

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COUNTY COMMISSIONERS
APRIL 18, 1990

The Henderson County Board of Commissioners met for a regular midmonth meeting at 9:00 a.m. in the Commissioners' Conference Room of the 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 Administrator Jerry D. Myers, County Attorney Don H. Elkins, Clerk to the Board Elizabeth W. Corn, and the media. Absent was Finance Director David E. Nicholson who was on vacation.

Chairman Drake called the meeting to order.

MINUTES

There were no minutes for review.

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Drake added under Unfinished Business "America's Pride Request". He also added under New Business, under "M", one tax release.

OFFER TO PURCHASE FORECLOSED PROPERTY

Chairman Drake informed the Board of two offers received on the same foreclosed property, one from Bruce A. Elmore and the second from Winnie Pulley.

The Board had an offer to purchase, received a bid from Bruce A. Elmore and advertised for upset bids. There were no upset bids received. Prior to accepting that offer the Board of Commissioners requested additional information. During that time period an heir of Mr. Willey Pulley came in and offered to pay the back taxes on the same property. Mr. Drake found nothing in the statute to prohibit that so we now have the two offers. The County Attorney will give us some advise as to who has claim on the property.

Attorney Elkins stated that the policy of the County has been that in cases where property has been foreclosed by the County, if the owners pay the back taxes the property can be reconveyed to those owners by the County. Mr. Elkins received this morning a letter from Mr. Elmore setting forth certain legal arguments as to why the property should be conveyed to him. Mr. Elkins felt the matter should be held open until he has sufficient time to review the letter and make a recommendation, maybe before the end of the meeting today.

Chairman Drake stated that there is a representative here from the Bruce Elmore Company and asked Mr. Elkins if he had any questions for the representative. Mr. Elkins stated that he would like to review his letter and then be able to speak to him later today.

Commissioner Baker asked Mr. Elkins if there is a provision in the statutes that a foreclosed property that is sold at public sale, the original owner has a right to reclaim that property for some period of time.

Mr. Elkins stated no, he thought that was just a county policy to allow the property owner to redeem a tax deed if they pay the back taxes. He knows of no statutory law that allows them to come in after a period of time after it has been foreclosed. Normally a tax foreclosure would extinguish all rights to the owner when that procedure has been completed.

AMERICA'S PRIDE/Doley Bell, Jr.

Doley Bell, Jr., Vice-Chairman of America's Pride, addressed the Commissioners. He stated that they frequently hear of things the Board does wrong, he is here today to tell the Board of something they did right, that is when they formed the Task Force to fight drugs in this county. An off shoot of that program is America's Pride.

America's Pride started in October and through the funding of the Task Force they have been able to train some young people in our community (representing every Jr. & Sr. High School in the county) to help fight drugs, alcohol, and tobacco. The group (America's Pride) has been

\$10,000 to send 26 young people and 7 chaperones. They have raised \$8,400. They are requesting the Board's help with \$1,500 to help meet their goal. They need to leave next Wednesday morning. These are all youngsters ages 13-17. There are many worthwhile topics covered at the conference, we would like to expose our young people and to give them an opportunity to bring back the information to other youth in our county. This is not a Disney World trip, it is an educational conference.

Chairman Drake informed the Board that this Monday Ron Metzger from Trend came by with a check for \$3,000 that he had gotten through Trend from the State to use on drug and alcohol prevention.

Commissioner Randall made the motion to assist America's Pride with \$1,500.00 to assist them with their international conference. A vote was taken and the motion carried unanimously.

Mr. Bell informed the Board that America's Pride will submit a written report after their trip so that they can see that the money was wisely spent.

FIRE DISTRICT EXPANSION

Chairman Drake reminded the Board that for the past several meetings, we have two fire departments that are interested in expanding their district boundaries. Mountain Home has two areas that they are interested in expanding their boundaries into, one is their western area and one is the eastern area. There is no problem at all with the western area. However, Dana Fire Department is also interested in a major portion of the same area that Mountain Home is looking at in the eastern area. Chairman Drake called on Pam Carver from Land Records to present a map and show the overlapping territory.

Pam Carver showed, by map, the existing Mountain Home Fire District and the existing Dana Fire District and then also showed the overlapping territory.

