Corn, Clerk


S. Michael Edney, Chairman

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

A RESOLUTION APPROVING A CHANGE IN
OWNERSHIP INTEREST AND MANAGEMENT CONTROL OF
U.S. CABLE TELEVISION GROUP, L.P.

WHEREAS, U.S. Cable Television Group, L.P. (hereinafter "U.S. Cable") is the owner of Essex 1980-3 Operating Partnership, which is the holder of a franchise to own and operate a cable television system in the unincorporated areas of Henderson County; and

WHEREAS, U.S. Cable entered into an agreement with Cablevision Systems Corporation (hereinafter "Cablevision"), a Delaware corporation, which through its wholly-owned subsidiary V Cable, Inc. will obtain a twenty percent (20%) ownership interest in U.S. Cable and will have management control of U.S. Cable; and

WHEREAS, Section 18 of the Ordinance Establishing the Conditions for Awarding Non-exclusive Franchises for Community Antenna Television Systems (hereinafter "CATV Ordinance") requires that any change in ownership or management of a franchised cable television company be approved in writing by the Henderson County Board of Commissioners before being consummated; and

WHEREAS, U.S. Cable has requested the County of Henderson to grant its consent to the purchase of a twenty percent (20%) partnership interest and the assumption of corporate management by Cablevision, through its wholly owned subsidiary V Cable, Inc.; and

WHEREAS, the Henderson County Board of Commissioners has conducted a reasonable investigation of said proposed change in ownership and management by and through the Cable TV Review Committee and an independent consultant, to wit Rice, Williams Associates; and

WHEREAS, the Henderson County Board of Commissioners has received a favorable recommendation from the Cable TV Review Committee; and

WHEREAS, a review by the consultant, Rice, Williams Associates has revealed that the latest performance tests conducted by U.S. Cable of their system serving Henderson County, dated March 3, 1991, indicated that said system is not in compliance with current Federal Communications Commission (FCC) rules; and

WHEREAS, the Henderson County Board of Commissioners has determined that the requested acquisition and management arrangements are reasonable and not detrimental to the health, safety or welfare of the citizens of Henderson County; and

WHEREAS, the Henderson County Board of Commissioners has determined that certain conditions must be met if the said transaction is allowed.

NOW, THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners as follows:

1. The Henderson County Board of Commissioners hereby grants its consent to the purchase by Cablevision, through its wholly-owned subsidiary, V Cable, Inc., of twenty percent (20%) ownership of U.S. Cable, and of its management control of U.S. Cable, said consent being conditioned on the following:

a. That a copy of each document reflecting the acquisition of interest in U.S. Cable, and the assumption of corporate management of U.S. Cable shall be filed with the Clerk to the Henderson County Board of Commissioners within thirty (30) days after such shall have been executed or affected and each shall reflect therein the consent of the Henderson County Board of Commissioners; and

b. That the current optic fiber overlay program consisting of approximately 28.5 miles of optic fiber shall be completely installed and in operation on or before May 18, 1993; and

c. That the cable system serving Henderson County, N.C., the management control of which by V Cable the Henderson County Board of Commissioners is hereby granting conditional approval of, be brought into compliance with the current FCC rules and regulations on or before December 18, 1992, written documentation and proof of such compliance to be provided to the Henderson County Board of Commissioners by V Cable, Inc. on or before December 18, 1992.

2. This resolution shall not become effective until the close of business on the date upon which Cablevision, through V Cable, Inc., acquires its ownership interest in, and management control of U.S. Cable.

This Resolution was passed and approved the 18th day of November, 1992, and noted in the minutes of the regular meeting of the Henderson County Board of Commissioners on the said date.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: [Signature] 5/20/93
Chairman, Henderson County Board
of Commissioners

Attest:

[Signature]
Clerk to the Board.
(SEAL)