

**May 1, 2014**  
**Regular Meeting of the City Council**  
**Council Chambers – City Hall**  
**5:45 p.m.**

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

Staff Present: Planning Director Sue Anderson, Police Chief Herbert Blake, City Manager John F. Connet, Engineering Director Brent Detwiler, City Clerk Tammie Drake, IT Director Allen Edge, Fire Chief Dorian Flowers, Zoning Administrator Susan Frady, City Attorney Sam Fritschner, Personnel Officer David Sapp, Utilities Director Lee Smith, Finance Director Lisa White, Public Works Director Tom Wooten

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

**2. Invocation and Pledge of Allegiance:** Mayor Volk remembered those residents who recently lost their homes in a fire and is thankful there was no loss of life and for the efforts of the Fire Department. 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.*

There was none.

**4. Consideration of Agenda:**

Addition: 5a. Recognition of City Employees

Council Member Smith requested the addition of Discussion of the Interlocal Agreement with Henderson County under New Business. **Council Member Caraker moved approval of the agenda with the additions as requested. 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:** April 3, 2014 Regular Meeting, April 4, 2014 Special Meeting

**B. Consideration of Budget Amendments:** Mrs. Lisa White, Finance Director, presented a budget amendment to transfer funds from the General Fund Contingency Fund for the following:

- (1) to Governing Body Department to provide for primary election which had not been budgeted for - \$12,872
- (2) to Professional Services-Non Dept to provide for Customer Service Prof Services - \$7,500
- (3) to Professional Services to cover over-budget in account caused by City Manager moving expenses which had not been budgeted - \$7,000
- (4) to Employee Death Benefit Non-Dept - \$5,000 is paid upon the death of an employee. This year three payments have been made but only \$10,000 was budgeted - \$5,000
- (5) to Capital Outlay to provide budget for earnest money paid on purchase of property for Wingate University - \$5,000

**C. Consideration of an Ordinance Directing the Demolition of Property Located at 128 S. Whitted Street:** Mrs. Susan Frady, Zoning Administrator, presented the following ordinance:

Ordinance #14-0550

**ORDINANCE DIRECTING CODE ENFORCEMENT OFFICIAL TO DEMOLISH**

Whereas, pursuant to Section 12-31 of the Code of Ordinances of the City of Hendersonville (hereinafter called the "Code"), the Code Enforcement Official of the City of Hendersonville (hereinafter called the "Code Enforcement Official") has requested the City Council of the City of Hendersonville (hereinafter called "Council") to adopt an Ordinance requiring the owner to repair or demolish certain structures on certain premises as outlined in Section 12-31 of the Code; and

Whereas, the Council hereby finds that the owners and parties in interest in the premises, commonly known as 128 S. Whitted Street, Hendersonville, North Carolina, which premises are described in that certain deed recorded 3/29/1922, in the Henderson County Registry in Deed Book 155, Page 137, to which reference is hereby made are as follows:

Robert Creasman Estate  
10415 Mackenzie Drive  
Houston, TX 77086

Whereas, the Council hereby finds that the premises appears to be vacant, appears to be in such dilapidated condition as to cause or contribute to blight, vagrancy and appears to be a safety hazard and is a imminent danger to life or other property; and

Whereas, the Council hereby finds that there has been compliance with all applicable provisions of Section 12-31 of the Code relative to the adoption of this resolution; and

Whereas, the owner of the premises, after having been given a reasonable opportunity to do so, has failed and refused to comply with a lawful order of the Code Enforcement Official to repair or demolish the structure located on the premises within the time therein prescribed;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL THAT:

Section 1. The Code Enforcement Official shall cause the structure on the premises commonly known as 128 S. Whitted Street, Hendersonville, North Carolina, and described in the aforesaid deed to be vacated, closed, and removed or demolished.

Section 2. The cost of the removal or demolition shall be a lien on the premises to be collected pursuant to Article 10 of Chapter 160A of the North Carolina General Statutes.

Section 3. A copy of this Ordinance, certified as a true copy by the City Clerk, shall be recorded in the Henderson County Registry and the Register of Deeds shall index the name of the owner in the "Grantor Index" pursuant to North Carolina General Statutes 160A-443(5).

Section 4. This Ordinance shall become effective upon its adoption.

Adopted this first day of May 2014.

/s/Barbara G. Volk, Mayor

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

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

**Council Member Caraker moved approval of the items listed on the consent agenda. A unanimous vote of the Council followed. Motion carried.**

**5a. Recognition of City Employees:** Finance Director Lisa White publicly thanked and recognized Donna Fox, Tax Collector, for receiving North Carolina Tax Collector's Certification and Jennifer Harrell for receiving Deputy Tax Collector's Certification. She also thanked the City Manager and City Council for supporting employees and providing for continuing education.

**6. Presentation of Historic Preservation Awards:** Ms. Anderson and Mayor Volk presented the following Historic Preservation Awards to recognize property owners, organizations, businesses and individuals whose contributions demonstrate outstanding commitment to excellence in historic preservation, local history or promotion of Hendersonville's heritage and/or promotion of Hendersonville's heritage:

**Jennie Jones Giles – Preservation Advocate Award**

**Hunter & Suzanne Hale** for the restoration and preservation of Killarney House, 322 Killarney Street, Built ca. 1860.

**Steve & Donna Caraker** for the restoration and preservation of 524 Third Avenue West, Built ca. 1920.

**7. Consideration of Approval of the Purchase of a .92-Acre Site at 747 Sixth Avenue West for the Construction of a New Health Sciences Facility:** In conjunction with the partnership with Henderson County, Pardee Hospital, Wingate University, and Blue Ridge Community College, Mr. Connet requested approval of the purchase of the property located at 747 Sixth Avenue West at a cost of \$650,000 for construction of the health sciences facility.

Council Member Smith asked for an estimate for the cost of removing the existing structure. Mr. Connet stated the Fire Department will be burning the structure for training purposes. Council Member Miller requested having the building reviewed by an historic preservation person and remove any valuable architectural elements before it is used as a training burn. Council Member Caraker agreed. The City Manager stated this can be done.

**Council Member Miller moved Council to approve the purchase of the .92-acre property at 747 Sixth Avenue West for a health care campus at that location. A unanimous vote of the Council followed. Motion carried.**

**8. Consideration of a Request by the Housing Assistance Corporation for the Waiver of System Development Charges for the Rosebay Apartments Project Located on Pisgah Drive:** Utilities Director Lee Smith presented a request from the Housing Assistance Corporation for the waiver of fees associated with the Rosebay Apartment Project in accordance with the City's policy to waive system development charges for these units.

Mr. Lee Smith reported the waiver equals a contribution of \$91,520 for water and \$81,920 for sewer. He stated water is already there and they will build a small pump station for sewer.

There was discussion by Mayor Pro Tem Stephens on whether the project will be approved by the Henderson County Planning Board and Board of Commissioners.

**Council Member Smith moved to authorize the Utilities Director to waive the water and sewer system development charges associated with the Housing Assistance Corporation's proposed 64-unit multi-family project referred to as Rosebay Apartments to be located on Pisgah Drive in the amount of \$1,430 for the water service and \$1,280 for the sewer service in accordance with the City's System Development Charge Waiver Policy revised and adopted by City Council on June 3, 2010. A unanimous vote of the Council followed. Motion carried.**

**9. Comments from Mayor and City Council Members:** There was none.

**10. Reports from Staff :**

**a. Update on New Parking Way-Finding Signs:** City Manager John Connet reported the initial signs for parking lots have been installed and the banners for major parking lots will be installed next to draw attention to the parking lots. He stated this is part of the Phase 1 recommendations from the parking meeting. **No action was required or taken.**

**b. Update on Seventh Avenue/Green Meadows Spring Cleanup:** Mr. Connet invited the community's participation in a litter sweep and cleanup of the Seventh Avenue area on Saturday, May 17 to

build community support. The City is working with the residents and is waiving limitations on collections, i.e., bulky items that are stored, etc. **No action was required or taken.**

**c. Budget Workshop Reminder:** Mr. Connet reminded the Council of the Special Meeting to discuss the Budget for fiscal year 2014-15 on Friday, May 16, 2014 at 9:00 a.m.

**d. Reminder of June Regular Meeting Change:** Mr. Connet reminded the Council of the regular meeting change for the month of June. The regular meeting was changed to Tuesday, June 3, 2014.

**e. Announcement of Town Hall Day, June 4, 2014, Raleigh, NC:** City Manager John Connet invited the Council to participate in this event.

**f. Reminder of Rhythm & Brews:** Mr. Connet reminded the Council of the first Rhythm and Brews event that will be held May 15, 2014 beginning at 5:30 p.m. in the Azalea Parking Lot.

## **11. Consideration of Appointments to Boards and Commissions**

### **a. Consideration of Appointments:**

**•Seventh Avenue Advisory Committee:** Ms. Tammie Drake reminded the Council of two vacancies on this Committee. This Committee was initially established by the Council with five members of the Seventh Avenue special tax district and two at-large members. The Council discussed the makeup of the membership of the Committee. **Council Member Caraker moved the Council to change the makeup of the Committee to four members who own property in Seventh Avenue special tax district and three at-large members. A unanimous vote of the Council followed. Motion carried.**

**Council Member Caraker nominated Farrell Beam and Chris Cormier. A unanimous vote of the Council followed.**

Council Member Caraker suggested the chairperson be chosen from the members of the special tax district. **The Council agreed by unanimous consent.** Council Member Miller suggested the City Council choose the first chairperson for a one-year term. **The Council agreed by unanimous consent. Council Member Caraker moved to appoint Carson Calton as the chairperson for a one-year term citing his excellent leadership skills. A unanimous vote of the Council followed. Motion carried.** City Attorney Fritschner volunteered to draft the By-laws for this Committee.

**Planning Board:** Mrs. Drake reported two resignations from the Planning Board: Jeff Collis and Fred Dutcher and presented the applications on file.

**Mayor Pro Tem Stephens nominated Peter Hanley and Robert L. Hogan for the Planning Board. These terms will expire 12-01-16. A unanimous vote of the Council followed. Motion carried.**

**ABC Board:** Mrs. Drake reported Mr. Will Penny's term on the ABC Board will expire in June and he is willing to be considered for another term. **Mayor Pro Tem Stephens nominated Will Penny for a three-year term on the ABC Board. This term will expire in June 2017. A unanimous vote of the Council followed. Motion carried.**

### **b. Announcement of Vacancies and Upcoming Appointments:**

**Board of Adjustment Vacancy:** Mrs. Drake reminded the Council of the vacant alternate position on the Board of Adjustment. **No action was taken.**

## **12. New Business:**

**a. Reconsideration of Interlocal Agreement with Henderson County:** Council Member Smith distributed a handout stating in light of fact that Council may be considering a tax increase for next fiscal year, it may be worthwhile to revisit the Interlocal Agreement with Henderson County with regard to the purchase of the property for the Wingate University project.

Council Member Smith stated the request to Henderson County will be to reconsider the payback beginning when the Certificate of Occupancy is issued and pay 6.7% of the City's cost over 15 years (approximately \$23,400 annually) without interest. He explained his interest in doing this is so the City doesn't have to wait 15 years to be repaid and it will help with the tax burden.

In discussion, Council Member Miller stated he would not support the request because the City has entered an agreement in good faith. He stated the City made this request during the negotiations. He stated he understands the challenges this year but the challenges are not a result of this project. He stated there was goodwill created by this joint venture. Council Member Caraker agreed stating the City should honor the commitment that was made which should to keep Wingate University in Hendersonville.

Council Member Stephens stated he likes the proposal but the agreement has been made.

Council Member Smith moved Council to adopt a resolution relating to the interlocal agreement adopted 4/4/14. In discussion, Mayor Volk stated she is not willing to change the agreement at this point. The vote was one in favor (Smith), four opposed (Volk, Stephens, Caraker, Miller). Motion failed

**24. Closed Session:** At 6:27 p.m. Council Member Caraker moved Council to enter a closed session to:

- **consult with the City Attorney in order to preserve the attorney-client privilege between the attorney and the Council, to consider and give instructions to the City Attorney concerning the handling or settlement of a judicial action entitled Jones v. Ingles as provided under NCGS §143-318.11(a)(3);**
- **consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee as provided under NCGS §143-318.11(a)(6) and**
- **discuss matters relating to the location or expansion of industries or other businesses in the area served by this body as provided under NCGS §143-318.11(a)(4).**

**A unanimous vote of the Council followed. Motion carried.**

The Council consulted with the City Manager and City Attorney to consider and give instructions concerning the Jones versus Ingles lawsuit, discussed matters relating to the location or possible expansion of an industry or other business and discussed the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

**The Council exited the closed session at 7:01 p.m. upon unanimous assent of the Council.**

**25. Adjournment:** The meeting adjourned at 7:01 p.m. upon unanimous assent of the Council.