

MINUTES

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
MARCH 9, 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 William McKay, County Manager David F. Thompson, County Attorney Don H. Elkins, and Clerk to the Board Elizabeth W. Corn. Commissioner Hugh D. Randall was absent at the beginning of the meeting but was expected to come in a little late. Absent was Commissioner F. Richard Baker and Assistant County Manager/Finance Director David E. Nicholson.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Commissioner Good led the pledge to the American Flag.

INVOCATION

Rev. Larry King, Minister of Music of Mud Creek Baptist Church, gave the invocation.

REVIEW OF MINUTES

Minutes of the February 19, 1992 meeting were presented for review. Minutes were approved as presented.

DISCUSSION/ADJUSTMENT OF AGENDA

David Thompson added a new item "A" under New Business, Public Health Assessments/Agency for Toxic Substances and Disease Registry. He changed item "A" printed on the agenda to item "B-1" and item "B" to item "B-2".

David Thompson requested Commissioners to remove item "F" information from their book under New Business and add to Public Hearing Information, then to remove the first page (cover memo) from the Public Hearing and make it a new item "F", set a Public Hearing (future).

David Thompson stated that Chairman Edney will address item "H" instead of himself. He also added item "K" under New Business, Set date for Work Session.

March 9, 1992

2

PUBLIC HEARING -Public and Private Road Names

Commissioner McKay made the motion to open Public Hearing. All voted in favor and the motion carried.

Public Input

Lucille Lyda - opposes Deep Gap Road's name being changed. Deep Gap Road is not on the list for Public Hearing tonight.

Susan Lyda - would like Soapstone Road instead of Connelly Road.

Ed McGraw - would like Soapstone Road instead of Connelly Road.

Judy Dobbs - would like Connelly Road instead of Soapstone Road.

Evelyn Dalton - would like Connelly Road instead of Soapstone Road.

Dora Connelly - decided not to speak.

James Connelly - would like Connelly Road instead of Soapstone Road.

Donald Zeiger - would like Soapstone Road instead of Connelly Road.

Jim Cameron - Mr. Cameron stated that he has a presentation to make on cable costs. He cannot make the presentation within the two-minute timeframe and asked when he could make it. Chairman Edney told him if he would call Mr. Edney tomorrow, they'd set up a time.

Jim Mabry - decided not to speak.

Victor Vere - decided not to speak.

Elmetta Linder - would like Soapstone Road instead of Connelly Road.

Evelyn Nichols - Mrs. Nichols meant to sign up for regular Public Input.

Gary Willis - would like Connelly Road instead of Soapstone Road.

Kevin Bentley - would like Connelly Road instead of Soapstone Road.

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

Chairman Edney asked Mr. Matteson and Mrs. Sneed if there was any controversy on any of the other names on the list. Mrs. Sneed asked that Deep Woods Drive be tabled. After discussion, Commissioner McKay asked that the road "Elzie Hill" be tabled.

March 9, 1992

3

The Planning Department recommends Connelly Road instead of Soapstone Road. It was decided to Table this road at this time also. Chairman Edney stated that the Historic Society is researching the issue and he would like to hear from them before making a decision.

Commissioner McKay made the motion to approve all roads on the list except the following three:

1. Deep Woods Drive
2. Elzie Hill
3. Connelly Road/Soapstone Road

All voted in favor and the motion carried. Chairman Edney stated that these three roads will be addressed at a later meeting.

#### PUBLIC INPUT

Ivory Marshall - Mr. Marshall spoke regarding East Flat Rock zoning. He is not for zoning the area.

Evelyn Nichols - Mrs. Nichols spoke briefly regarding the Public Health Assessment & Superfund Study. She also spoke on East Flat Rock zoning and asked that the Orchard Valley project be put on hold.

Commissioner Randall arrived during Public Input.

#### NOMINATIONS

1. Chairman Edney reminded the Board of 2 vacancies on the Jobs Training Partnership Act Committee. There were no nominations at this time so the item was rolled.

2. Chairman Edney reminded the Board of 5 vacancies on the Agriculture Advisory Board. Commissioner McKay nominated Wayne Carland for a 4 year term. Commissioner Good nominated Don Ward for a 4 year term. Commissioner Randall nominated Theron Maybin for a 3 year term. Commissioner McKay nominated Billy Johnson for a 3 year term. Commissioner Good nominated Ken Allison for a 2 year term. Chairman Edney made the motion to appoint these five people to the Agriculture Advisory Board. The motion carried unanimously.

3. Chairman Edney reminded the Board of 3 vacancies on the Nursing Home/Domiciliary Home Advisory Committee. Mr. Thompson stated that under the General Statutes, one-third of the members need to come from recommendations by the nursing home administrators. We will give notice to those administrators. This item was rolled.

4. Chairman Edney reminded the Board of vacancies of the entire Board of Equalization & Review, five regular members and as many alternate members as they choose to nominate.

March 9, 1992

4

Commissioner McKay nominated R.E. Harmon. Commissioner Good nominated Marvin Smith. Chairman Edney nominated Glenn Mullinax, Doris Saltz, and Leon Lamb. All these nominations were for regular members.

Commissioner McKay nominated Marlene Conner for an alternate. Commissioner Good nominated Bob Brown. Commissioner McKay nominated Becky King. Chairman Edney nominated Blanche Mann Grace. Commissioner Good made the motion to appoint the above named nine people to the Board of Equalization & Review. All voted in favor and the motion carried.

5. Chairman Edney reminded the Board of 2 vacancies on the Land Use Plan Steering Committee.

Commissioner Good nominated Sara Waechter to represent the Fletcher Planning Board. Chairman Edney nominated Chet Parent to fill the other vacancy. Commissioner McKay made the motion to close nominations and appoint these two to the Land Use Plan Steering Committee. All voted in favor and the motion carried.

SET LOCATION FOR PUBLIC HEARING - East Flat Rock Land Use Study, Phase II

David Thompson reminded the Board of the Public Hearing they set for the referenced zoning amendment for April 6, 1992 at 7:00 p.m. The location was held open so that Mr. Matteson could check on appropriate places. He has called about several places and has not been able to find a place that is more appropriate than the County Administrative Offices. He suggested the hearing be scheduled for Room #209 of the County Administrative Building.

Commissioner McKay made the motion to schedule the Public Hearing for the County Administrative Building, Room #209, April 6, 1992 at 7:00 p.m. All voted in favor and the motion carried.

PUBLIC HEALTH ASSESSMENT/Toxic Substances & Disease Registry

Chairman Edney stated that this is more of an announcement than it is an action item. The agency for toxic substances and disease registry is a department under the U.S. Department of Health & Human Services. They have contacted Henderson County regarding a Public Health Assessment for the East Flat Rock area of the county. The registry's mission is to prevent or mitigate adverse human health effects and diminished quality of life resulting from exposure to hazardous substances in the environment.

Chairman Edney stated that they gather information about hazardous substances at particular sites and evaluate whether exposure to those substances might cause any harm to the people who live in the area. To make those determinations they obtain environmental data such as information about the chemicals at the site, health data

March 9, 1992

5

including information on county wide rates of illness, disease, and death and community concerns from citizen reports. This information is used to develop public health advisories and other recommendations to protect the public health. This information is also used to identify health studies or other actions that might be needed.

David Thompson spoke with the Agency for Toxic Substances and Disease Registry (ATSDR) today on how the county can assist them in this study. Mr. Thompson stated that this does not have any impact on whether the G.E. site will be declared to be a SuperFund site on the National Priorities List. The registry would like community input. Mr. Thompson offered our meeting room or possibly a room at the library or community college for public forums. They also need private interview space. He stated that he will be asking the media to give alot of publicity to these forums. This will be a one year long assessment and the final report will be published.

#### MILLS RIVER FIRE DISTRICT PROPOSED EXPANSION-Scheduling of Required Public Hearing

Chairman Edney said that we need to set a public hearing on this but it will not go into effect until next January (1993).

David Thompson reminded the Board of the requirements for the expansion of a fire district. He stated that the requirements have been complied with.

Commissioner Randall made the motion to hold a Public Hearing on this proposed expansion at the Mills River Fire Department on April 23 at 7:00 p.m. All voted in favor and the motion carried.

#### BLUE RIDGE DISTRICT PROPOSED EXPANSION-Scheduling of Required Public Hearing

David Thompson stated that there is one item the Board must do before Blue Ridge Fire Department can proceed. The Board must name Fire Protection Commissioners for Blue Ridge (Advisory Board).

Commissioner Good made the motion to appoint William Arthur Whiteside, Charles E. Hill, and Glenda Nix as Fire Protection Commissioners for a 2 year term as required by General Statute. All voted in favor and the motion carried.

David Thompson stated that the requirements have been complied with and the Board must now set a public hearing to hear from the citizens in the area.

Commissioner McKay made the motion to set a Public Hearing on this proposed expansion for April 30 @ 7:00 p.m. at the Blue Ridge Fire Department. All voted in favor and the motion carried.

March 9, 1992

6

#### SITE SELECTION SCHEDULE

Nippy Page stated that the Solid Waste Advisory Committee has been diligently meeting since the first of January, developing site selection criteria and rankings for the new landfill. She presented the site selection schedule to the board but said that they are having problems <sup>getting</sup> meeting room facilities. <sub>ewc</sub>

After some discussion on the matter Commissioner McKay made the motion to approve the recommendations of Ms. Page for setting the forums for March 16 and March 30 and approve the proposed schedule through April 6, 1992. All voted in favor and the motion carried.

#### ORCHARD VALLEY SUBDIVISION MASTER PLAN APPEAL

David Thompson reminded the Board that Chairman Edney received an appeal (in agenda package) to overturn the Planning Board's approval of the Orchard Valley Subdivision. The question that the Board of Commissioners discussed at the previous Board Meeting was whether or not anyone other than the applicant could appeal decisions made under the subdivision ordinance and if they can, what grounds they may appeal under. The Board requested that the County Attorney render an opinion on these two issues. This question is new legal ground for this county in that it has never been raised before in relationship to the subdivision ordinance.

David Thompson stated that Mr. Elkins is prepared to give an opinion at this meeting. He also stated that this meeting is not scheduled as a Public Hearing but rather is scheduled to receive Mr. Elkins' opinion and to determine an appropriate course of action in response to this request.

Don Elkins stated that the appeal as outlined under the ordinance does not say who can appeal. This is the nature of an administrative appeal from the Planning Board and Mr. Elkins' interpretation is that the appeal runs in favor of the applicant or the land owner. Mr. Elkins' opinion is that the appeal should be limited to the owner of the tract in question.

Chairman Edney's opinion differs. The ordinance says appeals from the citizens, it doesn't say who can appeal or under what circumstances or what the scope of the appeal would be. When you refer to the subdivision ordinance, it deals primarily with the subdivision of a piece of property. To that extent he agrees with Mr. Elkins' opinion in that it is one owner. The ordinance does provide for buffer strips. "A buffer strip no less than 10 feet wide may be required" Mr. Edney feels that means that an adjoining owner has an interest in the subdivision of the property. Based on that Mr. Edney feels that someone who has adjoining property should have the right to appeal.

March 9, 1992

7

Don Elkins' response: The ordinance would no longer apply to an individual parcel of land and would be more the nature of a zoning ordinance and the decisions of the Planning Board would not be definite. They would always be subjected to appeal. You would never have a time frame to develop a subdivision. On the other hand whether the appeal was allowed or denied either the owner or the adjacent land owners could go to court, no matter who decides the issue, either the Planning Board or the County Commissioners. Clearly the impact of the ordinance and all its sanctions is against the owner and not against the adjacent land owner. He thinks the ordinance should be strictly construed where only the land owner under the land development ordinance can appeal the administrative decision of the Planning Board.

Buffer zones were discussed.

After much discussion Chairman Edney made the motion for the Board of Commissioners to grant right of appeal to the appellant. A vote was taken as follows:

|       |                      |
|-------|----------------------|
| Ayes: | Chairman Edney       |
| Nays: | Vice-Chairman Good   |
|       | Commissioner Randall |
|       | Commissioner McKay   |

The motion failed. APPEAL NOT ALLOWED.

#### DESIGNATION OF NON-CONFLICTING STATE ROAD NAMES

Matt Matteson presented a list 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.

Commissioner Good made the motion to approve the list submitted. All voted in favor and the motion carried.

#### SET PUBLIC HEARING

Matt Matteson informed the Board that a Public Hearing needs to be set at this time for the next batch of street names.

Commissioner McKay made the motion to set the Public Hearing for road names for May 4, here, at 7:00 p.m. All voted in favor and the motion carried.

#### HOME/Housing Program Resolution

David Thompson informed the Board that this is a complex new federal program that we do not have alot of lead time on to take action. The region as a whole has to respond by the end of March. They have asked for the individual county and city responses by March 25.

This program is sponsored by the U.S. Department of Housing and Urban Development and has the possibility over a period of four

March 9, 1992

8

years of generating roughly \$10,000,000 to this region through HUD. Land of Sky is interested in assembling a four-county consortium to pursue utilizing this funding. The funding is very flexible, based on local needs. It does require a local match, 25% for rehabilitation projects and 50% for new construction. However, for the up-coming fiscal year ('92) the match is waived by Congress. The state is operating a state wide consortium to draw down the money to the state. What is proposed here is a four county regional consortium to draw down the money to this region. There are some advantages and disadvantages and those were discussed briefly. Mr. Thompson's recommendation is for Henderson County to join the consortium.

City of Asheville/Buncombe County have agreed to be the lead sponsoring agencies for the project. If Henderson County joins it would be a 3 year commitment to the consortium. Henderson County would not incur any costs unless we as a county wanted to draw down some of the funding for our own projects. A Resolution was presented "Agreement to Form the French Broad Valley Housing Consortium".

Commissioner Good made the motion to approve the Resolution as presented. All voted in favor and the motion carried.

#### FEDERAL CABLE LEGISLATION

Chairman Edney reminded the Board of the NACo Legislative Conference he and David Thompson attended recently in Washington, D.C. One work session they attended involved a discussion of cable consumer legislation that has been introduced into the House of Representatives. He presented two resolutions proposed for adoption by the Board relating to this issue.

One Resolution deals with three bills. The primary issue is rate regulation. One of these bills allows cable operators to add or delete from the basic service any video programming except local television broadcast signals. Under Senate Bill 12 the rates can be regulated only if there is effective competition. There is effective competition if fewer than 30% of the households in the cable community subscribe to cable service. He discussed two bills that are in the House now, one is HB 1303, the other HB 3560.

Chairman Edney recommended adoption of both Resolutions presented:

1. Resolution to Support H.B. 3560 "The Cable Consumer Protection Act of 1991"
2. Resolution on Franchise Requirements for Video Dialtone Service Providers

Commissioner McKay made the motion to adopt the Resolution supporting H.B. 3560. All voted in favor and the motion carried.



March 9, 1992

9

Commissioner Good made the motion to adopt the Resolution on Video Dialtone Service Providers. All voted in favor and the motion carried.

#### LEGISLATIVE UPDATE

David Thompson informed the Board that the packet of information is just for the Board's review. The packet of information is the Legislative Priorities that were being discussed in Washington, D.C. The N.C. Association of County Commissioners also have Legislative Priorities which are included.

#### NOTIFICATION OF VACANCIES

Chairman Edney informed the Board that we have two vacancies on the Hospital Board of Trustees due to deaths. These are unexpired terms.

Commissioner Good nominated Sam H. McGuirt, Jr. to fill the unexpired term of George F. Stowell, expiration date 6/01/96.

Commissioner McKay made the motion to suspend the rules and appoint Mr. McGuirt. All voted in favor and the motion carried.

#### SET DATE FOR WORK SESSION

David Thompson informed the Board of the need to have a work session to discuss the Courthouse/Jail/Law Enforcement Center. The Architect would be at the work session.

Mr. Thompson's recommendation is to have an all-day workshop with Courthouse Complex discussed in the morning and Budget in the afternoon with department heads making brief presentations.

Commissioner McKay made the motion to set a workshop meeting for April 2 at 9:00 a.m., place to be decided on at a later date and announced at the March 25 meeting.

#### CANE CREEK WATER & SEWER DISTRICT

The Henderson County Board of Commissioners adjourned 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.

#### MUD CREEK WATER & SEWER DISTRICT

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

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

March 9, 1992

10

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:

- A. To discuss a personnel matter
- B. To discuss the acquisition of real property
- C. To consult with the County Attorney to the extent that confidentiality is required.

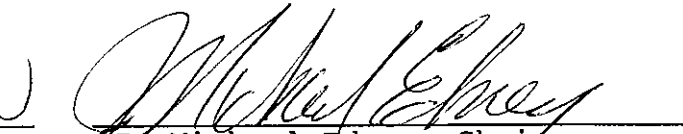
All voted in favor and the motion carried.

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, Clerk

  
J. Michael Edney, Chairman