MINUTES

STATE OF NORTH CAROLINA COUNTY OF HENDERSON

BOARD OF COMMISSIONERS JUNE 17, 1992

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Meeting Room of the Henderson County Office Building.

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

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Baker led the pledge to the American Flag.

INVOCATION

Riley Lawrence of the Nazarene Church gave the invocation.

REVIEW OF MINUTES

Minutes were presented for review of the May 4 and the June 1 meetings. The minutes were approved as corrected.

DISCUSSION/ADJUSTMENT OF AGENDA

There was none.

PUBLIC INPUT

- <u>1. Evelyn Nichols Mrs. Nichols spoke for clean streams and water quality. She also spoke for zoning in East Flat Rock.</u>
- 2. Bernadine Levi Mrs. Levi and her husband own a trailer park and spoke regarding the Supreme Court Ruling Limiting Rent Increases ("A" under New Business).

SPECIAL USE PERMIT

Mr. Thompson reminded the Board of a request for a Special Use Permit by Mr. Ray Laney for his proposed Bright Oaks Development that is to be located on Shepherd Street. We have received one letter in opposition to this development from Mr. Charles Eye. At our last meeting, Commissioner McKay requested that the County

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Attorney review this application and the Ordinance to determine the legal implications of its approval or disapproval. Mr. Elkins has reviewed this matter and has submitted a legal opinion for the Board's review. Mr. Elkins is undergoing a root canal this morning.

After much discussion regarding the entrance to the Bright Oaks Development, Commissioner Good made the motion that the Special Use Permit (SP-6-92) be approved as presented. A vote was taken as follows: Ayes: Chairman Edney

Commissioner Randall Commissioner McKay Commissioner Good

Nays: Commissioner Baker

The motion carried.

EXCESSIVE BARKING COMPLIANCE ORDER APPEAL

Mr. Thompson reminded the Board of an appeal heard at the last meeting by Robin Estes concerning a compliance order that was issued on May 19, 1992 from Henderson County Animal Control.

After some discussion. Commissioner Baker made the motion to table the compliance order and ask the Animal Control Officer to monitor the situation for $3\sqrt{-60}$ days and report back to the County Manager. All voted in favor and the motion carried.

EAST FLAT ROCK ZONE AMENDMENTS WORK SESSION

Mr. Thompson remine 3d the Board that the Planning Board approved zoning ordinance amendments at their meeting on January 28, 1991. This included new zoning districts for a 2.35 square mile area of the East Flat Rock community. This area is referred to as "Phase II". Mr. Matteson, County Planner, has monitored the correspondence, phone calls, and visits to his office concerning the East Flat Rock area. A list illustrating the concerns of area residents that had not been previously considered by the Planning Board are on the following pages.

Mr. Matteson explained each of the items on this list to the Commissioners. The Board felt due to the new input they had received that the zoning issue should be sent back to the Planning Board for further study. There was a general discussion about a future Mobile Home Ordinance that would establish zoning regulations for mobile homes, manufactured homes and site-built homes.

Chairman Edney made a motion to refer this list of resident preferences back to the Planning Board for further study as to how the new input would affect the overall zoning of this area. Chairman Edney requested that the Planning Board make recommendations on these new requests to the Commissioners within 45 days. All voted in favor and the motion carried.

SUMMARY OF RESIDENTS' PREFERENCES FOLLOWING PLANNING BOARD PROPOSAL FOR THE EAST FLAT ROCK LAND USE STUDY, PHASE II

<u>Date</u>	<u>Form</u>	Name/Property Loc./PIN	Planning Bd. Recommendation	Resident Preference
2-5-92 (see also 5-15-92)	Walk-in	Elizabeth Pressley Jones St & Tabor Rd 9587-03-5156	I-1	R-15
2-6-92	Phone	David Dalton 3017 Sptbg.Hwy. 9587-01-8814	I-2	R-?
2-13-92	Copy of letter to M. Edney from Atty. Ed Krause	Greg Phillips/ Capital Six Assoc. 9587-18-6424 9587-28-2100	R-20	T-15
2-20-92	Written	Narvin & Sally Patterson 121 Holly Ave. 9587-42-1424 9587-32-9475	R-20	T-15
3-24-92	Walk-in	W. L. Garrison Crest Road 9587-48-2890 9587-48-0034 9587-38-2055 9587-38-3661	C-4	I-1 or I-2
4-1-92	Walk-in	Grady & Bonnie Paris White Oak Dr. 9587-04-6423	R-15	T-15
4-1- 9 2	Letter	Joyce B. Stepp 118 Rd to Daniel? (Ward's Height) 9587-32-9585	FI-20	T-15 or T-20
4-1-92	Letter	George J. Rivers 825 Tabor Rd. 9587-42-4930 9587-42-3901	R-20	T-15 or T-20
4-6-92	Public Hearing	Joe Green off Crest Rd 9587-18-2788	R-20	T-15
4-6-92	Public Hearing	Ruth & J.B. Stepp Allen Rd 9587-09-7424 (12 space MHP)	R-20	C-?

