

September 1, 2016
Regular Meeting of the City Council
Council Chamber – City Hall
5:45 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Steve Caraker and Council Members: Jerry Smith, Ron Stephens and Jeff Miller

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Public Information Officer Tara Ledbetter, Utilities Director Lee Smith, Fire Chief Joseph Vindigni, Finance Director Lisa White, Public Works Director Tom Wooten

1. Call to Order: Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. Invocation and Pledge of Allegiance: A moment of silence for prayer was followed by the Pledge of Allegiance to the Flag.

3. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda.* No one expressed a desire to speak.

4. Consideration of Agenda:

Additions:

13b. Staff Report - Graffiti

Deletions from Agenda

- 5d. Consideration of an Ordinance Amending the System Development Charges Policy Relating to Affordable Housing
- 7. Public Hearing ó Consideration of an Application from Ms. Molly Hernon for a Zoning Ordinance Text Amendment to Allow Equestrian Boarding Facilities as a Conditional Use in the R-15 Medium Density Residential District with Special Requirements
- 8. Consideration of Awarding the Bid for the U.S. Highway 64 Sidewalk Improvements Project
- 11. Consideration of a Request to Refund System Development Charges and Tap Fees for Upward Road Hotel Project

Council Member Miller requested item 5e Consideration of Special Event Permit for the Veteranø Mural Dedication be moved to the regular agenda for discussion. This was added as item 6a.

Mayor Pro Tem Caraker moved City Council’s approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *(Note: Consent agenda items are considered routine, non-controversial in nature and are considered and disposed of through a singular motion and vote.)*

A. Consideration of Minutes: August 4, 2016 Regular Meeting

B. Consideration of Report on the Declaration of Surplus Property: Mr. Connet provided a report on the declaration of surplus property under the authority granted by Resolution #11-1051. The personal property, mostly IT equipment, will be sold and/or donated in accordance with NCGS 160A-266(1d) and NCGS 160A-280.

C. Consideration of Budget Amendments: Mr. Brian Pahle presented the following budget amendments:

Fund 170: increase of \$3,714: to establish a special revenue fund for Fire Department t-shirt sales and to move the past revenue from the General Fund into this fund.

Fund 10: increase of \$20,000 and Fund 60: increase of \$60,000: to provide funding for the purchase of property along N. Main Street. Funds were approved in FY 2015-16 but the purchase did not occur. The purchase is expected to occur in the coming month and Council’s approval of the funds for the property purchase in the current fiscal year is needed.

~~D. Consideration of an Ordinance to Amend to the System Development Charges Policy Relating Affordable Housing~~

E. Consideration of Special Event Permit for the Veteran's Mural Dedication – moved to item 6a.

F. Consideration of a Job Description for School Resource Officer: Mrs. Jennifer Harrell explained the Police Department currently has police officers serving as school resource officers. The position requires further education and has historically not had a pay grade assigned to the specific position. She provided a job description and reported the position will be assigned to pay grade 12.

G. Consideration of a Utility Line Extension Agreement for Cedar Terrace: Utilities Directors Lee Smith reported this project will require an installation of a water and sewer system to serve five apartment buildings and a clubhouse. He reported the Water and Sewer Department has the capacity to support this additional infrastructure and associated connections and recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

H. Consideration of Amendments to the Policy Governing Voluntary Annexations as a Result of Requests for Sewer Service: City Manager John Connet presented amendments to the Policy Governing Voluntary Annexations as a Result of Requests for Sewer Service to clarify an annexation petition is required prior to the provision of sewer service.

POLICY GOVERNING VOLUNTARY ANNEXATIONS AS A RESULT OF SEWER ~~EXTENSION~~ SERVICE REQUESTS

I. PURPOSE: It is the intent of this policy to provide direction in guiding annexation decisions as they pertain to sewer ~~extension~~ requests.

II. APPLICABILITY: This policy applies to all situations where a property outside the city limits applies for sewer service from the City of Hendersonville.

