REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 6 July 2009

SUBJECT: FY 2008-2009 Tax Collection Settlement; FY 2009-2010 Tax Order For Collection

ATTACHMENT(S): Proposed Order and Resolution

SUMMARY OF REQUEST:

It is time once again for the delivery of the tax receipts to the Henderson County Tax Collector (all references to the Tax Collector on this document and all subsequent attachments are to Interim Tax Collector Stan Duncan); however before they can be delivered, the following must occur (pursuant to N.C.G.S. 105-352):

(a) PREPAYMENTS. The Tax Collector must deliver any duplicate bills printed for prepayments received by the Tax Collector to the Finance Director and demonstrate to the Finance Director’s satisfaction that all prepayments received have been deposited.

(b) SETTLEMENT. The Tax collector must make settlement with the Board of Commissioners for all taxes placed in his hands for collection for the past year.

(c) BOND. The Board of Commissioners must approve the bond to be issued for the Tax Collector and Deputy Tax Collector for Delinquent Taxes.

(d) ORDER OF COLLECTION. An Order of Collection must be adopted at today’s meeting, which will charge the Tax Collector with the collection of FY 2009 taxes, plus all outstanding delinquent taxes.

The tax collector will be available to present further information on this matter.

BOARD ACTION REQUESTED:

Approval of tax collector’s settlement for FY 2009 taxes and approval of order of collection and charge for FY 2010 taxes.

If the Board is so inclined, the following motion is suggested:

_I move that the Board approve the tax collector's settlement for Fiscal Year 2009 taxes, and further approve the bonds, the order of collection and charge for collection to the tax collector for Fiscal Year 2010 taxes._
Resolution Setting the Bond Amounts for the Tax Collector and Deputy Tax Collector

WHEREAS, N.C.G.S. 105-352 requires that before the tax receipts are delivered to the Tax Collector for collection, the Board of Commissioners must approve a bond amount for the Tax Collector and Deputy Tax Collector; and

WHEREAS, the Board of Commissioners is desirous of complying with N.C.G.S. 105-352;

NOW THEREFORE IT BE RESOLVED AS FOLLOWS:

1. The Bond amount for the Tax Collector shall be set at $1,000,000 through August of 2010.

2. The bond amount for the Deputy Tax Collector shall be set at $250,000 to run through August of 2010.

THIS the 6th day of July, 2009.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: ____________________________

William Moyer, Chairman

Attest: ____________________________

(County Seal)

Teresa L. Wilson, Clerk to the Board
Resolution Approving the Settlement with the Tax Collector for the 2008-2009 Tax Year

WHEREAS, N.C.G.S. 105-352 requires that settlement be made with the Tax Collector for the taxes charged to the Tax Collector in the previous tax year prior to delivery of the tax receipts to the Tax Collector for the current tax year, said settlement being conducted in accordance with N.C.G.S. 105-373; and

WHEREAS, N.C.G.S 105-373 requires that settlement be made for both taxes charged to the Tax Collector in the previous tax year, and for all delinquent taxes charged to the Tax Collector, there being a specified format for current tax year settlements, but not delinquent taxes; and

WHEREAS, the Henderson County Board Commissioners has received a proposed settlement for the 2008-2009 tax year taxes, and all delinquent taxes charged to the Tax Collector for prior tax years;

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Settlement for the 2008-2009 taxes charged to the Tax Collector is hereby approved. The Board finds:
   a. All prepayments received by the Tax Collector were properly deposited;
   b. The settlement is in proper form;
   c. A diligent effort was made to collect from the person who were legally obligated to pay their taxes for the 2008-2009 fiscal year; and
   d. Those persons identified in the report of insolvents submitted by the Tax Collector are found to be insolvents. The insolvents list shall be entered into the minutes and credited to the Tax Collector as part of this settlement.

2. The Settlement for the delinquent taxes charged to the tax collector for the previous fiscal years is hereby approved. The Board finds that the settlement for the delinquent taxes is in an appropriate form.

THIS the 6th day of July, 2009,

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: [Signature]

William Moyer, Chairman

Attest: [County Seal]

Teresa L. Wilson, Clerk to the Board
Resolution Adopting the Order of Collection for the 2009-2010 Tax Year

WHEREAS, N.C.G.S. 105-352 requires that before the tax receipts for the 2009-2010 Tax Year may be delivered to the Tax Collector for collection the following must occur: (1) the Tax Collector must deliver any duplicate bills printed for prepayments received by the Tax Collector to the Finance Director and demonstrate to the Finance Director’s satisfaction that all prepayments received have been deposited; (2) the Tax Collector must make settlement with the Board of Commissioners for all taxes placed in his hands for collection for the 2008-2009 tax year; and (3) the Board of Commissioners must approve the bonds proposed for the Tax Collector (and the Deputy Tax Collector) for collection of all taxes charged for the 2009-2010 Tax Year and all delinquent taxes

WHEREAS, prepayments were received for 2009 taxes; and

WHEREAS, the Board of Commissioners has approved the settlement for the taxes charged to the Tax Collector for collection for the 2008-2009 tax year, including the delinquent taxes; and

WHEREAS, The Board of Commissioners has approved the bonds proposed for the Tax Collector and the Deputy Tax Collector;

NOW THEREFORE BE IT RESOLVED that the order of collection attached hereto is hereby adopted.

THIS the 6th day of July, 2009.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

[Signature]
William Moyer, Chairman

Attest: Teresa L. Wilson, Clerk to the Board

(County Seal)
STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON  

ORDER OF COLLECTION  

TO THE TAX COLLECTOR OF HENDERSON COUNTY:

You are hereby authorized, empowered, and commanded to collect the taxes, including current, insolvent and delinquent, set forth in the tax records filed in the Office of the Assessor for Henderson County and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Henderson, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

WITNESS my hand and official seal, this 6th day of July, 2009.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY:  

WILLIAM L. MOYER, Chairman

ATTEST:  (OFFICIAL SEAL)

Teresa L. Wilson, Clerk to the Board
6 July 2009

Henderson County Board of Commissioners
Henderson County Historic Courthouse
1 Historic Courthouse Square, Suite 1
Hendersonville, NC 28792

RE: Tax Collector’s Settlement: FY 2008-2009

Dear Henderson County Commissioners:

Attached please find the Preliminary Report for FY 2008-2009 along with the Settlement for Current-Year taxes and Delinquent Taxes. A list of all unpaid tax liens is available for your review in the Office of the Clerk to the Board.

I am happy to report that as of the close of FY 2008-2009, the Henderson County Tax Collector’s Office collected 97.94% of the annual tax bills and 90.12% of the motor vehicle tax bills. The collections percentage for motor vehicle bills this year is a record for the office.

I would like to take the opportunity to thank the staff for their hard work and dedication toward these accomplishments. The actual collection percentages, as reported, remain well above the last reported state average of 97.38%.

Thank you for the opportunity to be of service to you.

Respectfully submitted,

Stan C. Duncan
*Interim* Tax Collector

:wlk
Attachment
PRELIMINARY REPORT FOR FISCAL YEAR 2008-2009

TO: Henderson County Board of Commissioners  
FROM: Stan C. Duncan, Interim Tax Collector  
DATE: 6 July 2009

In accordance with N.C.G.S. 105-373(a)(1), I respectfully submit the following Report:

Attached to this Report is (1) a list of the persons owning real property whose taxes for 2008 remain unpaid, along with the principal amount owed by each person; and (2) a list of the persons not owning real property whose personal property taxes for 2008 remain unpaid, along with the principal amount owed by each person.


Further, I hereby certify that I have made diligent efforts to collect the taxes due from the persons listed in such a manner that is reasonably necessary.

Respectfully submitted,

[Signature]
Stan C Duncan, Interim Tax Collector

SWORN TO AND SUBSCRIBED BEFORE ME, this 6th day of July, 2008,

[Signature]
Notary Public

My Commission expires:

[Signature]
Notary Public
<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$57,341.32</td>
<td>Total amount</td>
</tr>
<tr>
<td>$69,599.44</td>
<td>Penalty</td>
</tr>
<tr>
<td>$15,239.33</td>
<td>Interest</td>
</tr>
<tr>
<td>$12,485.83</td>
<td>Total Change to Tax Collector</td>
</tr>
</tbody>
</table>

**Subtotal:**

- $57,341.32 Tax Collector
- $69,599.44 Penalty
- $15,239.33 Interest

**Total Change to Tax Collector:** $12,485.83

---

**Settlement for Current Taxes: FY 2008-2009**

- **Settlement Amount:** as of 30 June 2009
<table>
<thead>
<tr>
<th>Total Credits To Tax Collector:</th>
<th>$67,341,321.52</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>(Property Description)</em></td>
<td><em>(Outstanding Tax)</em></td>
</tr>
<tr>
<td><em>(Tax Year)</em></td>
<td><em>(Balance Due)</em></td>
</tr>
<tr>
<td><em>(District)</em></td>
<td><em>(Due Date)</em></td>
</tr>
<tr>
<td><em>(County)</em></td>
<td><em>(Due Date)</em></td>
</tr>
<tr>
<td><em>(Total Municipal Districts)</em></td>
<td><em>(Due Date)</em></td>
</tr>
<tr>
<td><em>(Total Credits)</em></td>
<td><em>(Due Date)</em></td>
</tr>
</tbody>
</table>

### Credits to the Tax Collector

- Total Credits: $67,341,321.52
- Property Description: *(Outstanding Tax)*
- Tax Year: *(Outstanding Tax)*
- Tax District: *(Outstanding Tax)*
- County: *(Outstanding Tax)*
- Total Municipal Districts: *(Outstanding Tax)*
- Total Credits: *(Outstanding Tax)*

Additional details include:

- Property: *(Outstanding Tax)*
- Description: *(Outstanding Tax)*
- Tax Year: *(Outstanding Tax)*
- Outstanding Tax: *(Outstanding Tax)*
- Total Municipal District: *(Outstanding Tax)*
- Total Credits: *(Outstanding Tax)*
HENDERSON COUNTY TAX COLLECTOR
200 NORTH GROVE STREET, SUITE 66
HENDERSONVILLE, NC 28792
PH: (828) 697-5595
FAX: (828) 697-4652

6 July 2009

Henderson County Board of Commissioners
Henderson County Historic Courthouse
1 Historic Courthouse Square, Suite 1
Hendersonville, NC 28792


Dear Henderson County Commissioners:

We are now in the tenth year of the delinquent tax collection project and would like to take this opportunity to report our progress.

Since the inception of the project in October of 1999, we have collected $13,099,785.33, in delinquent tax, including interest. Of this amount, $1,410,516.59 was collected during FY 2008-2009. At the close of this fiscal year, we have collected 99.69% of our prior-year annual tax bills (real estate and listed personal property) and 97.65% of our prior-year motor vehicle tax.1

The responsibilities of the Delinquent Tax Collections staff include the monitoring and administration of legal remedies used to collect delinquent tax. We have made a great deal of progress this year through the use of these remedies and are pleased to provide detailed information depicting this years achievements:

In Rem Foreclosures (pursuant to NCGS 105-375). Approximately 85% of Henderson County’s tax base is attributable to real estate and improvements thereon.2 It stands to reason, therefore, that Henderson County act assertively to preserve this revenue, and our foreclosure program serves to achieve this objective. Henderson County is one of few North Carolina counties that administer tax foreclosures from start to finish without the assistance of outside attorneys. We feel that this system increases efficiency and equates to minimal cost passed on to the taxpayers, who may already be financially distressed.

Henderson County traditionally holds a real estate tax auction annually, this past spring, we sold 3 properties at auction on the Courthouse steps on 25 March 2009. Three years ago, we had 39 properties scheduled to be auctioned. Prior to instituting a tax foreclosure, the statutes requires us to first conduct a title examination of the subject property and send notices via certified mail to all persons having an interest in the property. In addition to the statutory requirements to which we are bound, we attempt to make telephone contact with the taxpayer and in some cases, personally visit the taxpayer and/or the subject property. Additionally, we send pre-foreclosure notices to taxpayers as well as all mortgage holders as disclosed by the title examination. We also post the properties when we docket a judgment against the property. We have made remarkable progress during FY 2008-2009 relative to real property collections. The diligence of our staff has resulted in more taxes being collected and less property having to be foreclosed upon.

1 NCPTS Monthly County Collection Report for period 1 July 2008 to 30 June 2009
2 2007 Tax Base figures as compiled by the Henderson County Assessor
Garnishments and Attachments pursuant to NCGS 105-368. The downturn in the economy resulted in an increase in the use of enforced collection remedies, whereas voluntary payment made up the majority of our delinquent collections last year, that is no longer the case. This year (FY 2008-2009) we have served 653 bank account attachments totaling $1,037,718.22. Our office also instituted a Wage Garnishment program. We began by sending out over 1,000 letters to delinquent taxpayers advising them their wages would be garnished if they did not pay the past due taxes in their name. The success of this program resulted in only 30 Wage Garnishments having to be served totaling $11,473.78.

NC Debt Setoff Program (pursuant to NCGS Chapter 105A). The North Carolina Debt Setoff Program allows local government to collect outstanding debts by garnishing North Carolina State income tax refunds. Delinquent Tax Collections administers the Debt Setoff Program for the collection of property tax as well as debts owed to other county agencies. During FY 2008-2009, Henderson County collected $163,751.78 through the use of Debt Setoff. This is an increase of almost $60,000 over last fiscal year.

Payment Arrangements. In most instances, taxpayers are permitted to make structured payments against outstanding tax liabilities according to a predetermined payment schedule. During FY 2008-2009, Delinquent Tax Collections entered into 99 payment agreements totaling $110,579.39 in tax revenue.

Bankruptcy. As part of an effective collection program, it is important to keep abreast of the statutes and procedural issues pertaining to bankruptcy. Proofs of Claim must be filed in a timely manner when appropriate and tax bills involved in an active bankruptcy case must be carefully monitored and segregated to avoid violation of the automatic stay imposed by the Bankruptcy Court. Presently, there are 640 tax bills amounting to $170,524.40 that are involved in active bankruptcy cases. This is a slight increase over last fiscal year. As depicted in the following chart of North Carolina Bankruptcy filings, during 2006, there was a significant drop in the number of cases filed in North Carolina’s Western District Court. Only 5,108 cases were filed in North Carolina Bankruptcy Court’s Western District of which Henderson County is a part. This drop can be attributed to the 17 October 2005 enactment of the Bankruptcy Abuse and Protection Act which was designed to limit frivolous bankruptcy filings. This also represents a 10 year low in the number of bankruptcy filings. The number of bankruptcies filed during 2008 was higher than 2007 with 6,684 cases. This can be attributed to the economic downturn.

---

3 NCPTS Legal Action Report for period 1 July 2008 to 30 June 2009
4 NCPTS Legal Action Report for period 1 July 2008 to 30 June 2009
5 NC Debt Setoff Detail Report (as provided by FiveStar Computing) for period 1 July 2008 to 30 June 2009
6 NCPTS Payment Arrangement Summary report for period 1 July 2008 to 30 June 2009
7 Query of NCPTS data containing Bankruptcy flags as prepared by the IT Department
The second chart demonstrates that of the 5706 bankruptcies filed in the Western District, 895 were filed in the Asheville Division. The chart also shows the breakdown of the number of each type of bankruptcy that was filed during 2007.
Our most difficult collections remain in the area of motor vehicle tax. The total prior-year (i.e., 1997-2007) sum of outstanding motor vehicle tax is $1,295,591.36, which represents 46.27% of the total outstanding delinquent tax.\(^8\)

In closing, the progress relating to delinquent tax collections has truly been a team effort based on hard work and solid dedication. In the coming year, we will strive to maintain our progress in real estate collections while at the same time shifting our primary focus to outstanding personal property tax, which consists mostly of mobile home tax and business personal property tax.

Thank you for the opportunity to be of service to you.

Respectfully submitted,

William Lee King
Delinquent Tax Collector

cc: Stan Duncan, County Assessor/Interim Tax Collector, Carey McLelland, Finance Director

\(^8\) NCPTS Monthly County Collection report for period 1 July 2008 to 30 June 2009
<table>
<thead>
<tr>
<th>Year</th>
<th>Year End Collection Percentage</th>
<th>Year End Levy Due</th>
<th>Total Special District Levy</th>
<th>Cost Collected</th>
<th>Collected Interest Collected</th>
<th>Total Special District Cash Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>0.00%</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1996</td>
<td>0.00%</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1997</td>
<td>0.00%</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1998</td>
<td>0.00%</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1999</td>
<td>0.00%</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**Note:**
- Year End Collection Percentage is calculated based on the total special district levy and the amount collected.
- Year End Levy Due is the amount of the total special district levy that is due at the end of the year.
- Total Special District Levy is the total amount levied by the special district.
- Cost Collected is the amount collected from the special district.
- Collected Interest Collected is the interest collected on the collected amount.
- Total Special District Cash Collected is the total amount collected, including interest.
HENDERSON COUNTY BOARD OF COMMISSIONERS
1 Historic Courthouse Square, Suite 1
Hendersonville, North Carolina 28792
Phone 828-697-4808 • Fax: 828-698-4443
TDD: 828-697-4580
www.hendersoncountync.org

RESOLUTION OF INTENTION TO CLOSE EASEMENT ON THE PROPERTY OF
JAMES C. KIRKPATRICK, PARCEL IDENTIFICATION NUMBER 9577863640

WHEREAS, North Carolina General Statute 153A-241 requires the County Board of Commissioners
to adopt a resolution for the intention of closing an easement on property;

WHEREAS, The Henderson County Board of Commissioners proposed to hold a public hearing on
the closing of easement on the James C. Kirkpatrick property;

NOW, THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners, as
follows:

1. The Henderson County Board of Commissioners, which is authorized to close public
roads and easements, hereby makes the following declaration which is intended to constitute a
Declaration of Official Intent:

   (a)  Hold a public hearing. The Henderson County Board of Commissioners intend
to hold a public hearing on the closure of easements on the property of James C.
Kirkpatrick, if the easement exists as shown by the red line on the attached map.

2. This resolution shall take effect immediately upon its passage.

ADOPTED THIS the ___ day of July, 2009

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: William L. Moyer, Chairman

ATTESTED BY: Teresa L. Wilson, Clerk to the Board

[OFFICIAL SEAL]