Chairman Drake stated that we have received petitions from both Departments. Of the two petitions there are either 42 or 44 duplications of signatures that we have identified. Mr. Drake gave this information to the County Attorney yesterday and asked for his opinion. Mr. Drake stated that the statute requires 2/3 of the property owners signatures, we have not had a chance yet to compare the petitions to the actual list of property owners yet.

Tommy McCraw of Mountain Home spoke to the Board and Leroy Nicholson of Dana spoke to the Board, both requesting fire district expansion. There was much discussion on the item.

Attorney Elkins confirmed that he has reviewed both petitions and they all have affidavits stating that they have 2/3 of the property owners in that area. If we have discovered duplications then we have a problem with the basic procedure to determine if we have the 2/3 requirement.

Chairman Drake stated that there is no problem with the Western District for Mountain Home. He asked if the Board would want to consider taking action on that. Attorney Elkins stated that a Public Hearing is in order. There was discussion.

Commissioner Baker made the motion to approve May 14 for a Public Hearing for the western district expansion for Mountain Home, to be held at the Mountain Home Fire Department at 7:00 p.m. All voted in favor and the motion carried.

CORRECTION DEED

Don Elkins informed the Commissioners this is a piece of property that was conveyed to the county, the piece of property is described as 1 33/100 acres and strip in Shaws Creek. Thereafter a deed was made from the county and the description on it only calls for 1 33/100 acres and omitted strip. The person who bought the property is requesting that we correct it and add the strip into the tax deed. Mr. Elkins recommends that a correction deed be approved. This deed of correction should be made out to Richard Campbell, property foreclosed in the name of Theodore Baker.

Commissioner Baker made the motion to make the correction and issue a corrected deed to Richard Campbell et ux to correct the omission of the strip in Deed Book 748/625. All voted in favor and the motion carried.

Chairman Drake suggested that since this is going to be a lengthy discussion, to roll it till 1:00 and take care of the regular business items. It was rolled.

FLETCHER LIBRARY CONTRACT

Chairman Drake informed the Board that this contract is for the construction renovation of the ground floor of the Fletcher Library. The amount of the contract is \$33,247.00. There is about \$35,000 in that fund. The contract has been reviewed by the County Attorney and approved as to form.

There was discussion. Commissioner Edney asked if there was an arbitration clause in the contract.

Commissioner Maybin made the motion to approve the contract. Commissioner Edney made the amendment "on the condition that there is no arbitration clause in the contract". On page 7 and page 8 of the contract there is an arbitration clause. Commissioner Edney requested that Article 10.8 be deleted and the Commissioners all agreed. Mr. Maybin accepted this as a friendly amendment to his motion. A vote was taken and the motion carried unanimously.

PUBLIC MANAGEMENT ENTITY

Chairman Drake recognized Robert Smith and Tom Johnson from the Health Department to present this item.

Tom Johnson spoke to the Board on state regulation changes for on-site sewerage disposal. In our county that usually means septic tanks. Septic tanks are considered to be ground absorption systems.

The Board needs to understand the new regulations which provide for something called a "management entity". The new regulations require that a management entity be responsible for maintenance on certain types of alternative septic tank systems. The management entity has to be a part of local government such as a local sewerage authority. The most common type of alternative system we use in Henderson County is one called a low pressure pipe system. When these requirements go into effect, we will not be able to issue permits for that type of system unless a management entity is designated by the Board of County Commissioners. When a management entity is established, it will also become legal to permit holding tanks which are pumped out periodically in situations where septic tanks are not permissible or not practical. The management entity would be responsible for their pumping. The new regulations would allow the Health Department to be the management entity.

Tom Johnson stated that the regulations are very brief and leave a lot of unanswered questions at this time. There was much discussion on the item. Tom and Robert feel that there are some instances where issuing a permit for a holding tank would be good, in temporary situations where sewer hook-up is close but not available yet.

Our Board felt that we need to get involved and see if we can't get the wording changed so that the management entity, if it is the Health Dept., is a supervisory agency that sees that the maintenance is done rather than having to contract with a corporation to do the maintenance.

The Board requested that the Health Department come up with items they have concerns with and that if the Health Department is designated as the Public Management Entity that it be in a supervisory position rather than a management position. The Board would try to get the regulations changed so it could be workable. If the Health Dept. could come up with some suggested wording, the Board would get it to our legislators and make them aware of the situation.

At this time there are no rules and regulations to go by and therefore Henderson County cannot permit holding tanks. The Health Department will get back to the Board at a later time.

VIETNAM VETERANS/CARROLL JONES

Chairman Drake recognized Mr. Carroll Jones of the Vietnam Veterans Organization.

of the monument would be funded by the proceeds of the Vietnam War Inc. through donations and financial efforts by the organization and would be presented to Henderson County and her veterans.

The reasons for the monument are many but foremost would be to pay honor and tribute to the twelve men from Henderson County who died in Vietnam as well as the one man who continues to serve as missing in action. It will also serve as a place, a monument, a thank you, and a welcome home to the thousands of area men and women from Henderson County who fought in South east Asia. In a day when so much is being taken from the veteran through medical and educational benefits, this is our chance to give. This will be an opportunity for Henderson County to say to all "We will not forget the men and women who secured our freedom".

Chairman Drake asked Mr. Jones if they have a location in mind. Mr. Jones said they are dreaming of a location in Jackson Park, up near the brick office building above the tennis courts. Chairman Drake informed Mr. Jones that he would need to be scheduled with the Recreation Committee to see what their plans are for that particular area and then go from there.

Mr. Jones showed a drawing of the proposed monument. By the completion date they hope to incorporate a monument to all wars, World War I, World War II, Korea, and Vietnam. They will begin with Vietnam and Korea, the two most recent wars. The first phase will incorporate the names of the men who were killed in Vietnam and Korea. The theme of the monument will be enclosed in the middle portion. It will be a lighted monument. Initial cost will be somewhere between \$50,000 and \$75,000. Total area needed for the monument is 50 foot square. Chairman Drake asked Mr. Jones to get with Doug Moon to get on the agenda for the Recreation Board meeting. When the Board gets the Recreation Board's recommendation, they will go from there.

GRANT APPLICATION/DOUG MOON

Doug presented three applications for grants. The first two are for the Four Season's Arts Council for arts programs with the recreation department. They have applied to receive these same grants the last three years. The third grant is application to the Melvin R. Lane Charitable Trust, for the nature trail. The request is for \$5,000 nonmatching monies to be applied towards the paving of the boardwalk to complete the nature trail at Jackson Park. All three grants are nonmatching grants and are submitted for the Board's approval.

Commissioner Maybin made the motion to approve all three grant applications. A vote was taken and the motion carried unanimously.

After a break, Chairman Drake stated that he was handed a note from a representative of the Bruce A. Elmore Co. indicating that he had to leave, he had to admit his wife into the hospital at 11:30 and requested that we take no action on his request today.

Chairman Drake informed the Board that just this morning we received from our attorney who has been handling the Summey Outdoor Advertising Suit, letter indicating action on Summey's appeal to the N.C. Supreme Court. N.C. Supreme Court has issued an order denying Summey's petition for discretionary review. This order means that the Court of Appeals opinion in favor of the county stands. If he wishes to pursue it, Summey would then go to the U.S. Supreme Court.

WASTE OIL DISPOSAL/Nippy Page

Ms. Page informed the Board that Holston Energy of Waynesville has proposed a contract with Henderson County to provide for the disposal of our waste oil from the do-it-yourself oil changer. They have agreed to provide this service for a period of two years at no charge. They will provide a 1,000 gallon tank at our landfill and give us any necessary technical assistance on installation and diking requirements. They will dispose of the oil free of charge for Henderson County.

Holston warrants that they comply with all Federal and State permits, regulations, and licenses in connection with the collection and transportation of used oil. Holston will hold Henderson County harmless in respect to damages and liability in connection with the disposal of this oil. Henderson County is to hold Holston harmless in respect to damages and liability as far as the collection tank or site. The contract may be terminated with a written notification within 30 days and then we could buy the tank from them at a cost of \$250.

able to drive right up to it. Ms. Page stated that this will help contribute to our 25% reduction going into the landfill.

Attorney Elkins wished to add some language to the contract because he stated that if we are delivered a defective tank, the contract calls for us being liable for that. The contract should state that the tank would have to be sound. Commissioner Eoney questioned what would happen to the tank after the two years are up? Mr. Drake asked that Nippy try to contact Holston and get these questions answered before the end of the day. She will report back later.

SURPLUS PROPERTY/JERRY MYERS

Jerry Myers stated that we have accumulated over the past two years a number of vehicles at the county garage and some equipment that are no longer of use to the county. They are taking up a considerable amount of space. In accord with General Statutes, in order to dispose of these vehicles and this equipment the Board of County Commissioners must declare these as surplus and authorize their disposal. Mr. Myers is suggesting that the Board declare nine vehicles as surplus and a short list of surplus equipment and that the Board authorize a sealed bid disposal process for this.

Les Capps informed the Board of the condition of each vehicle and the equipment.

Mr. Myers said that two of these vehicles are confiscated drug or alcohol vehicles and the proceeds from the sale of these must go to the schools.

Commissioner Baker made the motion to declare these items as surplus equipment and to accept sealed bids. All voted in favor and the motion carried.

Chairman Drake stated that we also have a list of parts from our old voting machines. We had our voting machines retrofitted about six years ago and these items will work on the tabulators that are not retrofitted. There are three or four counties in the state that did not have their Airmac Tabulators retrofitted and they are looking for parts. It was questioned if we could use the 2 printers on the list. That will be checked on.

Commissioner Baker made the motion to allow the Election Board to conduct a sealed bid sale on these parts. All voted in favor and the motion carried.

TRANSPORTATION IMPROVEMENT PLAN

Chairman Drake informed the Board that this is notice of a Transportation Improvement Plan Public Hearing to be held at Blue Ridge Community College on May 24. This is not the secondary road public hearing but the public hearing held by the state to add roads and projects to their six or eight year Transportation Improvement Plans. It does not deal with secondary roads.

Mr. Drake stated that as it stands right now the secondary road Public Hearing will be held at our mid May meeting in the County Office Building.

REVALUATION REPORT

There was no-one here from revaluation to present the report and Chairman Drake asked Jerry to check and see if he could get someone here before the end of the meeting.

CBA TASK FORCE RECOMMENDATION

Chairman Drake asked Jerry if he had heard from Lee Ragsdale or Patty Leonard concerning this presentation. Jerry had not but handled the presentation himself. Mr. Myers stated that annually the Board of Commissioners receive an allocation of grant funds from the state to be used for Community Based Alternatives (CBA) to committing our youth to training schools and to the state prison system. The use of these funds is reviewed by a committee called the CBA Task Force. This year the allocation of funds to Henderson County has increased a few thousand dollars from the previous year. The current allocation is \$87,876.00. The CBA Task Force has met, they received three proposals and recommend that two of the programs be funded: 1. Henderson County Youth Development Center, for a total of \$68,523.00, and 2. Trend Mental Health Center, for a total of \$19,353.00, for a total

allocation of \$87,876. These funds do require 30% local match so if approved today, you will see these figures again during the budget process. There was discussion on this item with some unanswered questions.

It was decided to delay action on this item until someone from Trend could be here to address some specific questions.

WASTE OIL DISPOSAL

Nippy Page has contacted Holston Energy and reported that at the end of two years, if the county chooses not to renew the contract, they will come remove the tank or we can purchase it at \$250.00. On the other question, it would be a brand new tank and they will certify that it is in good condition. She added that according to Senate Bill 1111, waste oil will be banned from the landfill October of 1990.

County Attorney Elkins stated that the contract should specify that the tank should be certified.

Commissioner Maybin made the motion to enter into this agreement with Holston Energy, Inc. to handle household motor oil collections, subject to approval by the County Attorney. All voted in favor and the motion carried.

DEPARTMENT OF TRANSPORTATION RESOLUTION/HATT MATTESON

Chairman Drake recognized Hatt Matteson to present this item.

Hatt Matteson addressed the Board stating that this is an agreement for interim sign replacement for damaged or lost signs. Henderson County would contract with the N.C. Department of Transportation for services and be billed on an open-ended agreement based on a unit price. This would be for the black on white paddle-style signs.

There is a Resolution of Agreement in the agenda packet which would need the Board's approval. The expiration date of this agreement would be December 31, 1990. The estimated cost for the performance of this work is \$1,000 but we would be billed per sign.

Commissioner Baker made the motion to approve the resolution and the contract. All voted in favor and the motion carried.

STREET NAME DUPLICATIONS/HATT MATTESON

Hatt Matteson addressed the Board in response to questions that were raised at a February Board Meeting. To date they have found approximately 91 exact duplications, 330 name duplications (base name), and 20 phonetic duplications. He stated that these numbers change daily.

Mr. Matteson stated that what he feels is important for the E-9-1-1 system, is that there are no new duplications throughout the county, that there are no duplications within the same volunteer fire department district, and that wherever possible there be no duplications within the same zip code district.

There was very much discussion.

Mr. Matteson informed the Board that what needs attention now is the Property Addressing Ordinance. The Property Addressing Ordinance establishes that the Planning Department sets policy for duplications, it also establishes street address numbers, it establishes numbers for mobile homes. With that behind us he feels we could begin to eliminate the exact duplications much better.

Mr. Matteson stated that the sample Ordinance in the book is one from Cleveland County that he modified some. He reviewed the critical parts of the Ordinance with the Board. It was the Board's feeling that there should be no exact duplications, no prefix duplications, and no phonetic duplications. If a residence sits 100 feet from the center line of the roadway or more, then the assigned number must appear on the structure and again must be placed at or near the driveway which serves the structure. It was the Board's feeling that if the mailbox is on the same side of the road as the house, the number can go on the mailbox post. If the mailbox is on the opposite side of the road, the number would need to be posted on the

Chairman Drake recessed the meeting for lunch until 1:00 p.m.

Chairman Drake called the meeting back to order at 1:00 p.m.

TREND AGREEMENT

Chairman Drake stated that we need to back up and take a look at the Trend Agreement for the \$3,000. He informed the Board that this is the same type agreement that was approved last year when it cost about \$4,500 through Trend. In order to officially accept the \$3,000, this agreement must be signed.

The County Attorney has reviewed the agreement and it looks good to him.

Commissioner Baker made the motion to authorize the Chairman to sign the agreement to affect the acceptance of the \$3,000 from Trend. All voted in favor and the motion carried.

Since there was no large crowd here to discuss the Subdivision Ordinance, it was decided to go ahead and finish up with the agenda items before discussion of the Ordinance.

ROAD PETITIONS

Chairman Drake informed the Board of four road petitions that have been received to add the following roads to the state system: 1. Hidden Valley Drive

2. Crossvick Drive
3. Brookgreen Lane
4. Old King Road

Natt's recommendation is attached to each petition.

Commissioner Maybin made the motion to accept these four petitions and forward them on to H.C. Department of Transportation. A vote was taken and the motion carried unanimously.

NOMINATIONS

Chairman Drake advised the Board of two vacancies on the Nursing Home/Domiciliary Home Advisory Committee. He had had two people recommended, he spoke with both ladies. One indicated she would serve, but she had not yet. The other lady called back and said she would serve. The names are Joe Carpenter.

Chairman Drake nominated Mrs. Joe Carpenter to fill one of these vacancies.

Commissioner Baker made the motion to suspend the rules and appoint Mrs. Carpenter. All voted in favor and the motion carried.

Chairman Drake informed the Board that he has sent letters out to all the Nursing Homes and Domiciliary Homes in the County several weeks ago, asking if they had any nominations. He has gotten two or three back and has contacted the people, the nursing homes submitted the names without contacting the people. He has spoken with a couple of people who were going to call back, they called back and said they couldn't serve.

Chairman Drake advised the Board of two vacancies on the Hospital Board of Trustees. Commissioner Edney asked that this item be rolled to the next meeting.

Chairman Drake advised the Board of 4 vacancies on the Job Training Partnership Act Committee (PIC). All four persons whose terms are expiring have indicated that they are willing to serve again if nominated.

Commissioner Maybin made the motion to place the following four names in nomination for these four vacancies: R.F. Earmen, Juanita Sinclair, David Sink, and John Leatherwood.

Commissioner Baker made the motion to suspend the rules and reappoint these four persons. All voted in favor and the motion carried.

Chairman Drake advised the Board of 1 vacancy on the Land-Of-Sky Regional Council Advisory Council on Aging. There were no nominations at this time so the item was rolled to the next meeting.

Commissioner Edney made the motion to suspend the rules and reappoint Pence Kumor. All voted in favor and the motion carried.

TAX REFUNDS

Chairman Drake informed the Board of 12 tax refund requests that have been received from Allie Stepp.

Commissioner Maybin made the motion to grant these 12 refunds, being all the paperwork is in order. A vote was taken and the motion carried unanimously.

TAX RELEASE

Chairman Drake informed the Board of 1 tax release request received from Allie Stepp for Otho & Pearl Scott. This property was foreclosed on in 1954, a tax deed was issued recently and for some reason a tax bill was generated for the property while it was in the county's name. This tax release is for \$12.98 due to a clerical error.

Commissioner Baker made the motion to grant the tax release for Otho & Pearl Scott.

REVALUATION REPORT

Chairman Drake backed up to cover this item. He stated that he would bring the Board up to date with where we are with the process. On April 9 appeal checks were completed by Elliott Ross & Co. Since that time we have been doing data entry. That should be completed by this coming Monday. Once the data entry is completed, then we will run test programs on the data that has been entered, and hopefully catch any clerical errors or computer errors that have been made. The first new notices mailed will be the land use values. There may still be some errors on the new notices and some of the people who have had informal hearings may still not be satisfied with the value. The procedure will be to appeal from those values to the Board of Equalization and Review. The Board of Equalization and Review will hear from the taxpayer, appointments will be set up, appraisers will revisit the property if necessary. Everyone who requests one, will be given a hearing before the Board of Equalization and Review. After the Board of E & R, if you are not satisfied at that time with the value that the Board of E & R places on your property, then you can appeal to the State Property Tax Commission. Notices will be mailed out as soon as possible.

DISCUSSION OF THE FAMILY SUBDIVISION DEFINITION

Matt Matteson reminded the Board that two meetings ago we began the process for the work session for the Land Development Ordinance proposed amendments. At that time we got down to definitions and stopped at the definition for Family Subdivision.

Since that meeting Matt has spoken with Richard Ducker of the Institute of Government and found something on the books pertaining to this. In 1906 enabling legislation was passed give Henderson County the authority to adopt a Predevelopment Ordinance. It would take a local bill to amend the state definition of Family Subdivision.

There was much discussion on the definition of family subdivision and the transferring of property to family members.

It was decided by consensus to have a committee to review this and write a definition. The committee will consist of Mike Money, Don Elkins, and Matt Matteson, with Mike as the chairperson.

Jerry Myers stated that if they are going to prepare a local bill for introduction, there is a deadline for that, it is sometime in May.

EXECUTIVE SESSION

Commissioner Maybin made a motion for the Board to go into Executive Session to discuss legal, contractual, and personnel matters. All voted in favor and the motion carried.

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

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

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

There being no further business, the meeting was adjourned at 3:30 p.m.

ATTEST:

Elizabeth W. Coon
Elizabeth W. Coon, Clerk

William T. Drake
William T. Drake, Chairman
Henderson County Board of
Commissioners

TAX REFUND LIST

| | |
|---------------------|-----------|
| Charles Causby | \$ 101.33 |
| Charles L. Ferris | 43.88 |
| Robert Donald Goode | 45.45 |
| Linda Kay Gordon | 13.72 |
| Geraldine Ham | 160.28 |
| C. Paul Howell | 2.16 |
| Adolph E. Klug | 64.12 |
| Michael D. Lewis | 118.38 |
| Gilbert L. Pierce | 14.89 |
| William A. Ricks | 72.24 |
| John F. Shuford | 165.13 |
| Emma R. Teague | 8.32 |

GA
101.33 ✓
43.88 ✓
45.45 ✓
13.72 ✓
160.28 ✓
2.16 ✓
64.12 ✓
118.38 ✓
14.89 ✓
72.24 ✓
165.13 ✓
8.32 ✓
809.90

Total = \$ 809.90