III. PROCEDURES: From time to time, property owners outside of the City of Hendersonville may request sewer service from the City of Hendersonville.

A. It is a long-standing practice of the City of Hendersonville that sewer service shall not be extended to property owners outside of the city limits unless the property owner first petitions for annexation. When a property owner contacts the Utilities Department requesting sewer service and the property is located outside the city limits, the Utilities Department will first make a determination as to whether or not extension of sewer service is feasible. If service is feasible, the applicant will be referred to the Planning Development Assistance Department to begin the voluntary annexation process. If a petition for voluntary annexation is not filed, the request for sewer service ~~extension~~ will not be forwarded to the City Council for consideration.

B. If provision of sewer service is feasible and an annexation petition is filed, staff will conduct an analysis to determine if immediate annexation of the property is in the best interests of the city. Factors to be considered include geographic proximity to existing city limits and the cost or practicality of extending the full range of municipal services to the property. If annexation is deemed appropriate at this time and sewer service provision is feasible, the request for annexation and sewer ~~extension~~ service will be forwarded to the City Council for their consideration.

C. If sewer service is feasible but annexation is not recommended by staff, the request for sewer service ~~extension~~ will be forwarded to the City Council for their consideration with a stipulation that sewer service shall only be granted if the property owner executes a legally binding agreement granting the city permission to proceed with voluntary annexation of the property at any time in the future. The agreement will be in recordable form and will be recorded upon execution. The City Attorney shall be responsible for drafting and executing the necessary agreement.

D. At any time the city so chooses, properties which have been granted sewer service and which were party to an annexation agreement with the city may be annexed.

E. Nothing in this policy shall be construed to prohibit the Council from considering other factors relevant to their decision to approve or deny the extension of sewer service to a property outside the city. Satisfaction of the annexation requirements outlined in this policy shall not be considered binding on the Council to approve provision of sewer service.

F. In instances where industrial recruitment or expansion is facilitated by the extension of city sewer service, special consideration will be granted to the applicant when the conditions below are met:

- 1) To qualify as an industrial project, the applicant's primary business must be manufacturing as classified by the 2007 North American Industry Classification System (NAICS) where the first two digits of the applicants business classification code are 31, 32, or 33
- 2) Applicant agrees to comply with sections A through E of this policy (in consideration of conditions to be offered in section G)

G. Applicants who meet the conditions of section F shall be granted the following considerations:

- 1) Applicants will be eligible to sign a 10-year payment in lieu of annexation agreement, and shall remit an annual fee of \$250 to the City Hendersonville. The applicant's property may not be annexed while the agreement is in effect. Renewals of the payment in lieu of annexation agreement shall be at the discretion of the then-current City Council.
- 2) The legally binding agreement outlined in section C shall be modified for applicants who satisfy the conditions of section F. This modification shall restrict the City of Hendersonville from proceeding with voluntary annexation of the applicant's property until seventy-five (75) percent of the border of the property in question is adjacent to the contiguous border of the City of Hendersonville.

H. Applicants who execute an agreement pursuant to this policy and who construct a sewer extension which is later transferred to the City's ownership pursuant to the agreement shall be liable for any material defects or failures in the extended sewer section for a period of five years from the date of the agreement.

I. Addendum A of this policy describes the Upward Road Planning District, and includes properties that are believed to have a high potential for redevelopment. The district encompasses an important entry corridor for the City of Hendersonville, and therefore this policy places special conditions on properties identified in Addendum A.

- 1) It is the policy of the Hendersonville City Council that extending sewer ~~extension~~ service to these properties without exercising land use oversight would allow inconsistent development patterns. It is the stated desire of the City Council that these properties be developed in a consistent fashion that benefits both the property owners and the citizens of Hendersonville.
- 2) Properties identified in Addendum A will not be granted sewer service until they apply for and complete the process to voluntarily annex into the City of Hendersonville and are zoned in accordance with GS 160A-381. For these properties, the option to sign an agreement for future voluntary annexation (as described in Sections C and D of this policy) shall not be applicable.
- 3) The decision to annex properties inside the Upward Road Planning Area and subsequently extend sewer service rests solely with the City Council. While this policy defines specific requirements for the properties in the Upward Road Planning Area, it should not be construed as a commitment from the City that these parcels will be voluntarily annexed at the owner's request.

Adopted this first day of September, 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

(No changes were made to: ADDENDUM A: UPWARD ROAD PLANNING DISTRICT [Added by action of the City Council: March 3, 2011].)

Mayor Pro Tem Caraker moved approval of the items listed on the consent agenda. A unanimous vote of the Council followed. Motion carried.

6. Public Hearing – Consideration of an Application from Mr. Joseph G. Walters for the Rezoning of Two Parcels Located at 461 and 303 Sugarloaf Road from R-15 Medium Density Residential to C-3 Highway Business District: Mrs. Susan Frady, Development Assistance Director, reported the City received two applications dated July 1, 2016, for a zoning map amendment. The applicant and property owner is Joseph Gregory Walters. The applications are for parcel numbers 9579-66-0497, approximately 1.73 acres and 9579-56-9342, approximately 0.82 acres. These parcels are located at 461 and 303 Sugarloaf Road. The requested change is from R-15, Medium Density Residential to C-3, Highway Business District.

Comprehensive Plan Consistency: According to N.C.G.S.160A-383, zoning map amendments must be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan's Future Land Use Map designates these parcels as High Intensity Neighborhood. She reported the rezoning appears to comply with the Comprehensive Plan.

Ms. Frady reviewed the primary and secondary recommended land uses, the surrounding land use and zoning classifications, the dimensional requirements for each category and the permitted and conditional uses for each classification.

Planning Board Recommendation: Ms. Frady reported the Planning Board voted six in favor and one opposed to recommend City Council approve the requested rezoning, finding the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: for public interest.

Mrs. Frady reviewed the factors contained in Section 11-4 of the Zoning Ordinance that must be considered prior to adopting or disapproving an amendment to the official zoning map.

The public hearing was opened at 5:56 p.m. by Mayor Volk in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel numbers 9579-66-0497 and 9579-56-9342 from R-15, Medium Density Residential to C-3, Highway Business District, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: the area is changing in use. A unanimous vote of the Council followed. Motion carried.

Ordinance #16-0932

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE

IN RE: FILE NO. P16-20-Z

Applicant: Joseph Gregory Walters; 461 and 303 Sugarloaf Road

Be it ordained by the City Council of the City of Hendersonville:

1. Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel numbers 9579-66-0497 and 9579-56-9342 from City of Hendersonville R-15, Medium Density Residential to City of Hendersonville C-3, Highway Business District.

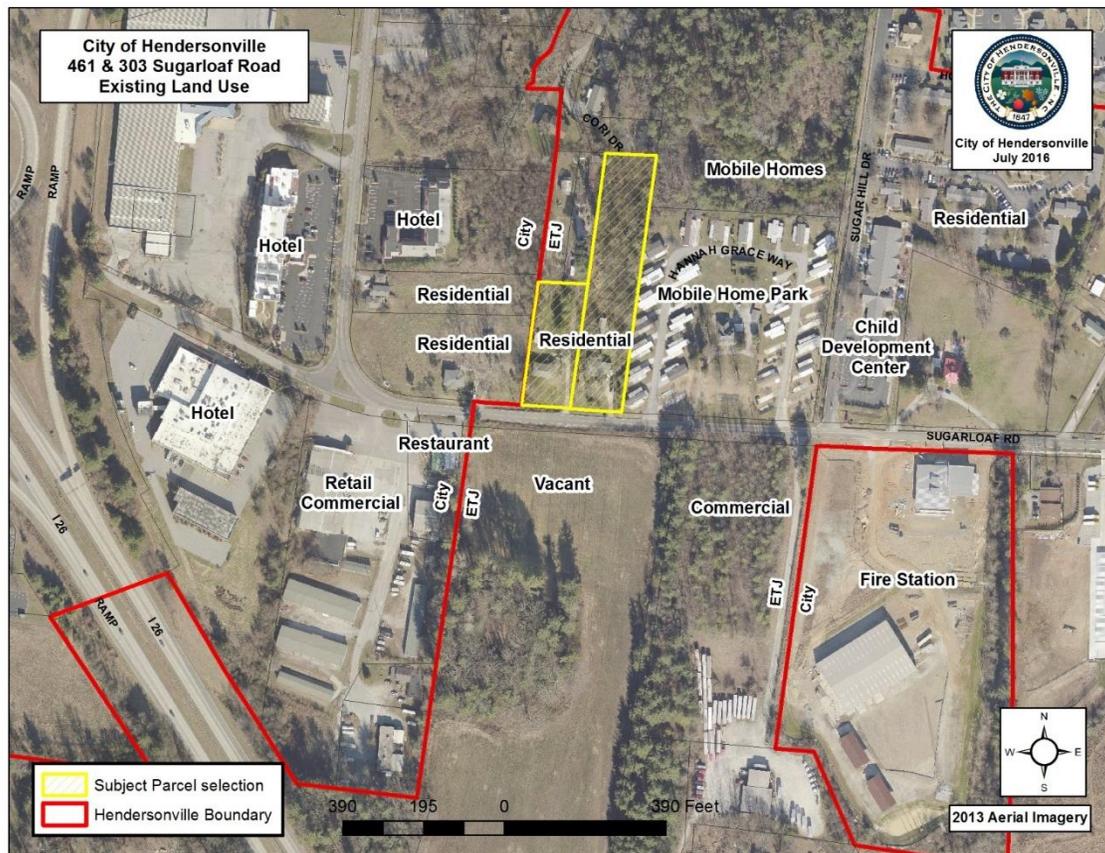
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this first day of September 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney



6a. Consideration of Special Event Permit: Mrs. Susan Frady reported the Downtown Advisory Committee and the Special Events Committee recommended approval of the special event permit for the Veterans Mural dedication. The event will be held September 11, 2016. Fourth Avenue East will be closed between the alley and King Street from 3:00 p.m. to 6:00 p.m. Citizens will line King Street as the Hendersonville Police Department and Patriot Guard bring in families of fallen heroes to the mural. There will be a dedication from 4:00 p.m. - 6:00 p.m. Parking for the families will be in the Azalea and Maple parking lots.

Council Member Miller reported the sponsor, Andrea Martin, has been working on the mural for approximately a year. The mural will be dedicated on Patriots Day, September 11. He requested as much public participation as possible. **Mayor Pro Tem Caraker moved Council approve the special event permit for the mural dedication. A unanimous vote of the Council followed. Motion carried.**

~~7. Public Hearing—Consideration of an Application from Ms. Molly Herson for a Zoning Ordinance Text Amendment to Allow Equestrian Boarding Facilities as a Conditional Use in the R-15 Medium Density Residential District with Special Requirements~~

~~8. Consideration of Awarding the Bid for the U.S. Highway 64 Sidewalk Improvements Project~~

9. Presentation of North Main Street Sidewalk Recommendation: Mr. Detwiler provided staff recommendations for the Main Street sidewalk:

- on the west side of N. Main Street from McCain Court to the railroad tracks/greenway spur and on the east side of N Main Street from Phase 3 of the Oklawaha Greenway to the Oklawaha Village development. This combination of segments totals 3,000 linear feet of sidewalk with a bridge over Mud Creek and is expected to cost approximately \$720,000.
- Area 2 is not recommended to be included in the project because of its relative lack of benefit to pedestrians. This will ensure enough bond funding for the Blythe Avenue sidewalk project from Third to Fifth Avenue.

