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AGENDA

CITY OF HENDERSONVILLE CITY COUNCIL – REGULAR MEETING

JULY 11, 2013 – 5:45 P.M.

Council Chambers – City Hall

1. **Call to Order**
2. **Invocation and Pledge of Allegiance**
3. **Public Comment Time:** *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda*
4. **Consideration of Agenda**
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: June 6, 2013 Regular Meeting, June 17, 2013 and June 20, 2013 Special Meetings
 - B. Consideration of Abatement of Nuisances
 - C. Consideration of Proclamation for Boys and Girls Club
 - D. Consideration of Eminent Domain Authorization – Atkinson Sewer Line Project
 - E. Consideration of Ordinance Amendments that will Reflect the Structure of the Special Events Committee
 - F. Consideration of Findings of Fact and Conclusions of Law in the Ingles Special Use Permit Request
6. **Public Hearing - Consideration of Zoning Ordinance Text Amendment, Article V Section 5-12-2 Permitted Uses in the I-1 Industrial Zoning District and Article XII Definition of Terms Section 12-2 Pertaining to Electronic Gaming Operations and Merchandise Gaming Operations**
Presenter: City Attorney Sam Fritschner

- 7. Consideration of Resolution Making Certain Findings and Determinations; and, Authorizing the Filing of an Application with the Local Government Commission in Connection with the Proposed Authorization of Parks and Recreation Bonds by the City**
Presenter: City Manager John Connet & Mr. Jim Rudisill, Finance Director
- 8. Consideration of Amendment of Code of Ordinances Section 52-13 Tampering and Utility Connections**
Presenter: Mr. Lee Smith, Utilities Director
- 9. Consideration of W. Barnwell Street Right-of-Way Improvements**
Presenter: Mr. Tom Wooten, Public Works Director
- 10. Consideration of Amendments to Standard Operating Procedure for System Development Charges for New Commercial, Industrial and Institutional Customers**
Presenter: Mr. Lee Smith, Utilities Director
- 11. Consideration of Funding Request for the Restoration of the McClintock Clock on Main Street**
Presenter: Mr. John Connet, City Manager
- 12. Consideration of the Filing of an Application to the NC Rural Economic Development Center for Utility Asset Management and Master Planning and to Develop a Water Distribution and Wastewater Collection System Master Plan**
Presenter: Mr. Brent Detwiler, Engineering Director
- 13. Reports from Staff**
 - a. Naming of the Seventh Avenue Dog Park
Presenter: Mr. John Connet, City Manager and Mr. Tom Wooten, Public Works Director
- 14. Consideration of Appointments to Boards/Commissions and Announcement of Vacancies**
Presenter: Mrs. Tammie Drake, City Clerk
 - a. Appointments for Consideration: Board of Adjustment, Main Street Advisory Committee
 - b. Announcement of Vacancies and Upcoming Appointments: Environmental Sustainability Board
- 15. Comments from Mayor and City Council Members**
- 16. New Business**
- 17. Adjournment**

June 6, 2013
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, Interim City Manager Lee Galloway, City Attorney Samuel H. Fritschner, City Clerk Tammie Drake, Planning Director Sue Anderson, Police Chief Herbert Blake, Engineering Director Brent Detwiler, Main Street Director Lew Holloway, Finance Director Jim Rudisill, Public Works Director Tom Wooten, Utilities Director Lee Smith

1. Call to Order: Mayor Volk called the meeting to order at 5:48 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.*

Donald Goldstein, 215 Fallen Timber Road, asked about the problem for funding at Brightwater Heights. Mayor Volk stated some funding has come through to offset some of the expenses. She encouraged him to speak with Mr. Lee Smith or the City Manager. Mr. Goldstein stated Mr. Andres has had meetings with staff and they have come up with a reasonable agreement but it is not what he thought was due but it will help the residents of Brightwater.

James Martin, 232 Fallen Timber Road, commented on the Brightwater water project and asked for a resolution to the issue. He stated they want to report to the homeowners on June 10 that the project is completed.

Donna Hasty, 365 Kenmure Drive, Flat Rock, President of Hendersonville Symphony, on behalf of youth orchestra, requested an increase in special appropriation funding.

Eva Ritchey, 1928 Brevard Road, Hendersonville, stated the construction on Main Street has caused difficulties to the merchants. She requested Council establish a committee whose sole focus is parking to come up with ideas and a plan.

Bennie Santistevan, Chestnut Drive, Hendersonville, requested Council to reconsider the appropriation toward the Symphony.

Mark Ray, 26 Victoria Park Drive, Hendersonville, requested a donation from the City of \$800 for the restoration of the McClintock Clock at Fourth Avenue/Main Street installed in 1928. He also requested a plaque of appropriate designation. Mayor Volk thanked Mr. Ray for his research and work and asked him to get in touch with the City Manager.

Heather Boeke, Hands On, 318 N. Main Street, co-chair Mad Mountain Mud Run, reported a successful Mad Mountain Mud Run event and expressed appreciation to the Council for the use of Berkeley Mills Park and the work of all City departments.

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4. Consideration of Agenda:

Council Member Smith requested the addition of 16b. Discussion of Parking in City lots. **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: May 2, 2013 Regular Meeting, May 17, 2013 Special Meeting

B. Consideration of Special Event Permit for Old Towne Market: The Special Events Committee unanimously supported approval of this event on June 8, 2013, from 9 a.m. – 4 p.m. Locust Street will be closed from Bearcat Boulevard to 8th Avenue. The sidewalk will also be closed. Eighth Avenue will be open to all traffic to access Maple Street. Ten percent of the proceeds will benefit the 4-H Club.

C. Consideration of Abatement of Nuisances: Mrs. Frady certified 20 property owners were notified of a nuisance condition on their property but failed to take corrective action. She requested permission to remedy the nuisances and assess the actual cost to the property owner.

D. Inclement Weather Policy for Patton Pool: At the request of City Council, Mr. Wooten presented an Inclement Weather Policy for Patton Pool. The Policy will allow patrons to reenter the pool if the pool is closed due to bad weather and the patrons have not been at the pool longer than 60 minutes. The rain check will be valid for two weeks and is only valid for the specific number of adults and/or children on the original receipt.

PATTON POOL INCLEMENT WEATHER POLICY
PUBLIC WORKS DEPARTMENT

A. PURPOSE: The purpose of this document is to establish a written Policy to follow when lightning, thunder, and storms in general affect the patrons at Patton Pool located at 114 E. Clairmont Drive, Hendersonville NC.

B. PROCEDURE TO FOLLOW FOR PATRONS IN THE EVENT OF INCLEMENT WEATHER: When the possibility of inclement weather is in the area, pool staff should remain aware of the skies around them, keep a watchful eye on the sky, and listen to a weather radio for the latest storm information.

THUNDER: If thunder should occur, the pool will be evacuated for 30 minutes. Each time thunder occurs, the clock will reset for 30 minutes.

LIGHTNING: When lightning is seen in the area and vicinity of the pool, it will be evacuated immediately for a period of 30 minutes. For each lightning occurrence, the clock will reset for 30 minutes. Pool management may close the pool if the weather does not appear to be clearing up.

C. PROCEDURE FOR ADMISSION OF PATRONS DUE TO INCLEMENT WEATHER WATCH

1. Patrons will not be admitted to the pool during an inclement weather warning. Admission may take place once the weather has cleared and pool management has deemed the threat over. A daily notice of "Pending Inclement Weather" will be posted at the gate house to provide advanced warning of potential storms.

2. Patrons who were already in the pool area at the time of inclement weather evacuation may have their hand stamped in order to return the same day, should weather conditions improve.

3. Patrons that have entered the pool and inclement weather takes place within 60 minutes of their admission may receive a rain check to return to the pool. Rain checks for admission to the pool shall be valid for a period of two weeks.

4. It shall be the responsibility of pool management and gate staff to keep an accurate log for pool rain check re-admissions.

5. Rain checks will be given to the patrons in the form of a ticket. Patrons may use the rain check for up to the exact number of adults and children that were admitted on the day the rain check was issued.

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E. Consideration of Ordinance Amending Chapter 32 of the code of Ordinance Relating to Police Department Authority to Seek Access to SBI/DCI Criminal History Record Information for ABC-Related Background Investigations: City Attorney Fritschner reported the Police Department routinely performs background investigations on applicants for ABC licenses. As part of its investigation, the department requests criminal records from the State Bureau of Investigations. The department was informed that continue to receive records from the SBI the City must adopt an ordinance authorizing the department to seek and receive these records.

Ordinance #13-0631

AN ORDINANCE AMENDING CHAPTER 32 PERTAINING TO POLICE DEPARTMENT AUTHORITY TO SEEK STATE ACCESS TO SBI/DCI CRIMINAL HISTORY RECORD INFORMATION

WHEREAS, North Carolina General Statute §18B-904(f) provides that the governing body of a municipality may designate an official by name or position to make recommendations to North Carolina Alcoholic Beverage Control Commission on behalf of the municipality concerning the suitability of a person or location for an ABC permit when the proposed location is within the municipality; and

WHEREAS, the Chief of Police or his designee is designated by N.C.G.S. § 18B-904(f) as the official authorized to make recommendations on behalf of the governing body concerning the suitability of a person or location for an ABC permit within the municipality's jurisdiction; and

WHEREAS, the City Council has determined that the Hendersonville police department desires access to the SBI/DCI criminal history record information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the City, and

WHEREAS, the Hendersonville Police Department will obtain this criminal history information on each applicant based on identification information regarding the applicant contained in the notice of permit application received from the State ABC Commission; and

WHEREAS, if this criminal history information reveals that an applicant has been convicted of any felony, a misdemeanor involving drugs or alcohol, or any offense in violation of Article 26 of Chapter 14 of the North Carolina General Statutes, the Hendersonville Police Department will file a written objection to the issuance of the permit; and

WHEREAS, the State ABC Commission is the government agency responsible for the issuance of all ABC permits,

NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. CHAPTER 32 of the Hendersonville Code of Ordinances is hereby amended to add a section to Article I to read in its entirety as follows:

Sec. 32-4. Police authority regarding criminal history information for applicants for ABC permits. The police department shall be authorized to seek state access to SBI/DCI criminal history record information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the City of Hendersonville.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 6th day of June 2013.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Samuel H. Fritschner

F. Consideration of Budget Amendments:

i. Public Works Department (3):

General Fund-Downtown Tax District
To transfer \$5,000 to balance the utility line item.

General Fund - Seventh Avenue Tax District Budget

To transfer funds (\$1,360.00) to balance the line items within this fund.

General Fund - Public Works – Traffic Engineer Budget

To transfer funds (\$25,000) in order to balance the street and traffic light budget for the remainder of the budget year.

ii. Water/Sewer Department (6):

Water/Sewer Department – Administration

To transfer funds (\$17,888) to balance the budget for this division. There will be no net change in this budget.

Water/Sewer Department - Facilities Maintenance

To transfer funds (\$42,998) to balance the budget for this division. There will be no net change in this budget.

Water/Sewer Department – Shop Operations

To transfer funds (\$9,245) to balance the budget for this division. There will be no net change in this budget.

Water/Sewer Department - Water Maintenance

To transfer funds (\$33,215) to balance the budget for this division. There will be no net change in this budget.

Water/Sewer Department - Wastewater Treatment

To transfer funds (\$59,779) to balance the budget for this division. There will be no net change in this budget.

Water/Sewer Department – Sewer Collection

To transfer funds (\$11,492) to balance the budget for this division. There will be no net change in this budget.

iii. Administration (1):

General Fund – Administration

To reallocate budgeted funds for salary expense and software for Administration in the amount of \$8,050.

G. Consideration of Electrical Engineering Contract: Mr. Detwiler explained the City will require professional electrical engineering services to design several infrastructure projects over the coming months including: the Atkinson Elementary Pump Station, a water and sewer pump station standardization project and design of new high service pumps and controls at the water treatment plant. Following the North Carolina General Statutes, the Engineering Department recently advertised a Request for Qualifications for electrical engineering services, received qualification statements, and determined the most qualified firm, McKim & Creed of Asheville, NC to provide these services. He reported they are in the process of entering into an agreement with McKim & Creed to provide the professional electrical engineering services on a time and materials basis over a two-year period. This agreement will be executed by the City Manager. **No action was required by the Council.**

H. Consideration of Authorizing the City Engineer to Execute a Contract with MESCO, upon City Manager Approval, for Engineering and Grant Administration Services Required for the Academy Road Water System Improvement Project: Mr. Lee Smith reported the City will require professional engineering services to administer grants funds, survey, design, permit and construct a water distribution system in the Academy Road area of the Dana community. This water system will serve residents in this area that have been determined by the NC Division of Water Quality, Aquifer Protection Section to have diieldren-contaminated drinking water wells. In following the North Carolina General Statute, the Engineering Department recently advertised a Request for Qualifications for professional engineering services, received qualification statements and determined the most qualified firm to provide these services. The selected firm is Mechanical Engineering Services Company (MESCO) of Garner, NC. He reported staff is in the process of negotiating a proposal with MESCO and will thereafter enter into an Agreement with them to proceed with engineering and grant administration services required to complete this project. **No action was required by the Council.**

I. Consideration of Disposition of Police Motorcycle: Police Chief Herbert Blake reported the Police Department was contacted by Kawasaki Motors Corp. USA in regards to the on-going electrical issues arising from the Police Upfitters, known as BMS Inc. Kawasaki Authority Sales. After inspection of the 2012 Kawasaki Police Concourse Motorcycle, it was determined that the on-going electrical issues could cause the main fuse to blow, causing the engine to shut off during operation, possibly causing serious injury or death. After negotiations between the City Attorney and Kawasaki Motor Corp attorney, Kawasaki Motor Corp. wishes to purchase the 2012 Kawasaki Motorcycle back from the Police Department for \$23,000. It was originally purchased through the Governor's Highway Safety Grant for \$25,000 and pursuant to the on-going grant, must be replaced with another motorcycle. He recommended authorizing replacement of the Kawasaki motorcycle for the sum of \$23,000 and to authorize a replacement motorcycle from Harley Davidson for \$25,000 with the remainder \$2,000 to be taken from the Drug Seizure Account.

Mayor Pro Tem Collis moved approval of the items on the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

6. Introduction and Welcome City Manager John F. Connet: Mayor Volk welcomed and introduced City Manager John F. Connet who came to the City of Hendersonville from Clinton, NC.

7. Presentation of Awards by the Historic Preservation Commission's Community Affairs Committee: Ms. Sue Anderson, Planning Director, explained in 2010, the Historic Preservation Commission's Community Affairs Committee established an awards program to recognize property owners, organizations, businesses and agencies whose contributions demonstrate an outstanding commitment to excellence in historic preservation, local history or promotion of the City's heritage.

Ms. Anderson and Mayor Volk recognized the restoration of two properties located in the West Side National Register Historic District that were awarded a 2013 Preservation Award by the Historic Preservation Commission:

Anne Hansley for the restoration of 311 Buncombe Street

Todd & Renita McDougal for the restoration of 731 4th Avenue West.

Mayor Volk expressed appreciation to the property owners for their work to improve their properties and the City. Historic Preservation Commission Vice-Chairman Cheryl Jones also expressed her appreciation.

8. Presentation of Government Finance Officers Association Award to Finance Director: Mr. John Connet, City Manager, presented the GFOA award to Mr. Jim Rudisill, Finance Director. This is the twenty-fourth award he has received. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting and its attainment represents a significant accomplishment by a government and its management. He recognized Mr. Rudisill and his team for their hard work and dedication to the citizens of Hendersonville. Mr. Rudisill also recognized Ron Carland, CPA, stating the audit is a significant part of the Comprehensive Annual Financial Report.

9. Consideration of Resolution Adopting the Capital Improvement Plan (CIP) for FY 2013-14: Mr. Rudisill stated Council discussed the CIP during a meeting held on February 15 and during the budget review. He reported some projects were revised and he presented the final version of the CIP.

Council Member Smith moved approval of the resolution to adopt the CIP for the City of Hendersonville. A unanimous vote of the Council followed. Motion carried.

Resolution #13-0632

A Resolution Adopting a Capital Improvement Plan for the City of Hendersonville

WHEREAS: the City of Hendersonville, like other North Carolina municipalities, face demand for public services that are sometimes difficult to foresee; and

WHEREAS: the City Council foresees the need for certain public infrastructure improvements that have built up over time and that these should be addressed in future planning efforts; and

WHEREAS: likewise there is a need for a fiscal plan to undertake the orderly replacement of major capital items, such as equipment, in order to promote sound fiscal practices within the City; and

WHEREAS: the City Council initially adopted a five-year Capital Improvement Plan on June 20th, 1996 and this Plan has, over the course of the preceding fiscal years, has served to guide the City in questions of policy and planning to meet future capital needs; and

WHEREAS: an internal survey of City Departments has been made and requests have forwarded through management to the City Council identifying certain projects and equipment needed to maintain the current level of City services and identifying certain program expansions for the upcoming fiscal year of 2013-2014; and

WHEREAS: the City Council reviewed these requests during a special meeting held May 17, 2013 and Council consented to their inclusion in the proposed FY 2013-2014 operating and capital budget.

NOW, BE IT THEREFORE RESOLVED by the City Council of Hendersonville that the capital items identified on the following Form 3s and forecasted for acquisition over the upcoming five-year period be known as the official Capital Improvement Plan of the City of Hendersonville.

Adopted this sixth day of June 2013.

/s/Barbara G. Volk, Mayor

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

10. Public Hearing - Consideration of Budget Ordinance Making Appropriations for Certain Expenses, Capital Improvements and Indebtedness of the City of Hendersonville for the Fiscal Year Beginning July 1, 2013 and Ending June 30, 2014: Mr. Lee Galloway, Interim City Manager addressed the Council stating budgets get increasingly more difficult every year. He stated actions of the General Assembly may affect the budget.

He stated this budget is approximately \$30 million: General Fund is \$13 million, the Water and Sewer fund is approximately \$15 million, the Environmental Services is \$1.2 million and others. He stated it is a big undertaking that provides funding for a new fire truck, the new fire station, and Phase III of Main Street which is why Hendersonville is considered one of the top retirement destinations. He stated the budget also provides funding for the conversion to rollout recycling bins, which should increase recycling. He stated the budget also funds some large projects such as the water line to the Dana community to correct a serious contamination problem and the new water tank project in Etowah. He stated the budget allows a cost-of-living increase for employees and funds for performance merit increases.

Mr. Rudisill reviewed the budget process and stated each request was discussed with the department heads. Council reviewed the budget in detail on May 17 and the budget contains the adjustments made at that meeting. He summarized by stating revenue was decreased \$480,000 by eliminating the proposed three-cent tax increase. The fund balance was increased \$413,010 and appropriations decreased \$66,980 which balances the budget.

Mayor Volk opened the public hearing at 6:29 p.m. The following spoke:

Jim Barrett, Director of Pisgah Legal Services, 440 S. Church Street, that provides free legal services to low income persons to meet their basic needs. He communicated an urgent need for funds and requested an appropriation. He stated they are attempting to raise funds from individuals and has made a request to Henderson County and the other municipalities. They have also applied to the Community Foundation. Buncombe County has committed to some funding.

No one else expressed a desire to speak. Mayor Volk closed the public hearing.

Mayor Pro Tem Collis moved Council's approval of the budget ordinance making appropriations for certain expenses, capital improvements and indebtedness of the City of Hendersonville for the fiscal year beginning July 1, 2013 and ending June 30, 2014. In discussion, Mayor Volk commented the City has received multiple requests and have tried to help where possible but it is not a year to increase charitable contributions to non-profits. Council Member Caraker agreed it is a difficult year and the Council did the best they could with special appropriations but cannot always support as much as requested. **The vote was unanimous. Motion carried.** Mayor Volk expressed many thanks to Mr. Galloway and Mr. Rudisill for their work on the budget.

Ordinance #13-0633

**BUDGET ORDINANCE
AN ORDINANCE MAKING APPROPRIATIONS FOR CERTAIN EXPENSES,
CAPITAL IMPROVEMENTS AND INDEBTEDNESS OF
THE CITY OF HENDERSONVILLE, NORTH CAROLINA
FOR THE YEAR BEGINNING JULY 1, 2013 AND ENDING JUNE 30, 2014**

WHEREAS, the City of Hendersonville is coming to the conclusion of its fiscal year and will enter into a new fiscal year on July 1, 2013; and

WHEREAS, it is necessary and required that prior to entering into a new fiscal year a budget must be passed and adopted for the operation of the city government; and

WHEREAS, a public hearing and a work session have been held wherein the public has been notified and invited to be present.

THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA:

SECTION 1: The following amounts are hereby appropriated for the operating budget for the City of Hendersonville and its activities for the fiscal year beginning July 1, 2013, and ending June 30, 2014, in accordance with the chart of accounts heretofore established for this City:

General Fund	\$12,761,510
Downtown Tax District	410,940
Seventh Avenue District	51,720
Capital Reserve Fund	2,000
Water/Sewer Fund	15,035,880
Environmental Services Fund	1,493,300
TOTAL APPROPRIATIONS	\$29,755,350
Less: Interfund Transfers	2,675,660
TOTAL NET APPROPRIATIONS	\$27,079,690

SECTION 2: That the attached detailed budget document be, and the same reflects the estimated revenues, revenue contributions, and budget appropriations of the City of Hendersonville, North Carolina, for the period beginning July 1, 2013, and ending June 30, 2014. A copy of said document will be available for inspection in the Office of the City Clerk.

SECTION 3: That the City Clerk has published notice of this public hearing and a summary of the proposed budget in a newspaper of local circulation.

SECTION 4: That no appropriations for salaries shall be changed, nor appropriations transferred between departments or divisions, unless authorized by the Council. Appropriations within a department, other than salaries, may be transferred therein by the City Manager or his designee for the purpose of equalizations when necessary. Amounts up to \$1,000 between departments, including contingency appropriations, may be transferred within the same fund. An official report of all intra-fund transfers shall be made at the next regular meeting of the Governing Board.

SECTION 5: There is hereby levied a tax at the rate of forty-one cents (\$.41) per one hundred dollars valuation of property as listed for taxes as of January 1, 2013. This rate is based on an estimated total valuation of property for the purpose of taxation of \$1,640,725,190 and estimated collection rate of 97.41%.

Also levied is a tax rate of twenty-eight cents (\$.28) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2013, for a special service district established for the purpose of a Downtown Revitalization Project. This rate is based on an estimated total valuation of property for the purpose of taxation of \$83,628,317 and an estimated collection rate of 95.78%.

A tax rate is also levied of twelve (\$.12) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2013, for the Seventh Avenue Municipal Service District formed upon a petition of some of the property owners, established for the purpose of landscaping improvements as well as some activities of the Historic Seventh Avenue District (HSAD). The rate is based on an estimated total valuation of property for the purpose of taxation of \$10,050,833 and an estimated collection rate of 92.40%.

There is hereby adopted a capital project ordinance budget for construction of the Academy Road Water Line in the Dana community:

Grant Revenue	\$600,000
Professional Services	\$ 70,000
Capital Outlay	\$530,000

There is hereby adopted an official Fee Schedule listing specific fees, business licenses, and utility rates charged by the City of Hendersonville for:

- a) the use of City facilities and equipment for the purposes of making them available to public
- b) specific utility rates the proceeds of which are for the maintenance and expansion of its water and sewer system
- c) the administration of a system of business licenses taxation to generate revenue for the General Fund under the authority of North Carolina General Statutes (NCGS) §160A-211,
- d) the reproduction of public records and other miscellaneous services to cover the actual cost of producing these documents and information under the provision of NCGS §132-6.2.

The Fee Schedule is incorporated by reference and placed on file in the Office of the City Clerk.

SECTION 6: That copies of this Budget Ordinance shall be furnished to the City Clerk, City Manager and Finance Officer to be kept on file by them for their direction in the disbursement of funds.

SECTION 7: This ordinance shall become effective on and after July 1, 2013.

SECTION 8: That all ordinances and parts of ordinances in conflict herewith be and the same hereby repealed.

Passed and adopted at the regular meeting of the City Council of the City of Hendersonville, North Carolina, held this 6th day of June, 2013.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Samuel H. Fritschner

11. Public Hearing - Announcement of Plans and Receipt of Public Input on Applying for a NC Department of Commerce Department of Community Assistance Infrastructure Community Development Block Grant to Partially Fund Improvements Planned for the Academy Road Area of Henderson County in the Dana Community: Mr. Lee Smith reported the Division of Water Quality has completed the water sampling. Twenty-three lots/homes were identified as above permissible level for dieldrin and possibly other chemicals.

Mr. Lee Smith reported staff has been working to identify funding sources for the extension of water into that community. He stated this is the second required public hearing for the CDBG funding. He reported Henderson County has applied for the Rural Center grant but funding is unsure. He stated the City pre-applied to the Appalachian Regional Commission for \$100,000 and was found eligible to apply. He reported the contractor will complete the application. He stated he is unsure of the amount of the CDBG funds we are applying for. The Bernard Allen Fund may pay up to one-third of the total project cost. He stated funds may be available through CDBG to install the service lines.

Mr. Landon Davidson, Division of Water Quality, addressed the Council and stated the Bernard Allen Fund, a Division of Waste Management, will pay \$10,000 for each resident. He stated currently 13 applicants have been accepted so it is \$130,000. He stated the fund will pay the lower of \$130,000 or one-third of the cost. He stated

there are other impacted residents but some did not meet the eligibility requirements of the fund. He reported the groundwater assessment for pesticides is complete. They sampled 75 wells in the area and they will continue with soil sampling and re-sampling. He expressed appreciation to Mr. Lee Smith and the City for their assistance in this project.

Mr. Lee Smith commented on the length of time it usually takes to get funding. He also thanked Paula James and the action committee who have worked hard to secure funding for the project.

At 6:43 p.m., Mayor Volk opened public hearing in accordance with North Carolina General Statutes by published notice.

Paula James, 5 Easthill Drive, stated she serves on the steering committee to help get the problem solved and is one of 23 residents with contaminated well water. She stated it is disturbing and frustrating because they cannot use the water for anything. She stated her well water tested 55 times above the standard. She stated this has changed her way of life. She expressed appreciation to the City, State, and Henderson County for their efforts.

No one else expressed a desire to speak. The public hearing was closed at 6:45 p.m.

Mr. Lee Smith expressed appreciation to Mr. Davidson at DWQ for their proactive approach in sampling the water. He stated this was not found as a result of a complaint.

There was discussion of when the residents will have City water. Mr. Lee Smith stated they have a source of fresh water at the Dana church. He is hopeful work will begin by the end of the year. Construction time depends on the size of the project and may be up to three-four months. He estimated the residents should have water by next spring but staff will do everything possible to get it done as soon as possible.

Mayor Pro Tem Collis moved to authorize the utilities director and city engineer to submit, on behalf of the City, an application for a Community Development Block Grant to aid in the design, permitting and construction of a water system in and around the Academy Road area located in the Dana community, as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.

12. Quasi-Judicial Public Hearing - Consideration of an Application by Ingles Markets, Inc. to Amend a Special Use Permit to Add a Gas Station with Canopy and an Attendant Kiosk to the Ingles Store Property Located at 1980 Asheville Highway: Mayor Volk reviewed procedures for the quasi-judicial hearing including witnesses must be sworn in and are subject to cross examination. She explained the City Council may only consider the facts of the matter. She asked the City Council members if anyone has contacted them regarding the project outside of the Council meeting. There was none. She asked if anyone has offered anything of value for consideration of a vote. There was none.

Four persons were sworn in to provide testimony.

Ms. Sue Anderson, Planning Director, entered into the record: File #P-13-4-SUR and requested official notice be taken of the Zoning Ordinance, the official Zoning Map, the 2030 Comprehensive Plan and the Transportation Plan. She provided the following testimony:

The City is in receipt of an amended Special Use Permit application from Ingles Markets to add a Gas Express station to the Ingles grocery store located at 1980 Asheville Highway. The Gas Express will have four pumps and eight vehicle fueling stations. The applicant is also requesting a variance from Zoning Ordinance Section 5-18-4.3 increasing the number of driveways a development parcel may have on any given road from two to three. The parcel number for this property is 9569-45-9576.

On February 5, 1998, City Council approved a Special Use Permit and rezoning application for this parcel. The Special Use Permit was for a 60,000 square foot retail store with a variance approval for a reduction in parking from 300 to 280 parking spaces. The property was rezoned from C-3 Highway Business and I-1 Industrial to PCD Planned Commercial Development.

The property currently has a 64,449 square foot grocery store with 250 parking spaces. According to a revised site plan dated May 25, 2000, the parking area shows 248 parking spaces and a building size of 60,000 square foot. Based on Planning Department records, it is not clear when the parking requirement was permitted to be reduced from the City Council approved variance of 280 spaces to the 248 spaces shown on the May 2000 site plan.

The Entry Corridor Overlay District adopted August of 1998, six months after City Council approval of the project, does allow a 20% reduction in parking at the developer's discretion. Since this property is in the Entry Corridor District, this standard may have been applied to the site plan dated May 2000. Regarding the change in square footage of the building, Zoning Ordinance Section 7-6 allows a 10% increase in square footage from what is approved by City Council with staff review and approval. Planning Department staff has not identified any documentation that this increase in square footage was officially approved. The increase in square footage from 60,000 square foot to 64,449 square foot is below the allowed maximum of ten percent. As-builts are now required once a building is completed prior to receiving a Certificate of Occupancy.

An unopened right-of-way exists along the northwest property line. Parcels on the other side of this unopened right-of-way consist of single family residences and a vacant commercial building. The residential parcels are zoned R-10 Medium Density Residential and the commercial parcel is zoned C-3 Highway Business. The parcel to the northeast consists of the Norfolk Southern Rail line and is zoned I-1 Industrial. The two parcels located to the southeast consist of vacant land and commercial buildings. The vacant parcel is zoned I-1 Industrial and the parcel with the commercial buildings is zoned C-3 Highway Business.

Comprehensive Plan Consistency: This parcel is classified as a Neighborhood Activity Center and Natural Resource/Agricultural on the 2030 Comprehensive Plan's Future Land Use Map. Surrounding parcels are classified as Neighborhood Activity Center, Natural Resource/Agricultural and Medium Intensity Neighborhood.

The goal of the Neighborhood Activity Center is to "concentrate retail in dense, walkable mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville's neighborhoods."

The goal of the Medium Intensity Neighborhood is to "provide a transition between High and Low-Intensity Neighborhood and Regional Activity Centers and downtown and provide a transition between commercial and single-family development."

The goal of the Natural Resource/Agricultural category is to "create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low-impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources." The Natural Resource/Agricultural category is generally applied to environmentally sensitive land such as streams, floodways and floodplains. A floodway map shows the portion of this parcel that includes a stream and is located in the 100 year floodplain. She reviewed a map showing the floodplain.

Site Plan Review: Gas Express Addition: The site plan shows the addition of a 4-pump Gas Express to the southwest portion of the parking lot. The Gas Express will have a 3,298 square foot of canopy that also includes a kiosk for the attendant.

Parking: According to the existing site condition plan, there are 250 parking spaces located on the site. Table 6-5-2 of the Zoning Ordinance requires one space for each 200 square feet of gross floor area for grocery stores. Based on 64,450 square feet, 323 parking spaces are required. When it can be demonstrated through a professional parking analysis that the demand for parking is less than required in Table 6-5-2, Section 6-5-4 of the Zoning Ordinance allows up to a 40% reduction in parking without requesting a variance. Ramey Kemp & Associates, Transportation Engineers, completed a parking analysis for this store using actual parking demand at the Ingles Store #43 in Arden and the Ingles Store #130 in Fletcher. Both of these stores include a Gas Express. At peak times during the study, that is when the parking lot is fullest, the parking rate was one space for each 523 square feet of gross floor area for the Arden site and one space for each 425 square feet of gross floor area for the Fletcher site.

The site plan shows a total of 251 parking spaces are to be provided. This translates to a parking ratio of one space for each 259 square feet of gross floor area which appears to be sufficient to meet the parking needs based on the analysis of the other two sites. Parking spaces removed for the Gas Express will be added to the northeast of the addition. She pointed out the area on the site plan.

Sidewalks: There is an existing sidewalk connection from the street to the grocery store at the northern boundary of the parcel. A new sidewalk connection to the existing grocery store will be added at the southern boundary of the parcel. There is also an existing Apple County Transit bus stop on Asheville Highway in front of the parcel.

Stormwater: The applicant will be improving the site's stormwater management meeting current Phase II stormwater management requirements.

Traffic Impact Analysis (TIA): Zoning Ordinance Section 6-19 requires a traffic impact analysis whenever a development generates 100 peak hour or 1,000 or more trips daily. A "trip" is a one-direction vehicle movement entering or exiting a site. Based on the Institute of Transportation Engineers Trip Generation manual, the site is estimated to generate an additional 1,348 daily vehicle trips. According to the manual, the site currently generates approximately 6,574 daily vehicle trips during a weekday and 11,584 daily trips during a Saturday. A traffic impact analysis has been completed by Mattern & Craig and has been reviewed by the City's traffic consultants, Kimley-Horn & Associates. There are three issues to be considered regarding the TIA.

#1 The TIA identified that the site currently warrants the need for a northbound right-turn lane for the center driveway (driveway #2). The driveway on the northern boundary of the parcel has an existing right turn lane. Although the TIA completed by Mattern & Craig identified the need for a minimum of 50 feet of vehicle storage for that turn lane, Kimley-Horn & Associates calculated that the turn lane needs a minimum of 75 feet of storage with additional area needed for a taper. This distance is based on having three driveway access points. Mattern & Craig is in agreement with 75 feet of storage but states that "the presence of the third driveway and the existing property line may limit how much storage could actually be achieved." Correspondence from Steve Cannon of NCDOT states that they will require the northbound right turn lane. The site plan currently shows a right turn lane with 75 feet of storage and a 50-foot taper for the center driveway.

#2 Zoning Ordinance Section 5-18-4.3 has a provision for the number of driveways allowed on a given parcel in the Entry Corridor Overlay District. The development of regulations for this district evolved from a concern about the appearance and safety of Hendersonville's commercial and entry corridors. During the public hearing for this text amendment to the Zoning Ordinance, Mayor Niehoff

stated that “the City Council has an objective to improve the appearance of the city’s corridors, to have more vegetative planting, less sign clutter and fewer driveways from a safety standpoint.” The Entry Corridor Overlay District was adopted by City Council in August 1998 and applies to parcels fronting on Asheville Highway, Greenville Highway, Spartanburg Highway, Haywood Road and US 64.

Section 5-18-4.3 states that “...a development parcel shall be limited to no more than two driveways on any road and no more than three driveways total.” This provision further states that “additional driveways may be permitted when they are necessary to improve traffic movement, increase sight distances or for other safety reasons.”

The site plan shows the two existing full movement driveways along with a new third restricted movement driveway located at the southern boundary of the parcel. This third driveway is restricted to right-in only. Kimley-Horn & Associates requested that Mattern & Craig provide information on why a third driveway is necessary. Mattern & Craig states that limiting the site to two driveways would require a need for a right turn lane consisting of 100 feet of full storage and 100 feet of taper for the center driveway.

Mattern & Craig further states that there is only 150 feet of distance available between the center driveway and the property line.

The applicant has requested a variance from Zoning Ordinance Section 5-18-4.3 allowing the addition of a third driveway. The applicant has completed a finding of fact form on page nine for the variance request. Should the variance not be approved, staff recommends adding a condition that the proposed turn lane is extended to the southern property line.

#3 Kimley-Horn & Associates has raised concerns that “a median is not currently in place, nor proposed, along Asheville Highway to prohibit left turning movements into and out of the third driveway, therefore consideration should be given to limiting the site access on US 25 to the two full movement drives that exist currently.” In response to this comment, Mattern & Craig has stated the following: “Mattern & Craig takes no exception to the comment provided by Kimley-Horn. The TIS has demonstrated that the development will function adequately with the addition of a right-in, right-out driveway. If the City of Hendersonville and/or NCDOT determines the addition of Entrance #3 is in violation of the access management guidelines, then the length of the northbound right turn lane at Entrance #2 would be based on 139 vehicles making a right turn during the PM peak hour resulting in 100 feet of storage required.” City staff has received an e-mail from NCDOT stating that they will support the third driveway provided that it is right in only. The site plan shows a right in only driveway at this location.

Ms. Anderson reviewed photographs of the driveways.

Analysis: Section 7-4-10.1 of the Zoning Ordinance states, “no special use permit shall be approved by City Council unless each of the following findings is made.”

(A) The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare. The applicant is requesting a variance from Zoning Ordinance Section 5-18-4.3 increasing the number of driveways a development parcel may have on any given road from two to three. The purpose of these Entry Corridor regulations, including limiting the number of driveways, is “... to protect and preserve both the aesthetics of these important roadways and their traffic-handling capabilities, thereby contributing to the general welfare of the City of Hendersonville.” Based on the TIA and subsequent comments with the two driveway access points, the center driveway will require a right turn lane with 100 feet of full storage and 100 feet of

taper. There is approximately 150 linear feet from the center driveway edge to the southern parcel line available for the required right turn lane. The right turn lane will allow turning vehicles to reduce their speed and impact to the traffic flow along Asheville Highway. The addition of the third driveway entrance will further reduce the overall length of the required right turn lane and taper by approximately 25 linear feet. Without any type of turn lane for the third driveway, vehicles turning into this driveway will impact traffic flow northbound along Asheville Highway.

Kimley-Horn & Associates raised concerns that a median is not currently in place, nor proposed, along Asheville Highway to prohibit left turning movements into and out of the proposed third driveway. Kimley-Horn & Associates recommended limiting the site access on Asheville Highway to the two full movement drives that currently exist.

(B) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 7-11. The property is currently served by water and sewer.

(C) The use or development complies with all required regulations and standards of the Zoning Ordinance or with variances thereto, if any, granted pursuant to Section 7-4-14, and with all other applicable regulations. The applicant is requesting a variance from Zoning Ordinance Section 5-18-4.3 increasing the number of driveways a development parcel may have on any given road from two to three.

(D) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located. A neighborhood compatibility meeting concerning the application was held on March 15, 2013. No members of the general public attended the meeting.

(E) The use or development conforms to the general plans for the physical development of the City as embodied in this Ordinance and in the Comprehensive Plan and the Comprehensive Transportation Plan. The 2030 Comprehensive Plan's Neighborhood Activity Center category is intended to "concentrate retail in dense, walkable mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville's neighborhoods." This project increases retail options along a major corridor. The Comprehensive Transportation Plan does not indicate any future improvements to this section of Asheville Highway.

Planning Board Recommendation: The Planning Board voted five in favor and two opposed to recommend City Council approve a variance from Zoning Ordinance Section 5-18-4.3. The Planning Board voted unanimously to recommend City Council approve the application of Ingles Markets Inc., for an amended Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions.

Ms. Anderson reviewed the suggested motions for the variance, amended special use permit. She explained if the variance request is not approved, there is additional language to have driveway #2 turn lane extended to the southern property line to maximize the turn lane and taper length.

Council Member Smith asked if safety has to be Council's reason for making the decision. Ms. Anderson reviewed Zoning Ordinance section 5-18-4.3, states "development parcels shall be limited to no more than two driveways on any road and no more than three driveways total." It also states: "additional driveways may be permitted when they are necessary to improve traffic movement, increase site distances or for other safety reasons".

Mr. Preston Kendall, 15 West Vista Drive, thanked the City Council for hearing the request. He provided the following testimony:

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Agenda**

Ingles has been in the community for a long time. They have been here long enough, constructed enough stores and gas stations now that they have learned every time they have built a store. The third driveway is something they feel is needed for a safety standpoint for their store, for the gas station, for our customers, and employees. According to Mattern & Craig, and from Kimley Horn, a minimum of 75 feet of storage with additional taper is plenty. Both said that; the site plan shows that. They will have 75 feet of storage, 50 feet of taper and the right-turn in lane is what they are proposing to do on the site.

Flow of the store, congestion inside the parking lot, and not just the safety on 25, is huge for them; also the safety inside the parking lot when people are coming in for flow around the gas station. The right-turn in is huge and is why they went to NCDOT to ask if they would support it or if it is a good idea. They have NCDOT's support for the right-turn lane because they see it is.

Regarding putting a median in the middle from Kimley-Horn, they do not think it is a good idea and NCDOT did not offer that because there are businesses and customers across the street from them and it would prohibit them from using their drive the way they can now. Right now they can come in and out, left or right out of their driveway when they leave. If you put the median in, the landowners across the street, whether business or residential, couldn't get out the way they have since the road has been there. They think taking the 75 feet of storage with the additional turn lane is the safest approach for Ingles for this site.

Regarding parking, the gray area on the map is the parking they are adding. They are building a substantial retaining wall on the property for parking. Their employees will use that area to park. At Ingles stores, there is white and yellow striping in the parking lot. Their employees park in the white striping. Their customers will always be focused in the center of the store and their employees park to the right.

They have 74 gas stations now. They have added them to a lot of their existing locations. He gave an example of one in George where they didn't put a right turn lane in and it happened it was a good location. There were accidents in front of their station. They added a right-turn lane and it helped the situation. They have learned from their mistakes or they didn't know.

He asked for questions. Mr. John Cox, Civil Engineer, that worked with Mattern & Craig, is present and can answer questions.

Council Member Smith stated the storage is almost like adding another lane. Council Member Caraker stated it widens the road so the traffic making a right-hand turn can get out of the flow of traffic before they make the turn. Mr. Kendall agreed. Council Member Smith stated the taper is 50 feet but the storage is wide enough to hold a car. Mr. Kendall replied yes, and as you go down the taper, it widens to actually store a vehicle. Council Member Smith asked when a vehicle makes a right-hand turn, they are off Asheville Highway and onto the storage making the turn. Mr. Kendall stated yes. Council Member Caraker commented on NCDOT doing a similar project at Rugby Junior High School.

Mayor Volk asked if tapering and stacking is available for the third driveway. Mr. Kendall stated no; it will be for the middle driveway only. Mr. Cox stated the #1 driveway (left side) has a decel lane. It is probably 150 feet of storage, and 75 feet of taper. Council Member Caraker commented most people use the center driveway (#2) unless coming from the north. Mayor Volk agreed, stating there is almost no reason to have it because why would you drive past one driveway to go into another just because there is a taper. Council Member Smith commented he didn't realize there was a taper. Mayor Volk stated she does not see why it would be safer having the third driveway with no taper, no storage, because cars will back up on Asheville highway to turn in just like they do now to get into the center driveway. She does not see it as a safety feature and may block more traffic on Asheville Highway in the right-hand lane. She stated traffic coming from the south that wants to get gas will go into the first lane and there will be cars backing up there.

Mr. Kendall stated it is not just safety for Highway 25 but also for safety inside of their parking lot. He stated if cars are coming in, and they will come in from the decel lane, there will be cars coming from the north, and people from the north will want to go to the gas station, people from the south will want to go to the gas station and inside the parking lot will be congested. From someone who needs gas, going south to north, will use the smaller entrance whereas someone going into the store may use the other entrance.

Council Member Smith asked if the new taper is between the third and center driveways. Mr. Kendall stated yes. He stated they put a hook into the curb to prohibit left turns into the third driveway so drivers from north to south will not use that driveway.

Council Member Caraker stated the third driveway may take pressure off the center driveway and the stacking lane may help. He agreed with Mayor Volk that stacking on driveway #3 would be more advantageous. He mostly uses the gas station at Ingles instead of the market.

Council Member Smith stated the reason there is not a taper for the third driveway is because Ingles does not own the property. Mr. Kendall agreed. Council Member Smith stated there is a sidewalk there owned by the City.

Council Member Stephens commented people turning right will go in and there is room to get in. Mr. Kendall stated he is not sure how far it is from the proposed entrance to the gas pump. Mr. Cox stated probably three cars will fit in there. Mr. Kendall stated it will not be an entrance for transfer trucks, mainly cars.

Mayor Volk asked if the sidewalk will be relocated. Mr. Kendall stated yes. Council Member Caraker asked if they will move it closer to the store to accommodate the taper and stacking lane. Mr. Kendall stated yes.

Council Member Caraker asked where heavy trucks will enter. Mr. Kendall stated the trucks will continue to come into the center entrance and leave through the first entrance. Council Member Smith asked if the trucks current use the entrance without stacking. Mr. Kendall stated yes. Mr. Cox stated most of the trucks come in from the north. Council Member Ron Stephens stated they are in the center lane waiting for a left turn. Mr. Kendall stated occasionally a partial load may come from the other direction. Council Member Ron Stephens asked where the truck enters for the storage tanks. Mr. Kendall stated the fuel tanks are behind the gas station and they unload on the driver's side. Mr. Cox stated they will back into the tanks and out entrance #2. Council Member Caraker asked if the trucks make a three-point turn and unload. Mr. Cox stated yes, it is easier for a smaller fuel truck to make the turn. He stated Ingles trucks are larger. He stated the fuel trucks are much smaller.

There was discussion of entering Ingles with a possible third driveway. Council Member Caraker commented he has never had problem getting in and out of store except maybe holidays and won't create a problem. Council Member Ron Stephens agreed stating it is a few-second wait to go out. Council Member Caraker stated it is more of a problem getting out of the parking lot and onto the highway because of speeders coming down the hill from the north.

Mayor Volk stated currently there is no sidewalk at the center entrance and asked if they are putting one in there as well as the southern entrance. Mr. Cox stated there is a full sidewalk on the northern side of the property. He stated they are adding a second one to that third entrance will which go up the right side of the site and hook to the right side of the store. They will have a sidewalk from both the north and the south.

Mayor Volk opened public hearing at 7:29 p.m.

Tammi Neill, 1528 Danwnview Drive, Druid Hills, provided a handout, and provided the following testimony:

Her mother owns the property to the south of the proposed driveway. They have a small parcel that is not deep and five lots long. They had a study done by Luther Smith as to what they can put on the property. She and her sister have plans to develop the property. She has talked to a lot of people about it. NCDOT,

Hendersonville zoning and the entry corridor zoning overlay makes it quite restrictive for what you can build. She stated doesn't mind the gas pumps coming but the driveway bothers her. According to their own plans, it does not pass the NCDOT standard for being in the correct setback. Regarding the taper and driveway, in her opinion it will back up traffic on the Asheville Highway that will impact their traffic when they finally get to do what they want to do. They are hoping to go in one drive and out another. It will impact them.

In the first option for the traffic analysis, it appears the City's own consultants, never found a reason for the third driveway. They [Kimley Horn] recommended limiting the site access on Asheville to the two full driveways that already exist.

The Entry Corridor Overlay is to improve the appearance of the City's corridors to have more vegetative planting, less sign clutter and fewer driveways from a safety standpoint. The Zoning Ordinance states a developmental parcel should be limited to no more than two driveways on any road and no more than three driveways total. Everyone on Asheville Highway, Spartanburg Highway and Greenville Highway has to follow the entry corridor overlay so the City looks better and it is safer.

Regarding the neighborhood compatibility and increasing retail options in corridor, this third driveway does not increase the retail options. It is her opinion that the third driveway increases Ingles options for retail sales but not for the rest of the people on Asheville Highway. The third driveway is not compatible with the rest of the neighborhood's traffic pattern. She believes it will add to more traffic problems and asked where the City's consultants say it is safer to have three driveways.

On the issue of the taper between the second and third driveways, in the first option the City's consultant said they need 75 feet of storage with an area of additional taper. She does not believe they agree with the exact amount of the TIA study.

When they, as small property owners, design their projects ... they have to go along with zoning. They will have to conform with entry corridor overlay, to the City and NCDOT. She does not know for certain if the third driveway placement will affect their building, parking or driveway plans in the future but doesn't think her family should have to gamble on it. Ingles is a good neighbor as well as a positive business partner for Hendersonville and surrounding communities. This particular Ingles is what she calls "her Ingles store" but Ingles just does not need a third driveway entering their property.

As the adjoining property owner with a smaller parcel and limited development options for the future, located beside a potential traffic nightmare, she requested Council not grant the variance for the third driveway.

Mayor Pro Tem Collis asked how close the driveway is to her property. Ms. Neill stated their property butts against Ingles and Ingles own up to the trees. There is a 50-foot parcel and Ingles has another lot but they have to have their driveway 20 feet from the property line whereas their current plan is only 15 feet. She stated it is very close to the property line and she does not think it is needed and will impact their traffic which will not help them develop what they have.

Council Member Smith asked if traffic enters entrance #2, is it possible to immediately turn right and to get gas. Mr. Kendall stated no, because there has to be a stem. Council Member Smith stated, after 100 feet, can they turn and get gas. Mr. Cox stated 100 feet take the traffic to the back of the gas pumps. Council Member Caraker stated traffic would have to enter the pumps from the rear only. Mr. Kendall stated that is right, traffic should have to drive a complete circle. There was discussion of that entrance and NCDOT requirements, relief points. Mr. Cox stated it helps the flow around the gas express to have two points of entry. Council Member Smith stated traffic will be able to enter the second driveway to get gas. Mr. Kendall agreed and stated it will not be as safe ... because there are more cars in the same general vicinity trying to come in and out. Council Member Caraker stated another entrance would split the load. Mr. Kendall agreed. Council Member Smith commented if someone gets grocery, and then gas, that is exactly how they will come in. Mr. Kendall agreed stating also the people

coming in that entrance. He stated if that can be eliminated ... everyone wouldn't be coming from the same location. Council Member Stephens commented most people get the gas first.

With regard to entering the front or back of gas, Council Member Smith asked for an explanation of that. Council Member Caraker stated traffic can pull up to a pump two ways. Mr. Cox stated if everyone is pulled to the back side, then they are coming to four fueling positions whereas if you can bring them to both sides, it is easier to get all eight positions full. He stated most American cars' tanks are on the left, most foreign are on the right. He stated it is easier to fill the pumps up with two points of access. Mayor Volk stated it is easier but this is done at Sam's, you have to circle around and it works. She stated it is not ideal. They have two entrances but at the same end. Council Member Caraker stated it is a much bigger site to navigate on. He stated instead of four stations, they have six. Council Member Ron Stephens stated it does get jammed.

Council Member Smith asked Ms. Anderson if two driveways are allowed to be that close. Ms. Anderson stated she could not answer because NCDOT reviews the plans and issues the driveway permits. She does not know NCDOT's standards for separation of driveways. She stated they would have to submit plans to NCDOT for their review and give them a response. Mayor Pro Tem Collis stated probably not. Council Member Smith stated it would be a potential safety hazard to have some traffic turning left while other are trying to turn right. Mayor Pro Tem Collis commented there is no buffer between the two drives. Council Member Smith agreed stating the drives would only be 25 feet apart or less.

Mayor Volk asked for further questions. Council Member Smith commented there is a way to get to the gas without the third entrance. He stated he does not see it as absolutely necessary to have another entrance to be able to sell gas there. He stated if the storage was on their property, it would make a lot more sense. He stated where it is now, he doesn't see how it adds anything because additional storage will not be needed once you get by the traffic turning in to get gas. He didn't realize the parking storage was farther up because he has ever turned in right there. He stated no one turns in right there. He stated it is not just Ms. Neill's plan because it does not exist and may never exist but he questions the need for another entrance into Ingles when you can get gas. He stated he understands the idea of a circular flow trying to get traffic through but it is more stopping and going on the most traveled road in Hendersonville other than downtown.

Council Member Caraker commented if the third driveway is not put in, the traffic movements with the gas station will be miserable and may not be worth doing. He stated he appreciates Ms. Neill's comments but cannot consider what will occur in the future. Council Member Smith agreed.

Council Member Ron Stephens asked if Ms. Neill made her statements to the Planning Board. Ms. Neill responded that she didn't know about the Planning Board meeting. Mayor Volk commented she should have gotten notice for the neighborhood compatibility meeting. Ms. Anderson explained they are required to mail out notice to property owners within 400 feet of a project of the neighborhood compatibility meeting and for the City Council meeting but not for the Planning Board meeting. She stated there was not a notice mailed for the Planning Board meeting for this project.

Council Member Stephens commented if the neighbors' property was developed now and this would impact it, he could see a real issue but not knowing what will be there or if there will be an impact if developed. He stated they could develop south of there and there is some options there. He stated he sees the need for this for the gas operation. He stated it will be jammed if people have been to the grocery store and others want to leave, it may be a problem.

Council Member Smith commented if the pumps were in the middle of the store, like the other Ingles store, it would be easier to deal with. He stated having it on the corner is part of the challenge. Mayor Volk expressed concerns about turning in with no back up, if it will be that busy, it will block Asheville Highway to turn into that entrance. Council Member Ron Stephens stated there is no back-up now. Mayor Volk commented now there are only customers going into the grocery store. She stated if this is as popular as they say and she thinks it will be,

there will be a lot more people trying to get in to get gas and several cars may be backed up on Asheville Highway. Council Member Smith agreed stating more people will turn right instead of left plus the price of gasoline. Council Member Ron Stephens commented it is price instead of which side of the road. Council Member Smith commented many people would rather turn right. Council Member Ron Stephens stated he understands but if the price is less, they will make a left turn. Council Member Smith stated the convenience is turning right, rather than turning left, is a selling point, and agreed with Mayor Volk that more cars will be attracted to that corner.

Ms. Neill commented the setup on the Asheville Highway is the same as the Howard Gap Road Ingles. Mr. Kendall stated they have two roads there and they are on the corner of Howard Gap and High 64. He stated they have entrances off two different roads, two off of Howard Gap and one off Highway 64. Ms. Neill asked if they have three on one road. Mr. Kendall stated no, the two that were put in are similar to this to allow flow around the gas. He stated when they put gas in, they typically install three entrances at all of their stores. He stated if it is just a store, there may be only two. He stated in rare cases there may only be one in mountainous areas and it is the only possibility.

Mayor Pro Tem Collis commented the third entrance delineates the use for storage for the second entrance. Mayor Volk commented she stops at the Ingles on U.S. 74, and the gas is in the corner. She stated you go in and must circle around to get back out but it probably does not get as much traffic as this location would.

No one else expressed a desire to speak. Mayor Volk closed the public hearing at 8:00 p.m.

Variance Request: Council Member Caraker moved the City Council to grant a variance from Zoning Ordinance Section 5-18-4.3 Driveways, increasing the number of driveways a development parcel may have on any given road from two to three because it will make the gas pump addition on this project possible and safer. The vote was two in favor (Caraker, Stephens), three no. Motion failed.

Amended Special Use Permit: **Council Member Smith moved City Council to approve the application of Ingles Markets Inc., for an amended Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions: Driveway #2 turn lane is extended to the southern property line to maximize the turn lane and taper length. There was a unanimous vote of the Council followed. Motion carried.**

Mayor Volk commented she hopes they can work it out because she would like to see a gas station.

13. Consideration of Adoption of Special Events Policy: Mr. Lew Holloway, Main Street Director, gave a history of the establishment of the special events committee and presented a special events policy. He explained the definition of public assembly was removed in its entirety.

Mr. Holloway reported the Main Street Advisory Committee advocated for improved communication as it relates to all aspects of special events within the Municipal Service District. He reported the committee identified the need for a comprehensive policy, drafted a policy and sent it to the Special Events Committee for review. The draft policy has received endorsement from those two committees.

Mr. Holloway stated there is a special events ordinance in place which lays out the basic function of the Special Events Committee but there is no policy that defines the process. He stated the draft policy is designed to facilitate the special event planning process and to serve as a guide for event planners. He stated the draft policy defines the role of the Special Events Committee in special events planning, defines the role of the Main Street Advisory Committee, establishes the time line and specific requirements for the application process, establishes the necessary documentation and information required of each applicant and it establishes fees, deposits and special conditions would be applied to each event.

Mr. Holloway noted the ordinance will be amended that will reflect the structure of the Special Events Committee as shown in the policy. [This amendment will be placed on Council's July consent agenda.] **Council Member Smith moved City Council to approve the resolution adopting the Special Event Policy. A unanimous vote of the Council followed. Motion carried.**

Resolution #13-0634

A RESOLUTION TO ADOPT THE CITY OF HENDERSONVILLE SPECIAL EVENTS POLICY

WHEREAS, In 1971 the City Council of the City of Hendersonville formed a Special Events Committee whose purpose is to coordinate the variety of special events which take place in the City of Hendersonville and to protect the public health, safety and general welfare during these events, and

WHEREAS, On June 2, 2011 the City Council of the City of Hendersonville formed the seven member Main Street Advisory Committee and created the Downtown/Economic Development Director position for the City of Hendersonville to enact the Main Street Four Point approach and to provide City Council feedback on policy and procedures that impact the Municipal Service District, and

WHEREAS, The Special Event and Main Street Advisory Committees of the City of Hendersonville reviewed and endorsed the City of Hendersonville Special Event Policy, and

WHEREAS, The City Council of the City of Hendersonville values well planned and coordinated special events taking place in the City of Hendersonville, and

WHEREAS, The City Council of the City of Hendersonville values the need to weigh and consider the specific impacts of special events prior to their taking place.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE THAT:

Section 1. The City Council hereby adopts the City of Hendersonville Special Events Policy.

Section 2. The City Council recognizes that value of this document as a guide and informational resource for event planners working with the City of Hendersonville.

Section 3. This resolution shall become effective upon its adoption and approval.

Adopted the sixth day of June 2013.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Samuel H. Fritschner

Special Events Policy

Executive Summary: The City of Hendersonville, NC is a vibrant community with a variety of municipal resources which lend themselves to use for special events. Special events require the coordination of a variety of city and event organizers resources to come together successfully. Whether held downtown, in one of our many attractive public parks or elsewhere in the city, they have very specific impacts which are best considered and weighed prior to the event itself. The following policy has been established to facilitate this planning process with the city. If you are planning a special event in the City of Hendersonville, it is essential that you review the policy well ahead of your planned event date to determine what you'll need to have in place for a successful event!

The City of Hendersonville's Special Event Policy:

1. Defines the role of the Special Events Committee in special events planning for the City of Hendersonville.
2. Defines the role of the Main Street Advisory Committee in special events planning for the City of Hendersonville.
3. Establishes the timeline and specific requirements for the City of Hendersonville's special event application process.
4. Establishes the necessary documentation and information required of each applicant for a special event permit.
5. Establishes what fees, deposits and special conditions will be applied to each event.

Special Events:

Application Timelines: The Special Events Committee hears all event applications no matter their location in the city. The timeline below outlines minimum requirements for Special Event Permit Applications.

Special Event Application - Submission & Approval Timeline

Minimum 90 Days Prior to Special Event Date – Application Submission

- Submission of Special Event Application Package
- Special Event Site Plan
- Street and/or Parking Closure Request(s)

Special Events Application Package must be submitted to Susan Frady – Special Event Committee Chairperson. Phone # 828.697.3010, Fax # 828.698.6185, E-mail: sfrady@cityofhendersonville.org, Address: 100 N. King St., Hendersonville, NC 28792.

Minimum 60 Days Prior to Special Event Date – Committee Review
(Applicant Attendance Required)

- Main Street Advisory Committee Review & Recommendation (where applicable)
- Special Events Committee Review & Recommendation – includes review by Police, Fire and Public Works

Minimum 30 Days Prior to Special Event Date – City Council Meeting

- Final Site Plan, Event Timeline & On-Site Contacts
- Proof of Insurance
- Vendor Permits
- City Council Review & Approval (Required)

Post-Event

Maximum 30 Days After Last Day of Event

- Final Payment as needed
- Reserve Future Dates

Special Events - Definitions

A special event is defined as a pre-planned event, whether publicly and/or privately sponsored, which is proposed to be held on public property, including but not limited to parks, streets and/or sidewalks. All special events require a Special Event Permit issued by the City of Hendersonville. Special Events include, but are not limited to:

Road Festival means an organized neighborhood or public gathering on a public right-of-way (street, sidewalk or alley) on a specified date at a specific time, and confined to a designated area that may or may not require an admission fee to enter and participate.

Procession/Parade means a public or private march, run, cortege, walk, cavalcade, autocade, parade of any kind, other gathering of persons that occurs upon public right-of-way, park or both in an area used for vehicular traffic.

Organized Competitive Event means any planned race, walk, derby, or event, whether human powered or otherwise, that involves a contest of skill(s) and/or strength and takes place upon public right-of-way or park.

Special Events Application Package – Major Requirements

1. Event Application – See Appendix I: This is a basic collection of information including:
 - a. Name of Event
 - b. Event Organizer
 - c. Date(s) of Event
 - d. Contact Information
 - e. Public Benefit
 - f. Public Services required
2. Event Site Plan: The site map is a visual representation of all the operational event elements that you describe throughout the permit application. To properly assess the event, the site map should be submitted along with the Special Event Application and include the following elements:
 - a. Direction North, indicated by directional arrow symbol.
 - b. The overall event area including: any requested street closures and/or the location and number of any parking closures
 - c. The location and dimensions of all physical equipment being placed, including, but not limited to, any stage(s), vendors, booths, sponsors, tents, signs, barricades, portable toilets, vehicles, shelters and shelter numbers, etc.
 - d. Location of temporary alcohol sales where both sales and consumption occur.
 - e. Indicate 20' wide fire lane clearances in all areas and the location of all fire hydrants.
 - f. Include electrical plans for vendors and stages, specifying how much each site requires, in terms of amps & volts.
 - g. Any other details you think are helpful in the physical description of your event.

3. Vendor Applications: It is often the case that event organizers wish to have vendors selling food and crafts or other merchandise during an event. This is permitted via the City of Hendersonville's Code of Ordinances. Event organizers are required to submit a vendor permit application detailing the total number of vendors, categorized by type that will be a part of the event. Contact the City of Hendersonville Business Office for more information, 828.697.3052.

4. Insurance: The event organizer must furnish a current general liability insurance policy which names the City of Hendersonville as a co-insured on the policy. Insurance requirements are as follows:

- | | | |
|------|-------------------------------|-------------|
| a. | Commercial General Liability: | |
| i. | Per occurrence | \$1,000,000 |
| ii. | Personal & Advertising Injury | \$1,000,000 |
| iii. | Products/Completed Ops. | \$1,000,000 |
| iv. | General Aggregate | \$1,000,000 |

In addition to these minimum requirements certain events may require additional coverage, based upon the type of event. Examples of additional coverage could include Automobile Liability, Workers Compensation and Liquor Liability. Additional requirements will be conveyed to the event organizers.

Special Events Committee – Role & Responsibilities

This Committee is established to assure that all special event applicants follow the procedures outlined in this document and to provide assistance in event logistics as it relates to the health and safety of organizers and attendees at special events conducted within the City of Hendersonville.

Special Event applicants will submit their applications to the Committee Chair; Zoning Administrator Susan Frady, who will distribute copies to the committee according to the timeline outlined on page 3. They will then meet with the Special Events Committee at least 60 days prior to their event; event coordinators are encouraged to schedule this even earlier if possible. For events within the Downtown Municipal Service District, the Main Street Director will distribute copies to the Main Street Advisory Committee.

The Special Events Committee is made up of the following individuals:

1. Zoning Administrator – Committee Chairperson
2. Police Chief (or representative)
3. Fire Chief (or representative)
4. Public Works Director (or representative)
5. Main Street Director (Ex-Officio Member)

The Special Event Committee's primary role is to coordinate the variety of special events which take place in the City of Hendersonville and to protect the health and safety of the community. To do so the Committee:

1. Maintains a running list of events that includes those that have:
 - a. Received City Council approval.
 - b. Received Special Events and Main Street Advisory Committee (as applicable) Review and Recommendation.
 - c. Requested an annually recurring date and which have established historic precedent for this request. An example, The Apple Festival occurs over Labor Day weekend each year.
2. Provides a comprehensive review of the event site plan, identifying and providing event organizers with cost estimates for any city services and personnel that their event will require.
3. Reviews the event site plan and application to identify any life safety issues that the proposed event presents the community.
4. May approve recurring events which have no material changes to the event proposal.
5. May approve events which have no impact on the streets or sidewalks of the City of Hendersonville and do not require more than \$1,000 in city resources.

Main Street Advisory Committee – Roles & Responsibilities

The Main Street Advisory Committee is a City Council appointed volunteer group tasked with helping implement the Main Street Four Point model of downtown economic development. The committee has two primary roles in regards to Special Events as they are defined in this document.

1. The primary role of the Main Street Advisory Committee is to organize and oversee special events of their choosing which support the Committee's vision for Historic Downtown Hendersonville. The criteria used to guide the Committee in this role include, but are not limited to, the following:
 - a. Events should celebrate the community's culture, heritage and diversity.
 - b. Events should appeal to our diverse community.
 - c. Events should support the entrepreneurial and creative communities that call downtown home on a daily basis.

d. Events should support our efforts to highlight downtown as a cultural and market destination for the community & visitors.

2. The secondary role of the Committee is to guide the Downtown Special Events grant program which provides financial assistance to event organizers who apply. The total grant fund is determined on a yearly basis as funds allow and individual grants are for a maximum of \$500. Grant applications and timelines for the Downtown Special Events grant program can be obtained by contacting the Main Street Director.

3. The tertiary role of the Main Street Advisory Committee is to provide the Special Event Committee and City Council with recommendations and feedback in regards to any special event proposed for the downtown Municipal Service District that requires City Council approval. These recommendations and associated feedback will be presented to event organizers during the Special Events Committee meeting by the Main Street Director. Event organizers are encouraged to attend the Main Street Advisory Committee meeting at which their event will be reviewed to answer questions and hear feedback first hand.

Denial or Rejection of Special Event Permit Application

The Special Event Committee may recommend that City Council deny a permit application on one or more of the following grounds:

- Failure to submit an application within the time periods outlined herein.
- The application is incomplete.
- The applicant owes the City of Hendersonville money from another event, services provided or as a result of damages to city property.
- The Special Events Committee has already received a completed application for the same date and/or space.
- The use or the event would conflict with previously planned programs organized and conducted by the city or non-governmental agencies previously scheduled for the same time and/or place.
- The applicant does not comply with all applicable city ordinances, traffic rules, park rules and regulations, state health laws, fire codes and/or liquor licensing regulations.
- The use or event proposed by the applicant would present an unreasonable danger to the health or safety of the public.
- The applicant cannot comply with applicable local, state and federal license requirements for all or part of the planned event.
- The use or event is prohibited by law.
- The application contains material misrepresentation or fraudulent information.

The Special Event Committee will use the following priority list if there are conflicting requests for a particular time and date which arrive before the committee concurrently.

Priority will be given in the following order:

1. Events that have established historic precedence and are in good standing.
2. Events organized by the City of Hendersonville.
3. Events organized by Henderson County Schools.
4. Events organized by Hendersonville based non-profit organizations with proceeds providing assistance to the organizer or another Hendersonville based non-profit organization (requires proof of 501c(3) status).
5. Events organized by private businesses, non-profit organizations not based in Hendersonville, and/or individuals for the purpose of profit, personal gain, and/or proceeds that will be used to benefit other than those Hendersonville based non-profit organizations.

Council Member Caraker commented a client was very complimentary of the work on Main Street, bringing this program into the Planning Department and stated other cities should use Hendersonville as a model.

14. Reports from Staff:

a. Meeting Announcements/Reminders: City Clerk Tammie Drake reminded the Council of a Special Council Meeting on Monday, June 17, 2013, City Hall, 10:00 a.m. for Presentations on Mill Building Proposals.

15. Consideration of Appointments to Boards/Commissions and Announcement of Vacancies:

a. Appointments for Consideration: None.

b. Announcement of Vacancies: Mrs. Drake informed the Council of upcoming appointments on the Board of Adjustment and Main Street Advisory Committee and a vacancy on the Environmental Sustainability Board. **No action was taken.**

16. Comments from Mayor and City Council Members:

a. Scheduling of Special Meeting to Discuss Mill Building Proposals: A special meeting was scheduled for Thursday, June 20, 2013, at 12:30 p.m., to discuss and possible make a decision if possible on the Mill Building Proposals. There was discussion of whether the meeting will be a closed session.

b. Parking: Council Member Smith reported he has received several contacts about the number of leased spaces in the Dogwood Parking Lot. He stated the Council discussed opening more leased spaces. Mr. Wooten stated per past direction from the Council, the free spaces will be metered spaces. Mr. Connet explained there are 20 spaces in the Dogwood Lot that have not yet been metered and could be available for lease. He stated there are 16 people on the waiting list for leased parking. He stated there are plenty of metered spaces available in the Dogwood Lot. There was discussion of leased parking rates. Mr. Connet explained the free spaces were being used by downtown employees who are now asking for leased spaces. Mayor Volk commented she would like to offer more leased spaces since most of the people who use it are at the north end of Main Street. Council Member Smith commented if the metered spaces are not filled, it doesn't make sense to make more metered spaces. Mayor Pro Tem Collis also commented there are spaces available for lease in privately-owned lots. There was some discussion of making the entire lot leased spaces and the rates for the leased spaces. Mayor Volk commented because installing meters moved some into the leased spaces, it results in more spaces for visitors and customers to park. She stated improved signage will direct people to parking.

Council Member Smith moved Council to convert 20 spaces in the Dogwood Lot that are scheduled to get meters but do not have them, to leased spaces. A unanimous vote of the Council followed. Motion carried.

The Council further directed staff to compare the City's lease rates with other cities for future consideration.

17. New Business: There was none.

18. Closed Session:

At 8:27 p.m., Council Member Caraker moved Council to enter a closed session to establish, or to instruct the Council's staff or negotiating agent concerning the position to be taken by, or on behalf of the Council, in negotiating the price or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease. A unanimous vote of the Council followed. Motion carried.

The Council conferred with City Attorney Fritschner on the acquisition of property.

At 8:33:13 p.m., Council Member Smith moved Council to exit the closed session. A unanimous vote of the Council followed. Motion carried.

Council Member Smith moved the City Council to authorize the City Attorney to finalize an agreement with Henderson County concerning the terms for the acquisition of the Jackson Park easement and the Mayor to execute the completed agreement consistent with the terms of the draft agreement. A unanimous vote of the Council followed. Motion carried.

- **Fountain Discussion:** Council Member Ron Stephens asked about the problems with the fountain and why it has not yet been completed. Council Member Caraker explained the water pump specified for the fountain was

undersized and did not work. He stated work stopped because the electricity was not installed but now has been. He stated there is a dispute between the Engineering Department and the person who specified the pump. Council Member Caraker stated there was additional cost for the vault in the street to prevent stagnant water. He stated there is a filter, water source, backflow preventer, etc. in the vault to prevent maintenance problems in the future. He stated those additional costs were not included when the project was first discussed.

Council Member Caraker commented the secondary drains on the Skyland façade were eliminated because they couldn't make them work. He stated there have been some complaints on the work.

No action was taken.

19. Adjournment: Being no further business, the meeting adjourned at 8:37 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

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**June 17, 2013
Special Meeting of the City Council
Council Chambers – City Hall
10:00 a.m.**

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

Staff Present: City Manager John F. Connet, City Attorney Samuel H. Fritschner, City Clerk Tammie Drake, Planning Director Sue Anderson, Main Street Director Lew Holloway

The purpose of the special meeting is to hear four proposals/presentations for the redevelopment of the Grey Hosiery Mill building. Other topics may be discussed.

1. Call to Order: Mayor Volk called the meeting to order at 10:00 p.m. and welcomed those in attendance. A quorum was established with all five members in attendance.

Mayor Volk presented a token of appreciation from Hands-on! for the use of Berkeley Mills Park for the 2013 Mad Mountain Mud Run.

Update on Main Street: Mayor Volk asked for an update on the Main Street project. Mr. Connet reported City crews are installing waterlines and the 600 block may be completed this week.

Council Member Stephens asked if the other presenters should leave the room while the other proposals are being made. He expressed a concern that there may be an unfair advantage because presenters waiting will hear Council's questions, what they are interested in, etc. Council Member Collis disagreed stating there is nothing hidden. Mayor Volk commented the proposals have been done. Council Member Caraker agreed it may be some of an unfair advantage to the first proposals but stated this needs to be a public meeting so everyone can hear the discussion. Council Member Smith commented he does not know how groups can be excluded from a public meeting. Mayor Pro Tem Collis commented the previous process was closed and he heard a lot of criticism about it. He also heard one of the groups was unfairly treated so he would prefer that it is all done publicly so there is no question of what is discussed. Mayor Volk stated the Council is aware of the situation and it is up to the them to consider that on Thursday during the discussion.

10:00 a.m. Presentation: The Millworks by White Challis Redevelopment Company and Investors Realty Group: Mr. Chris Challis, partner of White Challis Redevelopment Company, introduced himself and his partner Jack White, Austin Fazio with HD Investors, [Jim Hall, Investors Realty Group, not in attendance], and Scott Johnston with Johnston Design Group who has experience in textile mill redevelopment. Mr. Challis reviewed their past and on-going projects. Mr. Fazio stated Hendersonville is a strong market and there is a strong desire and demand to be downtown.

Mr. White provided details of their plan including:

- urban streetscape on Fourth Avenue – more landscaping along the street with a greater connection to Main Street
- 55 parking spaces located within the site
- environmental remediation
- highlighting the brick façade of the historic mill, the large windows and old beams with modern industrial features i.e., exposed ductwork and open space

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- a small courtyard in the middle: a common area which will be an amenity for residents
- interior units will be converted loft apartments will range in size from 500-1,300 square feet
- four town home sites were identified on the property; possibly more units in the future which allows flexibility.

Mr. Challis reported they met with Dr. McGee with Wingate University and relayed having residential units supports the university's mission by providing living options close to their classrooms. He stated they would like an opportunity to talk with Wingate about working together at some point. He stated 15,000-17,000 square feet of classroom space may be needed and it is possible this could be placed in the noncontributing portion of the mill. He stated they will explore working directly with Wingate but if not, the residential program stands on its own.

Partnership with City: Mr. Challis stated they will approach the project from a partnership with the City which will involve the City contributing the building to them and working together to resolve the environmental issues. Mr. Challis stated they would consider it a partnership if the City contributes the land and White Challis does everything else going forward. He stated he doesn't expect the City to convey ownership of the property on day one but expects the City to protect its interest. He stated the environmental issues are real and may be expensive but these are resolved every day and they know how to do that. He stated this project is not large enough to bear significant costs.

Other: Mr. Challis stated he understands the City has spent approximately \$100,000 going through the processes for the convention center idea, etc. He stated some of the feasibility study costs can be recouped by partnering together through a couple of avenues, one of which is through the tax credit program.

There was discussion of the projects of White Challis and the financial condition of IRG. Mayor Pro Tem Collis commented he would not want the Mill property to be at risk of foreclosure. Mr. Challis stated that is a legitimate concern but White Challis does not have any foreclosure properties.

Exit Strategy: Mr. Challis explained these would be loft rentals for at least five years and their exit strategy may include: 1) selling the units as loft condos at some point in the future, or 2) selling the project as a rental product such as an apartment building like Chadwick Square.

In discussion, Mayor Pro Tem Collis commented he is skeptical about residential use because of the future expansion of the jail and he has heard complaints about the bus stops. He asked if the jail expansion will affect the sale of the units. Mr. Challis stated they have not done a formal market study but are also concerned about the perception. He stated they know how to manage perceptions, and will work with the City so expectations are met.

Council Member Caraker asked about a link to the Historic Seventh Avenue District revitalization. Mr. Challis stated they spent time looking at Jackson Park, the greenway initiatives and stated both Seventh Avenue and Main Street will thrive when linkage is created between the two, particularly on the pedestrian scale. He stated this project is a big part of that.

Mayor Volk expressed appreciation for the presentation and proposal and stated Council will be in touch if there are more questions.

10:45 a.m. Presentation: Old Mill Place by Marie France N. Lachance, President, and John M. Kennedy, CEO. Ms. Lachance, a business owner on Main Street, presented a proposal to create a marketplace at the Mill with a venue to stimulate tourists and locals. She stated they have received many serious inquiries from vendors.

Ms. Lachance stated they want to create a marketplace with a premier shopping area with vendor booths, an event center, restaurant/bar/coffee shop, and will extend the footprint of downtown to that corridor and to the Historic

Seventh Avenue area. It will also help with parking. Their intentions are to stay local, will hire local artisans, and will be contributing locally. The scope of their project includes: restoring the building, removing hazardous materials, expand downtown Hendersonville, create an event venue for lease, auctions, and a social place. They will promote Hendersonville through advertising and a positive endorsement of downtown.

Mr. Kennedy reviewed photos of the condition of building and stated it will not be hard to repair it to get up to standards. He does not see any problem with resolving the hazardous materials issue. They want to return the building to its original condition under a timeline of eight to ten months. The floor plan includes: offices, vendors spaces in three sizes and/or configurations, a craftsman's area, a museum/historical tribute to the mill, an event venue in three flexible configurations or sizes, two atriums that benefit the event area and restaurant/café, an auction arena for scheduled events (as well as parking lot events). They want to add to the integrity of the Fourth Avenue corridor.

Partnership: Mr. Kennedy stated he doesn't know the plan for the transfer of the property but most Cites do not want to be landlords, but it is up to the City. Their budget is set; it makes it more viable if they do not pay for the property.

There was discussion of their past projects, experience in Brownfields abatement and financing plans. Mr. Kennedy offered to provide a performance bond for this project and provide a full set of architectural renderings. He stated they do not want to change the way the building looks and will keep everything possible original. He stated the investors will be identified when appropriate.

Mayor Volk expressed appreciation for their presentation and interest.

11:30 a.m. Presentation: The Landmark Group by Vann Joines and Rex Todd: Mr. Vann Joines introduced the development team: Brent Smiley with the Landmark Group, Patty Smyers with the Arts Council, and Robin Reins with Rowhouse Architects.

Mr. Todd explained the roles of the members of the development team. He reviewed their experience with historic adaptive reuse and new construction. He stated they will not be asking the City for a loan for the project but will let the sources of financing carry their own weight.

Mr. Todd explained their artist/live workspace theme.

Ms. Smyers reviewed the history of the Four Seasons Arts Council. She stated the Grey Mill Arts would provide a great home for the arts in Hendersonville to continue their unique performances and provide excellent gallery space. Ms. Carol Walters provided a personal view of her experience with the Arts Council of Henderson County. She asked the Council to nurture and continue to grow artists stating this building is a great opportunity to do that and asked for the Council's support.

Mr. Joines presented their revitalization goals including redeveloping the Historic Mill, creating economic development by giving individuals space for long-term wealth creation while promoting the arts and culture in line with the 2030 Comprehensive Plan.

Mr. Joines presented their concept for the Grey Mill Art Lofts: an adaptive reuse to one and two-bedroom apartments, multiple opportunities for gallery space, office space for the Arts Council, classroom space and additional new construction on undeveloped land. The proposal assumes: purchasing an adjacent lot on Fourth Avenue, partnering with the Arts Council and working with artists to curate gallery space, and provide live performance space.

Mr. Joines reported the financing sources including housing tax credits, federal and state historic tax credit, private debt, private equity. He reviewed the timeline for the project completing summer 2016. Mr. Todd

explained there will be income guidelines for the resident associated with the financing of the affordable housing. There is also a 30-year requirement for affordable housing.

Partnership: Mr. Todd stated they will seek an operating agreement for the property for site control and security to invest approximately \$35,000 into the preparation of the application would request endorsement of the application for CDBG funding, possibly rezoning the property for multi-family purposes. He stated they do not plan to ask for any funds from the City and if the funds are not received as anticipated, the City would get the property back.

Mr. Joines explained the City may maintain ownership of the land with a long-term ground lease or sell it to them conditional upon the tax credits. He stated financing may also approve scattered-site housing which may help provide linkage to the Historic Seventh Avenue District.

Mayor Pro Tem Collis asked if the future expansion of the jail may affect the grants. Mr. Joines stated it could have an effect on the scoring by the NC Housing Finance Agency for the extremely competitive process.

Discussion followed on the income guidelines for the residents, the success of this model in other places, the proposed site plan, the tax credits and parking for the project. Mr. Joines stated it may be August 2014 before they know if the tax credits are approved. He stated Landmark is not a non-profit so they do pay taxes according the net operating income approach as authorized by NCGS, not ad valorem.

Mayor Volk thanked the presenters for their proposal.

12:15 p.m. Presentation: CathFord Consulting, LLC by Bob Englander: Mr. Englander explained CathFord began as an adaptive reuse company in Richmond, VA and have completed 15 historic preservation projects in and around Richmond. They have a great deal of experience with old buildings, are sympathetic to neighborhoods and the original use of the properties. They are currently working on one-two projects per year for an economic development to benefit for the community and this project fits the model well.

Mr. Englander explained this is two-step project: 1) convince the Council and the community they are the company to complete the proposal, and 2) then go to Wingate to negotiate an agreement. He stated it has been discussed at length with parties there but it is subject to significant review.

Mr. Englander stated the building is in stable condition but needs a great deal of work. He stated their proposal will address those needs while addressing Wingate's needs as well. He stated Wingate University is outgrowing their space. Wingate's current leases run through July 2016 and he proposed meeting the timeline that will coordinate with the end of those leases.

Plan: Mr. Englander explained their plan is to come to an agreement with Wingate as soon as possible after approval from the City. They will brand that building as "Wingate University Hendersonville Campus". He stated this will bring economic development and help brand both Hendersonville and Wingate University in Western North Carolina. From an economic development standpoint, it provides great benefit to the community because it links the eastern side of the Main Street corridor into an additional precinct that can be grown, both from retail and commercial and will expand the wonderful Main Street corridor. He applauded the forethought for the downtown and Main Street corridor.

Mr. Englander stated they plan to renovate the entire mill in a two-year period to coincide with lease expiration. All of Wingate's programs would be housed in the Mill building. There is sufficient parking on-site. They will do a complete, sensitive renovation that will confirm with Park Service guidelines for historic structures. As Wingate grows, there is additional space available for a true campus setting. Parking would have to be found elsewhere. They plan to use the entire property as campus.

Mr. Englander proposed working with the architectural firm of Calloway, Johnson, Moore and West. He stated they work collaboratively and they understand historic architecture. He reviewed their experience.

Partnership: Mr. Englander explained he anticipates the property will be transferred to their ownership because they plan to use mill tax credits, and probably not federal tax credits because of the calculus involved in the first five years of ownership with leasing to non-profits. He anticipates using mill tax credit and new market tax credits that will help finance the project. He estimated they will provide \$25,000 in taxes annually and is a reason to keep ownership in the private sector. He stated they are not asking for City participation other than transferring property.

Mr. Englander explained because of the proximity to Main Street, the consideration of the 2030 Comprehensive Plan, and the Fourth Avenue corridor plan, there is a good deal of work to be done on the sidewalks and crosswalks, working with the power company for underground utilities, etc. which would be their responsibility, and will do those in concert with the city.

There was discussion on the mill tax credits, negotiating a long-term lease with Wingate prior to project approval, adequate parking if Wingate further expands, and if the project can be completed at the expiration of Wingate's current leases. Mr. Englander proposed giving him 90 days to negotiate an agreement with Wingate. He stated they could have a plan in place by the end of 2013 and begin construction in 2014. He stated the architect and general contractor is in NC. He stated they will use local vendors for supplies and local labor as much as possible. He stated he will be on the job several days per week.

Mayor Volk thanked Mr. Englander for his proposal. She announced the Council will meet Thursday to discuss all proposals. The Council deliberated whether the discussion will be done in closed session.

There was discussion of whether Council may discuss the merits of the proposals in closed session. At 1:21 p.m., **Council Member Caraker moved the Council to enter a closed session to consult with the attorney to preserve the attorney-client privilege between the attorney and the City Council. A unanimous vote of the Council followed. Motion carried.**

The Council conferred with the City Attorney on disposal of property with an economic development purpose.

At 1:28 p.m., **Council Member Smith moved Council to exit the closed session. A unanimous vote of the Council followed. Motion carried.**

Adjournment: Being no further business, the meeting adjourned at 1:28 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

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**June 20, 2013
Special Meeting of the City Council
Council Chambers – City Hall
3:00 p.m.**

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

Staff Present: City Manager John F. Connet, City Attorney Samuel H. Fritschner, City Clerk Tammie Drake, Planning Director Sue Anderson, Main Street Director Lew Holloway

The purpose of the special meeting is to review and discuss the four proposals/ presentations for the Grey Hosiery Mill building and possibly make a decision on the redevelopment. Other topics may be discussed.

1. Call to Order: Mayor Volk called the meeting to order at 3: 05 p.m. and welcomed those in attendance. A quorum was established with all five members in attendance.

At 3:06 p.m. **Council Member Caraker moved the Council enter closed session pursuant to N.C.G.S. 143-318.11(4) to discuss matters relating to the location or expansion of industries or other businesses in the City of Hendersonville, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. A unanimous vote of the Council followed. Motion carried.**

The Council discussed the proposals made for the Grey Mill Building and options for disposing of the property.

At 4:18 p.m., **Council Member Smith moved the Council to exit the closed session. A unanimous vote of the Council followed. Motion carried.**

Upon return to open session, **Council Member Smith moved to award the project to CathFord Consulting, LLC, granting them 90 days to demonstrate to the City Council that they can perform in accordance with their proposal.** In discussion, Mayor Pro Tem Collis voiced support of the motion stating the Council has discussed this project since 2005. He stated he has never supported residential on that property because he thinks it is the wrong place; it is next to the courthouse overlooking the jail. He stated any residential may become dilapidated and vacant. He voiced support of the CathFord project. Council Member Stephens stated he supports the University and housing because it would be a boost to downtown to have more people living downtown. He stated it is good for business and the tax base. He believes it will help bridge the gap between Seventh Avenue and Main Street. He stated he would have voted for White Challis and will not vote for this project because he believes he should vote for the project he believes in and would be best for the location. He stated it definitely improved the University. Mayor Volk commented she has problems seeing housing in that area. She prefers to go with the proposal that does not include housing but definitely includes Wingate. Council Member Caraker stated he is voting against the proposal because he is voting with his heart and Seventh Avenue. He stated he likes the Wingate proposal but not having the residential component cuts off Seventh Avenue and hinders the effort to revitalize that area of the City. He stated he is happy to have any proposal that brings Wingate more presence in Hendersonville. **The vote was three in favor, two opposed (Caraker, Stephens). Motion carried.**

Adjournment: Being no further business, the meeting adjourned at 4:25 p.m. upon unanimous consent of the Council.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Susan G. Frady

Department: Zoning

Date Submitted: 06/26/13

Presenter: Susan G. Frady

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05b

Pursuant to Section 26-40 of the City Code of Ordinances, I request approval for the City to cause certain nuisances to be remedied and to assess the actual cost to the property owner. By this memorandum, I certify that the following property owners have been notified of a nuisance condition by certified mail and have failed to take corrective action:

- 1) Samuel & Mary Angram – 710 E. Pace Street.
- 2) Mikel Cox – 840 Temon Street.
- 3) TD Bank NA – 27 Turnabout Lane.
- 4) TD Bank NA – 1210 Greenville Highway.
- 5) Hannah Flanagan's – 300 A. N. Main Street (alley).
- 6) Tanya Fayan – 2118 Somerset Drive.
- 7) On Solid Rock Investments – 1281 N. Main Street.
- 8) BB & T – 15 Meredith Drive.
- 9) Carolyn H. Clarke – 2017 Upper Ridgewood Blvd.
- 10) Bank of America – 207 Ewbank Drive.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the City Council approve abatement by the City of the nuisances as listed and that the cost be assessed to the property owner.

Attachments:

PROCLAMATION

WHEREAS, Whereas the Boys & Girls Club of Henderson County inspires and enables all young people, especially those who need us the most, to realize their full potential as productive, caring and responsible citizens, and

WHEREAS, the Boys & Girls Club delivers critical services that meet the individual needs of young people with program priorities that help youth achieve in school, prepare for careers and family life, stay active and fit, serve the community, express creativity, and choose positive, personal actions, and

WHEREAS, the Boys & Girls Club serves more than 1,500 youth annually for an annual cost per child of just \$5, and

WHEREAS, the Boys & Girls Club upholds high ethical standards in every decision reached, every action taken, every dollar raised, and every membership number reported.

Now, therefore, the City Council of the City of Hendersonville does hereby proclaim July 17, 2013 as

"Boys & Girls Club Day"

in the City of Hendersonville, recognizing the Club's two decades of service and commitment to improving the quality of life for many of Hendersonville's youngest and neediest citizens.

WITNESS my hand and the Seal of the City of Hendersonville this eleventh day of July, 2013.

Barbara G. Volk, Mayor, City of Hendersonville

Attest:

Tammie K. Drake, MMC, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 06/28/13

Presenter: Sam Fritschner

Date of Council Meeting to consider this item:

Nature of Item: Council Action

Summary of Information/Request:

Item # 05d

The City Council is required to authorize any eminent domain actions to be filed by the City. The Council previously authorized a number of actions with respect to the Atkinson sewer project (most of which thankfully will not have to be filed). Since the previous authorization the Engineering department determined that one additional property will need to be acquired for the project.

The attached resolution will authorize the City to acquire that property by eminent domain if necessary.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the Council to adopt the resolution authorizing the City to proceed with an eminent domain action on the Grose Trust tract as listed.

Attachments:

Authorizing resolution

RESOLUTION # _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO AN ACTION UNDER N.C.G.S.
CHAPTER 40A WITH RESPECT TO CERTAIN REAL PROPERTY IN HENDERSON
COUNTY**

WHEREAS the City Council finds it necessary in order to complete the construction of a sanitary sewer project near Kanuga Road in Henderson County sometimes known as the Atkinson sewer project,

NOW, BE IT THEREFORE RESOLVED that the City Attorney be and he is hereby authorized to file an action under N.C.G.S. Chapter 40A with respect to the following identified real property .

Owner Name	PIN
Edney, J. Michael Trustee The P.H. Grose Jr. Family Trust	9568721171

Adopted this eleventh day of July 2013.

Barbara Volk
Mayor, City of Hendersonville

ATTEST:

Tammie K. Drake, CMC
City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 06/19/13

Presenter: Sam Fritschner

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05e

At its regular June meeting the Council approved a policy change that approved, among other things, a change in the makeup of the Events Committee. Mr. Holloway noted at the time that if the Council approved this policy change Staff would be putting an appropriate ordinance change on the July consent agenda.

Attached is the Amendment to Code of Ordinances section 46-85 making the following changes:

1. Adding the Zoning Administrator or his/her designee, to the committee,
2. Adding the Fire Chief or his designee to the committee; and
3. Removing as an ex officio member the representative of Downtown Hendersonville, Inc., and adding the Main Street Director.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the Council to amend section 46-85 of the Code of Ordinances as pertains to the membership of the Events Committee.

Attachments:

Proposed amendment to section 46-85.

AN ORDINANCE AMENDING SECTION 46-85 PERTAINING TO THE EVENTS COMMITTEE

WHEREAS, the Code of Ordinances section 46-85 provides for the establishment, membership and duties of the Events Committee, and

WHEREAS, the City Council has previously determined by resolution to amend the membership of the Committee, and

WHEREAS, the said Ordinance in its current form does not completely conform to the current policy as established;

NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Section 46-85 of the Hendersonville Code of Ordinances is hereby amended as follows:

Sec. 46-85. - Events committee established; membership; duties.

(a) There is hereby officially designated an events committee, the purpose of which will be to review and evaluate applications for the temporary use of public property, including applications for special event permits pursuant to section 46-84

(b) The membership of the events committee shall be as follows:

(1) The chief of police or his designee;

(2) The city manager or his designee;

(3) The director of public works or his designee;

(4) The Zoning Administrator or his/her designee,

(5) The Fire Chief or his designee; and

(6) ~~The representative of Downtown Hendersonville, Inc., Main Street Director~~ shall be an ex officio member of the committee, having voice but no vote.

(c) Requests for the use or obstruction of public property shall be made on forms promulgated by the city manager and shall be referred to the events committee.

(d) The events committee shall review such requests and, in the case of an application requiring city council approval, shall prepare a report setting forth the anticipated public costs of the special event and the recommendation of the committee, and shall forward such report and recommendation to the city council.

(e) The events committee itself shall have authority to issue special event permits in the following circumstances:

(1) When the proposed special event will not result in the obstruction or blocking of streets or sidewalks and the total cost in city services will not exceed \$1,000.00; or

(2) When the proposed special event has been approved previously by city council and the proposal does not materially differ from that previously approved by the city council.

(f)When the events committee denies an application for a special event permit, the applicant shall have the right to have the matter considered by city council. In order to exercise that right, the applicant must make such request in writing to the city clerk within 15 days of the date of denial by the events committee.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this eleventh day of July 2013.

Barbara Volk, Mayor

Attest:

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 06/28/13

Presenter: Sam Fritschner

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05f

Attached are proposed findings of fact and conclusions of law for the Ingles gas pump and additional driveway request.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the Council to approve the Findings of Fact, Conclusions of Law and Decision for File # P13-4-SUR.

Attachments:

Proposed Findings and Conclusions.

**STATE OF NORTH CAROLINA
HENDERSON COUNTY**

**BEFORE THE
HENDERSONVILLE CITY COUNCIL
FILE NO. P13-4-SUR**

**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND DECISION**

**IN RE THE APPLICATION OF
INGLES MARKETS, INCORPORATED for a
SPECIAL USE PERMIT FOR
PIN 9569-45-9576**

This matter came before the Hendersonville City Council on the application of the City of Hendersonville for a Special Use Permit with respect to PIN 9569-45-9576 to to add a Gas Express station to the Ingles grocery store located at 1980 Asheville Highway. The Gas Express will have four pumps and eight vehicle fueling stations. The applicant is also requesting a variance from Zoning Ordinance Section 5-18-4.3, increasing the number of driveways a development parcel may have on any given road from two to three.

ISSUES

Section **7-4-10.1** of the Zoning Ordinance states, "no special use permit shall be approved by City Council unless each of the following findings is made."

- (A) The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.
- (B) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 7-11.
- (C) The use or development complies with all required regulations and standards of the Zoning Ordinance or with variances thereto, if any, granted pursuant to Section 7-4-14, and with all other applicable regulations.
- (D) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located.
- (E) The use or development conforms to the general plans for the physical development of the City as embodied in this chapter and in the Land Development Plan

(LDP) and the Thoroughfare Plan.

**Return to
Agenda**

The burden of establishing these findings of fact shall lie upon the applicant. There exists a legal presumption that a use is compatible with their neighborhood where the use is permitted.

Section 7-4-14 with respect to variances provides:

7-4-14 Variances. For applications undergoing special use review, City Council may authorize variances in specific cases from the dimensional and improvements standards of the zoning ordinance upon finding that a literal enforcement of such standards will result in practical difficulty or unnecessary hardship and so long as the granting of such variance or variances will not result in a use or development which would violate the findings of fact required by Section 7-4-10, above. Variances may not be granted with regard to uses or to intensity. (amended 11-11-97)

TESTIMONY

The testimony is reflected in the minutes of the 6 June 2013 regular meeting of the City Council, which minutes are incorporated here

FINDINGS OF FACT:

1. COMPREHENSIVE PLAN CONSISTENCY This parcel is classified as a Neighborhood Activity Center and Natural Resource/Agricultural on the 2030 Comprehensive Plan's Future Land Use Map. Surrounding parcels are classified as Neighborhood Activity Center, Natural Resource/Agricultural and Medium Intensity Neighborhood. The goal of the Neighborhood Activity Center is to "concentrate retail in dense, walkable mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville's neighborhoods." The goal of the Medium Intensity Neighborhood is to "provide a transition between High and Low-Intensity Neighborhood and Regional Activity Centers and downtown and provide a transition between commercial and single-family development." The goal of the Natural Resource/Agricultural category is to "create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low-impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources." The Natural Resource/Agricultural category is generally applied to environmentally sensitive land such as streams, floodways and floodplains.

Gas Express Addition The site plan shows the addition of a 4 pump Gas Express to the southwest portion of the parking lot. The Gas Express will have a

3,298 ft² canopy that also includes the 3 kiosk for the attendant.

3. Parking According to the existing site condition plan, there are 250 parking spaces located on the site. Table 6-5-2 of the Zoning Ordinance requires 1 space for each 200 ft² of gross floor area for grocery stores. Based on 64,450 ft², 323 parking spaces are required. When it can be demonstrated through a professional parking analysis that the demand for parking is less than required in Table 6-5-2, Section 6-5-4 of the Zoning Ordinance allows up to a 40% reduction in parking without requesting a variance. Ramey Kemp & Associates, Transportation Engineers, completed a parking analysis for this store using actual parking demand at the Ingles Store #43 in Arden and the Ingles Store #130 in Fletcher. Both of these stores include a Gas Express. At peak times during the study, that is when the parking lot is fullest, the parking rate was 1 space for each 523 ft² of gross floor area for the Arden site and 1 space for each 425 ft² of gross floor area for the Fletcher site. The site plan shows a total of 251 parking spaces are to be provided. This translates to a parking ratio of 1 space for each 259 ft² of gross floor area which appears to be sufficient to meet the parking needs based on the analysis of the other two sites. Parking spaces removed for the Gas Express will be added to the northeast of the addition. This area is shaded on the site plan.

4. Sidewalks There is an existing sidewalk connection from the street to the grocery store at the northern boundary of the parcel. A new sidewalk connection to the existing grocery store will be added at the southern boundary of the parcel. There is also an existing Apple County Transit bus stop on Asheville Highway in front of the parcel.

5. Stormwater The applicant will be improving the site's stormwater management meeting current Phase II stormwater management requirements.

6. Traffic Impact Analysis (TIA) Zoning Ordinance Section 6-19 requires a traffic impact analysis whenever a development generates 100 peak hour or 1000 or more trips daily. A "trip" is a onedirection vehicle movement entering or exiting a site. Based on the Institute of Transportation Engineers *Trip Generation* manual, the site is estimated to generate an additional 1,348 daily vehicle trips. According to the manual, the site currently generates approximately 6,574 daily vehicle trips during a weekday and 11,584 daily trips during a Saturday. A traffic impact analysis has been completed by Mattern & Craig and has been reviewed by Kimley-Horn & Associates, the traffic consultant for the city. There are three issues to be considered regarding the TIA.

#1 The TIA identified that the site currently warrants the need for a northbound rightturn lane for the center driveway (driveway #2). The driveway on the northern boundary of the parcel has an existing right turn lane. Although the TIA completed by Mattern & Craig identified the need

for a minimum of 50 feet of vehicle storage for that turn lane, Kimley-Horn & Associates calculated that the turn lane needs a minimum of 75 feet of storage with additional area needed for a taper. This distance is based on having three driveway access points. Mattern & Craig is in agreement with 75 feet of storage but states that “the presence of the third driveway and the existing property line may limit how much storage could actually be achieved.” Correspondence from Steve Cannon of NCDOT states that they will require the northbound right turn lane. The site plan currently shows a right turn lane with 75 feet of storage and a 50 foot taper for the center driveway.

#2 Zoning Ordinance Section 5-18-4.3 has a provision for the number of driveways allowed on a given parcel in the Entry Corridor Overlay District. The development of regulations for this district evolved from a concern about the appearance and safety of Hendersonville’s commercial and entry corridors. During the public hearing for this text amendment to the Zoning Ordinance, Mayor Niehoff stated that “the City Council has an objective to improve the appearance of the city’s corridors, to have more vegetative planting, less sign clutter and fewer driveways from a safety standpoint. The Entry Corridor Overlay District was adopted by City Council in August 1998 and applies to parcels fronting on Asheville Highway, Greenville Highway, Spartanburg Highway, Haywood Road and US 64. Section 5-18-4.3 states that “...a development parcel shall be limited to no more than two driveways on any road and no more than three driveways total.” This provision further states that “additional driveways may be permitted when they are necessary to improve traffic movement, increase sight distances or for other safety reasons.” The site plan shows the two existing full movement driveways along with a new third restricted movement driveway located at the southern boundary of the parcel. This third driveway is restricted to right-in only. Kimley-Horn & Associates requested that Mattern & Craig provide information on why a third driveway is necessary. Mattern & Craig states that limiting the site to two driveways would require a need for a right turn lane consisting of 100 feet of full storage and 100 feet of taper for the center driveway. Mattern & Craig further states that there is only 150 feet of distance available between the center driveway and the property line. The applicant has requested a variance from Zoning Ordinance Section 5-18-4.3 allowing the addition of a third driveway. The applicant has completed a finding of fact form on page nine for the variance request. Should the variance not be approved, staff recommends adding a condition that the proposed turn lane is extended to the southern property line.

#3 Kimley-Horn & Associates has raised concerns that “a median is not currently in place, nor proposed, along Asheville Highway to prohibit left turning movements into and out of the third driveway, therefore

consideration should be given to limiting the site access on US 25 to the two full movement drives that exist currently.” In response to this comment, Mattern & Craig has stated the following: “Mattern & Craig takes no exception to the comment provided by Kimley-Horn. The TIS has demonstrated that the development will function adequately with the addition of a right-in, right-out driveway. If the City of Hendersonville and/or NCDOT determines the addition of Entrance #3 is in violation of the access management guidelines, then the length of the northbound right turn lane at Entrance #2 would be based on 139 vehicles making a right turn during the PM peak hour resulting in 100 feet of storage required.” City staff has received an e-mail from NCDOT stating that they will support the third driveway provided that it is right in only. The site plan shows a right in only driveway at this location.

CONCLUSIONS OF LAW

1. The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. There are adequate public facilities to serve the use or development as specified in Section 7-11;
3. The development complies with all required regulations and standards of the zoning ordinance or with variances thereto, if any, granted pursuant to Section 7-4-14, and with all other applicable regulations;
4. The development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located; and
5. The development conforms to the general plans for the physical development of the City as embodied in this chapter and in the Land Development Plan and the Thoroughfare Plan.
6. The project fulfills the requirements for the special use permit with respect to the gas pumps.
7. With respect to the variance request, the applicant has not shown a hardship as that term is used in the ordinance.
8. With respect to the variance request, the change sought is one of intensity, namely, the addition of an entrance driveway. The ordinance does not permit variances with respect to intensity.

DECISION

For the above reasons,

The City Council approves the request for an amended Special Use Permit in accordance with the application as contained in File No. P13-4-SUR, with the following stipulations:

The variance with respect to the additional driveway is denied.

List of Uses & Conditions

I. Stipulated Uses:

Only the following uses are authorized for the referenced development:

Retail Stores

II. Conditions:

(1) Shall Be Attached to the Special Use Permit and Satisfied Prior to Issuance of Final Site Plan Approval:

No recommended conditions have been identified at this time.

(2) Shall Be Attached to the Special Use Permit:

Final plans for the project shall comply with approved plans, the conditions agreed to on the record of this proceeding and applicable provisions of the Zoning Ordinance.

Ingles Markets

By: _____

Date: _____.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 06/28/13

Presenter: Sam Fritschner

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 06

The North Carolina General Assembly and NC Supreme Court have indicated their insistence that sweepstakes machines are illegal in this state. The City Council has zoned such machines as may ever be legal within the I1- Industrial district.

However, a small zoning loophole may exist now or in the future that the Council may wish to consider closing.

Certain machines that are currently defined to be among "Electronic Gaming Operations" remain legal in this state. I refer to them as "merchandise machines" because they are permitted so long as the prize is merchandise that does not exceed \$10 in value.

The concern is that as long as an establishment retains a merchandise machine it remains grandfathered in any zoning district as an "Electronic Gaming Operation." If the location later finds a way to bring in (and have a court declare legal) a true gambling machine, as many have found a way to do in the past, the "merchandise machine" will have carried the grandfathering through for the gambling machine, which would frustrate the City Council's intent.

The proposed ordinance change would separate definitions for the merchandise machines and other Electronic Gaming machines, so that at least the gambling machines would not be able to derive grandfathering from the (still legal) merchandise machines.

The Planning Board heard and approved the proposed zoning change by a vote of 7-2.

This is an Article XIX zoning change and will require a public hearing.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council to adopt the change to the zoning ordinance defining "Merchandise Gaming Operations" and permitting such operations in the I-1 industrial zoning district.

Attachments:

Memorandum and proposed Ordinance

M E M O R A N D U M

TO: City Council

FROM: Sam Fritschner, City Attorney

RE: Text Amendment of Section 5-12-2 Permitted Uses in the I-1 Industrial Zoning District

FILE #: P13-18-T

DATE: June 28, 2013

PROJECT HISTORY

Over a year ago, in response to a request by the City Council, the Planning Board recommended adding Electronic Gaming Operations to the I-1 Industrial District. This recommendation was adopted by the City Council and such devices were restricted to the I-1 District.

However, at the time of passage of this ordinance, many operators had already established sweepstakes operations in other districts and were therefore grandfathered in to those districts.

These machines and their operation have now been declared illegal by both the General Assembly and the Supreme Court, with the (possible) exception of certain machines the operation of which renders the “winner” eligible for a prize of merchandise with a cash value of not more than \$10.00.

Because the zoning ordinance currently defines both the regular and “merchandise” machine operations as “Electronic Gaming Operations,” any operator currently employing a merchandise machine continues to be grandfathered into these non-I1 districts as nonconforming uses. In the future, if some device is discovered to evade the Sweepstakes Ban, the operators of the “merchandise” machines will have continued to be grandfathered in all along and may be entitled to resume sweepstakes or similar operations, despite the stated policy of the City Council (and Planning Board).

The proposed ordinance would distinguish between merchandise machines and other sweepstakes machines, while restricting them both to the I-1 district. From the date of adoption of the proposed ordinance, these operators would then, after the 6-month waiting period, lose their grandfathered status with respect to the Sweepstakes machines, though they may, possibly, keep this status with respect to the “merchandise” machines.

Listed below is the purpose of the industrial zoning district and the allowed permitted uses. A map of industrial zoned properties is included as well.

Section 5-12 I-1 Industrial Zoning District Classification. This zoning district classification is established for those areas of the City where the principal use of the land is for industrial activities that by their nature may create some nuisance and which are not properly associated with residential, commercial and/or service establishments. This district is also established to preserve areas exhibiting industrial potential. Selected business uses of a convenience character are also permitted in this district.

5-12-1 Permitted Uses: The following uses are permitted by right in the I-1 Industrial Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance.

Accessory dwelling units	Hospitals
Accessory uses & structures	Hotels
Agricultural supplies, bulk	Laboratories
Animal hospitals & clinics	Manufacturing
Automobile car washes	<u>Merchandise gaming operations</u>
Automobile sales & service	Mini-warehouses
Automobile paint & body work	Motels
Bottling plants	Motor freight terminals
Bus stations	Nursing homes
Business services	Parks
Cemeteries, mausoleums, columbariums, memorial gardens, and Civic	Passenger transportation terminals
Concrete plants	Planned residential developments (minor)
Congregate care facilities	Progressive care facilities
Construction trades facilities	Public and semi-public structures
Convenience stores with or without gasoline sales	Publishing and printing establishments
Day care facilities	Radio and television broadcasting studios
Dry cleaning & laundry	Recreational facilities, commercial, indoor
Exhibition buildings	Recreational facilities, commercial, outdoor
Exterminators	Recycling centers
Fairgrounds	Religious institutions
Farm equipment sales & service	Repair services
Feed and grain storage	Research and development
Freight terminals	Residential dwellings
Food processing establishments	Rest homes
Funeral homes	Restaurants
Golf courses and related activities	Restaurants, drive-in
Government facilities	Retail stores
Greenhouses & commercial nurseries	Service stations
Health clubs and athletic facilities	Signs
Heavy equipment, sales, rentals, leases, and service	Storage yards
Heavy equipment storage	Telecommunications antennas

Telecommunications towers
Travel trailer sales)
Treatment plants, water and sewer
Vehicle repair shops
Vehicle storage areas

Warehouses
Wholesaling establishments

Section 12-2 (Definitions)

Electronic Gaming Operation: Any business enterprise, whether as a principal or accessory use, where persons use electronic machines to conduct games of chance and where money, credit, merchandise or other items or allowance of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. “Electronic Gaming Operation” as used herein shall not include (1) any lottery operated pursuant to NCGS Chapter 18C or any other like operation expressly permitted to operate in North Carolina by applicable statute or (2) any game, machine, operation or device permitted to be operated by virtue of N.C.G.S. § 14-306(b) or any successor provision.

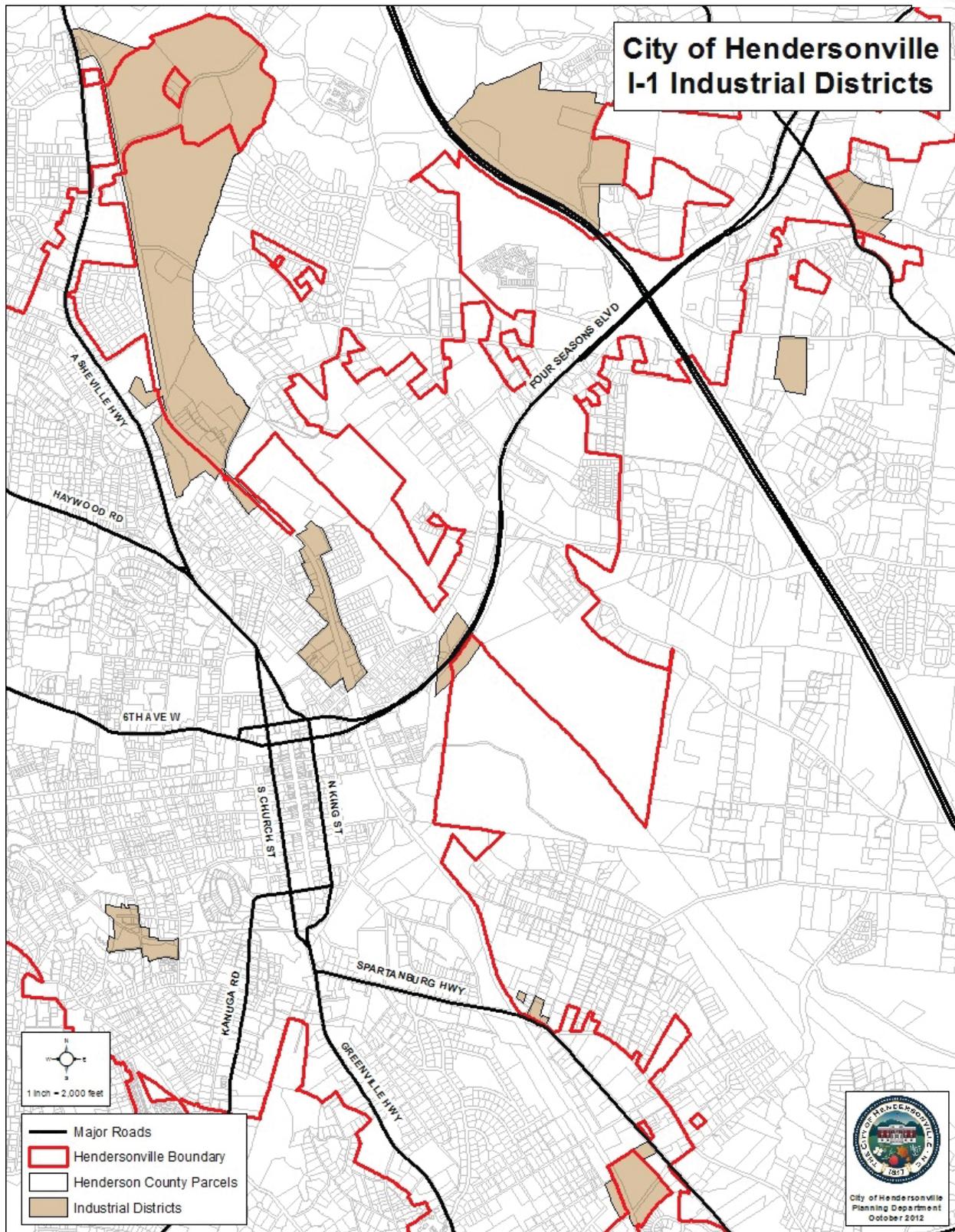
Merchandise Gaming Operation: Any game, machine, operation or device permitted to be operated by virtue of N.C.G.S. § 14-306(b) or any successor provision.

COMPREHENSIVE PLAN

The Comprehensive Plan would not affect the proposed ordinance, whose sole purpose is to more effectively implement the intent of existing ordinances.

PLANNING BOARD

The Planning Board voted 7-2 to recommend passage of this change.



ZONING ORDINANCE GUIDELINES

Per Section 11-4 of the City's Zoning Ordinance, the following factors shall be considered by City Council prior to adopting or disapproving an amendment to the

text of the City's Zoning Ordinance:

1. **Comprehensive Plan Consistency.** Consistency with the Comprehensive Plan and amendments thereto.
2. **Compatibility with surrounding uses.** Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.
3. **Changed conditions.** Whether and the extent to which there are changed conditions, trends or facts that require an amendment.
4. **Public Interest.** Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.
5. **Public facilities.** Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.
6. **Effect on natural environment.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

**AN ORDINANCE AMENDING ARTICLE V SECTION 5-12-1 OF THE ZONING
ORDINANCE OF THE CITY OF HENDERSONVILLE ADDING MERCHANDISE
GAMING OPERATIONS AS A PERMITTED USE IN THE I-1 INDUSTRIAL ZONING
DISTRICT CLASSIFICATION**

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures; and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances; and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to permitted uses.

NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

1. Article V Zoning District Classifications, Section 5-12-1 Permitted Uses is hereby amended to include the following permitted use:

Merchandise Gaming Operations

2. Article XII Section 12-2 is hereby amended to include the following:

Electronic Gaming Operation: Any business enterprise, whether as a principal or accessory use, where persons use electronic machines to conduct games of chance and where money, credit, merchandise or other items or allowance of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. "Electronic Gaming Operation" as used herein shall not include (1) any lottery operated pursuant to NCGS Chapter 18C or any other like operation expressly permitted to operate in North Carolina by applicable statute or (2) any game, machine, operation or device permitted to be operated by virtue of N.C.G.S. § 14-306(b) or any successor provision.

Merchandise Gaming Operation: Any game, machine, operation or device permitted to be operated by virtue of N.C.G.S. § 14-306(b) or any successor provision.

3. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.

4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

5. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

6. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

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

Adopted this ____ day of _____, 2013

Barbara Volk, Mayor

Attest:

Tammie K. Drake, CMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Jim Rudisill

Department: Finance

Date Submitted: 06/27/13

Presenter:

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 07

The City plans to have a bond referendum on the November 5 general election to have the citizens of the City of Hendersonville vote whether or not to issue \$6,000,000 of park improvement general obligation bonds for the Berkeley Mills Park Project. In order to do so the City must pass a resolution making certain findings and determinations; and, authorizing the filing of an application with the Local Government Commission in connection with the proposed authorization of parks and recreation bonds by the City.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I make a motion to approve the resolution making certain findings and determinations and authorizing the filing of an application with the Local Government Commission in connection with the proposed authorization of parks and recreation bonds by the City.

Attachments:

The City Council of the City of Hendersonville, North Carolina held a regular meeting in the Council Chambers at City Hall located at 145 Fifth Avenue East in Hendersonville, North Carolina, the regular place of meeting, at 5:45 p.m. on July 11, 2013.

Present: Mayor Barbara Volk, presiding, and Council Members

Absent: Council Members

Also Present: _____

* * * * *

_____ introduced the following resolution the title of which was read and copies of which had been previously distributed to each Council Member:

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION IN CONNECTION WITH THE PROPOSED AUTHORIZATION OF PARKS AND RECREATION BONDS BY THE CITY

BE IT RESOLVED by the City Council (the “City Council”) of the City of Hendersonville, North Carolina (the “City”):

Section 1. The City Council does hereby find and determine as follows:

(a) Preliminary studies have been completed to demonstrate the need for financing the cost of improving and expanding the existing parks and recreational facilities of the City and acquiring and constructing new parks and recreational facilities of the City, inside and outside its corporate limits, including, without limitation, the acquisition of any land, rights of way and equipment.

(b) The City Council wishes to commence the procedures for the authorization of parks and recreation bonds to provide financing for such capital projects.

(c) The capital projects to be funded by the proposed bonds are necessary and expedient, and the amount of the proposed bonds is adequate and not excessive to fund said capital projects.

(d) The debt management and the budgetary and fiscal management policies of the City have been carried out in compliance with applicable law.

(e) The increase in taxes, if any, necessary to service the proposed debt will not be excessive.

Section 2. The City Manager or the Finance Director of the City, as the case may be, is hereby directed to file an application of the City with the North Carolina Local Government Commission for approval of not exceeding \$6,000,000 Parks and Recreation Bonds of the City. The City Clerk is hereby authorized to publish a notice of intent to file such application in the manner provided by law, and any action heretofore taken to publish such notice is hereby approved, ratified and confirmed.

Section 3. The appropriate officers of the City are hereby authorized and directed to do any and all things necessary, appropriate or convenient to carry into effect the provisions of this resolution.

Section 4. This resolution shall take effect immediately upon its passage.

Upon motion of _____, seconded by _____, the foregoing resolution entitled "RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION IN CONNECTION WITH THE PROPOSED

AUTHORIZATION OF PARKS AND RECREATION BONDS BY THE CITY” was passed by
the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Tammie Drake, City Clerk of the City of Hendersonville, North Carolina, DO
HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the City
Council of said City at a regular meeting held on July 11, 2013, as relates in any way to the
introduction and passage of the foregoing resolution and that said proceedings are recorded in
minutes of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was
given as required by North Carolina law.

WITNESS my hand and official seal of said City this 11th day of July, 2013.

City Clerk

[SEAL]



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Lee Smith

Department: Water/Sewer

Date Submitted: 06/28/13

Presenter: Lee Smith

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 08

As you know, the AMI/AMR project recently wrapped up. A part of this project was to install locking lids on all residential meter boxes. The purpose of doing so was to reduce the likelihood of damage by others to equipment maintained in these boxes. Since completing this project, our water customers still wish to have access to these boxes for the purpose of isolating their service lines either while repairing a leak on the customer-side of the meter or when that customer is out of town for the season. In an effort to accommodate this desire, it is now and has been our policy for at least 5-years, to require customer-side isolation valves on all new services. We currently include this isolation valve with all residential meter installations. Once installed this valve becomes the customer's responsibility for its care and operation. Since completing the installation of these locking lids on all residential meters, the City receives calls almost on a daily basis from plumbers or homeowners for us to isolate their meter while a customer-side isolation valve is installed on their service, for those services that pre-dated our policy of including isolation valves with all new residential services.

City council has directed staff to allow others to have access to our residential water meter boxes in order to isolate said meter while installing customer-side isolation valves. Please see attached proposed amendment to the City Code of Ordinances, Chapter 52, Article I, Section 52.13.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the proposed changes to Article I, Section 52-13, included in Chapter 52 of the City's Code of Ordinance, as presented and recommended by staff.

Attachments:

Proposed changes to Chapter 52, Article I, Section 52-13 Tampering with Utility Connections or Appurtenances.

**AN ORDINANCE AMENDING CHAPTER 52 ENTITLED "UTILITIES, ARTICLE I, SECTION 52-13
TAMPERING WITH UTILITY CONNECTIONS OR APPURTENANCES" OF THE CITY OF
HENDERSONVILLE CODE OF ORDINANCES**

WHEREAS, North Carolina State Statutes 160A-312 grants municipalities the power to regulate certain utilities; and

WHEREAS, the City Council of the City of Hendersonville has directed staff to allow others to have access, by permit only, to City owned residential meter boxes for the purpose of shutting water off and on during the installation of customer-side isolation valves by NC licensed plumbers and to amend the text of Chapter 52 - Utilities, Article I, Section 52-13, of the Code of Ordinances accordingly.

NOW THEREFORE, be it hereby ordained by the City Council of the City of Hendersonville:

Section 1.

ARTICLE I. IN GENERAL

Sec. 52-13. Tampering with utility connections or appurtenances.

It shall be unlawful for any person to purposely cut on, cut off, tamper with or damage any meter, meter box, utility connection or appurtenance or to interfere with any meter, meter box, utility connection or appurtenance owned by the city, unless otherwise authorized, in writing, by the city manager or his assignee prior to accessing said utility connections or appurtenances.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~]

Section 2. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extend of such conflict.

Section 3. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

Section 4. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

Section 5. The ordinance shall be in full force and effect from and after the date of adoption.

Adopted this eleventh day of July, 2013.

Barbara Volk, Mayor, City of Hendersonville

Attest:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Tom Wooten

Department: Public Works

Date Submitted: 06/26/13

Presenter: Tom Wooten

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 09

In an effort to create additional public parking for the Whitmire Activity Center and Hendersonville Little Theater, I am requesting that City Council pass a resolution to accept an unopened or unimproved portion of W. Barnwell Street between Lily Pond Road and Washington Street. The intent is to clean up the right of way and create gravel parking that is adjacent to the existing parking lot at the Whitmire Activity Center. City Staff will complete as much of the work as possible but we may have to bring in a contractor for some of the work. It is expected to cost about \$14,000 to complete the project. We do not have funds budgeted for this project.

(We currently maintain W. Barnwell Street from Washington Street to the Creek. This improvement would open the section of W. Barnwell Street from the creek back to Lily Pond Road.)

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the resolution to accept the unimproved section of West Barnwell Street between Wash Creek and Lily Pond Road in order to add public parking adjacent to the Whitmire Activity Center parking lot.

Attachments:

Aerial Photo.

Resolution.

**Return to
Agenda**



LILY POND RD

TOMS PARK CIR

W BARNWELL ST

S WASHINGTON ST

KANUGA RD

Resolution # _____

**RESOLUTION REQUESTING THE ACCEPTANCE OF AN UNIMPROVED RIGHT
OF WAY INTO THE CITY'S MAINTENANCE SYSTEM**

WHEREAS, a certain right of way herein described has been determined to be an unimproved right of way within the City Limits of Hendersonville; and

WHEREAS, this area can effectively be used as public parking for the Whitmire Activity Center and other adjacent businesses:

<u>Street</u>	<u>State Road #</u>	<u>Length (miles)</u>	<u>From/To</u>
West Barnwell Street	N/A	0.06	Wash Creek to Lily Pond Road

Now, therefore, be it resolved, the City of Hendersonville hereby accepts the dedication of and adds the above listed right of way to the City street system in accordance with North Carolina General Statute 136.66.2.

Adopted this second day of July 2013.

Barbara Volk, Mayor, City of Hendersonville

ATTEST:

Tammie K. Drake, CMC, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Lee Smith

Department: Water/Sewer

Date Submitted: 06/28/13

Presenter: Lee Smith

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 10

During city council's regularly scheduled meeting held on Thursday, March 7, 2013, council approved a standard operating procedure (SOP) associated with system development charges (SDC) for water and sewer. This SOP described the methods by which SDCs the past several months, there has been much discussion regarding the new methodology used by city staff for calculating system development charges (SDC) for new commercial and industrial customers. Based on city council's direction to allow developers and owners of property being redeveloped to be allowed some credit for reducing water/sewer usage from previous uses of said property. Staff has revised the procedure that city council approved on March 7, 2013. This revision includes a method to compare previous water/sewer usage on property (ies)procedure with proposed usage. If usage is reduced by 30% or more the SDCs may be reduced by 50% of the calculated SDCs based on anticipated water/sewer usage.

This revision also includes a method for staff to utilize when reconciling SDCs paid based on estimated usage versus actual usage. After two years of actual usage, staff will compare actual usage with estimated usage, which was originally used to calculate SDCs for that property. If actual daily average usage is less, a refund or credit can be provided to that customer; but if the actual daily average usage is greater, an invoice based on that difference will be sent to the customer for payment.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the revisions to the "SYSTEM DEVELOPMENT CHARGES FOR NEW COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL CUSTOMERS", as presented and recommended by staff.

Attachments:

"System Development Charges for New Commercial, Industrial and Institutional Customers" SOP



STANDARD OPERATING PROCEDURE
ADMINISTRATION

Title: SYSTEM DEVELOPMENT CHARGES FOR NEW
COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL CUSTOMERS

Author: Lee Smith, Jim Rudisill

Verified By: _____
Utilities Director

Date: _____

Verified By: _____
Finance Director

Date: _____

Approved By: _____
City Manager

Date: _____

PURPOSE: To recover from new customers a portion of the incremental cost of providing capacity in the treatment facilities, transmission mains, major outfalls and sewer trunks which have been constructed to allow for new development and expansion of the systems. These one time charges to new customers are based strictly on the potential demand each will place on the City's utility systems. Revenues generated by these charges will be maintained in the City's water and sewer cash reserve fund or a dedicated water and sewer capital reserve fund, intended merely to fund or supplement funding for projects associated with expansion of capacity due to growth.

A. CHARGES AND FEES FOR NEW SERVICES.

The installation of a new service is broken into two cost components. The first is referred to as the "tap fee". This represents the actual cost of the installation of the service(s) including labor, equipment and materials. ¾-in. water services, 1-in. water services and all sewer services have a fixed cost (refer to the schedule of rates and fees currently in force) while all water services greater than 1-in. are based on actual costs to the City to install said service plus 10% for overhead. These larger meter installations can vary in cost from size to size and from location to location based on the characteristics of the installation (i.e., pavement cut / repair, depth of lines, distance from utility main to service location, cost for service pipe, etc.). The second cost component of a new service is referred to as the "system development charge" or SDC. This charge is calculated based the potential and/or actual demand that a new customer will be anticipated to place on the City's utility systems, on a daily basis.

B. RESIDENTIAL EQUIVALENT UNIT (REU).

1. Definition.

This is a unit of measure defined as the average amount of usage per day for a residential customer (400-gallons per day for water and 360-gallons per day for sewer). These

average daily usage amounts are described in NCAC T15A:18C.0409, July 2010 for water and NCAC T15A:02T.0114, January 1, 2009 for sewer, or the most current version of each.

City staff has developed a basis for establishing a more “fair” system development charge.

By comparing all commercial, industrial and institutional usage to residential usage, since residential customers comprise the majority of our customer base, in sheer numbers, we can compare all other customer classes to an average residential usage.

2. Calculation Methodology.

First, determine daily water and sewer demand for new customer, which is expressed in gallons per day (gpd). These amounts can either be provided by the new customers based on actual usage experience at other similar facilities or may be calculated using the appropriate information from the NCAC referred to above. Compare these amounts to a residential equivalent unit (REU) for water (400-gpd) and sewer (360-gpd) by dividing water and sewer REU into new demand (gpd), respectively. Multiply each of the resulting **ratios** (or multiplier) by the respective water and sewer system development charge (SDC) currently in force. The results of these calculations are the SDCs for water and sewer.

Example 1:

If a business has 8-employees at 25-gpd per employee (NCAC T15A: 18C.0409) of water usage for a total daily demand of 200-gpd. When you compare this usage to the REU for water, 400-gpd, one would anticipate this new customer to use approximately 50% of what an “average” residential customer would use in a day. Based on this comparison, we would then calculate the system development charge for this business by using the following method -

$$\begin{aligned} &8\text{-employees} \times 25\text{-gpd per employee} = 200\text{-gpd} \\ &200\text{-gpd} / 400\text{-gpd (REU)} = \mathbf{0.50} \\ &\mathbf{\$800} \text{ (current residential SDC for water)} \times \mathbf{0.50} = \mathbf{\$400} \end{aligned}$$

In this example the business would only pay **\$400** for their system development charge because, in theory, this type of customer will apply less demand on the City’s water system.

Example 2:

A proposed new restaurant with 50-seats at 40-gpd per seat of sewer (NCAC T15A: 02T.0114). The SDC calculation for this new restaurant would be as follows –

$$\begin{aligned} &250\text{-seats} \times 40\text{-gpd per seat} = 10,000\text{-gpd} \\ &10,000\text{-gpd} / 360\text{-gpd (REU)} = \mathbf{27.78} \\ &\mathbf{\$1,400} \text{ (current residential SDC for sewer)} \times \mathbf{27.78} = \mathbf{\$38,889} \end{aligned}$$

In this example the restaurant would pay **\$38,889** for their system development charge because, in theory, this facility will discharge much more sewer on a daily basis than a residential customer thus placing a much greater demand on the City’s sewer system.

C. PAYMENT.

1. SDC Payment Eligibility.

All new commercial, institutional and industrial may opt to pay system development charges owed to the City, upon connecting to the City's water and/or sewer systems, on a monthly basis for a period not to exceed three years.

2. Exceptions.

All requested exceptions to C.1 above shall be reviewed and approved by city council.

D. RECONCILIATION OF FEES PAID.

1. Two-years following connection to the City's water and/or sewer system, City staff shall run a financial report providing usage data covering the previous 18-month period. This will allow the business to establish usage patterns during the first 6-months of operations.

2. Staff will then determine the actual average daily usage for the business and compare amount to the estimated average daily usage used to establish the associated SDCs for said business.

3. If the actual daily average usage value is less than the estimated value, a refund or credit shall be provided to the business equal to the difference divided by the respective REU and then multiplied by the respective SDC value used to calculate the original SDC.

4. If the actual daily average usage value is greater than the estimated value, an invoice shall be submitted to the business equal to the difference divided by the respective REU and then multiplied by the respective SDC value used to calculate the original SDC.

5. If the business had opted to monthly payment plan, as described in Section C.1 above, the balance owed to the City shall be amended according to the outcome described in either Section D.3 or D.4 above.

E. REDEVELOPMENT OF PROPERTY WITH EXISTING WATER AND/OR SEWER SERVICE.

1. Staff shall first establish actual average daily usage for each existing water meter(s) on the property prior to the proposed redevelopment, if available.

2. Staff shall then establish what the estimated daily average usage value is for the proposed redevelopment project, based either on historical data from other locations or based on information provided by the developer or the developer's engineer. If the estimated average daily usage value is determined to reduce the actual average daily usage by 30% or more, then the SDCs shall be calculated at 50% of the total value, in accordance with the schedule of rates and fees currently in force.

3. If the estimated average daily usage value is determined to reduce the actual average daily usage by less than 30%, then the SDCs shall be calculated at 100% of the total value, in accordance with the schedule of rates and fees currently in force.

4. Section D above applies to all redevelopment projects. If after completing the steps described in Section D the new business does not comply, said business shall be invoiced for the balance owed to the City.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: John Connet

Department: Administration

Date Submitted: 06/28/13

Presenter: John Connet

Date of Council Meeting to consider this item:

Nature of Item: Council Action

Summary of Information/Request:

Item # 11

At your June meeting, Mark Ray made a presentation to the City Council regarding funding for the restoration of the McClintock Clock located on the Historical Society Building on Main Street. Mark would like to restore the clock to working order and has looked at several alternatives. Mark is working with a non-profit group that specializes in repairing old clocks. They estimate budget for this project is between approximately \$4800 and \$5,000. The costs are broken down at follows :

Material from Electric Time Company - \$2615
250 feet of 3 Conductor 16g cable - \$80
Cleaning materials, paint and misc. items - \$500.00
Donation to non-profit clock repair group for labor - \$800.00 to \$1,200
Contingency, scaffolding and lift - \$605.00

Mark is asking for a donation to assist with this project. He is also seeking donations from the community. I believe you have the following options:

1. Donate the entire amount or a portion from the General Fund.
2. Allocate \$1,000 of MSD facade grant money to project, plus \$500 from Historic Preservation Commission without knowing if additional donations will be received.
3. Match any donated funds up to \$2,500.
4. Do any of the above, plus allocated time and costs of scaffolding and lift from Public Works budget.
5. Do nothing.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the City Council approve option _____.

Attachments:

Information presented by Mark Ray.

DRAFT

This proposal is made for the purpose of restoring the McClintock Clock that is located on the Historical Society Building located on Main Street in Hendersonville .

Background:

This McClintock Clock was installed about 1928 and has been maintained by members of Chapter 126 of the NAWCC since about 1993 when it was modified from a mechanical -electrical clock to be primarily electrical .

The original clock was driven by a mechanical-electrical clock located inside the building.

Signal wires from this clock went to the external clock for the following purposes:

A 24 volt signal was sent every minute to actuate the 4 motion works, one at each face to show the time.

A 24 volt signals every 15 minutes to actuate solenoid driven hammers to play the Westminster chimes on chime tubes within the outside clock.

110 volt signals to turn on 8 lights within the clock during the night time.

In 1993, apparently the original clock was beyond repair and it was decided to replace the

electrical- mechanical clock with an electric timer system with components as shown below:

A 1 rpm motor which drives a micro-switch that sends a 24 volt dc signal to the original 4 motion works , one located in each face to show the time

An electronic quartz chiming clock to provide a Westminster Chime and hour strike signal. This signal was sent to a Radio Shack amplifier and then to a speaker located within the outside clock. The original chime tubes were removed.

A new light system was installed which consisted of a ballast and a 100 watt mercury vapor bulb.

A 24 hour timer was installed to provide a on - off switch to turn on and off the new light system.

This current system has been maintained by Chapter 126 but continues to have problems as the motion works are becoming less reliable and very difficult to repair. At the current time two of the motion works do not index properly thus the North and East faces do not provide the correct time.

Alternatives

Several alternatives have been explored including:

a) Replacing the two motion works with rebuilt units

Since duplicate motion works cannot be obtained, 4 original similar units would cost \$700 each or \$2800 for the four required.

b) Replacing the electronic sound system with the original chime tubes

The cost to replace the missing chime tubes is \$1600 but an electro-mechanical clock is required which is unavailable.

c) Replacing the lighting with LED bar lights

This would cost about \$383 but not provide any additional light and only a minimum savings on electricity

d) Replacing the signal generator with an original mechanical-electrical clock. Mechanical-electrical clock is not available.

Recommendation

The Chapter 126 Committee working on this project recommends the following for the restoration of the Hendersonville McClintock Clock.

1) Purchase and replace the four time movements with new units from Electric Time Co.

- 2) Replace the current signal generator with a Electric Time Clock Controller.
- 3) Leave the Westminster Electronic Chime system as is using the quartz clock and amplifier.
- 4) Leave the Lighting system as is with the 100 -175 watt mercury vapor bulb.

Cost of the above recommendation:

Purchase from Electric Time Company, Inc.

- 1) Four new McClintock movements and the Controller \$ 2615
 - 2) 250 feet of 3 conductor 16 g cable \$ 80
- Total of \$2695 plus shipping

Agreement with Chapter 126, Clock Committee to perform the following work and services.

- 1) Remove all existing electrical & electronic units in the clock
- 2) Wire brush and clean all structural elements inside clock
- 3) Paint all inside structure with a black rust resistant paint.
- 4) Re-install speaker for Westminster Chimes and Strike
- 5) Re-install ballast and socket for 100 Watt mercury vapor bulb.
- 6) Install four motion works as purchased from Electric Time.
- 7) Install inside building, Controller purchased from Electric Time
- 8) Reconnect Quartz Clock and Amplifier
- 9) Reconnect Timer for Outside Clock Light.
- 10) Test all units and provide maintenance instructions.
- 11) Fix and replace post missing fro clock.
- 12) Remove lexan panels for cleaning and Customization.

The above is based on the following services be provided

- 1) Run six cables of 3 conductor 16 gauge from inside cabinet to clock
- 2) Run one 3 conductor 12 gauge power cable from inside cabinet to clock.
- 3) Provide scaffolding or lift as required for items above.
- 4) Pay for cleaning materials, paint, and misc. items as needed above. Estimated to be less than \$500.
- 5) Donate \$ 800 - \$1200 to Chapter 126 NAWCC (a non profit 501c3) corp.)

Advantages of following this recommendation:

- 1) New motion works are very reliable and should require little maintenance. Spare parts are available
- 2) New controller will automatically adjust all clock faces for power failures and daylight savings time - 10 year battery backup
- 3) Light system uses only standard parts which can easily be replaced. Timer will only be affected by longer power outages. Minutes or seconds will not be noticed.
- 4) Quartz clock and amplifier can be replaced and since they are battery operated, will not be affected by power loss.

Old clock may chime again soon

From Page 1

in," Jones remembers.

The clock's brass frame has turned green over the years. And the cast-iron frame that once held the clock dial now hold painted slogans — "Now it's easier to borrow. Ask Us."

But the four men discovered Wednesday that the original dial is shrouded from behind glass tinted green and white, are in place behind them. Black numerals run the traditional circle. Graf said the dial needs to be repaired. Some of the glass is broken and the clock hands are no longer attached.

Graf and three other members of the chapter, exploring the interior of the old timepiece, discovered some wiring and even old light bulbs still screwed into their sockets.

They also found that the clock is designed to run off a master clock that was once located somewhere in the Trust Building. The four hope they can locate the wiring in the building that leads from the master to the exterior clock.

They say they plan to restore the outside clock and then connect the wiring to a new master clock inside the building.

The idea to restore the clock is Graf's. It's not the first project for the 66-year-old former communications manager for IBM. He also restored the clock in the Superior courtroom and another old clock in the Register of Deeds office in the Henderson County Courthouse. He is the only one of the four who is a certified clockmaker. He earned that designation after retiring from IBM in 1971.

For this restoration, Graf has the help of three other retirees, Phil Gilbert, 62, a retired salesman with General Electric; V.W. Kenoran, 68, a retired applications engineer with Twin Disk Inc., a maker of components for heavy industry; and John Saby, 62, a retired research lab manager with GE.

The men said they're unsure how long it will take to repair the clock. As work progresses, bits, pieces and parts will end up in various basements and workrooms. When repaired, the parts will come together again, this time in working condition.

"I've been living here for 12 years and coming downtown and looking at that clock," Graf said. "Since the re-doing of Main Street, I thought it would be nice to redo the clock. I thought it would be nice if we were able to get it back in running condition."

The Fitzgerald Times News



Clock collector Phil Gilbert removes a dial Wednesday from behind one of the faces of the old timepiece on the Trust Building at Main Street and Fourth Avenue. Gilbert and three other men, all members of the local chapter of the National Association of Watch and Clock Collectors, plan to fix the clock and hope to even restore the chimes.

O.B. MC CLINTOCK CLOCK
FOUR FACE, QUARTER HOUR CHIME
MAIN STREET, HENDERSONVILLE, NC



LOOKING OVER THE PROJECT
AUGUST, 1983
PHIL GILBERT, ON LADDER
VIRG KENERSON, LOWER RIGHT

Clock may chime again

Club members fixing clock on Trust Building

By JIM FITZGERALD
Times-Herald Staff Writer

Perched in a white bucket lift, a retiree leans to undo a panel that opens into the old clock fixed to the side of the Trust Building on Main Street. As he works, curious passersby pause and crane their necks to watch.

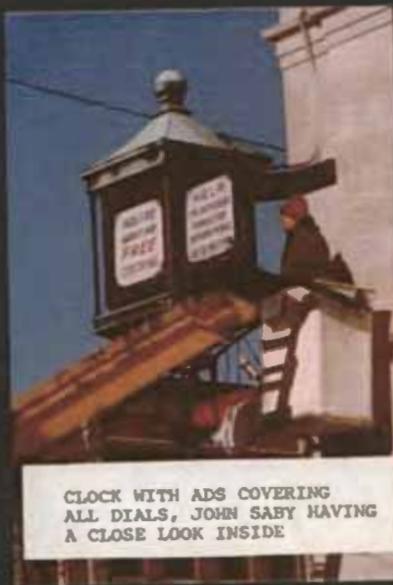
The clock, which once chimed the hour, has been silent for at least 15 years, stopping some time after the State Trust Co. moved out of the building in 1980. But four members of a local clock collectors club began work Wednesday to repair the old brass-framed timepiece.

"I think it will be nice to have the old clock chiming again," said Charlie Graf, a member of the newly formed National Association of Watch and Clock Collectors, Western Carolina Chapter 126.

Until Wednesday, the clock had apparently been forgotten, in contrast to the care it received from the State Trust Co. prior to 1980.

Don Jones, now a vice president and the cashier for Northwestern Bank, remembers that former State Trust president W.B. Hodges took care to keep the clock running. At the time, Jones was an officer of State Trust.

"If that clock stopped running, Mr. Hodges always had repair crews come. Please see OLD, Page 12



CLOCK WITH ADS COVERING
ALL DIALS, JOHN SABY HAVING
A CLOSE LOOK INSIDE

By GONDRA J. COMINGTON
Tri-County Bureau

HENDERSONVILLE — A 56-year-old town clock will chime for the first time in 13 years Thursday after a five-month renovation by experts.

The four-faced, stained-glass clock will start chiming around noon if all goes well.

It was removed from its living post in front of the old State Trust Bank Building on Main Street in June and packed off in pieces to workshops of members of the Western Carolina Chapter 128 of the National Association of Watch and Clock Collectors.

The organization volunteered its time to repair the clock and collected \$1,000 for parts.

The county spent from \$600 to \$700 for wiring repairs to the casing that fastened the clock to the building, now a county office building.

Phil Gilbert, a member of the clock collectors, said the group volunteered to repair the clock "because it's a shame to have a big, beautiful clock that doesn't work hanging on a building."

He said some worn parts had to be replaced. The new parts were created with help from clockmakers all over the United States, as replacement parts are no longer made.

He said clock owners spent from 400 to 500 hours to remove the clock when it was removed from the building June 22.

"It's not done yet," he said.

For Hendersonville Clock, Repairs Mean It's Time To Chime

The clockmakers will begin re-installing the clock on the downtown building at 9 a.m. Thursday.

Gilbert estimated it will take from two to five hours to position the clock, with workers using a hydraulic lift to reach the casing. The clockmakers must wait until dusk to adjust the clock's lighting.

The G.B. McCloskey clock, named after a Minneapolis manufacturer who went out of business in 1941, will play the Westminster chimes every 15 minutes and strike on the hour.

"As it stands now, it is going to chime all night," said county administrator Joel Manburn. "There might be somebody (running downtown) who doesn't want it to chime all night."

The clockmakers can adjust the chimes to sound only during the day, eliminating the sound at night, Gilbert said.





VIC JOHANSSON (L) PHIL GILBERT
REPLACING A REFINISHED DIAL



PROJECT COMPLETED NOV. 1983
(L to R) ED CAPPS city employee, PHIL
GILBERT, CHARLIE GRAF, VIC JOHANSSON,
VIRG KENERSON

Times-News, Hendersonville, N.C., Thursday, November 17, 1983

Clock will chime

For the first time in years, the old clock will chime on the Trust Building at Main Street and Fourth Avenue.

Members of a local clock collectors club undertook a project in June to repair the clock, which had been broken for at least 15 years.

Five months and \$1,000 later, members of the club were expected to install the clock today.

The clock is suspended from between the second and third floors of the building and overlooks Main and Fourth. The clock will chime every 15 minutes and strike on the hour. Lights from behind the four transom windows will light the time at night, according to Phil Gilbert, president of the Western Carolinas Chapter 126 of the National Association of Watch and Clock Collectors.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Brent Detwiler / Lee Smith

Department: Water/Sewer

Date Submitted: 06/28/13

Presenter: Brent Detwiler / Lee Smith

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 12

Staff is currently completing an application for a \$40,000 planning grant from the North Carolina Rural Economic Development Center ("Rural Center") (attached) for utility asset management and master planning. There will be a \$40,000 matching requirement. The goal of the asset management plan is to analyze the data and to report on the state of the City's infrastructure and associated investment needs. The plan will incorporate:

- Statements that define the level of infrastructure services that the Water and Sewer department provides;
- Analysis of current state/condition of the Water and Sewer department's infrastructure assets; and,
- Determination of future infrastructure renewal and replacement investment plans that are used to determine 5 and 10 year capital/fiscal plans.

The grant will also be used to develop a water distribution and wastewater collection system master plan. Both the water and wastewater systems have experienced problems including sanitary sewer overflows and water line breaks as well as growth related pressures. This plan be developed in conjunction with the asset management plan as an aspect of the work involved in determining the current performance of City's assets. Developing a water and sewer master plan focused on growth related capital improvements along with an asset management plan focused on repair, replace and refurbish capital improvements is a common sense (and emerging best practice) approach to overall Capital Improvement Plan development.

Accordingly, staff respectfully requests City Council's consideration of this application and requests that you hereby authorize John Connet, City Manager, to execute this application and associated documentation on behalf of the City. We would like to thank you for taking the time to consider these recommendations associated with this project. Please let us know if you have any questions or require additional information regarding this project and associated costs.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the Council approve the application for the Rural Center's Planning Grants Program to complete an Asset Management Plan and Water and Sewer Master Plans.

Attachments:

North Carolina Water/Wastewater Common Application Form
PLANNING GRANTS PROGRAM MEMORANDUM OF UNDERSTANDING
COMMITMENT OF OTHER FUNDS FORM
AUTHORIZING RESOLUTION BY GOVERNING BODY OF THE APPLICANT

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

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Agenda**

Agency Use Only

In an effort to streamline the application process, North Carolina funding agencies created this common application form for applicants to utilize when requesting water/wastewater grant/loan funds. Additional material required by each funding agency can be found in the appendices.

Guidelines:

- Fully complete each section of this application form
 - Be sure to include all additional information requested by involved funders (found in appendices)
- Please refer to appendices for the number of copies required by each agency.
 - If a project is requesting CWMTF and Rural Center funds, the fully executed common application form should be sent to both CWMTF and the Rural Center. In addition to the common application form, each agency should receive its additional requested material only. See individual agency guidelines for other material needed for each application.

Descriptive Project Title: City of Hendersonville Master Plan and Asset Management Plan

(Title should stay consistent with each agency request.)

Indicate the status of this application:

- NEW APPLICATION
 REVISION
 RESUBMITTAL

- Former project title: _____

Select organization(s) involved in this request (check all that apply)

- ARC [Appalachian Regional Commission](#)
Date submitted _____
- CWMTF [Clean Water Management Trust Fund](#)
Date submitted _____
- DENR-CW [NC Dept. of Environment and Natural Resources \(Clean Water\)](#)
Date submitted _____
- DENR-DW [NC Dept. of Environment and Natural Resources \(Drinking Water\)](#)
Date submitted _____
- DOC [NC Dept. of Commerce](#)
Date submitted _____
- [CDBG \(DCA\)](#)
- [CDBG-ED \(CFC\)](#)
- [IDF \(CFC\)](#)
- NCREDC [NC Rural Economic Development Center](#)
Date submitted _____

GENERAL INFORMATION

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMWF, DENR, DOC, and Rural Center applicants.

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Agenda**

Legal Name of Applicant / Unit: City of Hendersonville County: Henderson

Name of Chief Elected Official: Barbara Volk Title: Mayor

Name of Authorized Representative (if different from above): John Connet

Mailing Address: 145 Fifth Avenue E Street Address: 145 Fifth Avenue E

City: Hendersonville State: NC Zip: 28792

Primary Telephone(s): 828-697-3000 Fax: _____

Email: jconnet@CityofHendersonville.org Federal Tax ID #: 56-6001242

Type of Applicant (check those that apply):

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Municipality | <input type="checkbox"/> Water / Sewer District | <input type="checkbox"/> Joint Agency Pursuant to G.S. 160A-20 |
| <input type="checkbox"/> County | <input type="checkbox"/> Metro Water / Sewer District | <input type="checkbox"/> Joint Agency Pursuant to G.S. 63-56 |
| <input type="checkbox"/> Non Profit Water Corporation | <input type="checkbox"/> Water / Sewer Authority | <input type="checkbox"/> Sanitary District |
| <input type="checkbox"/> Other (be specific): _____ | | |

Application Prepared by:

Name: Brent Detwiler Title: City Engineer

Primary Telephone: 828-697-3000 Fax: _____

Email: bdetwiler@CityofHendersonville.org

Name of Engineering Firm: GHD Consulting Services Inc.

Name of Engineer: GHD Consulting Services Inc.

Mailing Address (if other than above): 222 South Church Street, Suite 400

City: Charlotte State: NC Zip: 28202

Primary Telephone: 704-342-4924 Fax: 704-342-4911

Email: crystal.mcneely@ghd.com Federal Tax ID #: 980425935

PROJECT TYPE

Check all that apply:

- DRINKING WATER**
- Drinking Water Source
 - Drinking Water Treatment
 - Drinking Water Transmission/Distribution
 - Drinking Water Storage
 - Other: explain in project description (Including green projects)

- WASTEWATER**
- Wastewater Treatment
 - Wastewater Collection
 - Water Reclamation or Land Application facilities
 - Sewer System Rehab
 - Other: explain in project description (Including green projects)

Projected Construction START Date: July 2013 **County(s) Served:** Henderson

**# of NEW customers (connections)
TO BE SERVED by project**

	Water	Wastewater
Residential		
Business		
Total(s)		

of customers (connections) CURRENTLY served

	Water	Wastewater
Residential	22,248	6,405
Business	2,856	1,636
Total(s)	25,104	8,041

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

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Agenda**

PROJECT STATISTICS

Applicants must fill out this section completely as project statistics are used to score the application. For assistance with completing this section please visit the Rural Center [website](#).

Poverty Rate: 16.75%

Median Household Income (updated): \$38,584 (2010)

Ability To Pay: 7

Population: 13,137 (2010)

County Tier #: 3

PLEASE PROVIDE A DESCRIPTION OF THE PROJECT SPECIFICALLY ADDRESSING THE DETAILS OF EACH MAJOR ACTIVITY (I.E. WHO, WHAT, WHERE, WHY AND HOW). INDICATE IF THIS WILL BE A PHASED CONSTRUCTION PROJECT.

RATIONALE: (1 PARAGRAPH MAX)

- Problems and/or compliance issues that project will alleviate
- Local, regional and/or state need for project
- Critical circumstances or emergency situations that compel project to be funded

Benefits: (1 paragraph max)

- Results and accomplishments to be derived from project
- Other non-quantifiable benefits (e.g. partnership, improved standard of living, etc.)

Performance Measurement:

- Outputs (i.e. 1,000 LF of 8-inch PVC pipe)
- Outcomes (i.e. fully functioning line)
- Number of jobs created (see agency guidelines)

(Detail all quantifiable measures, including leveraged private investment resulting from the project.)

Project Description

Complete an asset management plan using readily available asset inventory data and information. The goal is to analyze the data and to report on the state of the Utility's infrastructure and associated investment needs, which will be collated in the "City of Hendersonville Water and Sewer Department Asset Management Plan," incorporating:

- Statements that define the level of infrastructure services that Utilities provides;
- Analysis of current state/condition of the Utilities' infrastructure assets; and,
- Determination of future infrastructure renewal and replacement investment plans that are used to determine 5 and 10 year capital/fiscal plans.

Develop a water distribution and wastewater collection system master plan. Both the water and wastewater systems have experienced problems including sanitary sewer overflows and water line breaks as well as growth related pressures. We recommend this plan be developed in conjunction with the asset management plan as an aspect of the work involved in determining the current performance of Utilities' assets. Developing a water and sewer master plan focused on growth related capital improvements along with an asset management plan focused on repair, replace and refurbish capital improvements is a common sense (and emerging best practice) approach to overall Capital Improvement Plan development. The Utilities Water and Wastewater System Master Plan will include the following elements:

- Development of a range of population projections using existing available data.
- A high level look at the adequacy of existing water supplies; ;
- Look at wastewater collection system expansion to areas programmed for growth;
- Analyze existing water distribution and wastewater collection mapping systems that support monitoring and maintaining the system in a manner that strives to maximize the public health, safety and welfare for all while minimizing environmental impact;
- Provide updates to existing maps and hydraulic models for each system;
- Provide recommendations on the impact of future regulations;
- Determine new improvements required to address planned growth; and
- Provide prioritized planning level, capital improvement program for potential growth of the existing system.

North Carolina Water/Wastewater Common Application Form

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Agenda**

PROJECT BUDGET

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

Complete the project budget addressing the categories provided in the table below *(insert rows/columns as needed)*.

NOTE: Engineering costs shall be held to the USDA or EPA fee curve, depending on the funding partner.

Cost Description	ARC	CWMTF	DENR	DOC	Rural Center	Local	Other	Total Cost Amount
Construction costs should be indicated by line item. Example: linear feet of different sized lines								\$0.00
								\$0.00
								\$0.00
								\$0.00
								\$0.00
								\$0.00
Construction Sub -Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Contingency								\$0.00
Engineering Design								\$0.00
Permitting								\$0.00
Land Surveying Costs								\$0.00
Easement Preparation								\$0.00
Closing Fee (if applicable)								\$0.00
Construction Administration/Observation								\$0.00
Grant and/or Loan Administration								\$0.00
Legal Costs								\$0.00
Other: Consulting Fees					40000	40000		\$80,000.00
Administration Sub-Total	\$0.00	\$0.00	\$0.00	\$0.00	\$40,000.00	\$40,000.00	\$0.00	\$80,000.00
								\$0.00
TOTAL PROJECT COST	\$0.00	\$0.00	\$0.00	\$0.00	\$40,000.00	\$40,000.00	\$0.00	\$80,000.00
Status of Funding (pending or secured)					Pending	Secured		

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

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CERTIFICATION BY CHIEF ELECTED OFFICIAL/AUTHORIZED REPRESENTATIVE

The attached statements and exhibits are hereby made part of this application and the undersigned representative of the applicant certifies that the information in this application and the attached statements and exhibits is true, correct, and complete to the best of his/her knowledge and belief. He/She further certifies that:

- 1 as Authorized Representative, he/she has been authorized to file this application by formal action of the governing body;
- 2 that the governing body agrees that if a grant and/or loan is awarded, the applicant will provide proper and timely submittal of all documentation requested by the Grantor Agency;
- 3 that the governing body agrees to provide for proper maintenance and operation of the approved project after its completion;
- 4 that the applicant has substantially complied with or will comply with all federal, state and local laws, rules and regulations and ordinances as applicable to this project; and
- 5 that the applicant will adopt and place into effect on or before the completion of the project a schedule of fees and charges which will provide for the adequate and proper operation, maintenance, administration and repayment of all principle and interest on loans of the project.
6. that the applicant has followed proper accounting and fiscal reporting procedures, as evidenced by the applicant's most recent audit report, and that the applicant is in substantial compliance with provision of the general fiscal control laws of the State.
7. that the (Town or County), North Carolina is organized and chartered under the laws of North Carolina. All officials and employees are aware of, and in full compliance with NCGS 14-234, "Director of public trust contracting for his own benefit, participation in business transaction involving public funds; exemptions." (For units of local governments only.)

SIGNATURE OF CHIEF ELECTED OFFICIAL/AUTHORIZED REPRESENTATIVE

John Connet

City Manager

July 11, 2013

TYPED NAME

TYPED TITLE

DATE

Please note: ORIGINAL signatures are required for each agency application.

PLANNING GRANTS PROGRAM
MEMORANDUM OF UNDERSTANDING

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between

North Carolina Rural Economic Development Center, Inc.

and

City of Hendersonville

(applicant)

Project Title: City of Hendersonville – Asset Management and Master Plan

305 Williams Street

Hendersonville, North Carolina 28792

The purpose of this Memorandum of Understanding is to outline conditions and regulations for a general working relationship between the North Carolina Rural Economic Development Center (Rural Center) and the applicant organization regarding the Rural Center's Planning Grants Program.

The undersigned acknowledges that the applicant organization has reviewed and understands that the following provisions apply to Planning Grants that are awarded by the Rural Center.

Timely Contracting

Final award of funds will be made only after the other project funds have been committed and written evidence of this commitment has been received by the Rural Center. Projects are expected to be under contract within six months of the date that the Rural Center awards the grant. The Rural Center retains the right to deobligate any funds awarded to a project that is not under contract within six months of the date of award. The Rural Center's approval date will be provided in the letter notifying the grantee of the approval and will be incorporated into the contract.

Additional Funding Specifications

Financial information provided by the applicant should be in sufficient detail to show the maximum level of all the other resources (federal, state and local) committed to the project. Project expenditures must be reported based on line item expenses. Only those costs directly related to the scope of work approved for the project are eligible for expenditure of Rural Center grant dollars. Rural Center funds are not to be used to supplant other federal or state funds or to divert existing resources to other projects. Rural Center funding may not exceed 50 percent (50%) of the eligible project costs, and thus, may not constitute the total funding for the proposed project.

Disbursement Policy

Once the contract for the project has been executed, the Rural Center may disburse up to 75 percent (75%) of the funds awarded for the Planning Grant upon submission of approved invoices or receipts sufficient to support the disbursement. In order to secure payment, the grant recipient will be required to submit a payment request on the form approved by the Rural Center. In addition, the grantee agency must demonstrate that all (100% of) the local revenues for the project and at least 90 percent (90%) of the other sources of project funds have been expended on eligible invoices. The final 25 percent (25%) of the Rural Center grant dollars will be released once the Rural Center receives acceptable evidence of project completion, a final financial request, and a final report summarizing the project activities. An acceptable final report will include all reports and data produced under the grant.

Grant Administration Fees

If grant administration fees are part of the approved project budget, the Rural Center will pay grant administration charges on a pro-rata basis, according to the percentage of progress reports completed and submitted on time to the Rural Center during the course of the project. Eligible grant administration charges will be limited to the lesser of 5 percent (5%) of the total project cost or \$4,000.00.

Project Schedule

A timeline has been provided to the Rural Center as part of the application. This methodology represents the adopted schedule for work to be performed as part of this project. Since the project is to address a current critical need for the applicant, the Rural Center expects timely completion of the work proposed and anticipates that planning grants generally will be complete within twelve months of the award. The grantee understands that the Rural Center will establish the date for termination of its contract using the schedule provided. Updates or changes to the project schedule must be provided to the Rural Center, and the Rural Center reserves the right to reject or to ask for further clarification regarding the timeline and its implementation.

Changes in Project Scope

It is clearly understood that a change in the project scope may not be implemented without prior written approval from the Rural Center. Evidence of approval from any other funding sources participating in the project must be provided at the time the proposed change is requested. A change in scope will include any change to the approved project design elements or methodology, any change in the proposed service area, or changes in the number of potential beneficiaries.

Changes in Project Funding

It is understood that if the grantee receives additional funding for the project after the Rural Center approval, the Rural Center will be notified immediately of the change in the project funding. It is further understood that additional funds cannot be used to reduce the amount of local funds pledged or to displace other grant funds committed to this project. Any reduction to the local funds or other grant funds previously committed would be expected to result in a reduction of the Rural Center's grant. The applicant also understands that local funds pledged in the original application to the Rural Center will not be reduced in the event of a cost underrun in the completed project.

Cooperation with Other Funding Agencies and the Rural Center

It is understood that the grantee will cooperate with its other funding resources as identified in the application and will provide information and reports as prescribed by the other funding agencies, as well as the information and reports required by the Rural Center. The grantee is expected to adhere to all applicable regulatory and/or statutory requirements of the other funding agencies and the State of North Carolina, particularly as they relate to the procurement of goods and services and in the maintenance of proper accounting records.

Reporting Procedure

Quarterly progress reports will be submitted to the Rural Center as set forth in the terms of the contract. <http://www.ncruralcenter.org/grant-applications-and-reporting-forms.html#ws>

Final Report

A final report is required and will be due at the completion of the project. An acceptable final report will include all reports and data produced under the grant. This report and a final financial request must be submitted and approved by the Rural Center prior to final disbursement of funds.

SIGNATURE OF CHIEF ELECTED OFFICIAL/AUTHORIZED REPRESENTATIVE

John Connet, City Manager

TYPED NAME AND TITLE

July 11, 2013

DATE

AUTHORIZING RESOLUTION BY GOVERNING BODY OF THE APPLICANT

Planning Grants Program

WHEREAS, the North Carolina Rural Economic Development Center, Inc. (Rural Center) has authorized the awarding of grants from appropriated funds to aid eligible units of government in financing the cost of planning activities needed to address current critical public health and environmental concerns related to water and wastewater infrastructure; and

WHEREAS, the City of Hendersonville needs assistance in financing a planning project that may qualify for Rural Center funding; and

WHEREAS, the City of Hendersonville intends to request grant assistance for the Utility Asset Management and Master Planning project from the Planning Grants Program;

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE:

That City of Hendersonville will arrange financing for all remaining costs of the project if approved for a grant.

That Barbara Volk, Mayor, and successors so titled, is hereby authorized to execute and file an application on behalf of City of Hendersonville with the Rural Center for a grant to assist in the above-named planning project.

That John Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with an application or with the project proposed; to make assurances as contained in the application; and to execute such other documents as may be required in connection with the application.

That City of Hendersonville has substantially complied or will substantially comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this date July 11, 2013 at Hendersonville, North Carolina.

(Signature of Chief Executive Officer)

(Title)

ATTEST:

Clerk (Seal)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: John Connet

Department: Administration

Date Submitted: 06/28/13

Presenter: John Connet / Tom Wooten

Date of Council Meeting to consider this item: 07/11/13

Nature of Item: Discussion/Staff Direction

Summary of Information/Request:

Item # 13a

The 7th Avenue Dog Park is nearing completion and the Public Works Department is seeking direction from the Mayor and City Council about what to name our newest park. We would like to introduce this item at your July meeting and give you thirty days to think about appropriate names for this park.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

Attachments:

None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Tammie Drake

Department: Administration

Date Submitted: 06/28/13

Presenter: Tammie Drake

Date of Council Meeting to consider this item: 06/11/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 14

Appointments for Consideration:

The terms of three members on the Board of Adjustment will expire in August 2013:

Barbara McCoy: is willing to serve another term;

Melinda Lowrance - is willing to serve another term;

Perry Mace: is willing to serve another term.

Main Street Advisory Committee: The terms of four members on this Committee will expire in August 2013:

Babs Newton: is willing to serve another term;

Marty Payton: is willing to serve another term;

Heather Boeke: declined reappointment;

Tom Orr: is willing to serve another term.

Attached are the applications of citizens willing to serve: Michelle Sparks, Mark Ray and Scott Biron

Announcement of Vacancies:

Reminder of a vacant position on the Environmental Sustainability Board: There are no applications on file at this time from citizens willing to serve.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to reappoint ... to a three-year term on the Board of Adjustment.

I move to (re)appoint ... to a two-year term on the Main Street Advisory Committee.

Attachments:

Board membership lists

Applications