<u>Date</u>	<u>Form</u>	Name/Property Loc./PIN	Planning Bd. Recommendation	Resident Preference
4-6-92	Public Hearing	Sam Neill Crest & Oak Grove 9587-36-2770	R-20	I-?
4-6-92	In person (after Public Hearing)	Harold Barton 912 Tabor Rd 9587-33-7772	R-20	T-15 or T-20
4-7-92	Phone	Shirley & Carl Levi 310 Mapleton Dr 9577-96-1511	R-15	T-15 or T-20
4-7-92	Phone	Fiorentine Hoots Mapleton Rd 9577-96-5751 9577-96-3706	R-15	T-15
4-8-92	Walk-in	James Travis Lively Tabor Rd (& others) 9577-13-8532 9577-13-9189 9577-93-8633 9587-46-5787	I-1 I-1 C-4 R-20	Preference unclear - will submit written statement
4-13-92	Letter .	Kendall Taylor & Cynthia Whitted off Crest Rd 9587-39-2054 (own adjacent parcel to north, previously zoned C-4)	C-4	i-2
4-21-92	Letter	Preston E. Mintz 219 Allen Rd 9587-08-1845 Mintz Rd 9587-33-3616	R-20 R-15	T-15 C-?
4-22-92	Letter	Ted Robinette Lamplighter Ln 9577-93-1199	R-10	T-?
5-8-92	Letter	Patricia Jones (Michal) 314 N. Mapleton Dr 9577.12-86-7261 2810 Old Spartanburg Rd 9577.12-86-9572	R-15 R-15	C-4 T-15
5-15-92 (see also 2-5-92)	Letter	John Boggs & Elizabeth Pressley Boggs 606 & 608 Jones St 9587.13-03-5156	i-1	R-15

Notes:

This list reflects comments received by the Planning Department through 5-28-92 or by the Board of Commissioners at the Public Hearing held 4-6-92 and for which a specific district preference, other than that proposed by the Planning Board, was stated.

If an individual made comments at several different times, the most recent one(s) have been listed.

Comments received by individual Commissioners, the County Manager, or other officials may not be included.

This list does <u>not</u> reflect comments from residents who stated that they supported the plan as presented or that said they <u>flatly opposed</u> zoning.

NOMINATIONS

- 1. Chairman Edney reminded the Board of 1 vacancy on the Solid Waste Advisory Committee. Commissioner Good nominated John P. Humphrey. Commissioner McKay made the motion to suspend the rules and appoint Mr. Humphrey. All voted in favor and the motion carried.
- 2. Chairman Edney reminded the Board of 3 vacancies on the Board of Health. There was a Commissioner request that these be rolled. This item was rolled to the next meeting.
- 3. Chairman Edney reminded the Board of 3 vacancies on the Mountain Valleys Resource Conservation & Development Program. Commissioner McKay nominated Drew Brannon to succeed himself. Commissioner Randall made the motion to suspend the rules and appoint Mr. Brannon. All voted in favor and the motion carried. The remaining two vacancies were rolled to the next meeting.
- 4. Chairman Edney reminded the Board of 3 vacancies on the Youth Advisory Committee. Commissioner Baker nominated Mary McDuffie, Fran Schneider, and Robert Shelly, all to succeed themselves. Commissioner McKay made the motion to suspend the rules and reappoint these three. All voted in favor and the motion carried.
- 5. Chairman Edney reminded the Board of 5 vacancies on the Nursing Home/Domiciliary Home Advisory Committee. Commissioner Good nominated Kelly Reath, Margaret Brown, Julia Brussell, and Kenneth A. Erwin. Commissioner McKay nominated Eleanor Healy and Ruth Hoots to succeed themselves.

David Thompson recommended that this list of nominations be compiled and submitted to the Nursing Home/Domiciliary Home Administrators and give them an opportunity to approve or reject any nominees.

Mr. Thompson also reviewed the draft revision in by-laws for the Nursing Home/Domiciliary Home Advisory Committee. This revision has been drafted through the cooperation of Mr. Martin, Staff

Attorney, and Clerk to the Board. The by-laws need to be put into final form.

Mr. Thompson's recommendation is to take the changes in the bylaws under consideration and put these six names (nominations) on a list to submit to the Administrators of Nursing Homes and Domiciliary Homes in the area.

It was the consensus of the Board to follow the recommendation of the County Manager.

6. Chairman Edney reminded the Board of 1 vacancy on the Green River Management Board.

Mr. Thompson recommended sending a letter to the Green River Management Board requesting their by-laws and not making any appointments or reappointments to the Board until a set of bylaws is furnished. Polk County and Henderson County created the Board and need to come together to draft a set of by-laws.

Commissioner Good has worked with the Green River Management Board and has tried unsuccessfully to acquire a set of by-laws. He agreed with the County Manager's recommendation.

It was decided by consensus to remove this item from the agenda until a set of by-laws is furnished.

Chairman Edney reminded the Board of 1 vacancy on the PIC One additional private sector appointment needs to be made. Our Board also needs to set terms for the appointments already made. We have six members. We need to designate three one year terms and three two year terms. It is also recommended that Liston Smith be designated as an ex-officio member of PIC.

We have not received our nominations for additional private sector representatives from a community based organization; therefore, this vacancy will have to be rolled.

Commissioner Good made the motion to set 2 year terms for these appointments: Briggs, Luretta

Murdock, John Sink, Dr. David,

and 1 year terms for these appointments:

Pace, Dr. Amy Carter, Bette

new appointee, when made.

As part of his motion he designated Liston Smith's appointment as an ex-officio member. All voted in favor and the motion carried.

SUPREME COURT RULING LIMITING RENT INCREASES/Harry T. Rogers

Mr. Rogers informed the Board that he owns a manufactured home in a fine adult retirement community. After moving in and living there several years he discovered his home was in jeopardy because there are no state or local rules to protect renters from eviction or unreasonable rent increases.

He informed the Board that the Supreme Court in a recent ruling handed down a decision reaffirming the right of a community or

governing body to pass laws limiting rent increases in mobile home parks. The Florida courts have decided that an acceptable increase could be based on the Bureau of Labor Consumer Index or any other circumstance that may come up where the park owner could document the reasons for the increase such as a raise in taxes or a raise in utilities.

Mr. Rogers' request is to protect renters from eviction and to get a law on the books to protect them from this and from unacceptable increases in rent.

It was the consensus of the Board to request the Planning Staff to look at this further as they study the Mobile Home Ordinance.

Mr. Rogers invited the Board members to a meeting at the Opportunity House on June 27 at 2:00 p.m.-5:00 p.m. They expect two State Senators and maybe a House Representative. They have started proceedings to get State Legislation as have the states of Florida, Arizona, California, New York, and Pennsylvania. Mr. Rogers stated that this legislation is much needed in North Carolina because we are #8 in the nation of people living in mobile homes.

Mr. Rogers stated that this year his mobile home was taxed not as a mobile home but as a home. For all practical purposes, it is fixed to the property and cannot be moved. He said the County has the power to tax him as such and he thinks the County should have the power to give him some protection.

UPDATE ON RECYCLING PROGRAM/Nippy Page

Ms. Page informed the Board that the new recycling program has been an overwhelming success, not only because of the weight collected but because the cost per ton has gone down so dramatically and also it has been satisfactory to the residents of Henderson County. Ms. Page said Henderson County increased the weight the first month by over 50% and decreased the cost per ton by 28%. The second month we increased the weight by 48% and a decrease in cost of 38%.

The new materials include 13 tons of corrugated cardboard, 40 tons of mixed paper and 3.5 tons of steel food cans. Newspaper continues to be the largest weight item with mixed paper coming in second. Glass continues to be a high weight item also.

Ms. Page introduced Jonathan Thornton, Accounts Executive from GDS. He handles the containers at both our drop-off sites. Mr. Thornton informed the Board that GDS has about 115 containers out throughout the state to collect recyclables in different municipalities. This county, so far, has the cleanest material that is being taken into the recycling containers. He attributes that largely to the education programs in the County and the overall awareness that the community is exhibiting.

PLANNING BOARD RULES OF PROCEDURE/Matt Matteson

Mr. Matteson informed the Board that at the regular meeting of the Planning Board on May 26, 1991, they amended their by-laws. The previous by-laws had not been amended since 1981.

The significant changes in the by-laws, which are now referred to as Rules of Procedure, include: a specific statement of duties of the Chairman and Secretary, the method of setting the meeting agenda, a change in the order of business for meetings, and a detailed procedure for taking public input. These amendments were presented to the Board in the event that they feel they should render concurrence. Existing Planning Board statutes are silent on this requirement.

There was much discussion. The County Manager recommended a wording change on page 6 from may to shall.

Chairman Edney stated that the Planning Ordinance, which was adopted by the Commissioners in 1964, provides the Board shall adopt rules for transaction of it's business. He interpreted that to mean the Planning Board has the right under that Ordinance to adopt it's own rules. The County Manager agreed but did feel that since alot of the Planning Board's actions impact the County Commissioners that they should have input into the Rules.

PLANNING ORDINANCE/Matt Matteson

Mr. Matteson reminded the Board that on March 2, 1964 the Henderson County Board of Commissioners adopted a resolution establishing a Planning Board. This resolution has never been amended and consequently many of the provisions are obsolete or do not reflect existing conditions.

The Henderson County Planning Board has reviewed this document and after careful study has recommended that the 1964 Resolution be rescinded and an **Ordinance** be adopted in its place. The ordinance that is proposed includes mostly "housekeeping" type modifications with few, if any, substantive changes.

The language in the proposed ordinance which appears in shaded form has been recommended for addition. In many cases language was taken word-for-word from a model ordinance recently published by the Institute of Government. The language shown by a "strike through" is proposed for deletion.

Mr. Matteson has researched G.S. 153A-76, 153A-321, and 153A-322 and understands that adoption of such a Planning Ordinance does not require a public hearing.

There was discussion. No legal opinion has been received. It was decided to roll this item and ask the Staff Attorney to review and give an opinion.

ENHANCED 9-1-1 UPDATE

Mr. Matteson stated that the E-9-1-1 system is officially in and operational. Thirty-eight percent (38%) of the customers currently have incomplete property addresses. He estimates that

it will take 24-36 months to complete the addressing. Saluda residents are not presently in an E-9-1-1 data base at this time.

The cost to the county has been reduced substantially due to changes in Southern Bell billing policies. The \$.31 per month surcharge to offset one-time equipment and installation costs, will appear on customer telephone bills this month. Customers will be billed for eight months instead of the original plan of eighteen months.

Despite earlier indications, at this time the City of Hendersonville has not elected to operate it's own Public Safety Answering Point (PSAP). Mr. Matteson stated that we have always felt that one PSAP was preferable and that a City PSAP would be redundant.

The sign program was discussed. The installation of road signs is going smoothly and citizens seem pleased with the new signs.

SUBSTANCE ABUSE POLICY/David Nicholson

David Nicholson presented a proposed Substance Abuse Policy. The county is required, because it accepts federal money, to adopt a drug-free workplace policy. This does cover all general county employees, including law enforcement.

The proposed policy covers areas such as employees manufacturing, distributing, possessing or using any narcotic drug or any other controlled substance. It would set County policy on drug testing, consent procedures, and discipline. It requires each employee to receive a copy of the adopted policy and acknowledge receipt.

When the Board of Commissioners adopts this policy, it will need to contract with a certified laboratory and a physician to serve as the medical review officer. The policy will inform employees about the dangers of drug abuse and available counseling and rehabilitation. Henderson County currently has a contract with Trend Community Mental Health for an Employee Assistance Plan.

David Nicholson presented the proposed policy and answered many questions. The Board rolled this item to the next meeting to allow them time to review this policy in depth.

TAX RELEASES (49)

Robert Baird presented a list of 49 tax releases to the Board for approval. This revised list includes properties that the County has purchased in the past year. Mr. Baird has reviewed these requests and finds them to be in order and recommends approval.

Commissioner Good made the motion, if the paperwork is in order, to approve the 49 release requests. All voted in favor and the motion carried.

TAX REFUNDS (12)

Robert Baird presented a list of 12 tax refund requests. He has reviewed these requests and finds them to be in order and recommends approval.

Commissioner Good made the motion, if the paperwork is in order, to approve the 12 tax refund requests. All voted in favor and the motion carried.

ANNOUNCEMENT

Chairman Edney announced that the 2:00 p.m. Administrative Hearing which appears on the agenda has been cancelled.

EXECUTIVE SESSION

Commissioner Good made the motion for the Board to go into Executive Session as allowed under General Statute 143-118.11 to discuss the following matters:

1. To discuss a personnel matter.

To discuss the acquisition of real property.All voted in favor and the motion carried.

Commissioner McKay made the motion for the Board to 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, Clerk

J. Michael Edney, Chairman

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