Mr. Detwiler explained the next step is to have Mattern & Craig complete a preliminary engineering report. There was discussion on the appearance of the greenway up to bridge, whether it will have the same appearance as the

greenway and the pedestrian bridge. **The Council agreed by consensus to staff's recommendations for the North Main Street sidewalk construction.**

10. Discussion of Establishing a Naming and Donation Policy to Fund Public Improvements:

Mr. Connet addressed the Council stating one of their goals is to complete the master plan associated with Berkeley Mills Park and make improvements at other parks. He explained the City was contacted by a resident who is interested in making a private donation to parks and other public facilities in exchange for naming/recognition.

Mr. Connet initiated discussion regarding establishing a naming/donation policy for citizens and/or corporations that donate funds for public improvements of parks, etc. He provided sample policies from other communities and stated staff will come back to the Council with a recommendation if these would like to proceed. He explained it is most often related to recreational facilities but may include other public facilities.

Mayor Volk voiced support of a policy so it may be applied consistently. Discussion followed on naming facilities for corporation sponsorships, etc. Mayor Volk explained it has been an unofficial policy not to name facilities, etc. after people because it is difficult to decide who would get something named for them and who does not. She stated sponsorship whereby someone is paying a major portion of the cost would be easier. Council Member Smith stated he is not opposed to naming facilities.

Council Member Miller commented the City should honor the legacy of the Berkeley Mills Park and should remain named after those who donated the property. He stated the playground, etc. may be renamed. Mayor Pro Tem Caraker commented he would like to have individuals donate. **The Council agreed by consensus to proceed with the discussion of a naming policy.**

10a. Consideration of an Agreement for Security at the new Health Sciences Facility: Mr. Connet reported the City was contacted by Blue Ridge Community College (BRCC) who have their own community police. He stated they would like to put a station at the new facility to have an officer present for late classes and to provide security for entire building. He explained under North Carolina General Statutes, an interlocal agreement is necessary giving jurisdiction to BRCC within the City of Hendersonville and within the one-mile jurisdiction. Assistant Chief Jones reported they have been meeting with BRCC and the Police Department supports the interlocal agreement.

In discussion, Assistant Police Chief Jones stated it would be the City's responsibility if BRCC is not there. He explained they would only have jurisdiction on their floor. He stated the interlocal agreement gives them additional jurisdiction so they can cover the entire building and one-mile past. They will be dispatched first should a call for service be requested. He stated coverage times will vary but evening hours will be covered. He explained this will be a sworn officer with the power of arrest, etc.

Mayor Pro Tem Caraker moved to approve the law enforcement jurisdictional interlocal agreement. A unanimous vote of the Council followed. Motion carried.

Council Member Miller congratulated Assistant Chief Doug Jones on his promotion to Assistant Police Chief.

~~11. Consideration of a Request to Refund System Development Charges and Tap Fees for Upward Road Hotel Project~~

12. Comments from Mayor and City Council Members:

a. Update on special use permit for Cheria Duncan: Council Member Miller reported the City received a letter from Ms. Duncan and he believes she has done everything she can to move or have the existing mobile homes purchased. He commented it appears residents with limited resources seem to be ignored. He stated in this case he believes it is because the City of Hendersonville was watching and it made a difference. He stated the wants Council to continue to be an advocate for those citizens. He reported a church helped provide funding to move one of the mobile homes. Mayor Volk thanked Council Member Miller for following up on this project.

Council Member Smith complimented the Police Department on the traffic flow around Hendersonville Middle School with the beginning of the new school year.

13. Reports from Staff:

a. Presentation of Contingencies Report: Mr. Connet provided a report on contingencies used as required by NCGS 159-13(b)(3):

- 1) Fund 10, \$2,832, for Worker's Comp. Insurance
- 2) Fund 60, \$25, for Worker's Comp. Insurance
- 3) Fund 10, \$10,000, For Safelight, Inc. Special Appropriation
- 4) Fund 10, \$20,000, for Property Purchase (to be reimbursed)

- 5) Fund 60, \$60,000, for Property Purchase (to be reimbursed)
- 6) Fund 10, \$9,187, for Deputy Fire Chief moving expenses

b. Graffiti: Mr. Connet reported there have had recent discussions on graffiti/tagging, particularly in Edwards alley. He asked Mrs. Frady to update the Council on how to address it.

Mrs. Frady reported staff has reviewed nine other ordinances from other communities and most treat graffiti as nuisances. Most ordinances allow property owners a certain number of days to remove it or the city will remove it and assess the cost to the property owner. She stated there are obstacles with the cleanup. The City of Asheville puts aside public funds to assist property owners with graffiti removal. She suggested offering some type of incentive to property owners to remove graffiti. One obstacle the City will face is removing graffiti from brick.

Mayor Pro Tem Caraker commented he would like to see the perpetrators charged. The Council discussed fines, restitution, etc.

There was discussion on whether funds to subsidize the cleanup could come from the downtown fund. Mr. Holloway, Downtown Economic Development Director, stated the façade grant may be used to address it and discussed a 50/50 cost split with the property owner. Council Member Smith supported the idea of a subsidy. He mentioned property insurance may help cover it after a deductible has been met.

Mr. Connet recommended obtaining an estimate to clean the brick in the downtown area. He stated the funding source is for the entire district and it benefits all property owners. He stated staff will also get an estimate for cleanup of other locations. Mayor Pro Tem Caraker agreed it should not be limited to downtown.

Assistant Police Doug Jones suggested installing lighting in the alleys to help prevent graffiti. Discussion followed on the possibility of cameras and other devices made for this situation. Council Member Miller asked the Police to suggest where lights are most-needed. **The Council agreed to begin by obtaining estimates for cleaning up the alley.**

14. Consideration of Appointments to Boards and Commissions: City Clerk Tammie Drake reviewed the board/commission openings.

Environmental Sustainability Board: Mayor Pro Tem Caraker nominated Geri Conley and Kim Bailey for a two-year term on the Environmental Sustainability Board. A unanimous vote of the Council followed. Motion carried. Ms. Kristy Lapidus was nominated by Mayor Pro Tem Caraker for a two-year term. A unanimous vote of the Council followed. Motion carried.

Walk of Fame: Mrs. Tammie Drake, City Clerk, announced a vacancy on the Steering Committee and reminded the Council the Steering Committee will also serve as the Selection Committee. The Council should appoint a member to the Selection Committee as well. **Ms. Kaye Youngblood was nominated by Council Member Smith to serve on the Walk of Fame Steering Committee. A unanimous vote of the Council followed. Motion carried.** Mr. Tom Orr reported the Walk of Fame Committee selected Margaret Thomas to serve on the Selection Committee.

Announcements: Mrs. Tammie Drake, City Clerk, announced the vacant positions on the Board of Adjustment, the Walk of Fame Selection Committee and upcoming reappointments/vacancies on the Historic Preservation Commission and Planning Board.

15. New Business: There was none.

16. Staff Request for Closed Session: Mayor Pro Tem Caraker moved Council to enter a closed session: 1) in accordance with NCGS 143-318(a)(5) to establish or instruct staff concerning a position to be taken on behalf of the City Council in negotiating the price of a contract for the acquisition of real property identified as PIN 9569906270, and 2) to consult with our attorney to preserve the attorney-client privilege between the attorney and the City Council to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action as provided under NCGS §143-318.11(a)(3). A unanimous vote of the Council followed. Motion carried.

The Council heard a presentation from staff and provided direction on the purchase of real property identified as PIN 9569906270. The Council also discussed a potential judicial action.

At 7:43 p.m., Mayor Pro Tem Caraker moved Council to exit the closed session. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker moved Council to approve the purchase of the Jennings property located at 703 E. Pace Street for \$50,000. A unanimous vote of the Council followed. Motion carried.

Mr. Connet requested Council suspend charging system development charges indefinitely. **Council Member Smith moved Council to suspend system development charges until further notice. A unanimous vote of the Council followed. Motion carried.**

Council Member Miller moved Council to refund system development charges for the Fairfield Inn project. The vote was three in favor (Volk, Miller, and Caraker) and two opposed (Smith and Stephens). Motion carried.

21. Adjournment: The meeting adjourned at 7:45 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk