

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COUNTY COMMISSIONERS
SEPTEMBER 4, 1990

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 William T. Drake, Vice-Chairman F. Richard Baker, Commissioner Hugh D. Randall, Commissioner Troy L. Maybin, Commissioner J. Michael Edney, County Attorney Don H. Elkins, County Administrator Jerry D. Myers, Finance Director David E. Nicholson, Clerk to the Board Elizabeth W. Corn and the news media.

Chairman Drake called the meeting to order and recognized Rev. Ron Pinkerton of the Carolina Baptist Association, who gave the invocation.

MINUTES

The minutes of the June 20 meeting were presented for review. The minutes were approved as corrected.

The minutes of the June 25 meeting were presented for review and were approved as presented.

The minutes of the June 28 meeting were presented for review and were approved as presented.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Drake added one item after Executive Session, "Cane Creek Water & Sewer District". We have a contract that needs to be discussed in Executive Session.

PUBLIC INPUT

Chairman Drake asked the Clerk to call the names of the people who have signed up for Public Input and asked that each person limit themselves to five minutes.

Jim Toms- Mr. Toms is an attorney and spoke on behalf of Jack Moore and Wiley Arrowood as their neighbor. Mr. Moore, Mr. Arrowood, and Mr. Toms live near Blue Ridge Community College on Allen Road. Each fall they are bothered by hunters. He stated that the birdshot falls like hail on his roof. Hunters come to this area to hunt birds in the cut fields and do not know where their shot will land. It presents a risk of injury to people and property. He stated

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that over the past three or four years he has had horses and cattle struck by shot. The problem is getting continually worse.

Mr. Toms stated that the problem is how to cut back on the risk without interfering unfairly with the lawful pursuit of hunting. He is asking that the Commissioners consider appointing a committee to study what might be done. The Wildlife enforcement officers have asked to be a part of that committee. One possibility he suggested is a county Ordinance to limit hunting in certain areas of the county. Another possibility is to ask that the state law be amended.

Wiley Arrowood- Mr. Arrowood stated that he has been living on Allen Road 20 years. This has been a continuing problem in that area. He fears for his grandchildren when they are at his house, states that it is not safe for people or livestock. He has no problem with hunters hunting land that is not near residential areas. He stated that there is a law that you can't shoot adjacent to a road in Henderson County but it is only effective west of #280. He stated that we need a county Ordinance and/or a change in the state law. Southern Bell had to bury a line up Allen Road because of the damage done to the line that went across the property there, damage from gunshot. He said that according to the Sheriff Dept. he can't keep anyone off of his property from hunting unless he puts up a "posted" sign, they can walk up with a gun and shoot in his yard. He feels that he should be able to walk in his yard and not have to dodge shot.

After discussing this with the Wildlife people, Mr. Arrowood stated that there is nothing that can be done without the County Commissioners going to the State Representatives and backing a restriction. Mr. Arrowood stated that on Saturday they had four Wildlife people and two County Law Enforcement people out on Allen Road talking with them about this problem. They were told that there are no existing Ordinances or laws restricting this type activity.

Jack Moore- Mr. Moore lives in a trailer and said that the shot falling on his roof sounded like a hailstorm. He is asking what the residents can do, what is necessary to get something done to correct this problem. This happens every fall but is getting worse each year.

Chairman Drake stated that he couldn't give them any information tonight because this is the first he has heard of this and he needs to look at the General Statutes to see what they say. Mr. Drake said that probably the only thing that can be done is some type of Ordinance stating the distance between hunting and an occupied dwelling. Counties cannot enact laws that pertain to hunting because they are regulated by the State.

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VALLEY HILL FIRE DEPARTMENT

Chairman Drake informed the Board that he was delivered a letter today from Valley Hill Fire Department indicating that they have under contract a parcel of land near Evans Road and Crab Creek Road. Their Attorney, Peter Knight, is in the process of going through the zoning process and will have to get approval for the location of the fire station there. As soon as that is done the Valley Hill Fire Department will close on the property and start construction of the substation in the Crab Creek area.

APPOINTMENTS

Chairman Drake stated that there is one vacancy on the Henderson County Planning Board and have one nomination from the last meeting, Mr. Don Adams. He asked for any other nominations at this time, there were none.

Commissioner Baker made the motion to suspend the rules and appoint Mr. Adams to fill this vacancy for an unexpired term. All voted in favor and the motion carried.

NOMINATIONS

1. Chairman Drake informed the Board of one vacancy on the Land-Of-Sky Regional Council, Economic Development Interest. There were no nominations so the item was rolled to the next meeting.
2. Chairman Drake informed the Board of one vacancy on the Land-Of-Sky Advisory Council on Aging. There were no nominations so the item was rolled to the next meeting.
3. Chairman Drake informed the Board of one vacancy on the Youth Development Committee. There were no nominations so the item was rolled to the next meeting.
4. Chairman Drake informed the Board of two vacancies on the Henderson County Zoning Board of Adjustment, one regular member and one alternate member. There were no nominations so the item was rolled to the next meeting.
5. Chairman Drake informed the Board of one vacancy on the Land-Of-Sky Retired Senior Volunteer Program (RSVP) Advisory Council. There were no nominations so the item was rolled to the next meeting.

GRANT APPLICATION-Doug Moon

Chairman Drake recognized Doug Moon, Director of Parks and Recreation Department, to present this item.

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Mr. Moon informed the Board of an application for a grant from the Henderson County Travel & Tourism Committee, requesting a non-matching grant of \$1,050 to fund their brochure that they started last year with a grant. They are asking that this grant application be approved so they can print more of these brochures, they have been very popular.

Commissioner Maybin made the motion to approve this grant application for \$1,050 to be presented to the Travel & Tourism office for 1991 and authorize the Chairman's signature. All voted in favor and the motion carried.

BOARD OF ELECTIONS' REQUEST

Chairman Drake recognized Mr. Gregory from the Board of Elections to present this item.

Mr. Gregory addressed the Board requesting 70 additional voting machines. He distributed a break-down of voter registration as of this past Friday, of all the 33 precincts. He recently wrote a letter requesting 70 Shoup voting machines. He gave a break-down of how many machines are needed in each of the precincts. He stated that the 70 machines would give them enough machines, probably for the next 10 years.

Commissioner Baker stated that 70 voting machines would just about put our contingency out of business, along with the other matters that have to be taken care of. He also stated that we are only going to have one election in the next two years and that is the next general election, this November. He said that if we bought additional machines now they are going to be sitting idle for almost two years.

Norma Frost, a member of the Election Board, addressed the Board. She stated that the old Air Mac machines are wearing out and need continual testing and maintenance. Of the first eight Air Macs tested for the last election, two of the eight were inoperable. She stressed the need for the machines, stating that they don't want to be caught short. She stated that this last election, Keith had to make four visits for break-downs.

Ms. Sally Godehn, the other Election Board member, stated that in this last election we had only one ballot and in the November election we will have eight ballots.

There was alot of discussion.

Mr. Gregory changed his request to 25 machines instead of 70 at this time. 25 machines would take care of the emergency needs for now. Mr. Gregory stated that these machines cost around \$5,000 each right now, next year they will be more.

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Chairman Drake informed them that the Board will take their request under consideration and see what can be done.

HEALTH DEPARTMENT INSPECTION FEES

Chairman Drake asked David Nicholson to brief the Board on this item. Mr. Drake stated that in the agenda book are three sets of figures and what was presented at the budget workshop was a little different from what was in the budget ordinance.

Mr. Nicholson stated that during the budget workshop the Board had a discussion with Tom Johnson of the Health Department about the fees. Mr. Nicholson stated that he would accept full blame for the fact that he starred the wrong one when he prepared the Ordinance. What he thought Mr. Johnson was asking was not what ended up in the Ordinance. What the Board actually adopted was not Mr. Johnson's request. To complicate matters even more, his staff interpreted it another way.

Mr. Nicholson called attention to the three lists. The list marked #1, the starred fees are the real issue. He asked Tom Johnson to speak on this fee.

Mr. Johnson stated that the fee causing the confusion is the fee that he recommended be charged for people who are making an addition to their structure, they are adding onto their house or their business in such a way that their septic tank system would be affected. They would either be required to add more footage to their septic tank line because of adding more bedrooms, or they may be adding a structure that is going to interfere with their septic tank system and they would have to relocate part or all of their septic tank system. The consensus was that that would be a \$50.00 fee. Basically what he is requesting is approval of that one fee on list # 1.

Chairman Drake stated that the confusion was where the \$20.00 fee affected those people whose septic tank was not affected. They have been charging \$50.00 to both.

Mr. Johnson stated that the fee schedule that was adopted came back to his office and he passed it along to the staff and they started charging fees as approved. He started getting complaints that the \$50.00 charge was out of line. He looked into it and found that they were charging the wrong amount. He notified Mr. Nicholson and Mr. Nicholson corrected the form. They did end up charging someone \$50.00 that should have been charged \$20.00. They refunded the people who were charged \$50.00 for just the pre-existing systems and changed their charge to \$20.00. He is requesting the Board's approval at this time of the fee schedule on list # 1.

There was discussion.

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Commissioner Baker made the motion to adopt the amended fee schedule as presented tonight on Health Department Fees. All voted in favor and the motion carried.

MORATORIUM ON INCINERATORS

Chairman Drake asked Mr. Elkins to report on this item.

Mr. Elkins passed out a "hand-out". He called attention to this "hand-out", part of the local Air Pollution Control Program Statute, he has highlighted parts of it. The Statute says that the County cannot enter into any kind of air pollution program without the approval of the state or its proper agencies. The second issue is banning of a legitimate business from Henderson County. Mr. Elkins thinks that there are serious constitutional questions here.

Chairman Drake stated that as a follow-up he has asked Matt Matteson to send copies of our proposed Ordinances to the State Environmental Management Agency for their review to see what their view is, since the Planning Board is working on that Ordinance.

Mr. Elkins said that you can regulate a business emitting air pollution but he does not think that you can ban this particular type business. This resolution is based on the fact that there would be delay in passing such an Ordinance. Mr. Elkins does not believe this is the type of emergency that we are concerned with here. He thinks the emergency would be some point of pollution in the county creating an emergency. As of today, he stated that we would have to have an emergency to even consider such a Resolution, or even for the state to consider it. This is Mr. Elkin's opinion.

Mr. Elkins said that all air pollution is regulated by the State and Federal Government unless you have a local Ordinance that is approved by the State and it must conform with State regulations. You must have a budget, you must have people administering this program and you must have some way of enforcing controls.

There was much discussion on the item.

Chairman Drake stated that the proposed Ordinance would deal with any facility that burns over 250 pounds per day. We may have some that burn less than that, that would not be under the local Ordinance.

Mr. Elkins stated that even if the State approved the Moratorium as the resolution is written, he still thinks there is a problem with banning or excluding a lawful business from Henderson County. It states that it would only be effective for six months or until the Ordinance is passed, what if the Ordinance never passes?

Chairman Drake stated that we will await answers from the State and will send them to the Planning Board.

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FRENCH BROAD RIVER WEEK

Chairman Drake informed the Board of a request to proclaim the week of September 15-23 as French Broad River Week in Henderson County.

Commissioner Edney made the motion to pass this resolution setting September 15-23 as French Broad River Week in Henderson County. All voted in favor and the motion carried.

CONSTITUTION WEEK

Chairman Drake informed the Board of a request to set forth the week of September 17-23 as Constitution Week in Henderson County.

Commissioner Maybin made the motion to set September 17-23 as Constitution Week in Henderson County. All voted in favor and the motion carried.

UPGRADING EAST FLAT ROCK TREATMENT PLANT

Chairman Drake stated that this also will be discussed under Mud Creek Water & Sewer District. The funding will probably have to come from the Board of Commissioners out of general county funds rather than out of Mud Creek Water & Sewer District funds, so it has to be discussed as a regular Board of Commissioner item also.

Chairman Drake asked Jim Erwin of the Sewer Department to discuss the upgrading of the treatment plant. Chairman Drake called attention to the three proposals from Wastewater Construction dealing with the upgrading of the plant. Chairman Drake also asked Mr. Erwin to touch on the subject of the additional requests pertaining to the East Flat Rock plant and stated that we are running pretty close to capacity right now.

Mr. Erwin stated that the East Flat Rock treatment plant is set up to physically treat 25,000 gallons per day. Right now the actual usage is between 12,000 and 15,000 gallons per day and we have approximately 10,000 gallons per day in addition to that that have been permitted. When that comes on line, we will have a flow of about 25,000 gallons per day and that is what we are set up to treat. Wastewater Services, a company in Asheville that runs the plant, have indicated that they are having some trouble at this time keeping the plant in compliance with State law because the plant needs some repairs. Mr. Erwin said that we may need to make the repairs just to handle what has already been permitted and what we anticipate will be coming in in the weeks and months ahead.

In addition to this, Mr. Erwin stated that we have in hand an application from East Henderson High School to convert their system completely to our system and they would abandon their treatment plant and build a force main and pump all their wastewater over to our East Flat Rock treatment plant. Their request is for 10,000

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gallons a day. Mr. Erwin stated that we are now processing 12,000-15,000 gallons per day and we have approx. 10,000 more permitted that will be coming on line, this does not include the East High request.

Mr. Erwin said that he asked Wastewater Services for some proposals to upgrade the plant. He said that we have just shut down the package treatment plant on the Rockwell site that used to treat the Brickton wastewater. He have two blower assemblies from the Brickton plant that are usable. We have asked Wastewater Services to work up a proposal for bringing those two blowers to the East Flat Rock plant, bringing both sides of it up into operation. One of the proposals calls for them purchasing two new blowers.

There are three proposals presented:

1. Purchase two new blowers and bring the whole plant up into operation, giving us 50,000 gallons a day of treatment capacity.
2. Use the two used blower assemblies from the Brickton plant and bring the whole East Flat Rock plant up into operation, giving us 50,000 gallons a day of treatment capacity.
3. Use the two used blower assemblies from the Brickton plant and just upgrade the part of the plant that is operating now. We would still have the same 25,000 gallon per day treatment capacity, but hopefully the plant would be operating efficiently.

There was discussion of the three recommendations. Chairman Drake stated that we have to choose one of the three recommendations, in order just to keep the plant in operation. He said that it looks like we are about two years away from being able to abandon that plant with the South Mud Creek project. In order to keep serving that area, we are going to have to bring the plant up to standards. It is operating just barely in compliance right now.

Mr. Erwin stated another concern. We have had some infiltration at the East Flat Rock plant. The people at Wastewater feel that most of it is occurring right at the plant itself. Mr. Erwin asked Wastewater if we spend all this money to upgrade our plant is it going to operate efficiently, in particular he was questioning the infiltration problem. They indicated that they feel most of the problem is at the plant but that is not a guarantee. Mr. Erwin stated that we could have some infiltration problems in our collection system that would make our plant not work efficiently even if we make these repairs. He has requested a proposal from an engineering firm in Asheville to look at part of the Cane Creek system to see what it would cost to have the Cane Creek system inspected, in particular looking for infiltration problems. He hopes to have that information pretty soon. Mr. Erwin said that

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we might want to consider having the East Flat Rock collection system inspected also.

No shut down is required to do either of the three proposals and the work can be completed in about three weeks.

Commissioner Baker made the motion to approve the contract with Wastewater Services, Option # 2, using the used blowers from the Brickton plant for a total price of \$7,095.00. All voted in favor and the motion carried.

TAX RELEASE REQUESTS

Chairman Drake informed the Board of seven (7) tax release requests. We have written requests from the tax payer and a recommendation from the County Assessor.

Commissioner Maybin made the motion to grant these seven requests, provided all paperwork is in order. All voted in favor and the motion carried.

ROAD PETITIONS

Chairman Drake informed the Board of one road petition he have received to add Cardinal Road to the state maintenance system, the request is from the developer.

Commissioner Maybin made the motion to accept this request and forward it to the N. C. Department of Transportation. All voted in favor and the motion carried.

BUDGET AMENDMENT

Chairman Drake asked Mr. Nicholson to address this item.

Mr. Nicholson referred to the minutes of the June 28 meeting, minutes the Board approved today. On the last page of those minutes the Board discussed the Sheriff's request for additional people and additional vehicles. There was discussion about giving the Sheriff a dollar amount and asking him whether he would prefer personnel or vehicles for that amount. It was decided to allow David Nicholson to meet with the Sheriff and discuss whether he feels he needs personnel or vehicles worse for the \$72,500 amount approved. This was discussion as to the amount going into contingency at that point.

Mr. Nicholson did meet with the Sheriff and he has turned in his request. The vehicles have to be ordered this coming week in order to get them at the price the state is offering. The Sheriff has requested to use \$57,597 to hire an additional detective as well as purchase four additional vehicles.

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Commissioner Maybin made the motion to grant this budget amendment for the Henderson County Sheriff Dept. All voted in favor and the motion carried.

NOTIFICATION OF VACANCY

Chairman Drake informed the Board of one vacancy on the Recreation Committee.

Chairman Drake informed the Board of one vacancy on the Henderson County Planning Board.

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

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

EXECUTIVE SESSION

Commissioner Maybin made the motion for the Board to go into Executive Session to discuss legal and personnel matters.

Commissioner Edney made the motion for the Board to go out of Executive Session.

Henderson/Buncombe County Line Dispute

Commissioner Baker made the motion to authorize the County Attorney to proceed with necessary legal action and to acquire Associate Council to assist with the proceedings. All voted in favor and the motion carried.

Annual Personnel Update

Commissioner Maybin made the motion to approve the allocation of \$332,574.00 from contingency to cover a 5% cost of living increase and position reclassifications as recommended, as well as the recommended incidental personnel actions. All voted in favor and the motion carried.

Voting Machines

Commissioner Maybin made the motion recommending the purchase of 12 additional Shoup voting machines, with the money coming from contingency. A vote was taken and the motion carried unanimously.

Grier-Fripp Associates

Chairman Drake stated that since we have placed the Courthouse/Jail/Law Enforcement Facility project on hold, we need to reimburse Grier-Fripp Associates for additional expenses that

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have been incurred in the amount of \$9,729.36. When the project is resumed, this amount will be credited to the next payment due. Chairman Drake stated that under the terms of the contract, should the work be suspended, they are entitled to 20% of the total compensation. They are not asking for that amount at this time, only for their expenses they have incurred up through this time. Commissioner Baker made the above motion. A vote was taken and the motion carried unanimously.

Cane Creek Water & Sewer District

The Board of Commissioners adjourned and took up as the Cane Creek Water & Sewer District Commissioners.

Commissioner Maybin made the motion to approve the amended contract with Wastewater Services in the amount of \$450.00 per month to provide routine maintenance and service on the four pump stations and to approve the new contract with Wastewater Construction to do the quarterly inspections of the pumps at each lift station at a charge of \$25.00 per manhour or approximately \$300.00 each quarter. All voted in favor and the motion carried.

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

School Merger

Commissioner Baker made the motion to authorize the Chairman to send his letter addressed to the School Board Chairmen asking them to start back on the merger negotiation talks and to send copies of that letter to the two School Board Superintendents. All voted in favor and the motion carried.

In light of the fuel crisis, the Board requested Jerry Myers to meet with the Department Heads and come up with a plan to decrease travel in County vehicles by 10%.

There being no further business, the meeting was adjourned at 11:20 p.m.

ATTEST:

Elizabeth W. Corn
Elizabeth W. Corn, Clerk

William T. Drake
William T. Drake, Chairman

NAME & ADDRESS REASON REAL/ PERSONAL ACCT # TOWNSHIP FIRE DISTRICT GO1 AMT FIRE AMT TOTAL VALUE RELEASED

1987

Thompson, Michael T
P.O. Box 2195
Hendersonville, NC 28793
Error in Assessment- no property
Real 52187 Blue Ridge F09 \$ 8.58 \$ 1.49 \$ 10.07 \$ 1750.

1987 Total \$ 10.07

1988

Ramsey, Michael
Rt 2, Box 249
Horse Shoe, N. C. 28742
Double Billing of Property/also Billed to Fritz Waldrop
Real 20747 Mills River -- \$ 75.71 \$ 75.71 \$ 12515.

Thompson, Bobby G.
P.O. Box 39
Dana, NC 28724
Error in Assessment-- No Property exists
Real 34744 Blue Ridge F09 \$ 8.75 \$ 1.35 \$ 10.10 \$ 1590.

Wachovia B&Trust
IA Edith T. Staton
P.O. Box 2510
Asheville, NC 28802
Error in Assessment -- Taxpayer does not own part of real value
Real 3357 H'ville -- \$ 8.25 \$ 8.25 \$ 1500.

Woody, Glenn H.
P.O. Box 1587
Brevard, NC 28712
Property not in County
Real 61356 Mills River F09 \$ 6.12 \$ 1.06 \$ 7.18 \$ 959.40

1988 Total: \$ 101.24

1989

Stinedurf, Patricia L.
P.O. Box 1531
Etowah, N.C. 28729
Property not owned 1/1/89 1971 (12 X45) MH
Personal 59127 Mills River F04 \$ 15.95 \$ 2.75 \$ 18.70 \$ 2750.

Thompson, Bobby G.
P.O. Box 39
Dana, NC 28724
Error in Assessment -- No Property exists
Real 34744 Blue Ridge F09 \$ 10.14 \$ 1.49 \$ 11.63 \$ 1590.

1989 Total \$ 30.33

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