

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
OCTOBER 19, 2005

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Shannon Baldwin, Commissioner Chuck McGrady, County Manager David E. Nicholson, Assistant County Manager Justin Hembree, County Attorney Russell Burrell, and Deputy Clerk to the Board Amy Brantley.

Also present were: Budget and Management Director Selena Coffey, Public Information Officer Chris S. Coulson, Planning Director Judith Francis and Finance Director J. Carey McLelland.

CALL TO ORDER/WELCOME

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

PLEDGE OF ALLEGIANCE

Chairman Moyer led the Pledge of Allegiance to the American Flag.

INVOCATION

David Nicholson gave the invocation.

INFORMAL PUBLIC COMMENTS

1. **Tom Orr** – Mr. Orr thanked everyone who had loaned their time and talents to the centennial events associated with the Historic Courthouse. As the Chair of the Centennial Committee, he thanked all the volunteers as well as the Board. He reminded the Board that the celebration began on July 4th and would end on December 3rd. The final events of the centennial celebration were being planned for December 2nd and 3rd. A joint planning meeting of representatives from Downtown Ole Fashioned Christmas, the lighting of the Hospice tree and the lighting of the Historic Courthouse Dome, and City and County officials, was scheduled to coordinate all the events. There will also be a public reception on the evening of December 3rd at the Historic Depot, which had recently been refurbished. Mr. Orr discussed several upcoming meetings regarding the Centennial events. He also informed the Board that the Historic Courthouse now had a website, the address of which was www.historiccourthouse.org, and discussed several of the features on that site.
2. **Dick Thompson** – Mr. Thompson stated that he would like to make a short presentation, and requested that discussion of the Dupont State Forest be added to the agenda for additional discussion. Mr. Thompson noted that he was speaking as a volunteer of Dupont State Forest. The forest was acquired in two acquisitions, the first in 1997 and the second in 2000. The acquisition in 2000 added significant recreational opportunities. However, it was combined with the state forest. It receives over 120,000 visitors each year, yet the state had put no money into capital improvements there. There are no restrooms, and no visitors center. He stated that it does serve active hikers, mountain bikers and equestrians very well, but there are those who can no longer be active hikers who can no longer reach the beautiful interior. Since all manufacturing opportunities at the forest had been exhausted, Dupont would be making available 459 acres located in the center portion of the forest. Mr. Thompson proposed that the 459 acres that had been the Dupont/Agfa manufacturing area, be converted into a state park. There are buildings and campgrounds within that portion currently scheduled for demolition. If the State Parks Board was to become involved, some of those buildings could be saved. Mr. Thompson asked that the Board consider additional discussion of the Dupont property later in the meeting.

DATE APPROVED: _____

DISCUSSION/ADJUSTMENT OF AGENDA

Chairman Moyer presented to David Nicholson the 2005 Marvin Collins Outstanding Planning Award for the 2020 Comprehensive Plan for the North Carolina Chapter of the American Planning Association. Chairman Moyer thanked Mr. Nicholson for the work done by Staff on that Plan. Mr. Nicholson stated that he appreciated the work that had been done by Karen Smith and Josh Freeman, as well as Planning Staff.

Chairman Moyer added an additional item to Closed Session to update the Board on economic development matters.

Commissioner Messer indicated that the NCACC had asked the Board to take action with respect to the State's plan for Mental Health and the LME consolidations. That was added as Update on Pending Issues #4 – LME Update.

Chairman Moyer questioned whether the Board wished to add discussion of the Dupont State Forest property to the agenda. Following discussion, it was the consensus of the Board to add discussion of this topic to the November 7th agenda.

Chairman Moyer reminded the Board of the meeting scheduled for Thursday, October 20th on the Tuxedo Library and Park Project. The meeting was a special called meeting for purposes of a Board workshop. Chairman Moyer stated that the meeting was not planned for presentations, but was for Board discussion and review.

Commissioner McGrady made the motion to adopt the agenda with the additions of the LME discussion and the Closed Session item. All voted in favor and the motion carried.

CONSENT AGENDA

Commissioner McGrady made the motion to adopt the Consent Agenda. All voted in favor and the motion carried.

The Consent Agenda consisted of the following:

Minutes

Draft minutes were presented for the Board's review and approval of the following meeting(s):

- October 3, 2005 – regular meeting
- October 12, 2005 – special called meeting

Tax Collector's Report

Terry F. Lyda, Henderson County Tax Collector, had provided the Tax Collectors Report dated October 17, 2005 for the Board's information.

Tax Refunds

A list of 12 tax refund requests was presented by the County Assessor for consent approval by the Board.

Tax Releases

A list of 160 tax release requests was presented by the County Assessor for consent approval by the Board.

Tax Discoveries

A list of 39 tax discovery requests was presented by the County Assessor for consent approval by the Board.

Non-Profit Funding Agreements

Subsequent to the approval of the FY 2005-06 Budget, staff had distributed the funding agreements to the non-profit agencies receiving County allocations. Staff will be including signed funding agreements on the Board's consent agendas as we receive them from the agencies.

The County Manager recommended that the Board authorize the Chairman to execute the following funding agreements and, in doing so, authorize the release of the first of the aforementioned agencies' quarterly allotments.

1. Partnership for Economic Development

Nursing/Adult Care Home Community Advisory Committee – Annual Report

The Nursing/Adult Care Home Community Advisory Committee presented their Annual Report for the Board's review. No action was required.

Request for an Extension of Improvement Guarantee for Crab Creek Valley

On May 2, 2005, the Board of Commissioners approved an application submitted by Bob Scheiderich with Southern Pride of WNC, Inc., for an improvement guarantee for the Crab Creek Valley subdivision. As required by the Performance Guarantee Agreement for the improvement guarantee, the developer posted with Henderson County an Irrevocable Letter of Credit for an amount of \$379,300.00. The Improvement Guarantee covered the completion of the road construction, shoulder stabilization and water system installation as required by the Henderson County Subdivision Ordinance. The agreement required that the improvements be completed by July 30, 2005.

The Planning Department received a letter from Bob Scheiderich requesting to extend the completion date on the improvement guarantee to April 3, 2006. Mr. Scheiderich's letter states that the extension is needed because, "due to weather during the summer months and delays for approval of a community well site from the State". Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners, upon proof of difficulty, to grant extensions to completion dates for improvement guarantees for a maximum of one additional year, provided that the time between initiation and completion of the improvements does not exceed two years.

A draft Performance Guarantee Agreement was presented for the Board's consideration which reflected a new improvements completion date of April 3, 2006. The Performance Guarantee requires that the Irrevocable Letter of Credit expires 60 days after the completion date. The current Irrevocable Letter of Credit shows an expiration date of June 3, 2006 and is adequate to cover the requested extension. An amended Irrevocable Letter of Credit will not be needed. Once the County receives a letter of credit in proper form, the relevant parties must execute the Agreement.

The County Manager recommended that the Board approve the request to extend the completion date for the improvement guarantee for Crab Creek Valley to April 3, 2006.

Improvement Guarantee for Carriage Park (Section 19, Phase II)

Carriage Park Association, LLC, owner of the project, submitted an application for an improvement guarantee for Section 19, Phase II, in the Carriage Park planned unit development. Section 19, Phase II, is proposed to have a total of 7 single-family dwelling units on 7.03 acres of land. Section 19, Phase II, was conditionally approved by the Planning Board on June 21, 2005. The improvement guarantee is proposed to cover the water distribution system and sewer system for this section of Carriage Park.

Special Use Permit #SP-93-13, issued for Carriage Park on October 11, 1993, states that improvement guarantees shall be administered in accordance with Section 551 of the Henderson County Land Development Ordinance (now Section 170-38 of the Henderson County Code). Pursuant to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance, where the required improvements have not been completed or in lieu of completing all of the required improvements in order to submit a Final Plat and also prior to Final Plat approval, the developer may post a performance guarantee for the improvements. Section 170-38 of the Henderson County Subdivision Ordinance also states that the installation of the improvements must be completed within two years of the date of approval of the improvement guarantee.

The developer intends to use a Bank Escrow Account with the amount of at least \$71,177.50 to cover the cost

of the improvements (\$56,942.00) as well as the required twenty-five percent (25%) contingency (\$14,235.50). The proposed completion date for the improvements is November 30, 2005. If the application were approved, the developer must establish an escrow agreement with Henderson County which will cover at least 125% of the cost of the improvements.

The County Manager recommended that the Board approve the improvement guarantee application for Carriage Park Section 19, Phase II, subject to a fully executed escrow agreement between the developer and Henderson County which covers 125% of the cost of the improvements.

Request to Amend Improvement Guarantee for Cummings Cove

On September 21, 2005, the Board of Commissioners approved an application submitted by Cummings Cove Company, LLC, owner of the project, for an improvement guarantee for two phases in the Cummings Cove major subdivision. Both Phases were conditionally approved by the Planning Board on July 19, 2005. The improvement guarantee covered the grading, construction of the road, the water distribution and sewer system improvements, erosion control and road shoulder stabilization for Phase I and Phase II of the Mountain Top Area in Cummings Cove.

Cummings Cove Company, LLC, is now requesting to amend the original Performance Agreement by changing the completion date from June 30, 2006 to September 30, 2007 to allow for the full two years allowed by Section 170-39 of the Henderson County Subdivision Ordinance. If the Board of Commissioners agrees to grant the requested amendment, staff has attached for the Board's consideration a draft Performance Guarantee Agreement which reflects a new improvements completion date of September 30, 2007, and requires submittal of an Irrevocable Letter of Credit showing an expiration date not earlier than 60 days after the new improvements completion date. The new Performance Guarantee Agreement must be executed by the relevant parties if the Board approves the amendment.

The amendment, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. Therefore, the County Manager recommended that the Board approve the request to change the completion date for the improvement guarantee for Cummings Cove to September 30, 2007, provided that an Irrevocable Letter of Credit was submitted in accordance with the Performance Guarantee Agreement.

Sewer Line Extension – Carriage Park Section 19

The City of Hendersonville requested County comments on the following proposed water line and sewer line extensions:

- Carriage Park, Section 19 - Sewer Line Extension

The City of Hendersonville's Project Summary sheets and County review sheets with staff comments for the projects were included for Board review and action.

Cane Creek Water and Sewer District – Sewer Line Extension

The Board was presented with a copy of Sewer Line Extension Request #X0059CC. This was a routine extension which required no Board action. The agenda item was for informational purposes only.

Settlement of Pending Action

This was to report on the minutes of this Board the settlement of the pending action Jasmine M. vs. Smith et al., W.D.N.C. file number 1:04CV83-T. Included in the terms of the settlement was the requirement that Henderson County pay directly from County funds the sum of \$50,000.00 on behalf of the Plaintiff, and the requirement that a release of all claims in favor of the County and its agents, servants and employees be made by the Plaintiff.

The following motion was proposed: *I move that the Board approve and publish in its minutes the settlement in the case of Jasmine M. vs. Smith et al., file number 1:04CV83-T, whereby Henderson County pays the sum of \$50,000.00 on behalf of the Plaintiff.*

NOMINATIONS

Notification of Vacancies

The Board was notified of the following vacancies and these will appear on the next agenda for nominations:

1. Hendersonville Planning Board – 1 vac.

Nominations

Chairman Moyer reminded the Board of the following vacancies and opened the floor to nominations:

1. Cemetery Advisory Committee – 1 vac.

Amy Brantley informed the Board that she had contacted the individuals with applications on file to determine whether they were interested in serving on the Committee. Barry Hollingsworth had replied in the affirmative. Commissioner Baldwin nominated Mr. Hollingsworth for appointment to the Committee. *Chairman Moyer made the motion to accept Mr. Hollingsworth by acclamation. All voted in favor and the motion carried.*

2. Child Fatality Prevention Team – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

3. Community Child Protection Team – 6 vac.

Commissioner McGrady nominated the following individuals: #1 - Nancy Mitchell, #2 – Betsy Alexander, #3 – Patricia Jones, #4 – Paula DeLorenzo, and #5 – Robert Danos. Commissioner Baldwin nominated Margo Nagel to Position #4. *Chairman Moyer made the motion to appoint Nancy Mitchell, Betsy Alexander, Patricia Jones and Robert Danos. All voted in favor and the motion carried.*

4. Hendersonville City Zoning Board of Adjustment – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

5. Hendersonville Planning Board – 1 vac.

E. J. Fortaw was nominated to the Board on October 3, 2005. There were no additional nominations. *Chairman Moyer made the motion to accept Mr. Fortaw by acclamation. All voted in favor and the motion carried.*

6. Juvenile Crime Prevention Council – 4 vac.

There were no nominations at this time so this item was rolled to the next meeting.

7. Mountain Area Workforce Development Board – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

8. Nursing/Adult Care Home Community Advisory Committee – 2 vac.

There were no nominations at this time so this item was rolled to the next meeting.

9. Planning For Older Adults Block Grant Advisory Committee – 1 vac.

There were no nominations at this time so this item was rolled to the next meeting.

10. Western Highlands LME – 1 vac.

Commissioner Messer nominated Justin Hembree for reappointment to the LME. *Commissioner McGrady made the motion that nominations be closed and Mr. Hembree be accepted by acclamation. All voted in favor and the motion carried.*

REQUEST TO TRANSFER REAL ESTATE TO HENDERSON COUNTY

Russ Burrell informed the Board that he had received a call from Robert D. Williams, who wished to donate a .31 acre piece of property to Henderson County if the County wished to receive it. He stated that in the past the Board had accepted some, but not all, such offers. Following discussion regarding whether the County had a use for the property, it was the consensus of the Board to have the County Attorney correspond with Mr. Williams, and convey that the County was not interested in accepting conveyance of the property.

ENERGY CONSERVATION EFFORTS

With the recent increases in fuel prices and their direct impact on energy costs, it had become extremely important that the County takes steps to become more conservative in its use of energy and fuel. It was also noted that this is not merely a financial issue, but also an environmental one. Therefore, it was also important that the County continue to be good stewards of our environment through fuel and energy conservation efforts.

Two County programs, one long-term and the other short-term, directly relate to this issue. First, County staff was continuing its work with Waste Reduction Partners to identify ways for the County to conserve energy and, in turn, reduce energy costs and benefit our environment. Energy assessments had been conducted for several county facilities and were planned for the remaining facilities. A County Energy Team had also been formed to work to identify short-term or "quick fix" policies that could be enacted to reduce energy use. Fortunately, the County had already been proactive in this arena. However, there was much room for improvement in this area and work would continue to identify additional conservation measures.

Recently, the County Manager updated the County's administrative policy for fuel conservation. A copy of this policy was as follows. The policy allows for four different levels of conservation to provide for flexibility as fuel supplies and prices move up and down.

Fuel Conservation Policy

Level One – Conservation Awareness

Department Heads should promote energy conservation by examining trip scheduling, strategically combining trips where appropriate, encouraging carpooling, encouraging walking and biking to work where possible and generally creating a "conservation focused environment" in the department for normal daily operations.

Level Two – Restrict Convenience Travel

Department Heads are to place restrictions on convenience travel and to re-schedule meetings that could be held later or could be handled by other means, such as conference calls. The Information Technology Department can provide information on options for conference calling. Where possible, work involving travel should be strategically rescheduled 2-3 weeks out in order to conserve fuel. Statewide training and conferences should be suspended unless special circumstances apply. Includes Level I activities.

Level Three – Travel Restrictions

Service Level Restrictions for non-public safety departments. Department Heads are to adjust service levels to conserve fuel. Specific service reductions should be coordinated with the County Manager prior to implementation. Non-emergency operations in the public safety departments should be examined and suspended, if feasible. Statewide training and conferences should be suspended unless a public safety objective is addressed. Department Heads should evaluate employee scheduling to see if fuel conservation can be achieved without sacrificing the needs of the department, i.e. 4-day work week schedules, work at home, etc. Includes Levels I, II activities.

Level Four – Essential Travel Only

All travel is suspended except essential public safety and emergency travel. Includes Levels I, II, and III activities.

Mr. Hembree stated that he had spoken with the Sheriff Department regarding fuel usage. He noted that they had seen improvements in fuel usage due to the change in patrol cars from V-8 engines to V-6 engines. Though Henderson County's savings were as yet unknown, some studies showed a 20-30% reduction in fuel cost and usage based on that change as well as other conservation measures.

Commissioner Young suggested the Board consider adopting a policy to limit thermostat settings in County buildings no lower than 72 degrees in the summer and no higher than 68 degrees in the winter. He felt that change would allow the County to save a considerable amount of fuel. Commissioner Young also suggested that employees make a conscious effort to turn off lights, and consolidate travel when possible.

COUNTY MANAGER'S MONTHLY REPORT

The County Manager's report for October 2005 was distributed to the Board. David Nicholson noted that the Land Development Code (LDC) draft had been completed, and was submitted to the Planning Board for their review on September 20, 2005. The first Planning Board workshop to review the draft was scheduled for October 11, 2005. Chairman Moyer stated that he understood the Board was scheduled to receive the Code in December. He questioned whether there would be any action necessary by the Board prior to receiving it. Selena Coffey stated that Staff had discussed providing the Board a bulleted summary of what was contained in the Code. When the Board receives the draft from the Planning Board, they would then already have an idea of what was contained within the draft. However, no formal process prior to the Board receiving the draft had been planned. Commissioner McGrady suggested that as the Board gets a sense of the issues the Planning Board feels the Board of Commissioners will need to look at, there be an informal process of bringing the Board up to date on those issues in advance of the public process. There followed much additional discussion about the planned small area plans, and the overall process the Board should follow with respect to the LDC. *Chairman Moyer made the motion to set a special called meeting for November 3, 2005 at 6:30 p.m. to discuss the preliminary view of concepts in the Land Development Code. All voted in favor and the motion carried.*

David Nicholson then noted that Staff was working on a Strategic Information Plan, and he hoped to have that to the Board at an upcoming meeting. The Board of Elections was working toward splitting Fletcher into two voting precincts for the 2006 elections. He also updated the Board on the jail demolition, Animal Services Building, Human Services Building, the 2nd bay at the Transfer Station, the Tuxedo Library and Park, and the Historic Courthouse.

Chairman Moyer questioned whether the County was on schedule with the major capital projects. David Nicholson answered that Staff had weekly meetings with the contractors on all the projects and went through the schedule. He stated that if any of the projects get behind schedule, Staff would let the Board know. Commissioner Baldwin suggested that the Board revisit the schedule that was originally agreed to, and that Staff bring the Board a live schedule with respect to the projects at each Board meeting. David Nicholson stated that he would include that as a part of the Manager's Monthly Report.

There was discussion about the proposed timeline for bidding the Historic Courthouse project. Commissioner McGrady understood that once the County receives the construction documents, they will have to be reviewed by the State. Mr. Nicholson stated that the project may indeed have to go before the State Department of Insurance, and that he would continue to update the Board on any changes to the timeline.

UPDATE ON PENDING ISSUES

Asheville Regional Airport Authority Board

Commissioner McGrady updated the Board on the Airport Authority Board. He stated that the Authority meets almost bi-monthly, and he had been attending those meetings as a private citizen. The Authority would like Henderson County to be involved, but were not yet ready to rewrite their bylaws to add Henderson County as a full voting member. It had been suggested however that Henderson County have an ex-officio/non-voting position on the Board. Commissioner McGrady stated that he felt Henderson County should have a seat on that Authority, as the airport affects Henderson County in a myriad of ways. He recommended the County write a letter to the Authority requesting that a Henderson County representative be added to the Board as an ex-officio/non-voting position. Commissioner McGrady stated that he was willing to serve in that role if it was the consensus of the Board.

Commissioner Baldwin stated that he was opposed to accepting the ex-officio status, stating that he believed Henderson County should have full voting status on the Board. Chairman Moyer stated that he believed the ex-officio position was a reasonable first step toward possible future full membership. Commissioner Baldwin

agreed that might be a first step, but he wished to see a timeline outlining when the County would move into full membership. Following additional discussion, *Chairman Moyer made the motion to designate Commissioner McGrady as the Board's representative to attend meetings of the Airport Authority Board and to work with the Authority Directors and staff to come up with a time table that would lead toward full membership on the Board, with an explanation of what the financial commitment would be for us to achieve that status.* Commissioner Baldwin asked Chairman Moyer to break his motion into two parts, one establishing the position and then filling the position with a Board member. Chairman Moyer agreed, and *made the motion to designate a Commissioner as the Board's representative to attend meetings of the Airport Authority Board and to work with the Authority Directors and staff to come up with a time table that would lead toward full membership on the Board, with an explanation of what the financial commitment would be for us to achieve that status. The motion carried 4-1 with Commissioner Baldwin voting in opposition. Chairman Moyer made the motion to appoint Commissioner McGrady as the representative to carry out the action set forth in the previous motion. All voted in favor and the motion carried.*

Blue Ridge Heritage Plan/Heritage Grants

Justin Hembree reminded the Board that during informal public comments at the previous meeting, Ken Fitch had updated the Board on the Blue Ridge Heritage Plan, and available Heritage grants. A copy of the Plan had been provided by Travel and Tourism, and Travel and Tourism Director Melody Heltman was scheduled to make a formal presentation to the Board at the November 7th meeting.

Prior to that presentation however, Staff requested the Board consider endorsing several projects so the grant process could be moved forward. The purpose of the grant programs were to “preserve, protect, and promote the history, culture and heritage of Western North Carolina”. Funds for the program were being made available through the National Park Service. Grant applications require a 50% match. The maximum grant amount that could be awarded to any one organization or agency was \$50,000, with the minimum being \$1,000. Grant applications were due by 5:00 p.m. on October 24, 2005.

Mr. Hembree asked that the Board give their blessing to the following concepts that different organizations had developed. The Historic Courthouse Corporation was applying for a \$50,000 grant that would allow them to begin paying for the design and consulting services for the historical area in the Courthouse. The match for that grant would come from the Courthouse Corporation via their fund raising projects. The Cemetery Advisory Committee had indicated that they would like to apply for a \$1,000 grant to pay for the cost associated with having the Cemetery Book stored in a digital format. Finally, County staff had been working on a \$2,000 grant for costs associated with a county-wide survey of historic resources. Mr. Hembree stated that if the Board would give their blessing to these concepts, staff would continue to work to get the grant applications completed and submitted. It was the consensus of the Board for staff to continue to proceed with the grant applications.

There followed some additional discussion about how sophisticated audio/visual presentations might be in the historical areas of the Courthouse. Tom Orr discussed the many possibilities available, but stated that he was reluctant to comment on how those possibilities might be achieved. He did state that he believed the use of technology would allow for a fuller display of our history, and that Blue Ridge Community College might be a great partner toward that end.

Historic Courthouse Parking

Chairman Moyer updated the Board on the current status of parking at the Historic Courthouse. Following the last City Council meeting, Chairman Moyer received a call from Mayor Niehoff, who informed him that definitive action had been taken by the City. That action was as follows:

- With respect to the front of the building, the Council had decided not to proceed with the expanded complex of having a town center, but would leave the existing seven spaces. They did however wish to work with the County on decorating.
- With respect to 1st and 2nd Avenue, they intended to look at making each of those streets one-way, which would create some additional parking spaces.

- With respect to the rear of the building, in light of the County's plans, the City determined that they would leave the design at the back of the building up to the County, with their preference being Option B, which maximized the number of spaces behind the Courthouse.

Based on the City's decisions, Chairman Moyer met with Mr. Nicholson and determined that the County should work out the parking situation to allow the renovation to move forward. A parking deck had been discussed, but Chairman Moyer felt that would destroy the appearance of the back of the building while adding relatively few additional spaces. Therefore, several additional options were explored, such as the existing spaces behind Western Auto being expanded.

Another option that was discussed was the Curb Market. Currently the Curb Market operates on Tuesday, Thursday and Saturday mornings until 2:00 p.m. Based on that discussion, Chairman Moyer had met with representatives of the Curb Market with respect to the possibility of making that space available. They have in excess of 90 spaces, which are used on only three mornings. The Curb Market did have one issue, which was that the County not put any kind of farmer's market on that space, or the County's space behind the Historic Courthouse. They felt that would be subsidized competition within a block of their market. Chairman Moyer brought that discussion back to Mr. Nicholson and Mr. Burrell, and spoke again with the full Curb Market Board. Based on those discussions, a lease agreement had been drafted with the following provisions:

- The term of the lease was for five years.
- The County would have use of the lot at all times other than Tuesday, Thursday and Saturday mornings.
- The County would pay \$1,000 a month for the use of the parking area.
- The County would post the property with signage.
- The County would share in maintenance costs.
- The County would agree that there would not be a farmer's market on either that lot or the one behind the Historic Courthouse.
- The County's insurance would cover any liability.
- If County activities caused a problem, the County would look at ways to police the use of the lot.

Chairman Moyer stated that he did not feel the lot would be used often, but that it would provide a ready backup. He reminded the Board that this had not been officially approved by the Curb Market Board of Directors, but that he felt it was the best possible alternative to ensure parking for the facility.

David Nicholson stated that in addition to the possible Curb Market parking, he felt the Board should lock in the 17 spaces currently used by the Sheriff's Department behind Western Auto. He hoped to continue discussions with respect to those spaces for staff parking. With respect to the back of the Courthouse, he distributed a handout to the Board with three different options for parking. He discussed Option B in particular, which would generate approximately 30 spaces. That option currently showed the entrance coming off 2nd Avenue, however there had been discussion about moving the entrance to Church Street. Mr. Nicholson also updated the Board on discussions held with the City about the possibility of diagonal parking on 1st and 2nd Avenue.

Mr. Nicholson answered questions from the Board about the parking spaces currently being leased behind Western Auto, the number of spaces needed to accommodate employees and the public in the facility, and the number of spaces on the street that theoretically would be freed up when the Sheriff's Department moved to the King Street location. There followed much additional discussion about how many spaces should be provided by the County to ensure accessibility to the facility.

Chairman Moyer made the motion that with respect to parking behind the Historic Courthouse, the Board proceed with modified Option B, which would provide approximately 30 spaces, as proposed by the County Manager with the flexibility to change the entrance to Church Street if that works from the County's standpoint. The motion carried 4-1 with Commissioner McGrady voting in opposition.

Chairman Moyer made the motion to authorize the County Manager to continue negotiations with respect to the spaces behind Western Auto to attempt to secure a longer term lease so those spaces would be available for staff. The motion carried 3-2 with Commissioner Young and Commissioner Baldwin voting in opposition.

Chairman Moyer made the motion to authorize the County Manager and Staff to proceed with negotiations with the Curb Market with respect to securing a lease on the spaces at the Curb Market as back up parking for the County's needs in accordance with the draft agreement with changes that was presented at the meeting. The motion carried 3-2 with Commissioner Young and Commissioner Baldwin voting in opposition.

LME Update

Commissioner Messer informed the Board that an NCACC meeting had been held over the weekend. There was discussion at the meeting about the possibility of the State revising the LME, and going from an eight County region, to a 12 or even 20 county region. He stated that it was estimated that initiating those changes across the State would culminate in a savings to the State of between \$24 to \$30 million.

The NCACC had requested that the Board of Commissioners in each County send a letter to Raleigh in opposition to further consolidation. Chairman Moyer supported issuing such a letter, but suggested that an additional letter be sent to the NCACC requesting that they immediately begin negotiations with the State to begin the process of the State taking over mental health entirely. *Commissioner McGrady made the motion to send a letter to the State communicating the County's opposition to further consolidation of the LMEs at this point without further study. All voted in favor and the motion carried.*

Chairman Moyer made the motion to send a letter to the County Commissioner's Association indicating that in light of the changes being made to the LMEs, and what appears to be the overall State plan, that they immediately begin negotiations with the State to have the State take over mental health. If the County had special needs that we wish to provide locally, that the County would take care of that. All voted in favor and the motion carried.

IMPORTANT DATES

Schedule Hearing Requested by Mr. Clement J. Feldmann Concerning Address of Property

As allowed by Chapter 142 of the Henderson County Code, Mr. Clement J. Feldmann had requested a hearing to appeal a decision made by the Property Addressing Coordinator. Staff recommended the hearing be scheduled for Monday, November 7, 2005 at 7:00 p.m.

Set Public Hearing: Habitat for Humanity-Highlander Woods Subdivision CDBG

Staff requested that the Board of Commissioners set a Public Hearing on the closeout of the Habitat for Humanity Highlander Woods Subdivision Community Development Block Grant (CDBG) for Monday, November 7, 2005 at 7:00 p.m.

David Nicholson reminded the Board that a Quasi-Judicial Public Hearing had already been scheduled for November 7th at 7:00. Due to the potential length of that Hearing, it was the consensus of the Board to reschedule the River Stone Quasi-Judicial Public Hearing. *Commissioner McGrady made the motion to schedule the public hearings on the Feldmann Property Addressing issue and the Habitat for Humanity CDBG closeout for Monday, November 7, 2005 at 7:00 p.m., and that the previously scheduled Quasi-Judicial Public Hearing with respect to River Stone Subdivision be moved to November 17th at 6:30 p.m. All voted in favor and the motion carried.*

David Nicholson reminded the Board of the Annual Volunteer Appreciation Banquet scheduled for the following Tuesday, October 25th.

CLOSED SESSION

Chairman Moyer made the motion for the Board to go into closed session to discuss the terms of a proposed employment contract as more fully set forth in the items accompanying the meeting's agenda, and to discuss the expansion of business or industry pursuant to N.C.G.S. 143-318.11 (a)(4)

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All voted in favor and the motion carried.

Adjourn

Following Closed Session, *Commissioner Messer made the motion to adjourn the meeting. All voted in favor and the motion carried.*

Attest:

Amy R. Brantley, Deputy Clerk to the Board

William L. Moyer, Chairman

DRAFT