

January 9, 2014
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Clerk Tammie Drake, City Attorney Sam Fritschner, Utilities Director Lee Smith, 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 five 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.*

Eva Ritchey, 1928 Brevard Road, requested the City Council's continued support of Flat Rock Playhouse for economic purposes.

David Rhode, 206 Laurel Park Place, stressed the fact he would enjoy serving on the Environmental Sustainability Board.

[Council Member Miller arrived at 5:52 p.m. from the Essentials of Municipal Government training session in Asheville, NC.]

4. Consideration of Agenda:

Removal: 8. Presentation of Grey Hosiery Mill Building Appraisal (the appraisal has not yet been received).

Council Member Caraker moved approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *These items are considered routine, non-controversial in nature and are considered and approved by a single motion and vote.*

A. Consideration of Minutes: December 5, 2013 Regular Meeting

B. Consideration of Budget Amendments

i. Historic Seventh Avenue Fund:

•Historic Seventh Avenue Fund: To reallocate funds in the amount of \$14,000 for an Economic Development Project for the Historic Seventh Avenue District.

Total Current Budget Appropriations	\$ 51,720.00
Amount Of Increase/(Decrease)	14,000.00
Total Current Amended Budget	\$ 65,720.00

ii. Environmental Services Fund: (removed from consent agenda for discussion)

iii. Water/Sewer Department: Mid-year budget amendments: (removed from consent agenda for discussion)

iv. Election

Governing Body: To provide additional funds in the amount of \$12,880 for the 2013 primary and general election for the mayoral and two council member seats.

Total Current Budget Appropriations	\$ 71,200
Amount Of Increase/(Decrease)	12,880
Total Current Amended Budget	\$ 84,080

C. Consideration of Agreement with the School of Government for Services Provided to the Historic Seventh Avenue District: Mr. Connet presented Technical Assistance Letter of Agreement dated December 17, 2013 between the City, the Historic Seventh Avenue District and The UNC-CH School of Government (SOG) for services provided by the Development Finance Initiative. This agreement is for the development of strategies to attract private investment into and around the Seventh Avenue District. *[The Technical Assistance Letter of Agreement dated December 17, 2013 is available in the office of the City Clerk.]*

D. Consideration of Resolution Adopting Amendments to Flexible Spending Account resulting from IRS Change: Mr. David Sapp explained the Internal Revenue Service has changed some regulations concerning Flexible Spending Accounts (FSA) and the amount an employee can carry forward into a new plan year. This new ruling allows an employee to carry forward up to \$500 dollars into the new plan year instead of losing this money under the old IRS standard.

Resolution #14-0107

AMENDMENT
CITY OF HENDERSONVILLE FLEXIBLE BENEFIT PLAN
CARRYOVER ELECTION

WHEREAS, the City of Hendersonville (hereinafter referred to as the "Employer") has established the Section 105 Flexible Benefit Plan (hereinafter referred to as the "Plan"); and

WHEREAS, the Plan includes a Grace Period defined as the period that begins immediately following the close of a Plan Year; and

WHEREAS, the Employer wishes to amend the Plan to reflect changes to Internal Revenue Code (IRC) Section 125 (i), as amended by the Internal Revenue Service (IRS) Notice 2013-71 to allow a carryover of certain unused funds remaining in the Health FSA at the end of the Plan Year; and

WHEREAS, under Article XV, Section 15.3 of the Plan, the Employer has the authority to amend the Plan and the undersigned has the authority through resolutions adopted by the Board of Directors to execute this amendment on behalf of the Employer; and

NOW IT IS, THEREFORE, AGREED, that the Plan is amended, as follows:

Grace Period: All references in the Plan to Grace Period are eliminated effective as of the last day of the current Plan Year, specifically June 30, 2014.

Effective Date: This Amendment is entered into as of the date outlined below and shall be effective for: the Plan Year ending in 2014 and beyond; or

Carryover Amount: The Plan shall provide for a carryover of any amount up to \$500 remaining unused in a Health FSA as of the end of the Plan Year. Such carryover amount may be used to pay or reimburse qualifying expenses under the Health FSA incurred during the entire Plan Year to which it is carried over.

Participant Opt Out: Notwithstanding the foregoing, any Plan participant shall have the right to opt out of the carryover. Amounts up to \$500 remaining will automatically carryover unless the Participant opts out by notifying the Employer in writing before the last day of the Plan Year.

Therefore, the Plan is amended in accordance with Article IX, Section 9.01 Plan as an adopting Employer. All other terms and conditions of the Plan which are not affected by this Amendment are unchanged.

Section 105 Flexible Benefit Plan

By: /s/Barbara G. Volk, Mayor, City of Hendersonville

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

Date of Adoption: 01-09-14

CERTIFICATE OF CORPORATE RESOLUTION

The undersigned authorized representative of City of Hendersonville (the Employer) hereby certifies that the following resolutions were duly adopted by the Employer on January 9, 2014 and that such resolutions have not been modified or rescinded as of the date hereof:

RESOLVED, that the Amendment to add a CARRYOVER ELECTION to the Section 105 Flexible Benefit Plan (the Amendment) presented to this meeting is hereby approved and adopted and that the duly authorized agents of the Employer are hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan.

RESOLVED, that the Administrator shall be instructed to take such actions that are deemed necessary and proper in order to implement the Amendment, and to set up adequate accounting and administrative procedures to provide benefits under the Plan.

RESOLVED, that the duly authorized agents of the Employer shall act as soon as possible to notify the employees of the Employer of the adoption of the Amendment by making a notice available to each employee in the form of the Summary of Material Modification presented to this meeting, which form is hereby approved.

The undersigned further certifies that attached hereto as Exhibits A and B, respectively, are true copies of the Amendment and the Summary of Material Modification approved and adopted in the foregoing resolutions.

/s/Barbara G. Volk, Mayor

01-09-14

Benefit Update

Section 105 FLEXIBLE BENEFIT PLAN

The City of Hendersonville Flexible Benefit Plan (the Flex Plan) has been amended in accordance with Section 15.3 of the Plan and pursuant to IRS Notice 2013-71 to add a CARRYOVER ELECTION provision for the Health FSA. Specifically, the Flex Plan has been amended to eliminate the Grace Period and allow participants to carryover up to \$500 of unused funds remaining in their Health FSA at the end of the Plan Year. Such carryover amount may be used to pay or reimburse qualifying expenses under the Health FSA incurred during the entire Plan Year to which it is carried over.

The change is effective for: the Plan Year ending in 2014 and beyond.

Plan participants have the right to opt out of the carryover for any reason. Amounts up to \$500 remaining will automatically carryover unless the Participant notifies the Employer in writing before the last day of the Plan Year.

For example, Plan participants who enroll in a Health Savings Account (HSA) for the following Plan Year may opt out of the carryover provision since the carryover amount to a General Purposes Health FSA would render the participant ineligible to contribute to an HSA account.

Please note: In accordance with federal law, the carryover applies to the Health FSA Only and NOT to balances remaining in the Dependent Care (Daycare) Account.

This Benefit Update is intended to serve as the Summary of Material Modification required under federal regulations governing employee benefit plans. If you have any questions, please contact Human Resources.

E. Consideration of Petition from Peter and Monica Thom for the for Satellite Annexation of Property Located on Upward Road: City Planner Sue Anderson presented the petition for satellite annexation for Peter and Monica Thom for approximately 0.391 acres east of 200 Upward Road. This petition is concerning accessibility to water and sewer adjacent to the property. She presented the Clerk's Certificate of Sufficiency (found in Planning Department file #P- 13-48-A) finding the petition is valid. The next step in the annexation process is to accept the Clerk's certificate and set a date for the public hearing on the question of adoption of an ordinance of annexation. She proposed February 6, 2014 as the date for the public hearing.

F. Consideration of a Petition from Craig Franks to Close an Unopened Alley Located on Summit Circle off Toms Hill Drive: Ms. Anderson presented the petition from Craig Franks to close an unopened alley located between lots 16 and 17 on Summit Circle off Toms Hill Drive.

Resolution #14-0108

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider the closing of an unopened alley off Summit Circle between lots 16 and 17

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys; and WHEREAS, Craig Franks, has petitioned the Council of the City of Hendersonville to close an unopened alley off Summit Circle between lots 16 and 17; and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of an unopened alley off Summit Circle between lots 16 and 17.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville:

1. A meeting will be held at 5:45 p.m. on the sixth day of March, 2014, in the Council Chambers of City Hall to consider closing a portion of an unopened alley off Summit Circle between lots 16 and 17.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the ninth day of January 2014.

/s/Barbara G. Volk, Mayor

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

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

G. Consideration of Resolutions Granting Authority to Certain Representatives of the City to Execute All Appropriate Documents for City Accounts: The following resolutions grant authority to certain City representatives to execute all appropriate documents for the investment accounts. This resolution is necessary to add the signatures of the City Manager and the newly-hired Finance Director.

Resolution #14-0101

CERTIFIED COPY OF CORPORATE/MUNICIPAL RESOLUTION OF CITY OF HENDERSONVILLE

I, the undersigned, hereby certify that I am the City Clerk of the above-named Corporation/Municipality, which Corporation/Municipality is duly organized and existing under the laws of the United States of America: that the following is a true copy of the Resolution duly adopted by the Board of Directors of said Corporation/Municipality effective the 9 day of January 2014.

Be It Resolved that the officers listed below are Authorized Representatives of the Corporation/ Municipality with the authority to execute all appropriate documents for the investment account established with First Citizens Bank.

Name	Title	Signature
Barbara G. Volk	Mayor	
John F. Connet	City Manager	
Lisa A. White	Finance Director	
Tammie K. Drake	City Clerk	

I further certify that the Resolution has neither been rescinded nor modified.

/s/Tammie K. Drake, MMC, City Clerk

Resolution #14-0102

CERTIFIED COPY OF CORPORATE/MUNICIPAL RESOLUTION OF CITY OF HENDERSONVILLE

I, the undersigned, hereby certify that I am the City Clerk of the above-named Corporation/Municipality, which Corporation/Municipality is duly organized and existing under the laws of the United States of America: that the following is a true copy of the Resolution duly adopted by the Board of Directors of said Corporation/Municipality effective the 9 day of January 2014.

Be It Resolved that the officers listed below are Authorized Representatives of the Corporation/ Municipality with the authority to execute all appropriate documents for the investment account established with TD Bank.

Name	Title	Signature
Barbara G. Volk	Mayor	
John F. Connet	City Manager	
Lisa A. White	Finance Director	
Tammie K. Drake	City Clerk	

I further certify that the Resolution has neither been rescinded nor modified.

/s/Tammie K. Drake, MMC, City Clerk

Resolution #14-0103

CERTIFIED COPY OF CORPORATE/MUNICIPAL RESOLUTION OF CITY OF HENDERSONVILLE

I, the undersigned, hereby certify that I am the City Clerk of the above-named Corporation/Municipality, which Corporation/Municipality is duly organized and existing under the laws of the United States of America: that the following is a true copy of the Resolution duly adopted by the Board of Directors of said Corporation/Municipality effective the 9 day of January 2014.

Be It Resolved that the officers listed below are Authorized Representatives of the Corporation/ Municipality with the authority to execute all appropriate documents for the investment account established with Home Trust Bank.

Name	Title	Signature
Barbara G. Volk	Mayor	
John F. Connet	City Manager	
Lisa A. White	Finance Director	
Tammie K. Drake	City Clerk	

I further certify that the Resolution has neither been rescinded nor modified.

/s/Tammie K. Drake, MMC, City Clerk

Resolution #14-0104

CERTIFIED COPY OF CORPORATE/MUNICIPAL RESOLUTION OF CITY OF HENDERSONVILLE

I, the undersigned, hereby certify that I am the City Clerk of the above-named Corporation/Municipality, which Corporation/Municipality is duly organized and existing under the laws of the United States of America: that the following is a true copy of the Resolution duly adopted by the Board of Directors of said Corporation/Municipality effective the 9 day of January 2014.

Be It Resolved that the officers listed below are Authorized Representatives of the Corporation/ Municipality with the authority to execute all appropriate documents for the investment account established with Sun Trust Bank.

Name	Title	Signature
Barbara G. Volk	Mayor	
John F. Connet	City Manager	
Lisa A. White	Finance Director	
Tammie K. Drake	City Clerk	

I further certify that the Resolution has neither been rescinded nor modified.

/s/Tammie K. Drake, MMC, City Clerk

Resolution #14-0105

CERTIFIED COPY OF CORPORATE/MUNICIPAL RESOLUTION OF CITY OF HENDERSONVILLE

I, the undersigned, hereby certify that I am the City Clerk of the above-named Corporation/Municipality, which Corporation/Municipality is duly organized and existing under the laws of the United States of America: that the following is a true copy of the Resolution duly adopted by the Board of Directors of said Corporation/Municipality effective the 9 day of January 2014.

Be It Resolved that the officers listed below are Authorized Representatives of the Corporation/ Municipality with the authority to execute all appropriate documents for the investment account established with Wells Fargo.

Name	Title	Signature
Barbara G. Volk	Mayor	
John F. Connet	City Manager	
Lisa A. White	Finance Director	
Tammie K. Drake	City Clerk	

I further certify that the Resolution has neither been rescinded nor modified.

/s/Tammie K. Drake, MMC, City Clerk

Resolution #14-0106

CERTIFIED COPY OF CORPORATE/MUNICIPAL RESOLUTION OF CITY OF HENDERSONVILLE

I, the undersigned, hereby certify that I am the City Clerk of the above-named Corporation/Municipality, which Corporation/Municipality is duly organized and existing under the laws of the United States of America: that the following is a true copy of the Resolution duly adopted by the Board of Directors of said Corporation/Municipality effective the 9 day of January 2014.

Be It Resolved that the officers listed below are Authorized Representatives of the Corporation/ Municipality with the authority to execute all appropriate documents for the investment account established with BB&T.

Name	Title	Signature
Barbara G. Volk	Mayor	
John F. Connet	City Manager	
Lisa A. White	Finance Director	
Tammie K. Drake	City Clerk	

I further certify that the Resolution has neither been rescinded nor modified.

/s/Tammie K. Drake, MMC, City Clerk

Mayor Pro Tem Stephens requested the removal of items 5bii and 5biii for discussion. **Council Member Caraker moved approval of the remaining items on the consent agenda. A unanimous vote of the Council followed. Motion carried.**

6. Introduction of Lisa A. White, Newly-Hired Finance Director for the City of Hendersonville and Recognize Police Officers for Achievements: Mr. John Connet, City Manager, introduced and welcomed Lisa White, newly-hired Finance Director, who comes to the City of Hendersonville from Greenwood, SC.

Mr. Connet and Chief Herbert Blake recognized Officers Kyle Thiel and Acting Sergeant Kenny Hipps for their participation in an internationally-recognized program and are now International Drug Recognition Experts. He stated Officer Hipps is also recognized as “employee of the quarter” for the Police Department.

7. Presentation on GroWNC: Mr. Connet explained the City is participating in the GroWNC program. Ms. Carrie Runser-Turner, Senior Planner at Land-of-Sky Regional Council and Justin Hembree, Executive Director were present. Ms. Turner provided an overview of the GroWNC project which examined issues relating to growth and economic development in a five-county region (Madison, Buncombe, Henderson, Haywood and Transylvania). The planning process included developing a communication and outreach strategy, an extensive review of existing plans and conditions and has been going on since 2011. She stated the data was used to develop a set of regional growth scenarios which included a visualization exercise to show what land use patterns will look like in the future and what decisions can be made now to influence the land use pattern.

Ms. Turner explained there was a lot of public involvement throughout the process and the input was used to shape the development of a “preferred scenario” which guided the recommendations and strategies. These are voluntary locally-implemented strategies that is shown in a set of tools that may be used.

Ms. Turner reviewed the preferred scenario map which was created based on the preferred outcomes identified through the public input process including: redevelopment of brownfields sites, protection of prime industrial sites for job creation, protection of critical watersheds, investment in rural centers, protection of viewsheds, preservation of working lands and key ecological corridors and habitats.

Ms. Turner stated the strategy toolkit includes more than 300 strategies. She stated the Regional Plan contains an executive summary for concise overview, an overview of the process and a narrative discussion of the recommendations and strategies. She reviewed the website, Strategy Toolkit and other on-line resources.

Ms. Turner explained the Land Use Model is an on-going produce that also came out of the process and is made up of four components: land supply determines where and what type of growth may occur, future land use, suitability and growth forecasts. She stated a workshop will be held in January for local governments to navigate the online tools and the Land Use Model. **No action was required or taken by the Council.**

~~8. Presentation of Grey Hosiery Mill Building Appraisal~~

9. Presentation of Request of the Henderson County Human Relations Council: Mr. John Connet, City Manager, presented a request for financial support for the annual Martin Luther King, Jr. Memorial Breakfast. He stated this expenditure was not requested prior to the adopted budget. Mayor Volk stated the Council has approved this request in the past. **Council Member Miller moved Council to appropriate \$250 to the Human Relations Council for the 2014 Martin Luther King, Jr. Memorial Breakfast. A unanimous vote of the Council followed. Motion carried.**

10. Consideration of Request from Ron Moore to Void the \$25,000 Commitment for Recycling:

Mr. Ron Moore, owner of American Recycling, addressed the Council on the commitment he made to give the City a \$25,000 grant when the Council was considering whether to convert its recycling collection service from bins to rollout carts. Mr. Moore provided some history of the American Recycling business and their single stream facility. He stated the contract facilitated the City being able to do their own collection system which resulted in a savings to the City. He stated soon after opening, they realized their new system could not handle the single stream operation and they need an additional 500 tons of material in order to make another investment in their system. He reported they reached out to eight municipalities to provide the necessary volumes and Hendersonville is the only city that agreed which left them short. They have since shut down the single-stream line and are processing other recyclables. He stated they have cut off receiving any recyclables that is not under contract. He stated Henderson County materials go to another facility.

Mr. Moore stated since January 2013, American Recycling has invested more than \$3 million in their business. He stated the City is now operating the recycling program in-house which resulted in a savings of approximately \$75,000/year and it defers tons away from the landfill which saves another \$15,000/year. He stated American Recycling has helped the City and Henderson County and requested the Council to consider forgiveness of the \$25,000 commitment.

There was discussion of the other municipalities that were offered the program and the costs incurred by the City. Mr. Wooten explained the City was already considering larger containers and had applied for other grants for the purchase of carts and a truck. He stated the City has received \$100,000 through State grants. The City's cost includes two staff people and the truck (approximately \$190,000). Council Member Miller asked how much influence the \$25,000 grant had in the decision and if it, in fact, saved City funds. Mr. Wooten explained savings were expected when the contract with Curbside Management was terminated and the work was done in-house. He stated the purchase of a new truck was necessary with the decision to use carts. Council Member Stephens explained the roll-out carts are supposed to generate more recycling. Mr. Wooten stated if the City realizes similar results of other municipalities, the amount of recycling will increase and the City should see a savings by a decrease in tipping fees.

Council Member Miller asked Mr. Moore if he was willing to consider a partial payment. Mr. Moore stated he will work with the City but they have not seen a profit in the last three years. Council Member Miller expressed a concern with completely nullifying the contract. Discussion followed on the single-stream process.

Council Member Caraker commented the Council's decision was not based solely on this offer but also with grants from the State. There was discussion on the impact on this year's budget. Mr. Connet explained \$25,000 was budgeted in the first year for the cost and whatever is not received will have to be taken from reserves or it will have to be made up in another way.

There was discussion on delaying the payment and spreading the payments over five years at the suggestion of Council Member Smith. Council Member Miller suggested giving Mr. Moore until the end of next fiscal year, June 2015, to begin payments.

After discussion, **Council Member Miller moved the Council to defer payment until June 30, 2015 and then allow five installment payments of \$5,000 each from American Recycling, beginning with the first payment received by the end of the next fiscal year, June 30, 2015, until the completion of the contract amount of \$25,000 is paid (by June 30, 2019). A unanimous vote of the Council followed. Motion carried.**

11. Consideration of the Formation of a Business Advisory Committee: Mayor Pro Tem Ron Stephens suggested the Council form a business advisory committee to seek their advice and recommendations and to involve the business community in decisions that affect them. He stated this will help prevent unintended consequences from decisions made by the Council. He suggested the committee:

1. Consists of seven members.
2. Members would serve staggered terms (initially, one year).
3. Committee would be advisory only.
4. Members should be individuals who own local businesses or commercial property within Hendersonville, but do not necessarily reside within the City limits.
5. The Business Advisory Committee would meet quarterly at noon and call special meetings as issues arise.
6. The Chairperson will be appointed by the City Council.

Mayor Pro Tem Stephens suggested seeking applications from interested business owners. He stated all meetings would be open to the public and Council members may attend to participate or interact with the members. In discussion, the Council agreed the committee members may include managers or operators of businesses because not all owners live here. Mayor Volk commented she would like to form the committee for one year to see how it

works, and if proves to be worthwhile, then set up a formal rotation of members. She suggested evaluating the effectiveness of the committee next January. Council Member Stephens agreed.

The Council discussed modifications to the current board application and posting it on-line. **Mayor Volk requested the City Clerk to develop an application form, have it reviewed by the Council members and then post it on-line. The Council agreed by consensus.**

Council Member Smith moved Council to create a business advisory committee that will include seven to nine members of people who own or operate businesses in the City of Hendersonville with meetings scheduled quarterly or as called. There was some discussion of whether the members or chairperson of the committee has the right to call a meeting, and the chairperson being appointed by the City Council. **A unanimous vote of the Council followed. Motion carried.**

12. Consideration of the Financing of System Development Charges (SDCs): City Manager John Connet presented some questions and sought guidance from the Council about financing system development charges over a three-year period. He stated the main objective is to have a system that protects the City for money owed to the City and other rate payers, make it as customer-friendly as possible and develop a process that is not cumbersome for staff and the public.

Mr. Connet stated concerns have been expressed about how the system development charges may be secured if financed over a three-year period including: deeds of trust, billing the financed charges with or separately from the utility bill (monthly) for 36 months.

Mr. Connet posed the following questions:

1. Does City Council want to charge interest on the financing of the SDCs? **The Council agreed by general consensus not to charge interest because the money will be used in the future.**
2. Should the City require all new customers to complete a signed application for financing with appropriate personal information, i.e., Social Security number, prior to financing the SDCs? **The Council agreed by general consensus to require a signed application, the necessary personal information, prior to financing the system development charges.** No credit check is currently done.
3. Should the City require individuals who are financing SDCs to make regular monthly payments? **The Council agreed by general consensus to require regular monthly payments, invoiced with the utility account if they have one or separately if they do not have an account.** The Council discussed the threshold for financing, whether residential or commercial accounts. **The Council agreed by general consensus to allow financing and installment payments for meters 1½ inches, with a charge of \$6,000 and above, for up to 36 months, and to consider hardship circumstances on a case-by-case basis.**
4. How does the City want to ensure that receipt of full payment of these SDCs? City Attorney Fritschner explained this raises questions such as should the applicant pay the cost to record the deed of trust, the drafting of a promissory note, the drafting of the deed of trust and a title search. He stated a title search will reveal other loans that would be paid before the City and thus, a subordination agreement would be required. He voiced a preference to prepare these documents and the title search in-house. **The Council discussed and agreed to record a deed of trust on the property to ensure payment along with a title search, and a subordination agreement with the fees to be determined. The Council requested a schedule of fees for these services from the City Attorney.**

13. Consideration of Request for Reimbursement of System Development Charges from Miller's Laundry and Cleaners, Inc.: Mr. Connet explained Miller's Laundry and Cleaners has requested a refund or credit for the system development charges they paid in September of 2011 when they established a new

facility on Brevard Road to serve summer camps. He explained they relocated the operation with new equipment from their King Street location and were told they could request a refund from the City Council once they were in operation for a period of time and if the records could show their water usage decreased. He provided a copy of the water usage records. He explained the Council will have to excuse Council Member Miller from participating and voting on the matter. **Council Member Caraker moved Council to excuse Council Member Miller from participating and voting in this matter. A unanimous vote of the Council followed. Motion carried.**

Mr. Miller addressed the Council and provided the following information: On the surface this is a difficult situation because of his position. He has spent the last two days going over ethics with the UNC School of Government and this could be used to teach a class. He believes this is an easy decision. He asked Council to listen to facts and if the facts are reported to the public accurately, this is about right and wrong. This is about keeping your word as a board and as a past city manager.

This began roughly eight years ago when he moved a business from the Laurel Park shopping center to a property he purchased across the street. He closed a coin laundry and reopened it across the street. He put in more efficient equipment. A dress shop went into the unit he left. When he went to get the water service cut on he was charged \$12,000 to have water/sewer cut on, much of which was a system development charge. He was told it was because it was a new business; it was not a new business but a transfer of an existing business. That is how his problem with the system development charges first came up. He was told to pay it or not have water and it is hard to have a coin laundry without water.

Forward five years and he wanted to transfer the camp business from King Street. They do laundry for the summer camps. They are coming up on 99 years in business and most of those years they have done camp laundry. They have been doing that work on King Street. The equipment was so old they couldn't get parts for it anymore. The equipment was too big to remove and they couldn't get new equipment in with that capacity so they had to cut it out with torches.

He had to make a decision on whether to get out of the camp business or come up with an alternative. They have a warehouse, beside the coin laundry, that they built on Highway 64 West with large garage doors which allow a good opportunity to move equipment in and out of it so that's where they went. They put in new equipment that he would not have been able to get in the other location on King Street. They moved the capacity, only capacity, from King Street to this other facility. They didn't do anything different than what they were doing at King Street or what they would have been doing on King Street had they been able to maintain that facility. They would have preferred to keep it at King Street because water/sewer rates are less expensive in the City than in the County. The cost went up per gallon. They were charged another \$12,000, roughly between \$10,000-\$11,000 as an impact fee for system development charges.

There was no impact on the system because there was nothing new. He pointed out he has opened two other new stores; one on Highway 64 East and another one on Highway 191 and didn't balk at the system development charges because those are new stores.

Regarding the Highway 64 West property: he requested a refund. When they were charged this, he went to City Manager Bo Ferguson, stated his case and made a formal complaint or request. He told Mr. Ferguson that he was so aggravated at the \$24,000 charges that he was considering a lawsuit. Mr. Ferguson took his concern to the Council and came back to Mr. Miller (provided a copy of an e-mail. Mr. Ferguson didn't promise a refund but promised that Council said he could appear before them to present information after a time to determine water consumption, Mr. Ferguson asked for two years and he agreed to that.

He stated the City tracked the consumption. He stated the matter came up again when he asked for an opportunity to appear before the Council. He stated Mr. Ferguson sent another e-mail stating Council was changing the system on the following Thursday night. He stated Council voted on it and the system development charges were changed to what was recently changed again. He stated when he requested a reading and what the charges would

be, he was shocked to learn rather than \$12,000 he was charged it would be \$25,000 but was told he didn't have to pay the \$13,000.

He stated he was very aggravated. He stated it is no secret that the big reason he ran for Council was his absolute frustration with system development charges and how it was handled. He stated several other businesses were being charged astronomical fees which he doesn't think was the intension of Council. He stated he didn't feel his request and complaint was properly addressed.

Mr. Miller stated he is now a member of City Council and because of the way this process was handled, it is no secret about that's why he is here. He stated once he entered the race, it became a priority and it was addressed. He stated he prefers that the former Council could have considered his request without him being on the Council. He stated this has been an eight-year battle. He stated the e-mail is dated October 4, 2011. He didn't have a clue he would run for Council at that time but then found out charges had gone up.

Mr. Miller stated he asked for the refund three years ago and backed off at Council's request and gave the two years to allow water consumption history. He stated now he sits on the Council and asked if he is going to be punished in this consideration because of that which is not fair. He stated the Council has to remove the fact that he is sitting on Council because this was generated a long time ago. He stated Council may wonder if this would open up the flood gates for more requests and set a precedent. He pointed out that he has not spoken to anyone on the Council, nor the Mayor, about this refund. He did that intentionally. He did not want to sway their opinion his way and didn't want them to be in an awkward position. He stated he wants Council to make an honest decision with what they have before them without him trying to get a commitment beforehand. He stated that he stayed away from it. The only people he spoke to about this was the City Manager and City Attorney Fritschner so he would know how to conduct himself in this. He stated the Council may be worried about setting a precedent but there are no other cases other than his. He asked the City Manager if there are others with something similar that came to Council almost three years ago. Mr. Connet responded his understanding is staff did not find a similar case. Mr. Miller stated there is no flood gate to worry about. He stated in his opinion the only precedent Council would be setting is showing that City Council keeps its word in allowing a fair hearing.

Mr. Miller stated Council has to worry about public perception. He stated he is willing to answer questions before anyone with no problem. He stated he feels totally justified in this request. He ask the Council to think about if he was not a Council member. He stated Council handled a complaint/request from the Coleman's on Highway 191 because they had damage done to their property from a water leak. He stated they paid for it and took care of it a year to two prior to that. He stated Council made a good decision, he was not on the Council, to refund their money for their cost. He stated it was a great decision that showed compassion and good reason. He asked the Council not to treat him differently because he is a Council member. He stated he will take any question from anyone about his request.

Council Member Smith asked to see the e-mail from the city manager. This was distributed by Mr. Miller.

Council Member Caraker commented he is basing this decision on what happened years ago and he thinks it is the right thing to do. He stated private sector individuals also have to alter their procedures, whether it is a business or household and this is true for a local government. He stated he thought this matter would have been over before the last election. He stated he is in favor of granting the refund. He stated Council has corrected the situation with the Boyd property when they proved their fees should be reduced because they were a lesser user of the utility. The situation with the veterinarian on Highway 191 was resolved and this follows along with that. He stated he learned a lesson with system development charges by not asking enough questions or proper questions or running scenarios on how it will affect users. He stated it is the right thing to do.

Council Member Stephens stated he was interested in how many people this affect and the City Manager researched and found Miller's is the only one. He stated the system development charges have been changed since then. He stated he asked City Manager Ferguson about addressing Miller's situation while this was going

on but was put off. He stated he also asked the interim manager about it at the end of his term but he was working on the budget and asked that it wait. He stated he also spoke to Mr. Connet about it when he met with him the first time because he thought the rules were wrong and Council should never have enacted those fees. He stated it has been amended now and feels Council should grant the refund.

Council Member Smith commented as member of City Council since 2009, he is not aware of any commitment made by the City Council. He stated the statement about going back against a promise or commitment, he takes issue with because he doesn't think the Council made that commitment. He stated he respects what City Manager Ferguson said in the e-mail, to make a request at some point after July 1, 2012, he was welcome to come speak before Council but he doesn't recall a commitment that anyone made in regard to repaying it. Mr. Miller stated he did say there was a commitment to repay it but made a commitment to a fair hearing.

Council Member Caraker stated he made a personal commitment to Mr. Miller at the time that he would see the issue through and come to some kind of resolution before he was done on the Council. He stated he didn't promise Mr. Miller anything but promised him a fair hearing and fair consideration. Mr. Miller explained what the city manager told him and he took the manager at his word. Council Member Smith stated he respects that and the e-mail says Mr. Miller had the option of coming before City Council at any point after July 1, 2012. Mr. Miller agreed stating he didn't say there was a promise for a refund but the promise was made to let him have a fair hearing and that was before he was on City Council and doesn't believe that should change because his is now on City Council. This predates his decision to serve on City Council significantly.

Mayor Pro Tem Stephens commented he would react the same with any other business owner with this request and it has nothing to do with Mr. Miller being on City Council. Council Member Caraker agreed stating it make no difference to him what position he holds. Mayor Pro Tem Stephens stated it also implicates that it was a big mistake because Miller's Laundry was the only one and Boyd was the next one. He stated he knows of several businesses that did not go forward with business because of this regulation because of the exorbitant cost. Mr. Miller stated he believes in doing this, he helped point out an issue that needed to be corrected. He stated was going to a lawsuit because it was so unfair back-to-back. He stated he was asked to wait two years and he did. He stated it was cleaned up on the next effort.

Council Member Smith stated unfortunately, he cannot escape the fact that a sitting member of City Council is asking the City Council to pay back a system development charge which is something the City Council has never done before that he is aware of. He stated it does have an impact on his decision, that fact it is a sitting City Council member making this request. Mr. Miller asked what if he wasn't. Council Member Smith stated he does not have that option, based on facts before him now. Mr. Miller asked if he is being treated differently than a tax-paying citizen because he is a Council member. Council Member Smith stated in this situation, yes. Mr. Miller asked if he is being treated differently in any situation. Council Member Smith stated no, this situation. Mr. Miller stated he is being treated differently as a Council member. Council Member Smith explained it is because he is asking Council to do something that Council has never done before and he is a sitting Council member. Mr. Miller stated when he requested it originally, he was not. Council Member Smith stated the request Mr. Miller is making, and the way he is making it, has never been made in this forum before. He stated he is considering a sitting City Council member asking the City to do something they have never done before which offers a direct economic benefit to that City Council member. He stated the City didn't necessarily make all the right decisions but the result of his request is a sitting City Council member gets an economic benefit for something they are requesting. He stated it is a benefit that the City does not have a policy to pay back and is something that has never been done before by the City as far as he knows.

Mr. Miller stated in his opinion it is a repayment for a wrongful charge that was brought before the Council over two years ago when the Council had a bad ordinance and he requested it at the time.

Mayor Volk commented she can set aside the current position from the request. She stated she wishes it had been taken care of when the initial request was made. She stated whether it was said, there was something of a promise

from City staff that it would be taken care of. Mr. Miller commented that was much before he was a Council member. Mayor Volk agreed. Mr. Miller stated he tried to address it then the request was to wait two years so the Council could have records to make an accurate decision. Council Member Stephens commented it is critical that the charge was made before he considered running for Council, he requested a refund before then and was more or less promised that it would happen. Mr. Miller stated he wants to be treated as a tax-paying resident and doesn't see why he should be treated differently.

Council Member Caraker moved City Council to reimburse Miller's Laundry and Cleaners for their wrongful, in his opinion, system development charges from 2011. In discussion Mr. Connet commented this should be a credit to the account instead of a reimbursement. Council Member Caraker agreed to amend the motion to credit the account instead of reimburse. **The vote was three in favor (Volk, Caraker and Stephens), one opposed (Smith). Motion carried.**

14. Consideration of Amendment to Sponsorship Policy: Mr. John Connet, City Manager, explained the City receives requests from various non-profits and other groups to utilize the City's utility billing to advertise civic and other events. He stated the City did not have a clear policy for that. He stated typically, that was used specifically for City sponsored events. He presented an amendment drafted by the City Clerk that allows certain advertisement if the City is listed as a sponsor or co-sponsor, i.e., Buy Local, as a flyer in customer's utility bills.

Council Member Smith moved Council to amend the Sponsorship Policy to allow utility bill inserts only for events or projects the City of Hendersonville is considered a sponsor or co-sponsor. A unanimous vote of the Council followed. Motion carried.

Policy Date: 04-09-09
Amended 04-04-13, 01-09-14

Title: *Sponsorship Policy*

I. Introduction

The purpose of this policy is to allow the City of Hendersonville to seek sponsors that further its mission by providing monetary or in-kind support for City programs or services or other governmental functions. The City recognizes that the public trust and public perception of its impartiality may be called into question by sponsorships that are aesthetically displeasing, politically oriented, or offensive to segments of its citizenry. Loss of public trust or perceptions of partiality may impair the City's ability to govern. This policy presents tools to ensure that sponsorships do not weaken the public trust or present challenges to our impartiality in dealing with the business and non-profit community.

Wherefore, the City permits private sponsorship of government programs or services in limited circumstances in order to generate funds for improving or expanding those programs and services. The City maintains its sponsorship program as a nonpublic forum and exercises its sole discretion over who is eligible to become a sponsor according to the terms of this policy.

Whenever possible, sponsorships should be appropriate to the specific activities, events, programs or publications. The City will neither seek nor accept sponsors that manufacture products, offer services or take positions materially inconsistent with local, state, or federal law or with City policies. The establishment of a particular sponsorship does not constitute the City's endorsement of any product or services or of any person or entity or point of view.

II. Sponsorship Defined

For purposes of this policy, "Sponsorship" means the right of any person or entity ~~other than the City~~ or its agents acting in their governmental capacity to associate one or more names, products, or services, or any combination thereof, with the City's programs, services or name. Sponsorship is a business relationship in which the City of Hendersonville and the Sponsor exchange goods, services, donations and similar consideration for the right to display or offer the names, products and services as offered by the Sponsor on City property acknowledging private support.

III. Procedure

The City retains the right to determine the appropriateness of a Sponsorship and may refuse any offer based on the above considerations or other similar considerations, and will be guided in its determination by the following:

1. The City Manager will refer any sponsorship proposal with a financial value greater than \$1,250.00 to the City Council for final approval, and may so refer any other sponsorship proposal. (*amended 04-04-13*)
2. A sponsorship agreement will be in writing and executed by both the City and the Sponsor. It will among other things specify the following information:
 - a. Activities, products and services offered by the Sponsor
 - b. Benefits to the City and the estimated value thereof
 - c. Benefits to the Sponsor and the estimated value thereof
 - d. Specifics of the sponsorship, including, in the case of any printed thing, the details of the appearance including content, duration if applicable, term of the engagement, and other pertinent information.
 - e. A statement, if requested by the City, that sponsorship does not constitute an endorsement of the Sponsor or any other person or entity or of their activities, goods or services.

The City will consider the following in deciding on a sponsorship:

1. The value of the Sponsorship to the Sponsor and to the City
2. Aesthetics of any proposed display, whether physical or otherwise
3. Relationship of the Sponsor and its message to the sponsored activity or program
4. Level of cooperation from other governmental units
5. Inconsistencies between City policies and purposes and the Sponsor's activities, products, services, policies, purposes and practices
6. Any activity, product, service, policy, purpose or practice of the Sponsor or any other person or entity that may, in the opinion of the City, cause the sponsorship to bring the City into disrepute
7. Any other factor that the City reasonably believes would cause a proposed sponsorship not to be in the best interests of the City

IV. Limitations

Because the City intends to maintain sponsorships as a nonpublic forum, it may make such decisions as, in its opinion, may be reasonably necessary to further the City's legitimate interests. The City's control may include the right to determine placement, content, appearance and wording of sponsorship messages. In any case, sponsorships containing the following messages will not be accepted:

1. Promotion of the sale or consumption of alcoholic beverages
2. Promotion of establishments whose primary business is the sale or consumption of alcoholic beverages
3. Promotion of the sale or consumption of tobacco or tobacco products
4. Promotion of the sale of birth control products or services
5. Commentary, advocacy or promotion of issues, candidates and campaigns pertaining to political elections
6. Depiction of profanity or obscenity or promotion of sexually oriented products, activities or materials
7. Promotion of the sale or use of firearms, explosives, or other weapons, or the glorification of violent acts
8. Promotion or depiction of illegal products, or glorification or endorsement of illegal products, activities or materials
9. Suggestion of the City's endorsement or promotion of the Sponsor or its products or services

Sponsorship recognition messages may identify the sponsor but may not promote or endorse the organization or its products or services. Statements that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative descriptions of products, services or organizations will not be accepted. The City shall accept only the following content.

1. The legally recognized name of the Sponsor;
2. The Sponsor's organizational slogan if it identifies rather than promotes the organization or its products or services;

3. The Sponsor's product or service line, described in brief, generic, objective terms. Only one product or service line may be identified.
4. Brief contact information, such as phone number, physical address, or internet address, and only in such a manner that avoids the implication that the reader should take any action.
5. The City will not make any statement endorsing the sponsor or its products or services.

V. Miscellaneous

Any sponsorship is prohibited unless approved by the City Manager in writing, with prior consent granted by the City Council, except that the City Manager need not obtain consent from the City Council for sponsorships determined by the City Manager to have a financial value of \$1,250.00 or less. *(amended 04-04-13)*

The City will retain the right to change or delete all or any part of this policy at any time and from time to time.

VI. City-Sponsored Events *(added January 9, 2014)*

The City of Hendersonville may choose to sponsor and/or promote, and encourages its citizens and businesses to sponsor, special events that enhance the quality of life for residents and facilitate the use of City-owned parks and other City-owned facilities. The City has established policies and procedures to ensure the success of such special events by providing a system for advance planning and standard information and basic ground rules that allow special events sponsors and facility users to achieve their mutual goals. (See Code of Ordinances Chapter 46, Section 46-84)

When an event is approved and sponsored financially by the City Council, the City Seal may be used on the advertising of the event as a means to show the City's approval and/or sponsorship.

For the edification of the public, the City may also show its support, promotion or sponsorship by printing an advertisement, announcement or message on one of the following: utility bills, handbills, and/or the City's website.

"Selling" or using the space on customers' utility bills for any other advertising or promotion purposes is not permitted under any circumstance.

Adopted by the City Council at a regular meeting held April 9, 2009, amended April 4, 2013, amended January 9, 2014.

/s/Barbara G. Volk, Mayor

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

There was a brief recess.

15. Consideration of Contract Management Policy/Program: Mr. John Connet, City Manager, explained the City does not have formal policy that relates to the management of contracts and presented a policy /program to accomplish that. He stated this will establish who is authorized to approve and execute contracts and agreements that bind the City. He stated a review form will be attached that will be routed with the contracts through the City to ensure appropriate approvals, ensure the services the City expects are specified in the contract. It will then be routed to the legal department for review, and pre-audited in accordance with Local Government Fiscal Control Act. The City Manager will also approve the contract and the city clerk will document whether it requires City Council approval and place it on an agenda if necessary. The original will be returned to the City Clerk for the files.

Mr. Connet explained this policy also includes a standard City contract that has been drafted by the City Attorney and will be made available for vendors, etc. This contract lays out the City's requirements and provides a right to terminate and other requirements by law, i.e., e-verify. He stated this pre-approved contract form will allow details to be filled in and made readily available for staff to use in the event a business does not have a standard contract. This will prevent the process from being slowed down.

Mr. Connet reviewed the policy portion of the proposed policy including change order approval.

Council Member Smith commented approving a contract may take more time under this policy but will ensure it is correctly done. Mr. Connet agreed it will take more planning on staff's part but will get the documents in the loop to be reviewed before it is needed.

Council Member Caraker moved City Council approve the Contract Management Policy and program presented by the City Manager. A unanimous vote of the Council followed. Motion carried.

**City of Hendersonville
Contract Management Policy**

1. Policy

The City of Hendersonville requires that all contracts be executed in accordance with the Contract Management Policy. This policy has been developed in an effort to better manage the numerous contracts and service agreements that are executed by the City of Hendersonville. This policy is designed to guide all City of Hendersonville Departments in the execution of contracts between the City of Hendersonville and outside parties.

2. Contract Approval

A. The City Council must approve all contracts that meet the following criteria:

1. Contracts greater than \$90,000 with or without budgetary authority.
2. Contracts exceeding budgetary approval, which require a budget amendment
3. Contracts with terms greater than one year.
4. Contracts subject to statutory bid (informal or formal) thresholds
5. Contracts suggesting a significant policy change as determined by the City Manager
6. Project change orders that exceed approved cost of the contract and budgeted funds.

B. The City Manager may execute contracts without additional City Council approval, if the contract meets all of the following conditions:

1. Contracts less than \$90,000 that have been authorized by City Council through direct award or budget authorization.
2. Contracts that are one year or less.
3. Equipment leases or rentals for less than one year, which require a budget amendment.
4. Project change orders that do not exceed the total capital budget and are not a significant change in project scope or design.

C. Department Heads or designee may execute maintenance or service contracts if the contracts meet all of the following conditions:

1. Contracts less than \$30,000 that have been authorized by direct award or budget authorization.
2. Contracts or agreements that one year or less.
3. Upon utilization of standard contract document or contract review process.
4. Equipment leases or rentals for less than one year, which do not require a budget amendment.

3. Contract Documents

All contracts for which the contractor will perform work or provide services for the City of Hendersonville, must be accompanied by the standard City of Hendersonville contract form or a contract approved by the City Attorney. The contract must follow all signature procedures and contain all necessary insurance and payment options. A copy of the completed and signed contract must be forwarded to the City Clerk and if necessary to the Finance Department for requisition approval. The City will not enter into contractual agreements that are subject to automatic renewal and will attempt to structure contracts to coincide with the fiscal year.

4. Contract Review Form

Unless a department is utilizing the standard City of Hendersonville contract, all contracts must be circulated through the organization through the utilization of the Contract Review Form (CRF) (attached). The contract cannot be executed until all applicable parties have signed the CRF. The Mayor, City Manager or department will execute or authorize the execution of the contract once they are satisfied that all reviews have been completed.

5. Finance Officer Review

Regardless of form, no contract may be executed unless the City of Hendersonville Finance Officer has pre-audited the contract in the manner required by the Local Government Budget and Fiscal Control Act.

Approved by the City Council on January 9, 2014.
/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, City Clerk

16. Consideration of Adverse Weather Policy: Mr. David Sapp, Personnel Officer, presented an amended policy on how the City will pay employees when it is necessary to close City Hall because of adverse weather conditions.

Mr. Sapp reviewed the policy in which employees were divided into groups: essential (Police, Fire and some Water/Sewer Department employees) and non-essential (administrative staff). He stated this policy was developed in collaboration with the City Manager and Department Heads. Mr. Connet explained the policy will provide fairness, balance and safety for employees who want them to go home.

Council Member Caraker asked if there is a chain of command for each department should the leadership position not be available. Mr. Connet replied an emergency response plan is being developed and it will include the chain of command.

Council Member Caraker moved City Council to approve the adverse weather policy. A unanimous vote of the Council followed. Motion carried.

Inclement Weather Policy

I. Introduction

The City of Hendersonville is required to provide essential services for its citizens regardless of weather conditions. The City is committed to the safety and security of its employees, residents and visitors.

As such, the decision whether the City should close or remain open is based on the overall concern for the community. The Inclement Weather Policy is established to be as fair as possible to all employees.

II. Scope

This administrative policy, upon approval of the City Council, shall be applicable to all employees. This procedure shall remain in effect until such time that it is altered, modified, or rescinded by the City Council.

III. Types of Personnel

Essential Personnel: The term "essential personnel" is used in this policy to describe those employees whose job responsibilities are provided 24 hours a day – seven days a week and/or are essential to the everyday livelihood of the City and its citizens. Employees essential to the successful and efficient management of a weather emergency situation shall be designated by the City Manager or their Department Head and are expected to return to work as scheduled.

An essential employee, unable to report to work for their scheduled shift due to legitimate environmental conditions, should contact their immediate supervisor to see if alternative transportation can be arranged. Employees who report in on their day off to cover the absent employee's shift will be paid in accordance with the FLSA guidelines. Failure to be available or to report to work when called may be grounds for disciplinary action.

Non-Essential Personnel: The term "non-essential employee" is used in this policy to describe those employees whose job responsibilities are primarily administrative in nature and can be delayed without any negative impact to the employees, citizens, or the community.

IV. Procedure

It is the policy of the City of Hendersonville to remain open during most periods of inclement weather; however, where extraordinary circumstances warrant, the City reserves the right to close our facilities.

1. Each employee is expected to make necessary advance preparations so they can get to work in periods of adverse weather.
2. The City recognizes weather conditions may prevent some employees from reporting to work on time or not at all. The decision to report to work or not is an employee's option based on their assessment of road conditions. If an employee does not report to work, reports to work late, or leaves early due to weather conditions they must notify their immediate supervisor.

3. The employee may use vacation, compensatory time, or leave without pay as coordinated with their supervisor during adverse weather.

4. Employees are strongly encouraged to have a plan in place for child care in the event that schools are closed due to inclement weather. Department Heads may exercise discretion in allowing employees to stay home for purposes of caring for school age children, as long as full operational capabilities are maintained.

City offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is approved by the City Manager. In these situations, the City may be closed or may open late for employees, customers, and the general public in the interest of safety.

The City of Hendersonville will notify local media of this change and update our general information line at 828.697.3000. Department Heads will be contacted and are responsible for contacting their employees.

V. Closures and Payroll Procedures

The City Manager will make the decision on whether to close City facilities. In the event of a closure due to weather conditions, the City will apply the following standard:

- Non-essential employees will be paid for the closure. Essential employees will receive pay for the hours worked plus compensatory time for the closure. For example, if the City closes its operations for a half a day, non-essential employees will receive a half day pay (four hours) for the closure. Essential employees would receive four hours for the closure which would be added to the employee's "comp time" as regular time. These hours would be considered non-compensable hours under FLSA for overtime calculations.
- If the employee elects not to report to work when facilities are open the employee may: 1) use any accrued vacation, leave, or compensatory time or 2) the employee will not be paid for the day.
- All employees will be given the same amount of time for the closure. For instance, if an employee is scheduled to work a second or third shift they will receive the same amount of "comp time" as if they worked during a closure. The "comp" time is for all employees who are scheduled to work after the closure has been implemented and will expire at midnight on the day of the closure. For example, the City closes at noon, all employees who were working at noon and during the remaining shifts of that workday would receive "comp time." This would include a police shift starting that day and second or third shifts. The employee shall only receive one award of time for working during the closure should shift schedules not coincide with this policy.
- Employees preapproved for a scheduled off day are not eligible for pay during the closure.

VI. Non-Compensable Stand-By Pay

Employees may volunteer or be asked to have their name placed on a "call-in" list as relief personnel. Employees in this status are not eligible for "on-call" pay outlined in Article III Section 13 of the City's Personnel Policy. These employees are not required to be available and no disciplinary action will be taken for failure to respond. However, should these employees report to work during their day off or work hours in addition to their regular schedule, they will be paid in accordance with FLSA guidelines.

VII. Payment Guidelines

The general policy of the City of Hendersonville is to award time to essential workers who worked during a closure as "comp time" for the hours the City offices were closed due to adverse weather conditions. However, this may not be feasible for the department. Department heads may request a deviation from the policy to City Manager for final approval. The City Manager may approve any deviations from policy on a case-by-case basis for the department.

Below are general guidelines when the City Manager will consider any deviation and pay employees vs. awarding "comp" time.

- Number of consecutive closings in a 30-day period
- The amount of "comp time" a department currently has on the books
- The impact of scheduling multiple employees off and impact to operations
- The financial impact to department of paying time off

Approved by City Council on January 9, 2014 in accordance with City's Personnel Policy.

/s/John Connet, City Manager

16 a&b. Consideration of Budget Amendments (removed from Consent Agenda for discussion): Mayor Pro Tem Stephens asked for an explanation of the budget amendments.

a. Mr. Wooten explained the budget amendment is necessary to correct a shortfall. He stated two people were hired to handle the recycling carts. He stated in preparing the budget, he mistakenly did not total the numbers. He stated this amount is not enough to cover two salaries but will be enough to cover for the remainder of the year. He is using funds from other vacated positions for the balance needed.

Mayor Pro Tem Stephens asked if there is a policy to make up shortfalls such as these: finding a savings in the department versus using reserve funds. Mr. Connet explained historically the actual expenditures in departments are less than the budgeted amount at year-end so a savings is realized. He explained it is possible the fund balance will not have to be used. Mr. Wooten explained Council must approve all budget amendments relating to salaries.

Council Member Smith moved Council to approve the budget amendment for the Environmental Services Fund. A unanimous vote of the Council followed. Motion carried.

•Environmental Services Fund: To transfer funds from the Environmental Services Fund – Fund Balance in the amount of \$14,100 to cover personnel line items to correct an error made in the budgeting process.

Total Current Budget Appropriations	\$ 51,720.00
Amount Of Increase/(Decrease)	14,000.00
Total Current Amended Budget	\$ 65,720.00

b. **Water/Sewer Department:** Mid-year budget amendments: Mayor Pro Tem Stephens asked if staff looks for ways to save money by taking it out of already-budgeted items so it is not necessary to take it from reserve funds. Mr. Connet explained yes, there are unspent funds in other line items and fund balance will not be used (some items were reclassified). Mr. Lee Smith explained some budget amendments are done mid-year instead of all at the end of the year.

Council Member Caraker asked for an explanation of the position reclassification. Mr. Lee Smith explained Mr. Ferguson reclassified the Distribution Supervisor position and moved it to Operations Support which is a different division. He stated that was going to become the Operations Manager that would have been hired while Dennis Frady was still employed but it did not occur. He stated that position is funded but has not been filled. Mr. Lee Smith requested the unfunded Assistant Utilities position be reclassified as a line maintenance mechanic and move it back into the Distributions fund because they are one position short.

Council Member Miller moved Council to approve the job reclassification budget amendment and to appropriate funding for this position in the amount of \$13,700 as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.

•Shop Operations: To reclassify the unappropriated assistant utilities director position in Shop Operations to line maintenance mechanic in Water Maintenance and Construction. If approved, this would allow the division to equal the number of employees prior to the reclassification of the water distribution system supervisor position. The cost to appropriate this position for the current fiscal year will be approximately \$13,700 which includes salary and benefits for a line maintenance mechanic for five months.

Total Current Budget Appropriations	\$2,123,200
Amount Of Increase/(Decrease)	13,700
Total Current Amended Budget	\$2,136,900

Council Member Caraker moved Council to approve the Water/Sewer Department mid-year budget amendments as presented. A unanimous vote of the Council followed. Motion carried.

•Shop Operations: To adjust several expenditure line accounts in order to balance the budget for year-end. There will be no net change in this budget. Amount of adjustments: \$350

- Water Maintenance and Construction: To adjust several expenditure line accounts in order to balance the budget for year-end. There will be no net change in this budget. Amount of adjustments: \$97,598
- Sewer Maintenance and Construction: To adjust several expenditure line accounts in order to balance the budget for year-end. There will be no net change in this budget. Amount of adjustments: \$33,819

17. Reports from Staff:

a. New Informational Reports: Mr. John Connet, City Manager, noted an amendment to the agenda item cover sheets that show budgetary impact. He presented a report from the Human Resources Officer and stated reports will be submitted by the other departments that will show trends from month-to-month to provide Council with numbers on how the City is operating. He stated asked that Council notify him if they would like the reports in another manner. **No action was required or taken.**

18. Consideration of Appointments to Boards and Commissions

a. Consideration of Appointments: These appointments were announced at Council's December meeting:

Environmental Sustainability Board: City Clerk Tammie Drake presented the applications of citizens willing to serve on the ESB. She explained it appears none of the applicants reside in the City but there is one vacant outside-City position. **Council Member Smith nominated David Rhode to serve on the Environmental Sustainability Board. A unanimous vote of the Council followed. Motion carried.**

Historic Preservation Commission: City Clerk Tammie Drake reported the resignation of Ms. Tate resulted in one vacancy. She presented the applications from citizens wishing to serve. **Council Member Caraker nominated Mia Freeman to fill the unexpired position on the Historic Preservation Commission. A unanimous vote of the Council followed. Motion carried.**

Tree Board: Mrs. Drake reported the terms of three members on the Tree Board will expire Feb. 1: Mac Brackett, Wes Burlingame and Judy Frank. All three members would like to continue serving on the Tree Board. She also announced one vacancy with the resignation of Karen Jackson. **Council Member Miller moved to reappoint Mac Brackett, Wes Burlingame and Judy Frank for a three-year term on the Tree Board. A unanimous vote of the Council followed. Motion carried.**

b. Announcement of Up-Coming Reappointments/Vacancies: City Clerk Tammie Drake announced a vacancy on the Tree Board, reminded the Council of the vacant alternate position on the Board of Adjustment and the two vacant positions on the Hendersonville Sister Cities Board. **No action was necessary or taken.**

19. Comments from Mayor and City Council Members:

Employee Appreciation: Council Member Caraker commented on the recent life-threatening cold weather events. **He moved the City Council approve providing a breakfast meal as a way to express appreciation to the line crews who work outside. A unanimous vote of the Council followed. Motion carried.**

20. New Business: There was none.

21. Closed Session: Council Member Caraker moved the Council to enter closed session to consult with an attorney employed or retained by the Council in order to preserve the attorney-client privilege between the attorney and the Council [and to consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure] and to discuss matters relating to the expansion of industries or other business in the City of Hendersonville [as provided by NCGS 143-318.11(a)(3)&(4)]. **A unanimous vote of the Council followed. Motion carried.**

The Council exited the closed session at 8:55 p.m. upon unanimous consent of the Council. No action was taken.

The Council consulted with the City Attorney to consider and give instructions concerning a potential claim, administrative procedure, or judicial action. The Council also discussed potential industry expansion.

22. Adjournment: The meeting adjourned at 8:55 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk