

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
JUNE 1, 1992

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 7:00 p.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 Randall led the pledge to the American Flag.

INVOCATION

Sidney Lanier of East Flat Rock Methodist Church gave the invocation.

REVIEW OF MINUTES

Minutes of the May 11 and the May 19 meetings were presented for review. Commissioner Good made the motion to approve the minutes as presented. All voted in favor and the motion carried.

DISCUSSION/ADJUSTMENT OF AGENDA

David Thompson deleted item "I - 2" from the agenda as the new PIC board supersedes the old one. Therefore we do not have vacancies on the old board.

PUBLIC HEARING - Request for Special Use Permit-Ray Laney (Bright Oaks)

Matt Matteson, County Planner, informed the Board of an application received from Ray Laney for an R-A (residential-apartment) development on a 10 acre site on Shepherd Street which carries a combination R-15 and R-20 residential zoning. The application was reviewed by the Henderson County Planning Board on March 31, 1992 and given a favorable recommendation. Mr. Matteson believes that all conditions required under Section 703 of the Henderson County Zoning Ordinance have been satisfactorily addressed.

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Public Hearing was set for tonight's meeting. All adjacent owners have been properly notified and prior notices of the hearing have been posted and published in accordance with statutes.

The application is for a 25 unit complex including 12 two family units and 1 one family unit. 25 units is the maximum that can be built.

John Jeter of Lapsley & Associates came forward to answer questions and showed a map drawing. Mr. Laney also came forward with the plans for the proposed project.

Commissioner Good made the motion to go into Public Hearing on this issue. All voted in favor and the motion carried.

Herbert Cunningham of 355 Mockingbird Drive. Mr. Cunningham did not speak in opposition or in favor. He asked several questions.

Charles Eye of 308 Shepherd Street. Mr. Eye spoke in opposition of the project because the entrance/exit for the apartment complex is directly across from his living room. He would like to see the road changed to come in from Prosperity Avenue.

Earl Peeler of 306 Shepherd Street. Mr. Peeler asked several questions. He did not speak in opposition or in favor. Mr. Peeler has poor access onto Shepherd Street. He cannot turn around in his driveway.

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

Commissioner McKay made the motion to defer ruling on this issue until the next meeting so that the County Attorney can be consulted. All voted in favor and the motion carried.

PUBLIC HEARING - Naming or renaming and numbering of roads

Susan Sneed, E-9-1-1 System Coordinator, addressed the Board regarding this public hearing. Proper notice has been given. A list was presented of 46 roads for the Board's approval.

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

Arthur Huggins - 850 Racklay Place, off of Price Road. Mr. Huggins had several questions regarding the numbering of roads. He was referred to Susan Sneed to answer his questions.

Rosemary M. Sulzmann - 123 Tawn Drive, East Flat Rock. Ms. Sulzmann presented a petition, she and her neighbors would like for the road to remain as Tawn Drive.

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Irving A. Rothenberg - Floral Road, Edneyville. He spoke regarding Apple Tree Lane questioning road names of some of the roads that intersect Apple Tree Lane. These other roads will be handled at another time.

Tennie G. Morgan - Forest Lawn Drive, Hendersonville. Ms. Morgan would like for her road to remain Forest Lawn Drive.

Mr. Arrowood - Rockwood Drive. He would like for his road to remain as Rockwood Drive.

Ray Williams - Lowndes Lane. He would like for his road to remain as Lowndes Lane.

Barbara Head - Eli Capps Road off of Rock Creek Road. She questioned the road name from the forks of the road up. She would like to clear things up for deed reasons. She was referred to Susan Sneed.

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

Commissioner Good made the motion to approve the list of 46 names as presented. All voted in favor and the motion carried.

Public Input

Robert Gibson - 23 Amber Drive, Horse Shoe. Mr. Gibson lives in the Ladson Road area, Bannerwood Subdivision. Last week they petitioned for zoning in that area to R-30. It is tabled until the end of June. Today Mr. Gibson found out that there is a trailer park that will be going in on the property adjacent to the subdivision. Mr. Gibson wanted to know what he could do about getting the trailer park stopped until it can be studied further.

David Thompson deferred this to the Planning Director, Matt Matteson. Mr. Matteson said his office has not seen any documentation regarding proposed development. There is no sewer out there, no zoning.

Mr. Gibson stated that his attention was drawn to this because of the flags put up on Ladson Road, markers for the water line. He talked with the water department and they do plan to put a water line in for this trailer park. Mr. Gibson stated that was the information he received as of 5:00 this afternoon.

David Thompson informed Mr. Gibson that at this time, unless there is zoning in the area, the only authority the County Commissioners have over that area is through the subdivision ordinance. The developers would have to apply for a subdivision permit for the subdivision of that land.

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Matt Matteson stated that the developer has two options on sewer. 1 - Obtain permits from the Health Department for individual soil drainage systems, or 2 - Get a permit from the State to discharge into the French Broad River through a package wastewater treatment plant.

NOMINATIONS

1. Chairman Edney reminded the Board of 2 vacancies on the Henderson County Planning Board.

Chairman Edney nominated Robert Then. Commissioner Good nominated William L. Moyer. Commissioner McKay made the motion to suspend the rules and appoint these two gentlemen to the Henderson County Planning Board. All voted in favor and the motion carried.

2. Chairman Edney reminded the Board of 2 vacancies on the Solid Waste Advisory Committee (SWAC).

Commissioner Good nominated Art Hazlett. There were no other nominations at this time. Commissioner McKay made the motion to suspend the rules and appoint Mr. Hazlett. All voted in favor and the motion carried.

One vacancy will be rolled to the next meeting.

3. Chairman Edney reminded the Board of 2 vacancies on the Asheville Regional Housing Consortium.

Chairman Edney nominated Al Kissling. Commissioner McKay nominated David Nicholson. Commissioner Randall made the motion to suspend the rules and appoint these two nominees to the Asheville Regional Housing Consortium. All voted in favor and the motion carried.

4. Chairman Edney reminded the Board of 6 vacancies on the Private Industry Council (PIC).

David Thompson informed the Board that this Board is a result of the merging into the regional service delivery area. We have six vacancies on the new PIC Board. The existing PIC Board no longer exists. Three must be appointed that have been nominated by a private business group and three members from the non profit sector, either educational, community based organizations, employment service, or a social service agency.

Chairman Edney nominated Bette Carter, Amy Pace, and Loretta Briggs. Commissioner Baker nominated Dr. David Sink. Commissioner McKay nominated John Murdock and Liston Smith. There were no other nominations. Commissioner Baker made the motion to suspend the rules and appoint these six persons to the Private Industry Council (PIC). All voted in favor and the motion carried.

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EXCESSIVE BARKING COMPLIANCE ORDER APPEAL

David Thompson informed the Board of an appeal of an excessive barking compliance order issued by Henderson County Animal Control on May 19, 1992. He reviewed two sections of the Animal Control Ordinance with the Board; Section I "Excessive Barking", and page 2, Section 6 "Excessive Barking".

Chairman Edney stated the procedure for the hearing. First the Animal Control Officer will be allowed to present her case, witnesses, statements, etc. Then Ms. Estes will be allowed to present her case, witnesses, statements, etc.

Brenda Miller, Animal Control Supervisor, addressed the Board. Ms. Miller stated that they first started receiving complaints October of 1991 about the Estes dogs barking. Don & Linda Wilson were the complainants. On 12/7/91 they received another complaint on the barking dogs. On 1/29/92 they received another complaint from the Wilsons that the dogs were still barking. On 1/7/92 a complaint was received from the Wilsons that the dogs were barking.

In January Ms. Miller talked with Ms. Estes and Ms. Estes stated she would see what she could do to quiet the barking. On 1/29/92 a complaint was received from Don Wilson about the dogs barking all hours of the night. Ms. Miller talked with Ms. Estes and Ms. Estes said she had a female in heat and that was the reason for the male dog barking so much. The dog was scheduled to be spayed and she was taking the male dog in at night to help quiet the barking.

Ms. Miller stated that there was not another complaint until April of 1992. The Wilsons then requested a complaint form to be signed by surrounding neighbors in reference to the dogs barking. Ms. Miller mailed the Wilsons a complaint form. She received the complaint form back in the mail on 5/12/92 with three signatures on it. All three are complaining about barking. On 5/19/92, Joe Hensley, an Animal Control Officer and Brenda Miller went to the Estes residence.

Ms. Estes has a fenced-in lot in her backyard with five dobermans. One female doberman was in a lot to itself but it was connected to the other dog lot. Ms. Miller suggested ways for Ms. Estes to try to control the barking. The dogs barked normal while the animal control officers were on the property. They left the Estes property and went to the Wilson property. They did not hear the dogs bark from the Wilson property. Ms. Miller issued Ms. Estes a compliance order and explained her rights to appeal it. Ms. Estes appealed the compliance order.

Linda Wilson - Ms. Wilson stated that they have been putting up with the barking for over a year now. She stated that it is depriving them of their rights to enjoy their home, yard, and their

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sleep. She stated that they are getting their home ready to sell because they cannot stand it anymore.

Fred Dorsey - Mr. Dorsey lives about 50 yards down the street from the Wilsons. He stated that the dogs bark incessantly. He called Ms. Estes in January and asked her if there was something she could do about the barking. Ms. Estes stated that she would try to do something about the barking. This was the time the dog was in heat. He asked the Commissioners to enforce the ordinance.

Chairman Edney recognized Ms. Estes.

Robin Estes - Ms. Estes confirmed that she does indeed have five dobermans. She thanked Mr. Dorsey for his call and stated that he was very polite. She said that the calls from Mr. Wilson were vulgar, abusive, and profane.

Ms. Estes passed around a diagram of the neighborhood with names on the houses. She passed around seven statements from neighbors stating that the dogs did not bark excessively. Three neighbors are with her tonight that can speak against the case.

Ms. Miller reviewed the seven statements and then they were passed around and the Commissioners read them.

Ms. Estes read portions of the complaint and rebutted them. She stated that if the dogs barked like the complaint states, she would not have them. They are in a 3,600 sq. foot lot directly behind her home. Ms. Estes stated that she has had run ins with Mr. Wilson in the past.

Beatrice Lyda - Ms. Lyda stated that she lives just diagonal to the Estes. She had not noticed the dogs barking until she heard about the complaint. She has purposely listened for the excessive barking but stated that it was normal barking she heard numerous times.

Pam Estes, Mother-in-law - Mrs. Estes stated that the dogs do not bark excessively. Mrs. Estes stated that this all started with her two cocker spaniels but they have since been dropped off of the complaint. Mrs. also said that there are other dogs in the neighborhood who bark. She doesn't understand why the Estes dogs were singled out.

Robin Estes stated that her other witness was out in the hall with her one year old. Her husband wrote a statement that was passed around.

Chairman Edney gave Ms. Miller a chance for rebuttal, she had nothing. Chairman Edney stated that the Board will consider all

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that has been said and make a decision within the next few days and notify all the parties.

"AMERICA'S PRIDE"/Dottie Watson, Glenda Lancaster

David Thompson informed the Board of a request from Dottie Watson and Glenda Lancaster, Co-Advisors of "America's Pride", to address the Board tonight to give a report on their trip to the Annual PRIDE World Drug Conference in Houston, Texas.

Dottie Watson addressed the Board thanking them for their support to the Henderson County America's Pride Youth Group, helping to make the trip possible. She stated that there were over 15,000 people in attendance at the international conference. She stated that the war on drugs is not won. We are making strides in the right direction. These students go into the elementary schools and put on skits and interact with the students on how to be drug free.

Glenda Lancaster introduced the four students who were in attendance. Three from Rugby Jr. High; Molly Gould, Judy Russell, and Jennifer Barthel, and one from West Henderson High School, Carol Hooker. Carol Hooker was the first student from North Carolina selected to speak at the conference.

Molly Gould - Molly is Secretary of RAAD. She attended a session that stuck out in her mind called "A Lock on Success". She spoke about handicaps, stating that people only have handicaps if they think they do. The real example of a handicap are people who are alcoholics because being an alcoholic keeps you from doing the things you want to do.

Judy Russell - Judy is Program Chairman of RAAD. She enjoyed making new friends and discovered other boys and girls at the conference who were just as committed to a drug free school as she and her school. Together it is alot easier to fight the war on drugs. They shared alot of ideas nation-wide and they enjoyed their time outside the class being drug free. She thanked the Commissioners for their support.

Jennifer Barthel - Jennifer is President of RAAD. One session that really stood out in her mind was the rope trick. In this session alot of people were picked out of the audience to participate. They played parts of a family and were tied together with pieces of rope. It demonstrated how people in an alcoholic family are playing a role and if one falls down the whole family falls down.

Carol Hooker - Carol is a sophomore at West Henderson High School. She stated that she lost a friend to alcohol & drugs. When she was 11 her best friend killed herself because she was an alcoholic. Carol explained that the group RAAD is Rugby Against Alcohol & Drugs. Carol spoke of youth roles, teen roles, adult roles, and

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adult support. She encouraged the Commissioners to play the adult role and be adult support for the group.

Performance Guaranty Agreement - Champion Hills, Section 7

Matt Matteson reviewed the draft agreement between Henderson County and The Branigar Organization. They are the new owners of the Champion Hills development. This agreement supplants the agreement with the previous owners regarding subdivision improvement guarantees for Champion Hills, Section 7.

The "bond" for Section 7 was provided by the previous developers and approved by the Board of Commissioners on August 21, 1991 and the plat for 14 subdivision lots subsequently approved by the Land Development Administrator. A replacement bond (Irrevocable Letter of Credit) has been received and approved by the County Attorney and the previous bond released.

The construction of road and water improvements is now underway. This agreement basically ties the guarantees to the new owners and restates the responsibilities of each party.

Commissioner Baker made the motion to endorse this new agreement. All voted in favor and the motion carried.

GUARANTEE FOR SUBDIVISION IMPROVEMENT - Champion Hills, Section 8

Matt Matteson presented a request for subdivision improvement guarantees for Champion Hills, Section 8. At their meeting on May 26, 1992, the Henderson County Planning Board granted Final Plan approval for this section contingent upon:

1. Approval of waterline drawings by the City of Hendersonville and the North Carolina Division of Environmental Health.
2. The posting of financial guarantees for road, drainage and water improvements as provided for under Section 551 of the Henderson County Land Development Ordinance.

He also reviewed a draft agreement between Henderson County and The Branigar Organization, owners and developers of Champion Hills, including engineering cost estimates and an irrevocable letter of credit. Mr. Matteson stated that the Staff Attorney has reviewed the agreement and recommended that the due date on the agreement be changed from November 30 to October 30, 1992 to provide a 30 day period in the event that there has to be an administrative exercising of the bond.

Bill Lapsley, of Lapsley & Associates, introduced Mr. Al Cechvala who is the new project director for The Branigar Organization, the new owner of Champion Hills.

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Mr. Cechvala informed the Board that he is the Vice-President of The Branigar Organization and the project director for Champion Hills. He will be the senior manager on site at Champion Hills, responsible for the overall operation, development, and sales. He briefed the Board on The Branigar Organization.

Bill Lapsley reviewed the project with maps. There was discussion of the 125% guaranty and how it was figured. There was discussion of changing the date of the letter of credit. There was discussion of gates and of security for the property.

Commissioner Baker made the motion to accept the letter of credit and to approve the recommendation of the Staff Attorney. After some questions and further discussion Commissioner Baker withdrew his motion.

After continued discussion, Commissioner McKay made the motion to honor our commitment based on our former computation of 125% and also to change the date on the letter of credit to December 30, 1992. All voted in favor and the motion carried.

Mr. McKay stated that we need to review very closely the wording and our interpretation of the 125% so that there will be no misunderstanding next time.

SET A PUBLIC HEARING - Public & Private Road Names

Susan Sneed, E-9-1-1 coordinator, reminded the Board that pursuant to Section 302 of the Henderson County Property Address Ordinance, a public hearing needs to be called to name or rename both private and public roads in Henderson County.

A notice of the hearing will be placed in the Times-News. Once the hearing has been held, the street names may be adopted with whatever changes the Board may wish to make. If another name is suggested, a new public hearing will need to be scheduled.

The earliest evening meeting that this public hearing can be held is July 6, 1992, at 7:00 p.m. To meet the public notice requirements, advertisements must be placed in the newspaper and the notices need to be posted ten (10) days prior to the hearing date.

Commissioner McKay made the motion to set the public hearing for Monday, July 6, 1992 at 7:00 p.m. at this location. All voted in favor and the motion carried.

DESIGNATION OF NON-CONFLICTING STATE ROAD NAMES

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Susan Sneed, E-9-1-1 coordinator, presented a list of 117 public roads that are in agreement with State Road names and numbers for the Board of Commissioners to re-adopt at this time.

The list of non-conflicting state roads have been reviewed by the planning staff for duplication and/or multiple identity. Because there are no conflicts with the street names, a Public Hearing is not required although the Board of County Commissioners still has to take action to adopt these street names. Upon approval by the Board, the planning staff may order street signs.

Commissioner McKay made the motion to approve the list submitted of non-conflicting state road names. All voted in favor and the motion carried.

Several roads were then discussed that had been tabled previously.

CARL SANDBURG HISTORICAL MARKER

David Thompson informed the Board of a request to place a highway marker on the east side of US 25 near the corner of the old Flat Rock School property.

The N.C. Highway Historical Marker Advisory Committee has approved a marker bearing the following inscription:

CARL SANDBURG
1878-1967
"Poet of the People,"
Lincoln biographer, &
Pulitzer Prize-winning
author. Lived, 1945-
1967, at "Connemara,"
located 1/3 mile west.

According to the operating procedures of the Marker Advisory Committee, local governments have the right to appeal the actions of the committee within thirty (30) days from the date of notification.

This item does not require action. Commissioner Good stated that he would be glad to see it installed.

UPDATE ON UPCOMING MEETINGS

David Thompson reminded the Board of the up-coming conference in Charlotte. He asked them to let the Clerk know of their intentions so arrangements can be made for that August meeting.

David Thompson reminded the Board of the joint meeting with the Solid Waste Advisory Committee. He suggested a dinner meeting with

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them to receive their site selection criteria recommendations. They have spent alot of time and effort on this. Tentative dates mentioned were June 18 or June 23.

David Thompson reminded the Board of the joint Human Resource Management Meeting with the Department of Social Services Board. He suggested it be a dinner meeting some time in July.

David Thompson questioned the possibility of having a ground-breaking for the Mud Creek Sewer Project and also one for the Cane Creek Sewer Project. He was directed to set up ground breaking ceremonies and inform the Board of the dates and times.

David Thompson questioned a date for the annual Boards & Committees Appreciation Banquet. After some discussion it was decided to wait until September for this banquet. The Board does indeed wish to have a second annual Appreciation Banquet.

NOTIFICATION OF VACANCIES

1. Chairman Edney informed the Board of 3 vacancies on the Board of Health.
2. Chairman Edney informed the Board of 3 vacancies on the Mountain Valleys Resource Conservation & Development Program.
3. Chairman Edney informed the Board of 3 vacancies on the Nursing Home/Domiciliary Home Advisory Committee.
4. Chairman Edney informed the Board of 3 vacancies on the Youth Advisory Committee.

Letters have gone out to all whose terms are expiring, to see if they would be willing to serve again if nominated.

CANE CREEK WATER & SEWER DISTRICT

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

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

EXECUTIVE SESSION

Commissioner McKay made the motion for the Board to go into Executive Session as allowed under G.S. 143-118.11 to discuss the following matters:

- A. To discuss a personnel matter
- B. To discuss the acquisition of real property

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- C. To consult with the County Attorney to the extent that confidentiality is required

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
Elizabeth W. Corn, Clerk

J. Michael Edney
J. Michael Edney, Chairman