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 Catawba County Board of Commissioners
 Regular Session, Monday, April 21, 2008, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, April 21, 2008 at 7:00 p.m. in the cafeteria of the Jacobs Fork Middle School, 3431 Plateau Road. This meeting followed a Community Information Meeting which took place from 5:00-6:30 p.m. in the same location where County Staff was available to talk to citizens about the County's Parks Division, the Southwest Branch Library, Sheriff's Office and Register of Deeds.

Present were Chair Katherine W. Barnes and Commissioners Dan Hunsucker, Barbara G. Beatty and Glenn E. Barger.

Vice-Chair Lynn M. Lail was absent.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Lee Worsley, County Attorney Debra Bechtel, Deputy County Attorney Anne Marie Pease and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.
2. Commissioner Glenn E. Barger led the Pledge of Allegiance to the Flag.

3. Chair Barnes offered the invocation.
Chair Barnes then noted that Vice-Chair Lail was absent from the meeting due to other commitments.
4. Commissioner Barger made a motion to approve the minutes of the regular meeting of Monday, April 7, 2008 and the Special Joint Meeting with the Catawba Valley Community College Board of Trustee of Monday, April 7, 2008. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed everyone present and specifically the commissioner candidates and Charlie Wyant of the Catawba County Board of Education.
6. Comments for Items not on the Agenda.
Chair Barnes invited those who wished to come forward to speak to items not on the agenda. The following comments were made:

Mr. David Wilson addressed the Board with his concerns regarding property owned by his mother, Ms. Beulah Wilson, the Catawba County Board of Adjustment's decision regarding a change of non-conforming use for the property, and that Board's decision on the extension of non-conforming use for an adjacent property.

Mr. Donald Robinson, Chief of the Catawba Fire Department, expressed his concerns over an agenda item which proposed the establishment of two new classifications as a result of the Emergency Services Reorganization Study. These reclassifications would be a reconfiguration of job duties and responsibilities and no staff positions would be added to the County workforce. The Emergency Services Plan encourages the exploration of combined fire and rescue operations but the County's Emergency Services Department structure does not currently reflect that direction, with fire and rescue services being split between two employees. This reorganization plan reflects an attempt to better align actual services that the Emergency Services Department provides with County employees. The Fire Marshal and Rescue Coordinator positions will be combined and reclassified to the Fire & Rescue Manager. The two existing Fire Inspectors will keep their same classifications but one position will primarily be focused on conducting fire inspections, fire investigations and fire education programs; reviewing fire codes and plans; and overseeing all permits for fireworks, blasting, and burning. The second Fire Inspector will focus about half the time on fire inspections and investigations, while the other half will be spent in leading the County's hazardous materials operations. As a result of merging the duties of the Fire Marshal and Rescue Coordinator, the emergency management duties will be assigned to a new Emergency Management Coordinator. These duties have traditionally been shared by multiple members of the Emergency Services Department. Chief Robinson's concerns focused on the title of Fire Marshall not being included in the new position titles.

7. Presentations:
The Board presented Jeff Spears, Hickory Jaycees President, with a proclamation recognizing the 60th Anniversary of the Hickory Jaycees and its accomplishments and commitment to the development of our future business leaders. This organization was established in Hickory by 57 young men in 1948 and chartered as the Hickory Junior Chamber of Commerce. The Jaycees promote and foster the growth and development of the community's young leaders ages 21 to 40 and plays an integral role in providing professional, real-world experience through community projects.
8. Public Hearings:
Jacky Eubanks, Planning Director, presented a request by Bobby Pope, Thomas Pope and Jane Seitz to rezone one parcel totaling 3.74 acres, located at 7780 Highway 150 East in the Sherrills Ford Small Area Planning District, from R-20 Residential to HC Highway Commercial. This parcel is currently zoned R-20 Residential, with a single family home. Properties to the north, west and south are zoned PD-CD Planned Development-Conditional District and include the area for a proposed Village Center. Property to the east is zoned HC and occupied with a single family dwelling.

Property to the southeast is zoned PD Planned Development and occupied by a proposed retail location with multiple tenant buildings.

The Catawba County Unified Development Ordinance, Section 44-418, HC Highway Commercial District states, "...this district provides areas for regional highway-oriented business, office, services and civic uses. The district regulations are designed to protect and encourage the transitional character of the districts by permitting uses and building forms that are compatible with the surrounding area". The R-20 Residential District is generally considered a medium-density residential and agricultural district. Permitted uses in the R-20 District consist predominately of site-built homes and agricultural uses.

The property presented for rezoning is 3.74 acres in size. Minimum lot sizes allowed in the R-20 Residential and HC Highway Commercial districts are 20,000 and 40,000 square feet, respectively. The HC Highway Commercial District will permit a maximum floor area ratio of 1:3, or one square foot of building floor space per 3 square feet of land area. The allowed floor area will be 54,305 square feet based on the current lot size. The subject property is also located in a MUC-O Mixed Use Corridor-Overlay and WS-IV Watershed Critical Area. The MUC-O restricts the subdivision of land for single family residential uses, unless it is a family subdivision (only three cumulative lots would be allowed). It also prohibits specific uses, and provides for higher architectural standards and pedestrian amenities. The WS-IV Critical Area requires that the maximum built upon area for the 3.74 acres is 24% or 0.89 acres (39,099 square feet).

Public water is available and located along Highway 150 East, but public sewer is currently unavailable. The Catawba County Thoroughfare Plan designates Highway 150 as a minor arterial road. In 2006, the average daily traffic count along Highway 150 was 14,000 vehicles per day (VPD) and 10,000 VPD east and west of the parcel. According to the Thoroughfare Plan, the estimated capacity of Highway 150 is 14,200 vehicles per day. Prior to any approval for development, an approved driveway connection permit will be required from the North Carolina Department of Transportation, which will also review for any additional right-of-way requirements.

The Sherrills Ford Small Area Plan, adopted on February 17, 2003, serves as the current land use plan for this area. The subject property is in an area recommended for a village center, a mixture of commercial, office, and mixed-residential uses designed with architectural features compatible with the historical character of the Terrell area. Because the request was for a commercial use district, staff considered this request to be reasonable and in conformance with the adopted land use plan. Staff will work with the current or future property owners to encourage the future development of the property as part of a planned development or as part of the village center. Staff recommended approval of this request based upon the Sherrills Ford Small Area Plan recognizing the parcels as being in an area proposed for commercial development (village center), the purpose of the Highway Commercial district, and the close proximity of existing HC, Planned Development, & Planned Development-Conditional District zoning.

The Planning Board conducted a public hearing on March 31, 2008. The applicant spoke in favor of the request. No one spoke in opposition. The Planning Board voted unanimously to recommend the rezoning of the property from R-20 Residential to HC Highway Commercial, based on the staff recommendation noted above. Due to the fact that this request was for a general zoning change, no conditions were recommended for the approval for the rezoning. The property owner was advised that, upon submittal of a site plan for development of this property, additional right-of-way reservation for the future widening of Highway 150 would be required as part of the approval process. Obstructions such as buildings and parking lots would be located outside of the anticipated expanded right-of-way, to accommodate any future widening.

Chair Barnes noted that this was the time and place advertised for the public hearing and opened the floor for comments. No one spoke for or against the rezoning.

Chair Barnes asked for a motion on the rezoning and noted the consistency statement was to be reflected in the minutes. Commissioner Barbara G. Beatty made a motion to approve the rezoning

request. The motion carried unanimously. The following consistency statement and amendment to the ordinance applies:

ZONING MAP AMENDMENT CONSISTENCY STATEMENT

On April 21, 2008, the Catawba County Board of Commissioners conducted a Public Hearing for the purpose of considering a zoning map amendment at the request of Bobby Pope, Thomas Pope, and Jane Seitz (Case #R2008-004).

Upon considering the matter, the Catawba County Board of Commissioners finds the item to be consistent with the Sherrills Ford Small Area Plan and approve the zoning map amendment. This recommendation was affirmed by a vote of 4 - 0 of the Catawba County Board of Commissioners.

Ordinance No. 2008-_____

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from R-20 Residential to HC Highway Commercial.

One parcel totaling 3.74 acres located at 7780 E NC 150 HWY in the Sherrills Ford Small Area Planning District, Mountain Creek Township, and further identified as Parcel Identification Number 4607-16-94-9260.

PLAN CONSISTENCY STATEMENT:

Pursuant to NCGS 153A-341, and upon consideration of the recommendations and guiding principles of the Sherrills Ford Small Area Plan, the Catawba County Board of Commissioners finds the rezoning request to be consistent with the Sherrills Ford Small Area Plan.

- 9. Appointments:
Chair Barnes presented Vice-Chair Lail's recommendation for the appointment of Mark Shook for a first term on the Criminal Partnership Advisory Board. Mr. Shook will represent a community-based correction program and his term will be effective 6/30/08 and expire 5/31/2011. Also upon the recommendation of Vice-Chair Lail, the appointment of Tom Adkins for an unexpired and first term on this Advisory Board. Chief Adkins will represent a Chief of City Police Department category and his term will expire 5/31/2011. These recommendations came in the form of a motion. The motion carried unanimously.

- 10. Consent Agenda:
County Manager J. Thomas Lundy presented the following items under the consent agenda. Because of the comments made at the beginning of the meeting by Chief Robinson, Commissioner Barger asked that the second item on the consent agenda (New Job Classifications for Emergency Service Department) be broken out from the consent agenda.
 - a. A request to approve a revision to the Employment Policy Against Unlawful Workplace Harassment, Section 28-275 of the Catawba County Code, that deals specifically with time frames for reporting. The County has for many years supported a zero tolerance policy against any form of harassment or discrimination in the workplace. The areas protected include age, disability, national origin, race, religion, sex and sexual harassment. Other areas may be covered by other federal rules, specifically equal pay, pregnancy and retaliation. The State also requires a grievance procedure for appeals under the workplace harassment policy, which is separate from the County's grievance procedure found in Section 28-170 of the County Code. The grievance procedure in the workplace harassment policy provides for an appeal process when action is taken. In addition to the section of the Code that addresses workplace harassment, the County has an administrative policy that details what is covered, the steps for filing and addressing a complaint, and a grievance

procedure available to both the person filing the complaint and the alleged harasser. As an online training program for supervisors was developed, some inconsistencies in time frames in the Code and the policy were identified. The revisions change the time frame for filing claims from 15 days to 10 days; address the confidentiality of the investigative files; clarify the grievance procedures; and change the written appeal deadline from 15 days to 7 days. The ordinance would read as follows:

Ordinance No: 2008-

BE IT ORDAINED that the Catawba County Code of Ordinances, Chapter 28 Personnel, Article VIII State and Federal Compliance, Section 28-275 Employment Policy Against Unlawful Workplace Harassment, is hereby amended to read as follows:

Sec. 28-275. Employment policy against unlawful workplace harassment

(a) *[Zero tolerance.]* The county has a zero-tolerance policy against any form of unlawful workplace harassment including harassment defined as sexual, race, creed, religion, national origin, age, color, or disability. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment. This is generally defined as unwelcome or unsolicited comments or conduct based upon race, sex, creed, religion, national origin, age, color, or disability as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo situation. All employees have the expectation of working in an environment free from unlawful harassment and retaliation. Indifference by supervisors and other employees with authority will not be condoned either. All complaints made by employees will be investigated, and appropriate remedial or disciplinary action taken on complaints that are substantiated.

(b) *[Complaints.]* Reporting a complaint of any kind is difficult, since complaints generally involve a supervisor or coworker. However, an employee who believes that he may have a complaint of harassment is advised to file the complaint directly with the personnel director. Any department director or supervisor who receives a complaint of harassment shall report the matter to the personnel director immediately. Complaints will be investigated by the personnel director or, when an absence occurs or when a conflict exists, a designee.

(c) *[Complaint deadline.]* Employees who allege unlawful workplace harassment must, within 10 ~~45~~ calendar days of the alleged harassing action, submit a written complaint to the personnel director so a thorough investigation can be conducted and appropriate action taken.

(d) *[Confidentiality.]* Confidentiality and the dignity of those involved in a complaint is important. Considering the sensitive nature of harassment complaints, every effort will be made to keep the complaint and the name of the employee confidential and on a need-to-know basis. However, due to the nature of conducting an investigation, confidentiality cannot be guaranteed. Reports, including the final report, will be distributed only to persons having a need or right to know. Employees involved in any investigation, whether as complainant or alleged harasser, witness or investigator, should keep all discussions or communications confidential.

(e) *[Remedial action.]* The county has 30 days to take remedial action, if any, in response to a complaint. Otherwise complainants in mental health, public health, or social services have the right to appeal directly to the office of administrative hearings and the state personnel commission. Complainants in other departments may appeal to the county manager through the county grievance procedure as set forth in this section.

(f) *[Investigation files.]* Investigation files shall remain separate and apart from personnel files. Neither the claimant nor the alleged harasser has a right to the contents of these files. Any personnel action, such as discipline, resulting from an investigation, shall be filed in the employee's personnel file. The contents of these files are protected according to section 28-305~~3~~ of this Code.

(g) *[Retaliation prohibited.]* In furtherance of this policy, the county prohibits any retaliatory action of any kind taken by an employee of the county against any other employee because that person made charges, testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination.

(h) *Grievances.* It is the intent of the county government to provide a system of employee appeals or grievances which is substantially equivalent to the system developed and maintained by the state under G.S. 126-1 et seq. In order to maintain harmonious and cooperative relationships between the county and its employees, it is the policy of the county to provide for settlement of complaints through an orderly complaint procedure free from interference, discrimination, or reprisal. The complainant shall file all correspondence regarding grievances with the personnel director.

Grievances which are not received within the time allowed as prescribed in this subsection or which are not filed with the personnel director as prescribed in this subsection shall be dismissed.

(1) Any employee or former employee who has filed a workplace harassment complaint has the right to appeal the following:

a. Remedial actions taken by the county as a result of a workplace harassment complaint. Disciplinary actions which are a part of remedial action may only be grieved by the recipient of the disciplinary actions as provided for under section 28-~~17028-423~~.

b. Failure by the county to investigate a workplace harassment complaint and respond to the complaint within 30 calendar days.

(2) Any employee who testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination has the right to appeal any retaliatory action of any kind taken by an employee of the county against them because of their participation.

(3) Active employees shall be allowed one hour from regular duties to prepare a grievance.

(4) An employee has the right to retain legal counsel at the expense of the employee.

(5) Advisory services pertaining to procedures are available from the personnel director.

(6) In order that all employees may be able to obtain further consideration of their problems, in a harassment complaint, it is essential that two-way communication occur, and management shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure.

(7) An employee must file a written appeal within seven ~~45~~ calendar days after an appealable action has occurred. The employee shall attach all information and supporting documentation to the appeal. The notice of appeal must be received by the personnel director before 5:00 on the seventh ~~fifteenth~~ day.

(8) The county manager must contact the employee within seven calendar days to set a date, place and time for oral presentation of the grievance. Unless the employee agrees otherwise, the hearing must be held within seven calendar days from the date the employee filed the appeal with the personnel director.

(9) The county manager shall render a decision in writing to the employee or former employee who filed the grievance within seven days of the hearing. However, if the county manager needs more time to obtain facts he may advise the parties involved. The county manager's written decision shall contain the employee's and the county's official statements and the county's official conclusions. The written decision shall also contain notice of further appeal rights if any.

(10) Once a decision is reached, the procedure is ended and the documents are filed in the personnel department.

(11) The decision of the county manager is final, except that employees and former employees of the departments of social services, public health and mental health who are subject to the state personnel act will have 30 days to appeal a decision of the county manager to the state personnel commission. Appeals to the state personnel commission must be filed in writing with a copy furnished to the personnel director. Employees should consult with the state personnel commission regarding the state's appeal procedures.

(Ord. No. 2003-19, 10-6-2003)

This the 21st day of April, 2008.

c. A request for the Board to approve a State required Local Business Plan for the new merged local management entity, or LME, for Mental Health Services for Burke and Catawba County, to be known as Mental Health Partners. This is a broad strategic plan for the next three years of operation, from 2008 through 2011. It is not a financial document, but follows the required State template outlining the different LME functional requirements and what actions they will take. The document creates the operational plan for the LME's internal operations as it moves to satisfy established requirements. The Plan had been reviewed and approved by both the Mental Health Services Board of Catawba County and its Consumer Family Advisory Committee.

Commissioner Barger made a motion to approve the consent agenda. The motion carried unanimously.

This item was removed from the consent agenda at the request of the Board and discussed as a separate item after the remaining consent items were approved. A request to approve the establishment of two new classifications as a result of the Emergency Services Reorganization Study with the condition that a review of the new positions and their effectiveness be conducted in one year. The two new classifications are Fire & Rescue Manager and Emergency Management Coordinator, both at Grade 74. It was also requested that a .50 FTE, permanent part-time administrative assistant I be established with the working title Emergency Management Project Specialist. It should be noted that this is a reconfiguration of current staffing, not an expansion of the workforce. The reconfiguration shifts duties among employees of the Emergency Services Department to more accurately reflect the functional demands of emergency services. There will be no reduction in service levels to citizens, fire departments or rescue squads.

The Emergency Services Plan encourages the exploration of combined fire and rescue operations but the County's Emergency Services Department structure does not currently reflect that direction, with fire and rescue services being split between two employees. This reorganization plan reflects an attempt to better align actual services that the Emergency Services Department provides with our employees. Additionally, with the increasing demands being placed in the area of emergency management, it became important that the Emergency Services Department be analyzed to guarantee that the increased demand of emergency management was being met sufficiently. The Emergency Services Director is currently handling most day-to-day emergency management tasks. These tasks are dictated by federal, state and local requirements. As a result of September 11, 2001 and Hurricane Katrina, the day-to-day task requirements for emergency management have become very time intensive and have increased greatly. Having the Emergency Services Director oversee these tasks is becoming unreasonable, especially with some of the federal requirements for the amount of time that the individual designated as the emergency manager must spend on specific activities. When staff saw the significant changes happening in the area of fire and rescue, and increased demands in emergency management, an analysis of the structure of the Emergency Services Department was undertaken. What resulted was a recommended reorganization to better address the Emergency Services Plan and the changing expectations of emergency services.

The Emergency Management Project Specialist and Fire Rescue Specialist are hourly positions. The Fire Marshal and Rescue Coordinator position will be combined and reclassified to the Fire & Rescue Manager. The two existing Fire Inspectors will keep their same classifications but one position will primarily be focused on conducting fire inspections, fire investigations and fire education programs; reviewing fire codes and plans; and overseeing all permits for fireworks, blasting, and burning. The second Fire Inspector will focus about half the time on fire inspections and investigations, while the other half will be spent in leading the County's hazardous materials operations. As a result of merging the duties of the Fire Marshal and Rescue Coordinator, the emergency management duties will be assigned to a new Emergency Management Coordinator. These duties have traditionally been shared by multiple members of the Emergency Services Department.

After questions from the Board regarding the proposed changes affecting service to Fire Departments and citizens, County Manager Lundy assured the Board that the effectiveness would be looked at closely on an ongoing basis during that first year to ensure the County was meeting the fire and emergency needs of the County's citizens, fire departments and rescue squads and the reconfiguration revisited if necessary based on these findings. Commissioner Hunsucker made a motion to approve this request. The motion carried unanimously.

11. Departmental Reports:

a. Catawba County Behavioral Healthcare:

The Board was asked to accept a grant in the amount of \$133,800 from the US Housing and Urban Development Homeless Program. The Catawba County Continuum of Care Committee has been working over the last several years to develop programs to assist the homeless, and those at risk of losing their housing, in getting access to stable housing. The committee is made up of governmental agency representatives, non-profit organizations and religious organizations. It performs a semi-annual count to determine the number of homeless persons in the county and

works in collaboration to provide services to those homeless or at risk of homelessness. The committee submitted a grant application to the HUD Shelter Plus Care program, which awards funds to assist in the payment of rent and utilities for individuals who are homeless, with an emphasis on those with mental or physical disabilities. Catawba Valley Behavioral Healthcare, a non-profit, was identified to oversee the grant and coordinate the application process. The \$133,800 will be matched by services provided by agencies such as ALFA, Social Services and Cognitive Connections. No County funds will be required. Funds will be used to assist up to four individuals/families at a time to obtain safe and affordable housing. This is a five year grant that will be overseen by Catawba Valley Behavioral Healthcare. County Manager J. Thomas Lundy reiterated that no county funds would be required and the county was acting as a pass-through agency for the grant funds. Commissioner Barger made a motion to accept this grant. The motion carried unanimously.

b. Planning:

Staff requested the Board authorize its Chair to sign an Interlocal Agreement to jointly support the new Western Piedmont Regional Transit Authority (WPRTA) in concert with Alexander, Caldwell and Burke Counties and the cities of Hickory, Newton and Conover. On August 6, 2007, the Board passed a resolution to create the WPRTA. The Alexander, Burke and Caldwell County Boards of Commissioners and the City Councils of Hickory, Newton and Conover passed similar resolutions. On March 13, 2008, the WPRTA's Board of Directors recommended an Interlocal Agreement. The intent of the Authority is to assume responsibility for the management and provision of services currently provided by Alexander County Transportation, the Burke County Transit Administration, the Caldwell County Area Transit System and the Piedmont Wagon Transit System, on or about July 1, 2008. The WPRTA is expected to improve the efficiencies of the system; add value in route scheduling, particularly regarding human services; increase the area's ability to leverage State and Federal funds; potentially reduce costs (mostly administrative), since one system would replace four; act on the North Carolina Department of Transportation's recommendation to regionalize where feasible, and serve as a pilot project for the State. County Manager Lundy pointed out a termination clause had been added to address any entity which chose to terminate its participation in the authority would be responsible for its debt. Commissioner Barger made a motion to approve the agreement and authorize the Chair to sign the agreement. The motion carried unanimously.

c. Utilities and Engineering

Catawba County's Director of Utilities and Engineering, Barry Edwards, gave the Board an update on progress in developing the Catawba County EcoComplex in and near the Blackburn Landfill. The EcoComplex is a group of business and research entities designed to recover all useable products and by-products from the group, located in the vicinity of the Blackburn Landfill. It is a centralized location for research on all aspects of natural energy recovery and utilization, as well as research of alternative fuels and minimization of greenhouse gases for environmental, agricultural and energy use. At present, EcoComplex partners include the Landfill and a system that burns methane gas that develops naturally in landfills to produce electricity, which is then used by the other partners; Gregory Wood Products, a dimensional lumber production facility; Pallet-One, a manufacturer of wood pallets; and local farmers who are being employed in biodiesel research crop development. Pallet One uses wood by-product produced by Gregory Wood Products to produce wooden shipping pallets and is also gearing up to recycle used pallets from local industries and those disposed of at the landfill.

Other components currently in the development process include: carbon dioxide and heat recovery and re-use; a sludge management facility; a biodiesel research facility currently under consideration with Appalachian State University; a wood-fired boiler and turbine; and a turf grass management education program, possibly in cooperation with Catawba Valley Community College. Projects identified for future grants and negotiation include: greenhouse operations; brick and pottery manufacturing; compost and soil amendment processing; algae research; a facility to manage food, grease, and agricultural wastes; and combined bio-fuel research

12. Other items of Business: None.

13. Attorneys' Report: None

14. Manager's Report. None.
15. Adjournment: Chair Barnes adjourned the meeting at 8:35 p.m.

Katherine W. Barnes, Chair
Board of Commissioners

Barbara E. Morris, County Clerk