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AGENDA

CITY OF HENDERSONVILLE CITY COUNCIL – REGULAR MEETING

MAY 2, 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: April 4, 2013 Regular Meeting
 - April 5, 2013 Special Meeting
 - April 16, 2013 Special Meeting
 - April 17, 2013 Special Meeting
 - April 18, 2013 Special Meeting
 - B. Consideration of Special Event Permits:
 - i. Boys and Girls Club 20th Birthday Party
 - ii. Corvette Night in Conjunction with Music On Main Street
 - iii. Deep Impact
 - C. Consideration of Abatement of Nuisances
 - D. Consideration of Ordinance Amending Chapter 32 of the Code Of Ordinances Pertaining to Police Department Authority to Seek Access To SBI/DCI Criminal History Record Information for all Applicants for Alcoholic Beverage Licenses for Locations within the City
 - E. Consideration of a Resolution Declaring Certain Personal Property as Surplus
 - F. Consideration of Annual Contract to Audit Accounts of the City of Hendersonville with Carland & Andersen, Inc.

G. Consideration of Tax Releases and Refunds

6. Public Hearing – Consideration of an Application to Close Portions of Two Streets near the Ingles at 625 Spartanburg Highway

Presenter: Ms. Sue Anderson, Planning Director

7. Public Hearing –Consideration of an Application to Amend the Zoning Ordinance - Article XVI, Special Requirements for Siting Telecommunications Antennas and Wireless Facilities

Presenter: Ms. Sue Anderson, Planning Director

8. Presentation by Community Partnership for Pets

Presenter: Ms. Mary Cervini

9. Presentation of Awards by the Historic Preservation Commission’s Community Affairs Committee

Presenter: Ms. Sue Anderson, Planning Director

10. Consideration of Grant Application and Funding Commitment for School Resource Officer

Presenter: Chief Herbert Blake

11. Consideration of a Request to be Removed from the City’s Extraterritorial Jurisdiction

Presenter: Ms. Sue Anderson, Planning Director

12. Consideration of a Five-year Lease Agreement with the Hendersonville Bridge Club for the Use of the Whitmire Activity Center

Presenter: Mr. Tom Wooten, Public Works Director

13. Consideration of Offer of Employment for the Hiring of the City Manager

Presenter: Mayor Barbara Volk

14. Reports from Staff

a. City Manager Report – FY 2013-14 Budget

b. Meeting Announcements/Reminders

Presenter: Mrs. Tammie Drake, City Clerk

- Arbor Day Celebration - May 10, 2013, Rotary Park
- Budget Review, Friday - May 17, 2013, 8:00 a.m., City Hall
- Mayors’ Cup Raft Race - June 2, 2013

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

Presenter: Mrs. Tammie Drake, City Clerk

a. Appointments for Consideration: ABC Board

b. Announcement of Vacancies: Environmental Sustainability Board

16. Comments from Mayor and City Council Members

a. Discussion of Procedure for Reviewing Grey Hosiery Mill Redevelopment Proposals

17. New Business

18. Adjournment

**April 4, 2013
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.**

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

Absent: Council Member Steve Caraker

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

1. Call to Order: Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all five members in attendance. Mayor Volk announced that Council Member Caraker has received a subpoena and is in Raleigh and cannot attend this meeting.

2. Invocation and Pledge of Allegiance: A moment of silence for prayer was followed by the Pledge of Allegiance to the Flag led by Alexander Edger and Zachary Kuykendall, with Boy Scout Troup 622, working on a communications merit badge.

3. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda.*

Attorney Ervin Bazzle, 1200 Woodmont Drive, Hendersonville NC, provided some written material and informed the Council of a problem when the bids were opened and considered for Fire Station #2. The low bidder, Blue Ridge Enterprises, did not meet the criteria contained in the request for bids and primarily NCGS relating to listing of subcontractors. He stated an e-mail went out from the Architect two days before the bids were due stating they could submit the subcontractor list separately because their forms did not contain a place for that. He stated Mr. Cooper asked a question prior to the bid opening that if someone did not comply with that, would they be considered a responsive bidder and the answer given was yes. He stated Blue Ridge Enterprises submitted the lowest bid but did not submit the list as required by statute and because of this, they cannot be considered a responsive bidder. He stated the next responsive bid may be awarded the contract. He stated it is their position that is required by the statute and the Council has a great deal of discretion including directing the project be rebid. He stated fairness will play a role in this because there is now public knowledge of all bids. He requested the Council award the bid to Cooper Construction, the second lowest bidder.

4. Consideration of Agenda:

Mayor Pro Tem Collis moved approval of the agenda as presented. 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: March 5, 2013 Special Meeting, March 7, 2013 Regular Meeting

B. Consideration of Special Event Permits:

i. The Golden Age in Henderson County – The Coming of the Railroad: The Special Events Committee voted unanimously to recommend approval of a special event permit for this event to be held May 18, 2013, from 11 a.m. to 3 p.m. The event will be held at the Henderson County Heritage Museum. Parking spaces in front of the Historic Courthouse will be closed from 9 a.m. until the event ends at 3 p.m. so trolleys may load and unload passengers. Main Street will remain open during this event.

ii. Porch Dogs – Talk & Signing: The Special Events Committee voted unanimously to recommend approval of an application for this special event to be held April 27, 2013 from 11:00 a.m. – 1:00 p.m. in front of the Fountainhead Bookstore at 408 N. Main Street. The event will be a book signing by a renowned author and the Blue Ridge Humane Society. A tent will be set up beside the planter with 4-6 small dogs for adoption. At least seven feet of the sidewalk will remain open for pedestrian use. This event also needs approval by the City Council allow an exemption to Section 10-7 of the City Code which prohibits animals at a special event.

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

D. Consideration of Amendments to the Sponsorship Policy: City Attorney Fritschner explained the City Council has evidenced a desire to permit the manager to accept certain proposals of a lesser value, e.g., advertising on the new baseball fields. The city manager would retain the option to refer any proposed sponsorship to the Council.

RESOLUTION #13-0427

A RESOLUTION AMENDING THE CITY’S SPONSORSHIP POLICY

WHEREAS the City has adopted a sponsorship policy pursuant to which the City Council reviews all proposals for sponsorship, and

WHEREAS the City Council believes that in the interest of time and efficiency the City Manager should have the authority to review sponsorship proposals of limited financial value,

NOW, BE IT THEREFORE RESOLVED that the City Council adopt and it does by these presents amend the City’s sponsorship policy as provided herein.

1. The following amendments are hereby made to the City’s sponsorship policy:

III. Procedure

....

1. The City Manager will refer any sponsorship proposal with a financial value greater than \$1,250.00 to the City Council for final approval, and may so refer any other sponsorship proposal.

....

V. Miscellaneous

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

2. This amendment shall take effect upon adoption of this resolution.

Adopted this fourth day of April 2013.

/s/Barbara G. Volk, Mayor

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

E. Consideration of Proclamations:

i. “Strive Not to Drive Day”:

A PROCLAMATION DECLARING FRIDAY APRIL 19, 2013 AS STRIVE NOT TO DRIVE DAY

WHEREAS, the City of Hendersonville is an exceptional place to live and work; and,

WHEREAS, reducing transportation fuel consumption can better sustain the quality of life for present and future generations; and,

WHEREAS, reducing fuel consumption reduces the amount of money exported out of the region; and,

WHEREAS, reducing fuel consumption reduces expenses for City of Hendersonville residents; and,

WHEREAS, alternatives to vehicle use can promote a healthier and more enjoyable lifestyle; and,

WHEREAS, the Environmental and Conservation Organization is promoting these practices for the benefit of City of Hendersonville residents;

NOW, THEREFORE, the City Council of the City of Hendersonville, North Carolina, does hereby declare April 19, 2013 as

“STRIVE NOT TO DRIVE DAY”

and does further hereby urge every citizen to do his or her part to reduce their transportation fuel consumption by consolidating trips, carpooling, walking, biking, or telecommuting on April 19 and throughout the year.

Adopted this fourth day of April, 2013.

ii. “Lyme Disease Awareness Month”:

Proclamation for 2013 Lyme Disease Awareness Month

Whereas, infected ticks carrying the bacteria, *Borrelia burgdorferi*, which causes Lyme disease, continue to spread throughout North Carolina as three counties are now classified as “endemic” for Lyme disease; and

Whereas, the total numbers of both suspected and confirmed Lyme disease cases reported to our state health department continues to rise each year with over 1000 case events reported in 2012; and

Whereas, ticks commonly found in North Carolina have been known to transmit Lyme disease, Rocky Mountain Spotted Fever, Ehrlichiosis, STARI, Babesiosis and Anaplosmosis to residents; and

Whereas, the North Carolina Division of Public Health encourages physicians and health care providers to consider the diagnosis of Lyme disease in patients who present the symptoms of infection, even if the patient has no travel history outside of North Carolina; and

Whereas, Lyme disease is difficult to diagnoses because it imitates other conditions and no reliable laboratory test can prove who is either infected or bacterial-free, which often leads to under-diagnosis or misdiagnosis; and

Whereas, early indicators of infection include: “bullseye” looking rash with flu-like symptoms, characterized by chills, headache, fatigue, muscle and joint aches and swollen lymph nodes; and

Whereas, weeks or months later, patients with untreated or under-treated Lyme disease can suffer from permanent and sometimes life-threatening damage to the brain, joints, heart, eyes, liver, spleen, blood vessels and kidneys. For this reason it is imperative that all who may be exposed to Lyme disease receive immediate treatment; and

Whereas, the best solution to reduce the risk of contracting Lyme disease is awareness and education about the seriousness of this illness and the need for our residents, especially children, to practice personal preventive techniques when engaging in outdoor activities - such as frequent tick checks, use of tick repellent and proper tick removal; and

Whereas, the warm summer months are considered the most active time for ticks and when the majority of residents are exposed to ticks during outdoor activities. Therefore it is important that residents are aware of the potential for acquiring Lyme disease in our town and the preventive measures they can take to minimize the risk of infection.

Now, therefore, the City Council of the City of Hendersonville, NC, in recognition thereof, does hereby proclaim the month of May 2013 as

“LYME DISEASE AWARENESS MONTH”

in Hendersonville, NC, to increase awareness of this disease and further encourage residents to educate themselves on prevention of the disease and its symptoms.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Hendersonville to be affixed this fourth day of April 2013.

/s/Barbara G. Volk, Mayor

iii. “Day of Education”:

PROCLAMATION DECLARING APRIL 20, 2013 AS DAY OF EDUCATION

WHEREAS, education is a very important aspect of life in our community. Many organizations throughout Hendersonville and Henderson County, both government and non-profit alike, hold a high quality education as a top priority; and

WHEREAS, the Henderson County Education Foundation is one of these organizations and their focus is on providing scholarships and grants to students and teachers in order to create new opportunities; and

WHEREAS, without the scholarships and grants provided by the Henderson County Education Foundation, some students in our community might not have the opportunity to pursue higher education; and

WHEREAS, the Henderson County Boyd BBQ Expo is a fundraiser for the Henderson County Education Foundation. The Expo provides thousands of dollars each year in additional monies to the Foundation for student scholarships and teacher grants; and

WHEREAS, the Henderson County Boyd BBQ Expo will be held on April 20, 2013; and

WHEREAS, all Henderson County schools are encouraged to participate in the Expo and are given the opportunity to showcase their school and students, as well as show school spirit and help to raise additional funds; and

WHEREAS, we hereby pause to express our appreciation and to honor Dr. Donald C. Jones, Executive Director of the Henderson County Education Foundation, and for his diligence and hard work.

NOW, THEREFORE BE IT RESOLVED, that the Hendersonville City Council declares April 20, 2013 as

“Day of Education”

in Hendersonville, North Carolina, and ask all of its citizens to commend its observance and take part in the Henderson County Boyd BBQ Expo.

Adopted this the fourth day of April, 2013.

/s/Barbara G. Volk, Mayor

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

F. Consideration of Findings of Fact and Conclusions of Law - Fire Station #2 Special Use Review: City Attorney Fritschner presented the findings of fact and conclusions of law for the Special Use Permit for Fire Station #2 on Sugarloaf Road. *[The findings are found in Planning Department file number P12-55-SUR.]*

G. Consideration of Budget Amendments:

Fire Department: To transfer \$13,000.00 from account 104340 512200 Salaries &Wages O/T to 104340-512600 Salaries & Wages TEMP to use part-time staffing due to personnel absences resulting from training, attrition, and extended medical leave. This budget amendment will result in no net change to the approved 2012-2013 budget.

Water/Sewer Department: To transfer funds for the replacement of two computers in the Administration division. Requesting transfer of funds (\$5,000) from 600080-443900 (Miscellaneous Income) to 607110-553000 (Capital Outlay – Non depreciable). Net change in this budget: \$5,000.

H. Consideration of Resolution Authorizing the City Attorney to Acquire Sewer Easements over Certain Properties by Eminent Domain for the Projects: City Attorney Fritschner explained in order for the City to complete the following sewer projects, it will have to acquire certain parcels of land for the easement. The City always exerts every effort to acquire the properties by voluntary acquisition from the owner before resorting to eminent domain proceedings. However, on occasion, other methods are unavailing.

In order for the City to exercise this power the City Council must authorize it by resolution. Staff is hopeful this will not be necessary.

i. Atkinson:

Resolution #13-0420

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE ACTIONS UNDER N.C.G.S. CHAPTER 40A WITH RESPECT TO CERTAIN REAL PROPERTIES 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 actions under N.C.G.S. Chapter 40A with respect to the following identified real properties.

Owner Name	PIN
01 CARAP LLC	9568319585
02 Kearns, Richard D.	9568411777
03 Thomas, Margaret S. Trustee Royce P. Thomas Unified Trust	9568512444
04 Henderson Co. Habitat for Humanity	9568513735
05 Saddlebrook PH II HOA Inc.	9568523362
06 Blue Ridge Savings Bank Inc.	9568516641
07 McMurray, Devaughn C.	9568616333
08 Edney, J. Michael Trustee The P.H. Grose Jr. Family Trust	9568619636
09 Edney, J. Michael Trustee The P.H. Grose Jr. Family Trust	9568721215
10 Perry, Andrew Garrett	9568720379

Adopted this fourth day of April 2013.

/s/Barbara G. Volk, Mayor

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

ii. Jackson Park:

Resolution #13-0421

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE ACTIONS UNDER N.C.G.S. CHAPTER 40A WITH RESPECT TO CERTAIN REAL PROPERTIES IN HENDERSON COUNTY

WHEREAS the City Council finds it necessary in order to complete the construction of a sanitary sewer project and associated greenway project near Mud Creek in Henderson County sometimes known as the Jackson park sewer project and greenway extension,

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

Owner Name	PIN
1 John L. Pace Enterprises Inc.	9569653273
2 Barnett, Ted C.	9569741512
3 Hyder, Jeree and Hyder, Mary Helen	9569740150
4 The Hodges Company, LLC	9579007956

Adopted this fourth day of April 2013.

/s/Barbara G. Volk, Mayor

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

iii. Wolfpen:

Resolution #13-0422

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE ACTIONS UNDER N.C.G.S. CHAPTER 40A WITH RESPECT TO CERTAIN REAL PROPERTIES IN HENDERSON COUNTY

WHEREAS the City Council finds it necessary in order to complete the construction of a sanitary sewer project near U.S. Highway 64 East in Henderson County sometimes known as the Wolfpen sewer project,

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

Property Owner	PIN
Group Ventures, Inc.	9579-29-5777
Leonard & Penny Self	9670-20-3840
Steven & Bonnie Balcer	9670-20-4932
Clear Creek Landing HOA	9670-20-4932
DMJ Inc	9670-32-2696
Mt. Bean Growers, Inc.	9570-42-2833
William S. & Sherry Gunter	9670-52-0848
Jeffery C. Holbert	9670-52-2885
Darlene N. Goforth	9670-53-3586
Frances Dunn	9670-63-9740
Hasan Mansouri	9670-61-2688
William & Jane Patterson	9670-73-2043
Episcopal Diocese of WNC	9670-82-2135
Jeter P. Searcy, Jr	9670-82-9712
Easlan Capital of Charlotte	9680-01-2501
Triangle Real Estate	9680-02-2266
John R. Owenby	9670-21-1182

Adopted this fourth day of April 2013.

/s/Barbara G. Volk, Mayor

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

I. Consideration of Agreement with Glenbrook, Inc. for the Repair and Subsequent Acceptance of a Sewer System: Mr. Lee Smith explained Glenbrook, Incorporated owns a sewer system situated on the property that is in a state of disrepair. They have requested the City take over the sewer system but because of the condition, the Water/Sewer Department is requiring the development to bring it up to the City's standards before acceptance. He stated staff has indicated the Water/Sewer Department will take over the sewer system once it is brought back up to standards but the City will undertake the repairs, at the development's expense. He presented an agreement between the City and Glenbrook to accomplish this.

STATE OF NORTH CAROLINA
HENDERSON COUNTY

AGREEMENT

THIS AGREEMENT made this fourth day of April, 2013 by and between (1) the City of Hendersonville, a North Carolina municipality (the "City") and (2) Glenbrook, Incorporated, a North Carolina not-for-profit corporation doing business in Henderson County, North Carolina ("Glenbrook");

W I T N E S S E T H:

WHEREAS, Glenbrook is the owner of a sewer system situated on real property owned by it, including pipes, pump station and other appurtenances, and

WHEREAS the said sewer system is in a state of disrepair, and

WHEREAS Glenbrook wishes for the City to repair the system and thereupon to assume the system into the City's system, and

WHEREAS Glenbrook is willing to pay for the repair to the system in exchange for the City's acceptance of the repaired system,

NOW, THEREFORE, in consideration of the promises herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The City will make repairs to the sewer lines situated on real property owned by Glenbrook and described in that deed recorded in Deed Book 615 at page 571, Henderson County Registry, which repairs, along with the other repairs mentioned herein, will bring Glenbrook's sewer system into a condition acceptable to the City for acceptance into the City's system.
2. The City will purchase and install on the Property at Glenbrook's expense a new pump station to replace the existing one.
3. The City will obtain and install at the Glenbrook sewer pump station a Supervisory Control and Data Acquisition ("SCADA") system that, in the judgment of the City, is sufficient to operate in conjunction with the said pumping facilities.
4. Glenbrook will pay the reasonable cost of the aforementioned repairs and SCADA system as presented by the City. Glenbrook agrees to pay in advance, and does tender along with an executed copy of this Agreement, the sum of \$2,400.00 U.S. as an initial payment of these costs.
5. Glenbrook will pay the remaining costs to the City not later than one year after the date hereof. The entire remaining sum will be due on such date without interest. Any sum unpaid after the aforementioned due date will carry interest at a rate of 8% per annum until paid.
6. Upon presentation of a recordable deed to Glenbrook, Glenbrook will execute a warranty deed to the City conveying to the City the sewer system, including pipes, pumping station and appurtenances, to the City by warranty in fee simple.
7. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.
8. The failure of the City to enforce any provisions of this Agreement shall not constitute a waiver by the City of that or any other provision.
9. This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
10. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.

Done in the place and on the date first above written.

City of Hendersonville

By: Lee Galloway, Hendersonville City Manager

By: Glenbrook, Incorporated

name:

title:

J. Agreement for the Commission of Public Art Work between the City and Berry Bate for the Sixth & Main Street fountain project: Mr. Lew Holloway, Main Street Director, presented a contract between the City and Berry Bate for work on the Sixth and Main Street fountain project. Work is underway on the fountain in conjunction with the Main Street Phase III project. *[The agreement is available in the office of the City Clerk.]*

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

6. 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 addressed the Council stating several residents of the Dana community were in attendance, as well as others. He explained the purpose is to receive public input about the City's desire to apply for a Community Development Block Grant for this project. He stated the funds will only be a partial funding for the project. He stated another program is offered whereby the grant will pay for the services to be installed from the meter to the home and the City will attempt to get this grant. He stated a similar project occurred on Brookside Camp Road because of an underground storage tank that leaked.

Mayor Volk opened the meeting for public input. The following addressed the Council:

Ms. Donella Pressley, 3 East Hill Drive, stated her mother resides at this address. She stated their wells are contaminated and are not recommended for residential use. Their only solution is City water and asked for assistance in expediting that. This has affected their quality of life. Showering is limited to five minutes. Her mother has been drinking the water and suffers from health problems. She asked the Council to help them gain City water and stop future generations from having to deal with it.

Stan Jones, 7 East Hill Drive, stated the residents are being exposed to dangerous chemicals due to circumstances beyond their control at no fault of their own. The quality and possibly length of their lives have been effected and they are directly affected by contamination of their well water. He expressed appreciation for help with this issue.

Landon Davidson with the NC Division of Water Quality, groundwater protection section, stated they sampled approximately 72 wells in the area, 23 wells are impacted with dieldrin, a legacy pesticide, a persistent pollutant that is in the water supply well. He stated he has written a letter on behalf of the Division of Water Quality stating they support a municipal water line as a final and permanent alternate water source. He stated while they do not facilitate the Bernard Allen Fund directly, they will do everything they can to facilitate that and maximize that contribution to this effort.

Sierssa Baker, water quality administrator at ECO, stated she has been working with the residents in the Dana community who have been effected by the contamination of their well water. She expressed support for the members of the Dana community and the organization they have formed, Clean Water for Dana, in their efforts to secure an alternative source of clean, safe water. She expressed appreciation of Council's consideration.

Mayor Volk commented the City Council is aware of seriousness of this issue.

Mr. Lee Smith provided an update stating he has spoken with CDBG and Henderson County has authorized staff to submit an application to the Rural Center. He stated the Bernard Allen Fund is another potential source which may pay up to one-third of the cost of this project. He stated the cost estimate for the project is approximately \$600,000. He stated staff has issued a request for qualifications for engineering and grant administration services and hopes for consideration of those at Council's May meeting. He stated the grant administration will be the most difficult.

There was discussion on whether the City could begin the project as soon as possible because of the emergency situation and whether the City could be reimbursed with the grant funds. Mr. Lee Smith will pose the question and will ask if the grant will include paying for the service to homes.

The Council discussed further the possibility of the grants, the time frame for completion of the project, installing a tap at a nearby church, and contracting the design work. Mr. Galloway stated staff should clarify and ensure

that whatever the City expends is reimbursable through the grant funds. Mayor Volk stated our local senator and our representative are both aware and have pledge to do whatever they can.

Mayor Pro Tem Collis moved to authorize the utilities director and city engineer 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.

Mr. Lee Smith explained another public hearing to identify this project we are applying for will be held at the next Council meeting as well as a recommendation for engineering and grant administration services. Mayor Volk and Council Member Smith reassured the residents that the City is working as fast as possible.

7. Public Hearing – Consideration of Final Berkeley Mills Park Master Plan: Ms. Sue Anderson, Planning Director, addressed the Council stating this plan began with the appointment of a steering committee in January 2012. She provided a copy of the Berkeley Mills Park Master Plan and presented a resolution adopting the plan.

Mr. Gary Wirth of Wirth and Associates presented the master plan and reviewed the changes made to the draft plan including cost estimates for an artificial turf soccer field and costs for renovations of the dugouts.

Mayor Volk opened the public hearing noticed in accordance with North Carolina General Statutes. The following addressed the Council:

Ken Fitch, 1046 Patton Street, asked questions about the activities in the park, possible sources of funding for the improvements, the plan for mountain biking trails, and about the area of the quarry. He commended all who have worked to establish this park and suggested interpretive signage that presents the history of the site. Mayor Volk expressed appreciation for the support and suggestions.

No one else expressed a desire to speak. The public hearing was closed at 6:24 p.m.

Council Member Smith moved City Council to adopt a resolution adopting the Berkeley Mills Park Master Plan. A unanimous vote of the Council followed. Motion carried. [The Berkeley Mills Park Master Plan is available in the Planning Department.]

Resolution #13-0423

A RESOLUTION TO ADOPT THE BERKELEY MILLS PARK MASTER PLAN

WHEREAS, On June 6, 2008, Kimberly-Clark Corporation donated approximately 60 acres to the City of Hendersonville; and

WHEREAS, This property is referred to as Berkeley Mills Park; and

WHEREAS, The City Council of the City of Hendersonville values adequate and appropriate public amenities such as public parks as a foundation of a successful community; and

WHEREAS, The City Council of the City of Hendersonville values parks and greenspaces throughout the city because they promote a healthier lifestyle, provide protection of natural resources and enhance the quality of life for residents of all ages and abilities; and

WHEREAS, The City of Hendersonville Park and Greenspace Master Plan Task Force and the Mayor and City Council all selected a master plan for Berkeley Mills Park as a top priority; and

WHEREAS, On January 5, 2012, the City Council of the City of Hendersonville established a five-member Steering Committee to oversee the master plan process; and

WHEREAS, On October 5, 2012, the City of Hendersonville entered into a contract with Wirth & Associates to complete a master plan for Berkeley Mills Park based on the Steering Committee's recommendations; and

WHEREAS, The City Council of the City of Hendersonville understands that a duly adopted park master plan is necessary to guide future allocation of resources.

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

Section 1. The City Council hereby adopts the Berkeley Mills Park Master Plan.

Section 2. The City Council recognizes the value of this document as an informational resource and a framework for moving forward on the development of Berkeley Mills Park.

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

Adopted the fourth day of April 2013.

/s/Barbara G. Volk, Mayor

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

8. Public Hearing – Consideration of an Amendment to the Zoning Ordinance Adding Automotive Paint and Body Work as a Conditional Use to the C-2 Secondary Business Zoning District Classification: Upon request of the Zoning Administrator, Ms. Sue Anderson, Planning Director, presented an amendment to the text of the Zoning Ordinance. The amendment will allow automotive paint and body work as a conditional use to the C-2 Secondary Business District.

Ms. Anderson also reviewed Goal LU-1 in Chapter 8 of the 2030 Comprehensive Plan and the standards contained in Section 11-4 of the Zoning Ordinance. She reported the Planning Board voted unanimously to recommend approval of the amendment.

At 6:29 p.m., Mayor Volk opened the public hearing noticed in accordance with North Carolina General Statutes. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Collis moved City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 5-7-2 C-2 Secondary Business Conditional Uses, adding automotive paint and body work. A unanimous vote of the Council followed. Motion carried.

Ordinance 13-0424

AN ORDINANCE AMENDING ARTICLE V SECTION 5-7-2 CONDITIONAL USES OF THE ZONING ORDINANCE OF THE CITY OF HENDERSONVILLE PERTAINING TO THE SECONDARY BUSINESS ZONING DISTRICT AND AUTOMOTIVE PAINT AND BODY WORK

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 in regards to conditional uses.

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

1. Article V Zoning District Classifications, Section 5-7-2 Conditional Uses in the Secondary Business Zoning District is hereby amended to include the following conditional use:

Automotive paint and body work

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

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

Council Member Stephens asked Mr. Tom Cooper why he asked the question about including subcontractors at the bid opening. Mr. Tom Cooper, stated he has been doing this for 38 years and he recognized some of the bidders may not have the experience in public bids. He stated he thought this could happen if someone didn't list the mechanical, electrical and plumbing bids. He stated he expected only one answer because bidders must write that in. He stated it is in the bid documents. ADW left off the blanks to list those subcontractors on the forms. He stated he did not raise the issue when he heard the answer because he thought it may not be significant but now it is. He stated he has not seen a public project bid in the last 10-15 years that did not included it. He stated they received an e-mail reminding them to list the subcontractors two days prior to the bid opening, instructing them to add it to the form or insert an extra page and all but one bidder did. He stated two days prior to the bid opening is too late for an official addendum. He stated in the same e-mail, it asked for a response for all bidders indicating whether they received the addendums and everyone had to respond. He stated there should be records that everyone received the e-mail.

Mr. Cooper stated it is not fair for their company, given their work and history, after their bid numbers are known, to go back and rebid. He stated someone new may see their bid amount now and shoot for their number. He stated he thinks it is unfair. He stated the statement was wrong.

Mr. Powell stated everyone does their bid forms differently. They asked in their bid instructions to include the three subcontractors. He stated they ask for the information, as clearly stated, in the document, and it should be there.

At 6:40 pm., Council Member Smith moved Council to enter a closed session to consult with an attorney employed by the City Council in order to preserve the attorney-client privilege between the attorney and the Council. A unanimous vote of the Council followed. Motion carried.

The Council exited the closed session at 7:25 p.m. after discussing options with the City Attorney relating to the awarding of the bid.

Council Member Smith moved the City Council find that the Blue Ridge Enterprises bid is a non-responsive bid. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Collis commented he feels confident the architect will oversee the project. **He moved Council to accept the bid from Cooper Construction Company for Fire Station #2. A unanimous vote of the Council followed. Motion carried.**

10. Discussion of Bond Issue for the Development of the Berkeley Mills Park: Mr. Rudisill explained Council asked whether a bond referendum for Berkeley Mills Park improvements is possible at the November election and the answer is yes. He reported he confirmed with the Board of Elections that absentee ballots are required 30 days prior to the primary or the election. He stated it will be known by the third Friday in July whether there will be a primary on October 8. He stated Beverly Cunningham, Director of the Board of Election, assured him absentee ballots will be available to the public 30 days prior.

Mr. Rudisill stated bond counsel guides the City throughout the entire process. He stated the Local Government Commission (LGC) approves the selection of the bond counsel. The application process similar to all other applications submitted through the LGC. He stated the City has the latitude to select the firm they are most comfortable with. He recommended the firm of Womble, Carlisle, Sanders, and Rice because of past experience.

Mr. Rudisill stated if the referendum passes, there is seven years from the date of the referendum to issue the bonds. He stated these are 20-year bonds and interest rates are favorable now.

Questions from the Council include:

If the bonds are approved and grant funds are received later, can only a portion of the bond be issued or is the City committed to issuing the full amount?
Is the City allowed to use the bond funds to repay the bond if not all of the funds are needed?
At what point does the City tell the bond counsel the exact amount?

There was discussion of the rates and if the 2008 bonds are callable. Mr. Rudisill stated those bonds cannot be refunded until 2018.

Council Member Smith moved to authorize the City Manager to engage bond counsel for the proposed issue of City bonds for the Berkeley Mills improvements project. Council Member Stephens asked about the cost for the attorney. Mr. Rudisill explained the City will owe him for whatever time he has spent. He stated he has to send a check for \$12,500 when the application submitted to the LGC by July 1. Council Member Stephens stated this is starting the process and asked if City is making a commitment as this point. Mr. Rudisill stated no. **A unanimous vote of the Council followed. Motion carried.**

11. Consideration of Refined Drawings and Proposals for the 700 Block of the Main Street Project:

Mr. Detwiler provided refined drawings for the 700 Block of the Main Street project. He presented two different proposals: Option A) re-uses the sidewalk on the west side, uses the same curb line but replace the curb on the west side which currently has no gutter, replace all curb on the east side including the landscaped triangle, proposed 12 street trees, relocating the four Japanese Maple Trees to the east side of the street, keeping the large Sycamore in place, ending the crosswalk at the northeast intersection of Seventh/Main, no sidewalk on the east side, asphalt aprons on the east side instead of concrete, six spaces with parallel parking and demolition under the landscaped island. Option B): includes the above-mentioned but has 13 pull-in parking spaces (a gain of additional seven spaces). He stated the cost differences are nominal.

The Council discussed the options and the costs. Mr. Detwiler reported Duke Energy is willing to take down the overhead lines and cobra head lights at no cost.

Council Member Stephens voiced support of moving the Japanese Maple trees to the east side of the street. The Council agreed by unanimous consent to Option B with 13 parking spaces. **Mayor Pro Tem Collis moved to authorize the city engineer to negotiate a change order with Trace & Company, Inc. as part of the Main Street Infrastructure improvements, phase 3 project in order to finish the 700 block of Main Street as directed by the Council, as outlined in Option B. A unanimous vote of the Council followed. Motion carried.**

12. Discussion of Traffic Management for Third to Fifth Avenues: Mr. Detwiler explained options were presented to the Council in December for traffic calming on Fifth Avenue from Blythe to Justice Street. He stated the Council requested a proposal from Kimley Horn for further recommendations for the area. He stated a proposal was presented on February 15 and Council requested to increase the scope to Third to Fifth Avenues, Blythe to Washington Streets.

Mr. Detwiler reviewed the two-phase proposal from Kimley Horn. Mayor Pro Tem Collis commented on the cost of the study. There was discussion of the proposed tasks. Options for slowing traffic during rush hour were discussed by the Council and included: installing permanent flashing signs on both sides of the street showing the drivers speed and increased police presence. **The Council requested the City Manager work with the Police Chief about better enforcement during the rush hour times on Third and Fifth Avenues and to get costs for permanent speed detection signs for both streets.**

The Council also discussed the effectiveness of four-way stops. Mr. Detwiler stated staff could revisit the options presented to the Council in December: a serpentine pattern with striping, bump-outs to slow traffic and protect vehicles, etc. **The Council requested more information on bump-outs. No action was taken.**

13. Consideration of Amendments to Employee Wellness Program - Taking Shape: Mr. David Sapp, Human Resources Officer, discussed results from the employee “Taking Shape” wellness program. He reviewed the impact on the health insurance stating the City’s increase for 2013-2014 is only 3 percent, one of the lowest in the State.

Mr. Sapp reviewed the proposed changes to the program including a two-tier system with increased rewards for the second tier. Tier 1 remains the same: walking 12 hours per month, running eight hours per month, or 12 gym visits per month would receive \$125 per quarter. Tier 2 would be: walking 14 hours per month, running 10 hours per month or 14 gym visits for a reward of \$150 per quarter. Tier 2 employees would have to achieve the goals all three months of the quarter. For the small number of employees who take two payments and two days of vacation as their reward, the Tier 2 the vacation time would increase from eight hours to 12 hours. **The Council agreed to keep both tiers of the program.** There was discussion on the possible changes to health care provisions for next year.

After discussion, **Council Member Smith moved Council to accept the proposed changes to Taking Shape employee wellness program beginning July 1, 2013. A unanimous vote of the Council followed. Motion carried.**

14. Consideration of an Ordinance Amending Section 6-2 of the City Code Pertaining to Possession or Consumption of Alcohol upon City Streets, Alleys and Parking Lots: City Attorney Fritschner explained a special event has been proposed that may include the sale and consumption of malt beverages. He stated the current ordinance does not permit the consumption of malt beverages in parking lots. He presented an ordinance to permit it as State statutes gives the City that power.

At the recommendation of Council Member Smith, City Attorney Fritschner presented a change to the draft ordinance under paragraph d) using the term “special event” instead of festival. There was no objection to the change.

Council Member Smith moved adoption of the ordinance amending Section 6-21 of the Code of Ordinances respecting the possession or consumption of alcohol upon City streets, alleys and parking lots as amended. A unanimous vote of the Council followed. Motion carried.

Ordinance #13-0425

AN ORDINANCE AMENDING SECTION 6-2 PERTAINING TO POSSESSION OR CONSUMPTION OF ALCOHOL UPON CITY STREETS, ALLEYS AND PARKING LOTS

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and welfare of persons situated in the streets, alleys and parking lots of Hendersonville, to restrict the possession and consumption of alcohol in such places; and

WHEREAS, the City Council has further determined that adequate safeguards may be put in place to protect these persons from certain use and consumption of alcohol at some special events within the streets, alleys and parking lots of Hendersonville,

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

SECTION 1. Section 6-2 of the Hendersonville Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 6-2. - Drinking in public places generally; penalty for violation of section.

(a) It shall be unlawful for any person to consume any alcoholic beverage, as defined in G.S. 18B-101(4), on any property owned, occupied or controlled by the city, or upon any public vehicular areas. Such public vehicular areas shall be construed to mean, and include, any drive, driveway, road, roadway, street, sidewalk, alley, parking area or other space open for the purpose of vehicular traffic or operation upon the grounds or premises of any service station, car wash, supermarket, store, restaurant, amusement center, lounge, shopping center or office building, or any other

business or municipal establishment, or groups of such establishments, providing parking space for customers, patrons, employees or the general public.

(b) Any person violating any of the provisions of this section or failing or neglecting or refusing to comply with this section shall, upon conviction, be guilty of a misdemeanor and punished in accordance with section 1-6

(c) Notwithstanding the foregoing, it shall not be unlawful for any person to consume any alcoholic beverage within the bounds of a sidewalk café permitted pursuant to the provisions of section 46-86 of this Code and for which a valid ABC permit exists.

(d) Notwithstanding the foregoing, it shall not be unlawful for any person to possess or consume any alcoholic beverage on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events, if the city council has adopted a resolution making provisions for the possession and consumption of malt beverages or unfortified wine or both at such special event, to the extent permitted by such resolution.

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 fourth day of April 2013.

/s/Barbara G. Volk, Mayor

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

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

15. Consideration of Ordinance Amending Chapter 36 of the Code of Ordinances Respecting States of Emergency: City Attorney Fritschner presented amendments to Chapter 36 of the Code of Ordinances dealing with issuing and calling off a state of emergency per discussions of the Mayor and Fire Chief. The Council has the power to declare states of emergency and given certain emergency powers, e.g., restrict activities and movements during a state of emergency. The Council may give the Mayor the power to do so as well. He noted the NCGS has changed significantly and proposed amendments that conform to the statute.

City Attorney Fritschner proposed mirroring the authorization of the statute which gives both the Mayor and Council the broadest possible discretion under the statute. He explained under this ordinance, the Council is giving the Mayor the power to declare a state of emergency when circumstances do not permit the calling of the Council. The Council could meet and override the decision if necessary.

Mayor Volk commented this topic was presented at a NCLM workshop and they recommended having a template in place. She stated the State Statutes have changed. She stated declaring a state of emergency may have financial implications for filing claims for assistance when an emergency occurs.

Council Member Smith moved the Council to adopt the proposed amendments to Chapter 36 Article V Division 2 of the Code of Ordinances respecting states of emergency. A unanimous vote of the Council followed. Motion carried.

Ordinance #13-0426

AN ORDINANCE AMENDING CHAPTER 36 ARTICLE V DIVISION 2 PERTAINING TO THE AUTHORITY OF THE MAYOR TO ISSUE EMERGENCY DECLARATIONS

WHEREAS, the Code of Ordinances Chapter 36 Article V Division 2 provides for the declaration of emergencies within the City, and

WHEREAS, since the adoption of the aforementioned ordinances certain changes have been made to the North Carolina General Statutes with respect to the declaration of emergencies by local governments, and

WHEREAS, the Ordinance in its currently form does not completely conform to the current North Carolina General Statutes; and

WHEREAS, the City Council wishes to revise its ordinance to bring the same into conformity with the General Statutes in such a way as to invest the Mayor with the broadest discretion permitted in the declaration of emergencies and exertion of powers pursuant thereto,

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

SECTION 1. Chapter 36 Article V Division 2 of the Hendersonville Code of Ordinances is hereby amended as follows:

Sec. 36-181. - When emergency deemed to exist.

A state of emergency shall be deemed to exist within the city whenever, ~~during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property~~ declared pursuant to N.C.G.S. 166A-19.22.

Sec. 36-182. - Issuance of proclamation.

In the event of an ~~existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the city or threatening damage to or destruction of property,~~ the mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions authorized in this division.

~~Sec. 36-183. - Imposition of curfew generally.~~

~~The mayor is hereby authorized and empowered to limit by proclamation the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits of the city and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firefighters and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the city.~~

Sec. 36-184. - Restricted activities enumerated.

During the existence of a proclaimed state of emergency, the mayor may impose by proclamation any or all of the following restrictions:

- ~~(1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;~~
 - ~~(2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind, and their possession or consumption off one's own premises;~~
 - ~~(3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property;~~
 - ~~(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha or any other explosive or inflammable fluids or substances;~~
 - ~~(5) Prohibit or regulate travel upon any public street, alley or roadway or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof; or~~
 - ~~(6) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment and any other places of public assembly.~~
- (1) Of movements of people in public places, including imposing a curfew; directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction; prescribing routes, modes of transportation, and destinations in

connection with evacuation; and controlling ingress and egress of an emergency area, and the movement of persons within the area.

(2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.

(3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.

(4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this section does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).

(5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

A declaration authorized by this section need not require or provide for the imposition of all of the types of prohibitions or restrictions, or any particular prohibition or restriction, authorized by this section during an emergency; rather the Mayor is authorized hereby to determine and impose the prohibitions or restrictions deemed necessary or suitable to a particular state of emergency.

~~Sec. 36-185. --Violation of restricted activities imposed by proclamation--When Prohibitions and Restrictions Take Effect. --~~

~~During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this Division.~~

All prohibitions and restrictions imposed by declaration pursuant to this Division shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597.

~~Sec. 36-186. --Extension, alteration and repeal of proclamation--Expiration of Prohibitions and Restrictions.~~

~~Any proclamation issued by the mayor under this division may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.~~

Prohibitions and restrictions imposed pursuant to this Division shall expire upon the earliest occurrence of any of the following:

(1) The prohibition or restriction is terminated by the official or entity that imposed the prohibition or restriction.

(2) The state of emergency terminates.

~~Sec. 36-187. --Lifting of curfew--Violation.~~

~~The mayor shall proclaim the end of a state of emergency curfew imposed under this division, or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the city council.~~

In addition to any other penalty permitted, violation of a declaration issued pursuant hereto shall be subject to criminal penalties as provided in ' 166A-19.31.

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 fourth day of April 2013.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, MMC, City Clerk
Approved as to form: /s/Samuel H. Fritschner

16. Reports from Staff:

a. Meeting Announcements/Reminders: Mrs. Tammie Drake, City Clerk, reminded the Council of the following Special Council Meetings: Friday, April 5, 2013, 12:45 p.m., City Manager Hiring Process, and Friday, May 17, 2013, 8:00 a.m. for the Budget Review.

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

a. Appointments for Consideration: There was none.

b. Announcement of Vacancies: City Clerk Tammie Drake announced the term of Charles Byrd on the ABC Board will expire in June. He has requested reappointment.

Mrs. Drake reminded the Council of a vacancy on the Environmental Sustainability Board. There are no applications on file from citizens willing to serve. **No action was taken.**

18. Comments from Mayor and City Council Members:

a. Scheduling of Special Meeting to Review Mill Proposals: Mayor Volk stated April 15 is the deadline for submissions. Council Member Smith stated the Council will be holding a number of special meetings in the near future. He suggested delaying scheduling this meeting. **The Council agreed by unanimous consent.**

19. New Business: There was none.

20. Closed Session: There was none.

At 8:54 p.m., Council Member Smith moved Council to enter a closed session to consult with an attorney employed by the City Council body in order to preserve the attorney-client privilege between the attorney and the Council and to consider and give instructions to the attorney concerning the handling of a settlement of two judicial actions: in particular the matters of Hendersonville vs. Easter Rentals and Rector vs. Hendersonville. A unanimous vote of the Council followed. Motion carried.

The Council conferred with City Attorney Fritschner on the settlement of the two aforementioned litigation cases. **The Council exited the closed session at 9:08 p.m. No action was taken.**

21. Adjournment: Being no further business, the meeting adjourned at 9:08 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

**April 5, 2013
Special Meeting of the City Council
Council Chambers – City Hall**

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

Absent: Council Member Steve Caraker (participated in part by conference call)

Staff Present: City Manager Lee Galloway

The purpose of the special meeting was to:

- 1) hold a closed session for the purpose of considering 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). Other topics may be discussed.

1. Call to Order: Mayor Volk called the meeting to order at 12:45 p.m. A quorum was established with four members in attendance.

2. Results from City Manager Assessment Center: The City Council heard the results from the Assessment Center and Emotional Intelligence Inventory conducted April 4 and 5 for the City manager search process from Dr. Stephen Strauss and Dr. Heather Lee with the Developmental Associates and the assessors who participated.

Seven candidates participated in the assessment center. The Council chose three candidates for personal interviews. The Council charged the Mayor with scheduling the interviews. The Council agreed to set special meetings to conduct those interviews.

3. Adjournment: Being no further business, the meeting adjourned at 5:45 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

**April 16, 2013
Special Meeting of the City Council
Council Chambers – City Hall**

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

The purpose of the special meeting was to:

- 1) hold a closed session for the purpose of considering 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). Other topics may be discussed.

1. Call to Order: Mayor Volk called the meeting to order at 6:00 p.m. A quorum was established with all five members in attendance.

2. City Manager Candidate Interview: The City Council conducted an interview with one of the three finalists for the city manager position.

3. Adjournment: Being no further business, the meeting adjourned at 7:45 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

**April 17, 2013
Special Meeting of the City Council
Council Chambers – City Hall**

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

The purpose of the special meeting was to:

- 1) hold a closed session for the purpose of considering 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). Other topics may be discussed.

1. Call to Order: Mayor Volk called the meeting to order at 7:00 p.m. A quorum was established with all five members in attendance.

2. City Manager Candidate Interview: The City Council conducted an interview with one of the three finalists for the city manager position.

3. Adjournment: Being no further business, the meeting adjourned at 8:35 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

**April 18, 2013
Special Meeting of the City Council
Council Chambers – City Hall**

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

The purpose of the special meeting was to:

- 1) hold a closed session for the purpose of considering 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).
 - 2) The Council will discuss and clarify their action taken at their April 4, 2013 regular meeting regarding the awarding of the bid for Fire Station #2 during open session.
- Other topics may be discussed.

1. Call to Order: Mayor Volk called the meeting to order at 6:02 p.m. A quorum was established with all five members in attendance.

2. Fire Station #2 Bid Clarification: Mayor Volk asked for clarification of awarding the bid to Cooper Construction by the Council at their April 4, 2013 regular meeting. The Council discussed the project and the alternates. Council Member Ron Stephens expressed concerns about the alternates. **Council Member Smith moved to amend the action of the City Council during the 04-04-13 regular meeting to accept the base bid for Fire Station #2 from Cooper Construction in the amount of \$2,814,000.00 and the following alternates:**

- 1) for concrete parking in the amount of \$23,510.00,
- 2) for a fence/gate in the amount of \$10,645.00,
- 3) Install Composite Metal Panel Soffits at all E.I.F.S. Soffit Locations in the amount of \$48,500.00, and
- 4) Existing Metal Building Repair Work in the amount of \$153,250.00

for a total bid (with all alternates) of \$3,049,905. The vote was four in favor; one opposed (Stephens).
Motion carried.

3. City Manager Candidate Interview: The City Council conducted an interview with one of the three finalists for the city manager position.

After discussion of the three finalists, the Council authorized Mayor Volk to negotiate an Offer of Employment with the selected candidate.

4. Adjournment: Being no further business, the meeting adjourned at 9:30 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Susan G. Frady

Department: Zoning

Date Submitted: 04/18/13

Presenter: Susan G. Frady

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05bi

BOYS AND GIRLS CLUB 20th BIRTHDAY PARTY

On April 18, 2013, the Special Events Committee met and reviewed an application by the Boys and Girls Club for the Boys and Girls Club 20th Birthday Party to be held on Wednesday, July 17, 2013 from 3:30 p.m. – 6:15 p.m. The request is to close Ashe Street between White Sparrow and Oriole Drive during the event.

This event is to celebrate the success and accomplishments of 20 years of the Boys and Girls Club by having a celebration with a street festival for the community.

The Special Events Committee voted unanimously to recommend that Council approve the event permit for the Boys and Girls 20th Birthday Party.

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

I move that the City Council approve the agenda item for a special event permit for the Boys and Girls Club 20th Birthday Party Event.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Susan G. Frady

Department: Zoning

Date Submitted: 04/19/13

Presenter: Susan G. Frady

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 0516

Corvette Night in Conjunction with Music On Main Street

On April 18, 2013, the Special Events Committee met and reviewed an application from Michael Peppers sponsor of the Corvette Night in Conjunction with Music on Main Street to be held on June 28, 2013.

This event is to be held in conjunction with Music on Main Street. Forty to fifty corvettes are to be shown as part of the event. Main Street will be closed between Allen and Caswell Streets from 5:00 – 9:00 p.m.

The Special Events Committee voted unanimously to recommend that Council approve the event permit for the Corvette Show in Conjunction With Music on Main Street.

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

I move that the City Council approve the agenda item for a special event permit for the Corvette Night in Conjunction With Music On Main Street Event.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Susan G. Frady

Department: Zoning

Date Submitted: 04/18/13

Presenter: Susan G. Frady

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05b3

DEEP IMPACT

On April 18, 2013, the Special Events Committee met and reviewed an application submitted by the Carolina Baptist Association sponsor of the Deep Impact event to be held June 21, 2013 from 9:00 a.m. – 5:00 p.m. at Sullivan Park.

This event will provide a fun and exciting afternoon to boys and girls in the community by providing free concessions to the kids at the Boys and Girls Club. Sullivan Park will be closed for this event. This is the first time this event has been held.

The Special Events Committee voted unanimously to recommend that Council approve the event permit for the Deep Impact event.

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

I move that the City Council approve the agenda item for a special event permit for the Deep Impact Event.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Susan G. Frady

Department: Zoning

Date Submitted: 04/19/13

Presenter: Susan G. Frady

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05c

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) Case Family Trust – 967 N. Main Street.
- 2) GB Construction, LLC – 19 Meredith Drive.
- 3) Assisted Living Group – 1745 Meadowbrook Terrace.
- 4) Ann Jarvis Millington – 203 Thornbird Ave.

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:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sam Fritschner

Department: Police

Date Submitted: 04/23/13

Presenter: Sam Fritschner

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05d

The police department is tasked by the City Ordinances with running criminal background checks on all applicants for Alcoholic Beverage licenses for locations within the City.

The City is being required by the State Bureau of Investigation to enact an ordinance authorizing the police department to seek criminal history reports from the SBI in order to be permitted access to these records.

I have drafted a proposed ordinance granting this authorization to the police department.

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

I move the Council to adopt the ordinance authorizing the police to request criminal history records from the State Bureau of Investigation.

Attachments:

Proposed ordinance

**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 § 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 believes that the 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 City Council deems it desirable to authorize the Chief of Police or his designee to obtain criminal history information on all persons applying for ABC permits for proposed locations within the City,

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 2nd day of May 2013.

**Return to
Agenda**

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

Submitted By: Tom Wooten

Department: Public Works

Date Submitted: 04/16/13

Presenter: Tom Wooten

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05e

Consideration of a Resolution Declaring Personal Property as Surplus

At the October 2011 City Council meeting, Council approved a resolution which gave the City Manager authority to declare personal property valued under \$30,000 as surplus. We have a piece of equipment that is valued at more than \$30,000 and would like for City Council to pass a Resolution approving the item as surplus so it can be sold by internet auction. The item is a 2000 Sterling truck with a Vactor sewer cleaning system mounted on the chassis. A Resolution is attached for your consideration.

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

I move to pass the attached Resolution which declares certain City Property as surplus and authorizes the Public Works Director to sell the item utilizing an internet auction.

Attachments:

Resolution # _____

**RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND
AUTHORIZATION TO DISPOSE OF BY ELECTRONIC AUCTION**

WHEREAS, North Carolina General Statutes 160A-266(c) provides that the City Council may authorize one or more City officials to declare surplus any personal property valued at less than \$30,000 for any one item or group of items; and

WHEREAS, vehicle #29-03, a 2000 Sterling Truck with a Vactor sewer cleaning system mounted to the chassis, VIN: 2FZNAJBBXYAG77103, is valued at more than \$30,000; and

WHEREAS, the truck has been replaced and is no longer needed by the City of Hendersonville.

Now, therefore, be it resolved, the City Council of the City of Hendersonville, North Carolina, hereby declares this vehicle as surplus property and authorizes the Public Works Director to dispose of the vehicle by electronic auction.

Adopted this second day of May 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: Jim Rudisill

Department: Finance

Date Submitted: 04/22/13

Presenter: Jim Rudisill

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 05f

Consideration of Annual Contract to Audit Accounts of the City of Hendersonville with Carland & Andersen, Inc.

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

I move Council to approve the Annual Contract to Audit Accounts of the City of Hendersonville with Carland & Andersen, Inc.

Attachments:

Audit Contract



CARLAND & ANDERSEN, INC.
CERTIFIED PUBLIC ACCOUNTANTS

307 NORTH CHURCH STREET ▪ HENDERSONVILLE, NC 28792

MEMBER - AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
MEMBER - NORTH CAROLINA ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS

Ronald G. Carland, CPA
Terry B. Andersen, CPA

F.T. Carland, CPA
Trish Cheek, CPA
George B. Lee, CPA
Harold C. Reid, CPA

April 18, 2013

Mr. James W. Rudisill
Finance Director
City of Hendersonville, North Carolina

Dear Jim:

Attached are two signed originals of the contract to provide the audit for the City of Hendersonville, for the year ending June 30, 2013. Upon execution, you will keep one, we will keep one, and I will enter it into the Local Government Commission's web portal.

The fee is the same as last year's. I plan to spend some time before your yearend, checking on budget amendments and such, in case anything needs to be approved by the City Council, prior to June 30.

Please let me know if you have any questions.

Sincerely,

Ronald G. Carland, CPA

BATCHELOR, TILLERY & ROBERTS, LLP

CERTIFIED PUBLIC ACCOUNTANTS

POST OFFICE BOX 18068

RALEIGH, NORTH CAROLINA 27619

RONALD A. BATCHELOR
ANN H. TILLERY
FRANKLIN T. ROBERTS
WM. JAMES BLACK, JR.
SCOTT E. CABANISS

3605 GLENWOOD AVENUE, SUITE 350
RALEIGH, NORTH CAROLINA 27612
TELEPHONE (919) 787-8212
FACSIMILE (919) 783-8724

System Review Report

To the Shareholders of Carland & Andersen, Inc. and the
Peer Review Committee of NCACPA

We have reviewed the system of quality control for the accounting and auditing practice of Carland & Andersen, Inc. (the firm) in effect for the year ended May 31, 2012. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards*.

In our opinion, the system of quality control for the accounting and auditing practice of Carland & Andersen, Inc. for the year ended May 31, 2012, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)*, or *fail*. Carland & Andersen, Inc. has received a peer review rating of *pass*.

Bachelor, Tillery & Roberts, LLP

November 28, 2012

CONTRACT TO AUDIT ACCOUNTS
of City of Hendersonville, NC
Governmental Unit

On this _____ day of May, 2013, Carland & Andersen, Inc.
Auditor

P O Box 179 Hendersonville, NC 28793
Mailing Address

_____, hereinafter referred to as
the Auditor, and City Council of City of Hendersonville, NC, hereinafter referred
Governing Board Governmental Unit
to as the Governmental Unit, agree as follows:

1. The Auditor shall audit all statements and disclosures required by generally accepted accounting principles (GAAP) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit for the period beginning July 1, 2012, and ending June 30, 2013. The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion will be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate discretely presented component units, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with generally accepted auditing standards. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB Circular A-133 and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated workpapers may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit and/or workpapers are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC CPA Board).
3. This contract contemplates an unqualified opinion being rendered. If financial statements are not prepared in accordance with GAAP, or the statements fail to include all disclosures required by GAAP, please provide an explanation for that departure from GAAP in an attachment.
4. This contract contemplates an unqualified opinion being rendered. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract
5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2011 revisions, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of their most recent peer review report regardless of the date of the prior peer review report to the Governmental Unit and the Secretary of the LGC prior to the execution of the audit contract (See Item 22). If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards*, the Auditor shall provide an explanation as to why in an attachment.
6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to the State and Local Government Finance Division (SLGFD) within four months of fiscal year end. Audit report is due on: October 31, 2013. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay must be submitted to the Secretary of the LGC for approval.
7. It is agreed that generally accepted auditing standards include a review of the Governmental Unit's systems of internal control and accounting as same relates to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor will make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his findings, together with his recommendations for improvement. That written report must include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.
8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] The process for

Contract to Audit Accounts (cont.) City of Hendersonville, NC

(Name of Governmental Unit)

invoice approval has changed. All invoices for Audit work must be submitted by email in PDF format to the Secretary of the LGC for approval. The invoices must be sent through the portal at: <http://nctreasurer.slgfd.leapfile.net>. Subject line should read "Invoice - only. The PDF invoice marked 'approved' with approval date will be returned by email to the Auditor for them to present to the Governmental Unit for payment. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit shall pay to the Auditor, upon approval by the Secretary of the LGC, the following fee, which includes any cost the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (Federal and State grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts:

Year-end bookkeeping assistance – [For audits subject to Government Auditing Standards, this is limited to bookkeeping services permitted by revised Independence Standards] \$4,000

Audit \$35,000

Preparation of the annual financial statements \$5,000

Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the total of the stated fees above. If the current contracted fee is not fixed in total, invoices for services rendered may be approved for up to 75% of the prior year audit fee. **The 75% cap for interim invoice approval for this audit contract is \$ 33,000**

10. If the Governmental Unit has outstanding revenue bonds, the Auditor shall include documentation either in the notes to the audited financial statements or as a separate report submitted to the SLGFD along with the audit report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor should be aware that any other bond compliance statements or additional reports required in the authorizing bond documents need to be submitted to the SLGFD simultaneously with the Governmental Unit's audited financial statements unless otherwise specified in the bond documents.
11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include but not be limited to the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the client or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board as soon as practical after the close of the accounting period.
12. If the audit firm is required by the NC CPA Board or the Secretary of the LGC to have a pre-issuance review of their audit work, there must be a statement added to the engagement letter specifying the pre-issuance review including a statement that the Governmental Unit will not be billed for the pre-issuance review. The pre-issuance review must be performed **prior** to the completed audit being submitted to the LGC. The pre-issuance report must accompany the audit report upon submission to the LGC.
13. The Auditor shall electronically submit the report of audit to the LGC when (or prior to) submitting the invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the SLGFD by any interested parties. Any subsequent revisions to these reports must be sent to the Secretary of the LGC. These audited financial statements are used in the preparation of official statements for debt offerings (the Auditors' opinion is not included), by municipal bond rating services, to fulfill secondary market disclosure requirements of the Securities and Exchange Commission, and other lawful purposes of the Governmental Unit, without subsequent consent of the Auditor. If it is determined by the LGC that corrections need to be made to the Governmental Unit's financial statements, they should be provided within three days of notification unless, another time frame is agreed to by the LGC.

The LGC's process for submitting contracts, audit reports and Invoices are subject to change. Auditors should use the submission process in effect at the time of submission. The most current instructions will be found on our website: <https://www.nctreasurer.com/slg/Pages/Audit-Forms-and-Resources.aspx>

In addition, if the OSA designates certain programs to be audited as major programs, a turnaround document and a representation letter addressed to the OSA shall be submitted to the LGC.

14. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be varied or changed to include the increased time and/or compensation as may be agreed upon by the Governing Board and the Auditor.
15. If an approved contract needs to be varied or changed for any reason, the change must be made in writing, signed and dated by all parties and pre-audited if the change includes a change in audit fee. This document and a written explanation of the change must be submitted by email in PDF format to the Secretary of the LGC for approval. The portal address to upload your amended contract and letter of explanation documents

Contract to Audit Accounts (cont.) City of Hendersonville, NC

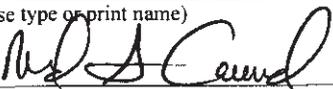
(Name of Governmental Unit)

is http://nctreasurer.slgfd.leapfile.net No change shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

- 16. Whenever the Auditor uses an engagement letter with the Governmental Unit, Item 17 is to be completed by referencing the engagement letter and attaching a copy of the engagement letter to the contract to incorporate the engagement letter into the contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract will control. Engagement letter terms are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 22 of this contract. Engagement letters containing indemnification clauses will not be approved by the LGC.
- 17. Special provisions should be limited. Please list any special provisions in an attachment.
- 18. A separate contract should not be made for each division to be audited or report to be submitted. A separate contract must be executed for each component unit which is a local government and for which a separate audit report is issued.
- 19. The contract must be executed, pre-audited, physically signed by all parties and submitted in PDF format including Governmental Unit and Auditor signatures to the Secretary of the LGC. The current portal address to upload your contractual documents is http://nctreasurer.slgfd.leapfile.net Electronic signatures are not accepted at this time. Included with this contract are instructions to submit contracts and invoices for approval as of April 2013. These instructions are subject to change. Please check the NC Treasurer's web site at www.nctreasurer.com for the most recent instructions.
- 20. The contract is not valid until it is approved by the LGC Secretary. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.
- 21. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.
- 22. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted: (See Item 16.)
- 23. **All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided in the spaces below.**

Audit Firm Signature:
Firm Carland & Andersen, Inc.

By Ronald G. Carland, President
(Please type or print name)


(Signature of authorized audit firm representative)

Email Address of Audit Firm:
Ron@carlandcpa.com

Date April 18, 2013

Governmental Unit Signatures:
By Barbara Volk, Mayor
(Please type or print name and title)

(Signature of Mayor/Chairperson of governing board)

Date _____

Date Governing Body Approved Audit Contract - G.S. 159-34(a)
Governmental Unit Signatures (continued):

Unit Signatures (continued): N/A
(Chair of Audit Committee- please type or print name)

(Signature of Audit Committee Chairperson)

Date N/A
(If Governmental Unit has no audit committee, this section should be marked "N/A.")

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act. Additionally, the following date is the date this audit contract was approved by the governing body.

James W. Rudisill
Governmental Unit Finance Officer (Please type or print name)

(Signature)

Email Address of Finance Officer
jrudisill@cityofhendersonville.org

Date _____
(Preaudit Certificate must be dated.)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Donna Fox

Department: Finance

Date Submitted: 04/18/13

Presenter: Jim Rudisill

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 05g

Posted Refund Totals for May 2013

Year Amount

2003 \$62.88

2007 \$80.78

2009 \$43.43

2012 \$1,303.38

Refund Total \$1,346.81

Posted Discovery Totals for May 2013

Year Amount

2012 \$18.94

Posted Release Totals for May 2013

Year Amount

2003 \$38.62

2004 \$47.69

2005 \$40.66

2006 \$17.86

2007 \$1,330.92

2008 \$16.52

2009 \$747.29

2010 \$784.70

2011 \$2,309.27

2012 \$18,558.96

Release Total \$23,892.49

A complete listing is available in the office of the Tax Collector

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

I move Council's approval of the tax releases and refunds.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sue Anderson, Planning Director

Department: Planning

Date Submitted: 04/24/13

Presenter: Sue Anderson

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 06

File # P13-5-SC

The City has received an application from Ingles Markets and William and Mark Pace to close portions of Joel Wright Drive, Copper Penny Drive, and an unopened alley surrounding the Ingles Market at 625 Spartanburg Highway. A map and survey are attached.

City Council at its regular meeting of March 7, 2013, adopted a Resolution of Intent to close this street. A copy of the Resolution of Intent was mailed to the adjoining property owners, notification of the proposed closing was posted, and the Resolution of Intent and notice of the public hearing was advertised four times in the legal notice section of the local newspaper.

Concerning the current application, comments were solicited from City Departments. Tom Wooten, Public Works Director, noted that the culverts under Copper Penny Street and Joel Wright Drive are within the area of the proposed street closure, Ingles would become the owner of these pipes and would be responsible for maintaining them, including debris removal from the mouth of the pipes. If the culverts under the streets are not within the area proposed to be closed, the pipes would remain under the City's maintenance.

FINDINGS

At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

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

I move Council to adopt the Order to Permanently Close portions of Joel Wright Drive, Copper Penny Drive, and an unopened alley surrounding the Ingles Market at 625 Spartanburg Highway petitioned by Ingles Markets and William and Mark Pace.

Attachments:

Survey

Map

Resolution

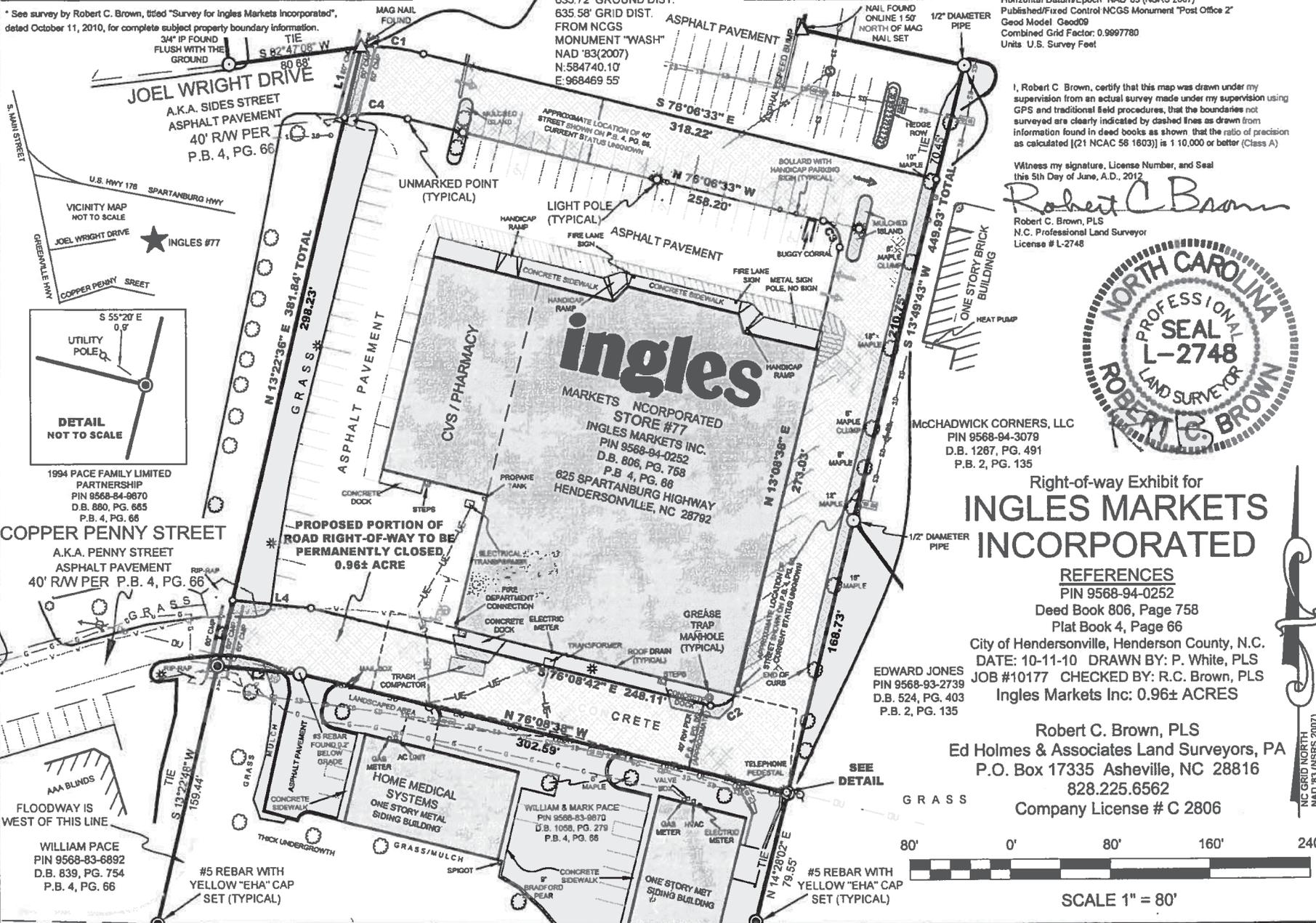
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	106.48'	37.90'	37.70'	S 83°48'09" E
C2	15.09'	20.79'	19.18'	N 59°22'39" E
C3	13.22'	20.58'	18.57'	N 31°27'11" W
C4	65.71'	38.44'	37.89'	N 88°43'30" W

* See survey by Robert C. Brown, titled "Survey for Ingles Markets Incorporated", dated October 11, 2010, for complete subject property boundary information.

POB
 N 584341 73
 E: 968964.80
 NAD 83 (2007) COORDINANTS
 LYING S 51°11'16" E
 635.72' GROUND DIST.
 635.58' GRID DIST.
 FROM NCGS
 MONUMENT "WASH"
 NAD '83(2007)
 N: 584740.10
 E: 968469.55

LINE	BEARING	DISTANCE
L1	N 13°22'36" E	43.25'
L2	N 84°17'35" W	50.50'
L3	N 13°22'36" E	40.38'
L4	S 84°17'35" E	47.96'

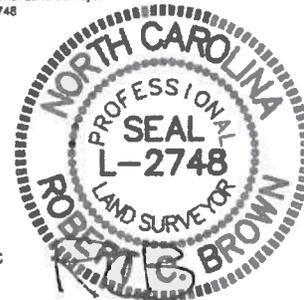
The following information was used to perform the survey:
 Horizontal Positional Accuracy 0.002'
 Type of GPS Field Procedure: Static/RTK (Processed using Topcon Tools Software)
 Date of Survey 9/20/2010 - 9/23/2010
 Horizontal Datum/EPOCH NAD '83 (NSRS 2007)
 Published/Fixed Control NCGS Monument "Post Office 2"
 Geoid Model Geoid09
 Combined Grid Factor: 0.9997780
 Units: U.S. Survey Feet



I, Robert C. Brown, certify that this map was drawn under my supervision from an actual survey made under my supervision using GPS and traditional field procedures, that the boundaries not surveyed are clearly indicated by dashed lines as drawn from information found in deed books as shown that the ratio of precision as calculated [(21 NCAC 58 1603)] is 1 to 10,000 or better (Class A)

Witness my signature, License Number, and Seal this 5th Day of June, A.D., 2012

Robert C. Brown
 Robert C. Brown, PLS
 N.C. Professional Land Surveyor
 License # L-2748

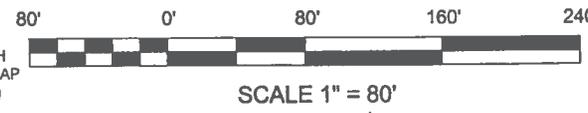


Right-of-way Exhibit for
**INGLES MARKETS
 INCORPORATED**

REFERENCES
 PIN 9568-94-0252
 Deed Book 806, Page 758
 Plat Book 4, Page 66
 City of Hendersonville, Henderson County, N.C.
 DATE: 10-11-10 DRAWN BY: P. White, PLS
 JOB #10177 CHECKED BY: R.C. Brown, PLS
 Ingles Markets Inc: 0.96± ACRES

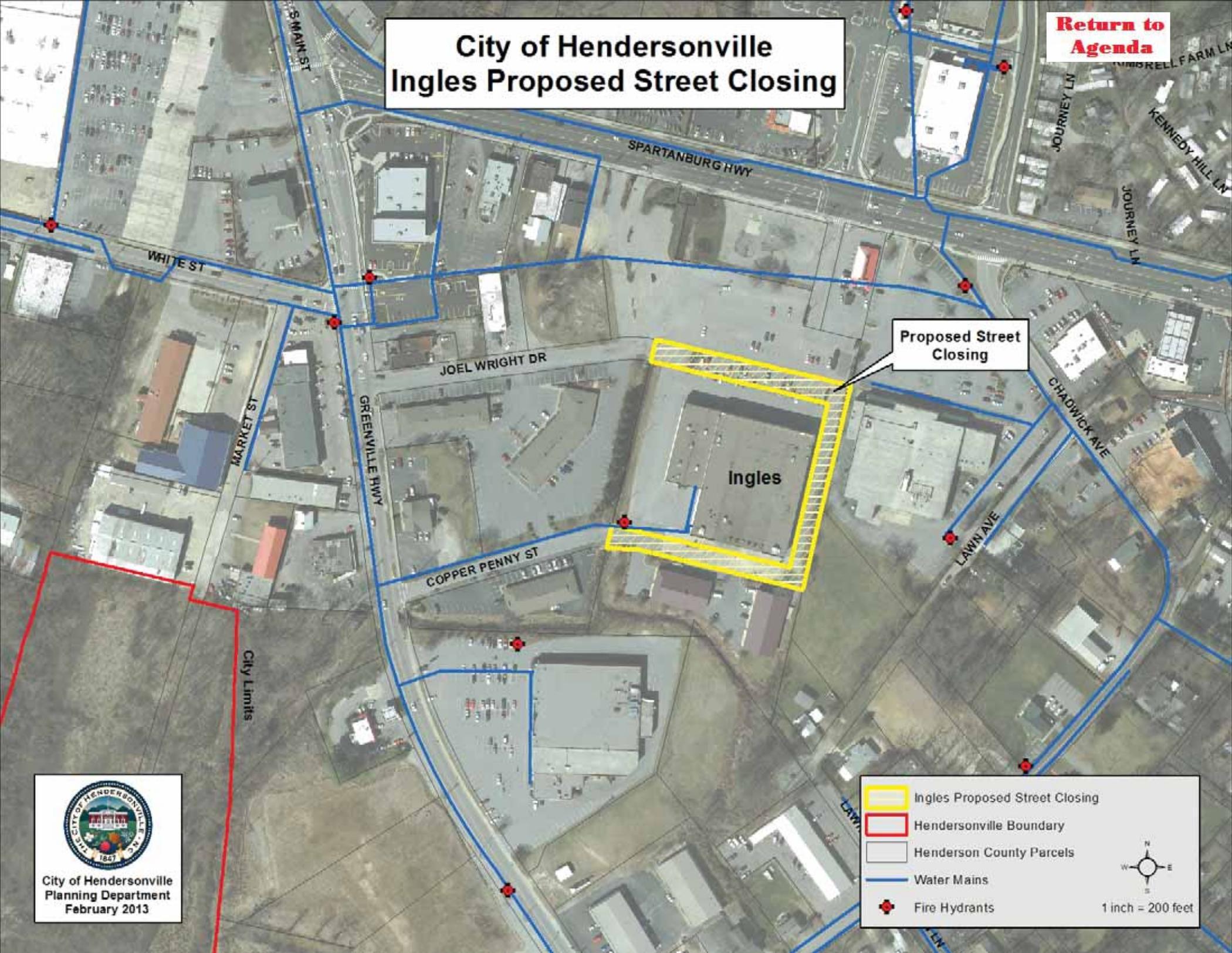
EDWARD JONES
 PIN 9568-93-2739
 D.B. 524, PG. 403
 P.B. 2, PG. 135

Robert C. Brown, PLS
 Ed Holmes & Associates Land Surveyors, PA
 P.O. Box 17335 Asheville, NC 28816
 828.225.6562
 Company License # C 2806



City of Hendersonville Ingles Proposed Street Closing

[Return to Agenda](#)



Proposed Street Closing

Ingles

City Limits



- Ingles Proposed Street Closing
- Hendersonville Boundary
- Henderson County Parcels
- Water Mains
- Fire Hydrants

1 inch = 200 feet

ORDER # _____

**Return to
Agenda**

ORDER TO PERMANENTLY CLOSE THE STREET OR ALLEY
(Petition of Ingles Markets and William and Mark Pace)

NORTH CAROLINA
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

WHEREAS, North Carolina General Statute Section §160A-299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing such streets or alleyways; and

WHEREAS, Ingles Markets and William and Mark Pace, has petitioned the City of Hendersonville to close portions of Joel Wright Drive, Copper Penny Drive, and an unopened alley surrounding the Ingles Market at 625 Spartanburg Highway; and

WHEREAS, on March 7, 2013, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of Joel Wright Drive, Copper Penny Drive, and an unopened alley surrounding the Ingles Market at 625 Spartanburg Highway and setting May 2, 2013 as the date of a public hearing regarding such closure; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing as required and a copy thereof has been sent by certified mail to all owners of property adjoining the street as shown on the county tax records; and

WHEREAS, notice of the closings and of the public hearing has been posted in at least two places along the street; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the second day of May, 2013.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby make the following findings of fact:

1. The closing of portions of Joel Wright Drive, Copper Penny Drive, and an unopened alley surrounding the Ingles Market at 625 Spartanburg Highway hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the street or in the subdivision in which it is located would be deprived by the closing of such a street of reasonable means of ingress and egress to their property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following opened portions of Joel Wright Drive, Copper Penny Drive, and an unopened alley surrounding the Ingles Market at 625 Spartanburg Highway is permanently closed and no longer existent as of the effective date of this order:

Beginning on a magnetic nail in asphalt pavement on the northern margin of Joel Wright Drive, also known as: Sides Street as shown on a plat recorded in Plat Book 4, Page 66 of the Henderson County Register of Deeds Office; said point of beginning being on the western boundary line of property of Ingles Markets Incorporated described in Deed Book 806, Page 758 of said registry and being located South 51°11'16" East 635.72 feet from North Carolina Geodetic Survey monument "Wash" having N.C. Grid (NAD'83(2007)) coordinates of: N 584740.10 feet and E 968469.55 feet; thence from said point of Beginning thus established and with the northern margin of said street the following two courses and distances: on a curve to the right having a radius of 106.48 feet, an arc length of 37.90 feet, a chord bearing of South 83°46'09" East and a chord distance of 37.70 feet to an unmarked point, hereinafter called: "a point"; thence South 76°06'33" East 318.22 feet to a point on the eastern boundary line of said property, said boundary also being the eastern margin of said street; thence with said eastern property line and said margin South 13°49'43" West passing a half inch inside diameter iron pipe at 210.75 feet, a total distance of 379.48 feet to a #5 rebar with a yellow plastic cap stamped: Ed Holmes & Assoc., hereinafter called: "EHA rebar", said rebar being on the southern margin of Copper Penny Street, also known as: Penny Street as shown on said plat; thence with said southern margin of said street the following two courses and distances: North 76°08'38" West 302.59 feet to a #5 rebar 0.2 feet below the surface of asphalt pavement; thence North 84°17'35" West 50.50 feet to an EHA rebar in the western boundary of said Ingles property; thence leaving said southern margin and with said western boundary and crossing said street, North 13°22'36" East 40.36 feet to a point in said boundary at the northern margin of said street; thence leaving said boundary and with said northern margin of said street the following three courses and distances: South 84°17'35" East 47.96 feet to a point; thence South 76°08'42" East 248.11 feet to a point; thence on a curve to the left having a radius of 15.09 feet, an arc length of 20.79 feet, a chord bearing of North 59°22'39" East and a chord distance of 19.18 feet to a point; thence with the western margin of the street shown on said plat North 13°08'38" East 273.03 feet to a point; thence on a curve to the left having a radius of 13.22 feet, an arc length of 20.58 feet, a chord bearing of North 31°27'11" West and a chord distance of 18.57 feet to a point in the southern margin of the aforementioned Joel Wright Drive; thence with said margin the following two courses and distances: North 76°06'33" West 258.20 feet to a point; thence on a curve to the left having a radius of 65.71 feet, an arc length of 38.44 feet, a chord bearing of North 88°43'30" West and a chord distance of 37.89 feet to a point in the aforementioned western boundary of Ingles property; thence leaving said southern margin of said street, crossing said street and with said western boundary North 13°22'36" East 43.25 feet to the point and place of Beginning.

2. The City Clerk shall forthwith cause a copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the second day of May 2013.

Barbara Volk, Mayor, City of Hendersonville

ATTEST:

Tammie K. Drake, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a notary public in Henderson County, State of North Carolina, do hereby certify that Barbara Volk in her capacity as Mayor of the City of Hendersonville, Tammie K. Drake, in her capacity as City Clerk, and Samuel H. Fritschner, in his capacity as City Attorney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____.

My commission expires _____



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sue Anderson

Department: Planning

Date Submitted: 04/09/13

Presenter: Sue Anderson, Planning Director

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 07

File # P13-2-T

The City of Hendersonville is in receipt of an application from Henderson County requesting a text amendment to the Hendersonville Zoning Ordinance.

Section 16-4-23.2 has specific standards for siting telecommunications antennas and wireless facilities. Henderson County is requesting that antennas owned by government entities and providing emergency services communications be exempt from the requirement that antennas placed on structures other than towers be concealed antennas.

This request relates to new antennas added to the Henderson County 100 King Street building. Those antennas, which are used for emergency services communications, are not concealed as required.

The Planning Board took this matter up at its regular meeting on March 11, 2013 and continued the discussion of this item to the April 8, 2013 meeting. The Planning Board voted unanimously to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 16-4-23.2 (d) exempting antennas owned by government entities and providing emergency services communications from the requirement that antennas placed on structures other than towers be concealed.

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

For Approval:

I move City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 16-4-23.2 (d) exempting antennas owned by government entities and providing emergency services communications from the requirement that antennas placed on structures other than towers be concealed.

Attachments:

Memo

MEMORANDUM

**Return to
Agenda**

TO: Honorable Mayor and City Council

FROM: Planning Department

RE: Text Amendment of Article XVI Special Requirements for Certain Uses

FILE #: P13-2-T

DATE: April 9, 2013

PROJECT HISTORY

The City of Hendersonville is in receipt of an application from Henderson County requesting a text amendment to the Hendersonville Zoning Ordinance.

Section 16-4-23.2 has specific standards for siting telecommunications antennas and wireless facilities. Henderson County is requesting that antennas owned by government entities and providing emergency services communications be exempt from the requirement that antennas placed on structures other than towers be concealed antennas.

This request relates to new antennas added to the Henderson County 100 King Street building. Those antennas, which are used for emergency services communications, are not concealed as required. See photo below.



Henderson County is requesting the following text amendment. Additions to text language are underlined.

16-4-23.2 (d) All antennas placed on structures other than towers, except for those owned by governmental entities and providing emergency services communications, shall be concealed antennas. Antennas located on top of buildings or other structures shall not exceed 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet.

Examples of roof top concealment.



Text amendments are required to go before the Planning Board for review and recommendation to City Council. A public hearing is held at the City Council level.

TEXT & POLICY COMMITTEE

The Text & Policy Committee did not meet to discuss this issue.

PLANNING BOARD RECOMMENDATION

The Planning Board took this matter up at its regular meeting on March 11, 2013 and continued the discussion of this item to the April 8, 2013 meeting. The Planning Board voted unanimously to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 16-4-23.2 (d) exempting antennas owned by government entities and providing emergency services communications from the requirement that antennas placed on structures other than towers be concealed.

ZONING ORDINANCE GUIDELINES

Section 11-4 Standards

The advisability of amending the text of the City's Zoning Ordinance or the Official Zoning Map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or disapprove a proposed amendment to the text of the Ordinance or the Official Zoning Map, the City Council shall consider the following factors among others:

- a. **Comprehensive Plan Consistency.** Consistency with the Comprehensive Plan and amendments thereto.
- b. **Compatibility with surrounding uses.** Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.
- c. **Changed conditions.** Whether and the extent to which there are changed conditions, trends or facts that require an amendment.
- d. **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.
- e. **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.
- f. **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 XVI SECTION 16-4-23.2 (D) OF THE ZONING ORDINANCE OF THE CITY OF HENDERSONVILLE PERTAINING TO CONCEALMENT OF ANTENNAS PLACED ON STRUCTURES OTHER THAN TOWERS

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 in regards to concealment of antennas.

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

1. Article XVI Special Requirements for Certain Uses Section 16-4-23.2 (d) is hereby amended to read as follows:
 - d) All antennas placed on structures other than towers, except for those owned by governmental entities and providing emergency services communications, shall be concealed antennas. Antennas located on top of buildings or other structures shall not exceed 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet.
2. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.
3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
4. 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.
5. 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.

CITY COUNCIL
TEXT AMENDMENT ARTICLE XVI
MAY 2, 2013
PAGE 6

6. 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

PLANNING BOARD REPORT

Project Name: Text Amendment of Article XVI Special Requirements for Certain Uses Section 16-4-23.2 (d)

File Number: P13-2-T

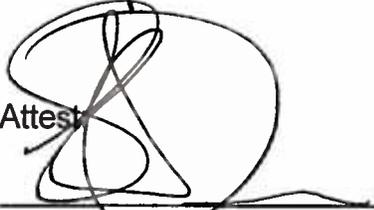
Approval – The text amendment is consistent with all of the objectives and policies for growth and development contained in the City of Hendersonville’s Zoning Ordinance, Comprehensive Plan and Comprehensive Transportation Plan.

Approval With Amendment – The text amendment is consistent with all of the objectives and policies for growth and development contained in the City of Hendersonville’s Zoning Ordinance, Comprehensive Plan and Comprehensive Transportation Plan. The Planning Board recommends the following amendment(s).

Denial – The text amendment is not consistent with all of the objectives and policies for growth and development contained in the City of Hendersonville’s Zoning Ordinance, Comprehensive Plan and Comprehensive Transportation Plan.

This report reflects the recommendation of the Planning Board, this the 8th day of April, 2013.

Attest



Planning Board Chair



Planning Director



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Tammie Drake

Department: Administration

Date Submitted: 04/24/13

Presenter: Mary Cervini

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 08

Ms. Mary Cervini with the Community Partnership for Pets will provide an update to the Council.

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

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sue Anderson, Planning Director

Department: Planning

Date Submitted: 04/24/13

Presenter: Sue Anderson

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 09

In 2010, the Historic Preservation Commission's Community Affairs Committee put together an awards program to recognize projects that exemplify preservation of historic buildings, resources and individual efforts. These awards are to recognize property owners, organizations, businesses and agencies whose contributions demonstrate outstanding commitment to excellence in historic preservation, local history or promotion of the City's heritage. Upon being chosen, the recipient(s) will be recognized by the City Council and the local press and will receive \$100.

The Historic Preservation Commission is pleased to announce the recognition of the restoration of two properties located in the West Side National Register Historic District.

The Historic Preservation Commission has granted a 2013 Preservation Award to Anne Hansley for the restoration of 311 Buncombe Street.

The Historic Preservation Commission has granted a 2013 Preservation Award to Todd & Renita McDougal for the restoration of 731 4th Avenue West.

A presentation showing the work completed on these two properties will be shown at the City Council meeting.

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

None

Attachments:

None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Lt. Tracey Cox

Department: Police

Date Submitted: 04/24/13

Presenter: Chief Herbert Blake

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 10

In the months since the Newtown school shooting discussion has taken place within our staff of adding one additional School Resource Officer (SRO) to cover both Bruce Drysdale and Hendersonville Elementary schools.

On April 24 the U.S. Department of Justice announced that it had opened the application period for the 2013 COPS grants, and furthermore that priority would be given to agencies seeking SRO positions.

The grant would cover 75% of the SRO salary / benefits for three years. The City's commitment would be the remaining 25% for three years, plus covering 100% of the fourth year. After year four there are no obligations. No equipment can be paid for by the grant, however we feel that equipment for the position could be covered with our existing supplies and budget.

The estimated cost of the SRO position is 46,000 per year, of which the City would be obligated to pay \$11,500 yearly. The total four year cost to the City would be about \$ 92,000. (Costs in years two through four could increase slightly due to merit and COLA..)

The deadline to apply is May 22, however the application process must be started as soon as possible.

The Police Department requests that Council consider funding the grant match and approving the department to start the application process.

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

I move Council's approval of the funding requirements of the grant for the School Resource Officer and authorize the Police Department to begin the grant application process.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Sue Anderson, Planning Director

Department: Planning

Date Submitted: 04/24/13

Presenter: Sue Anderson

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Discussion/Staff Direction

Summary of Information/Request:

Item # 11

The Planning Department is in receipt of a request from Ken Stubbs to remove 18 properties / 40 acres from the City's extraterritorial planning jurisdiction (ETJ). A copy of Mr. Stubbs letter along with a map showing which properties are included in the request is attached.

Recognizing that municipalities have a special interest in the areas immediately adjacent to their city limits, the NC State Legislature granted statewide authority for municipal extraterritorial land use regulation in 1959. Cities could now extend their zoning and subdivision regulations to areas within one mile of their corporate limits. The area identified in the attached map was included in the establishment of Hendersonville's ETJ in the mid 1960's. In June 1999, the ETJ boundary was adjusted in this area so that all of Henderson Airport would be located within Henderson County's jurisdiction. At that time approximately 12% of the airport property was located within Hendersonville's ETJ.

In order to change the current ETJ boundary, City Council must hold a public hearing and adopt an ordinance amending the ordinance that established the ETJ boundary. Once this is complete, Henderson County will need to apply zoning to the area that was formally within the ETJ boundary.

Staff is seeking direction from City Council on whether Council wishes to consider amending the ETJ boundary.

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

Provide staff direction.

Attachments:

Letter

Map

Kennith B Stubbs
419 Bradshaw Avenue
Hendersonville, NC 28792
(828) 692-0601
(828) 674-7701

April 9, 2013

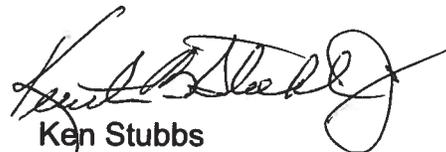
City of Hendersonville Planning
Attn: Susan Anderson, Planning Director
145 Fifth Ave East
PO Box 1670
Hendersonville, NC 28793

Subject: Request for Removal from City of Hendersonville's ETJ

I am writing on behalf of the Johnson Field Airport, (WNC Air Museum) State Designated 8NC9, and the adjoining property owners. Part of the Johnson Field Airport and a number of the adjoining properties are in Henderson County and several others are included in the Hendersonville ETJ. These owners also adjoin the Hendersonville Airport State Designate OA7 which is in Henderson County. When an owner desires to develop or make improvements to their property, or conduct aviation related activities, depending on the location, different zoning rules or interpretations apply.

Therefore, I am respectfully requesting that we be removed from the City of Hendersonville's ETJ and placed solely under Henderson County's jurisdiction. I have enclosed a map and a list of properties and owners that adjoin or connect to the Johnson Field Airport and no other properties or owners have been considered or contacted regarding this matter.

If you have any questions or need any further information, please do not hesitate to contact me. Thank you in advance for your consideration of our request


Ken Stubbs
(828) 674-7701

RECEIVED
CITY OF HENDERSONVILLE, NC
ON: 4/15/2013
BY: J. Anderson

City Zoning
Susan Anderson

Owner and Property Listing from North to South

1. Carlton R Hawkins (.78 Acre)
86 New Hope Road
PO Box 126
Arden, NC 28704
Lot #SR1757 on New Hope Road (Barker Heights)
PIN #9578456610
2. Heather H. Bowman (.78 Acre)
426 Blue Ridge Street
Hendersonville, NC 28792
Lot #SR1759 Blue Ridge Rd.
PIN #9578456590
3. Richard P Dratz (1.48 Acres)
495 Bradshaw Avenue
Hendersonville, NC 28792
Barker Heights
Pin #9578456382
4. Kenneth B Stubbs (2.39 Acres)
419 Bradshaw Avenue
Hendersonville, NC 28792
Barker Heights
Pin #9578456053
5. Kerry Patterson (.35 Acre)
409 Bradshaw Avenue
Hendersonville, NC 28792
Barker Heights
Pin #9578445913
6. Jannie Patterson (1.11 Acres)
401 Bradshaw Avenue
Hendersonville, NC 28792
Barker Heights
Pin #9578445779
7. Carl R Goutell (1.89 Acres)
1210 West Gilbert Street
Hendersonville, NC 28792
Barker Heights
Pin #9578448759
Mailing Address: 1371 Jane Lacy Lane
New Smyrna Beach, FL 32168
Phone: (386) 426-4081
Email: cgoutell@yahoo.com

8. James G Paine (.84 Acre)
1220 West Gilbert Street
Hendersonville, NC 28792
PIN #9578449679
9. Steve Turner (.72 Acre)
West Gilbert Street
Hendersonville, NC 28792
PIN #9578540696
10. Shawn McCallister (.65 Acre) New Owner
1230 West Gilbert Street
Hendersonville, NC 28792
PIN #9578541578
11. Robert R and Roberta L Clabaugh (.64 Acre)
1310 East Gilbert Street
Hendersonville, NC 28792
PIN #9578541475
Phone: 692-1474
12. Peter Willoughby (.41 Acre)
1320 East Gilbert Street
Hendersonville, NC 28792
PIN #9578543067
Mailing Address: PO Box 1234
Fletcher, NC 28732
Phone: 712-0804
12. A Peter Willoughby (.71 Acre)
Off Gilbert Street
PIN #9578544290
13. WNC Air Museum (Lease)
Thomas C Charbonneau
522 Cane Creek Road
Fletcher, NC 28732
14. Pavlo Koniko (.76 Acre)
1348 East Gilbert Street
Hendersonville, NC 28792
PIN #9578536556
Mailing Address: 1017 Brooklyn Avenue
Hendersonville, NC 28792
15. Norman R. and Debora Earl (.49 Acre)
1036 Brooklyn Avenue
Hendersonville, NC 28792
PIN #9578538566
Mailing Address: 8701 Hastings Blvd.
Hastings, FL 32145

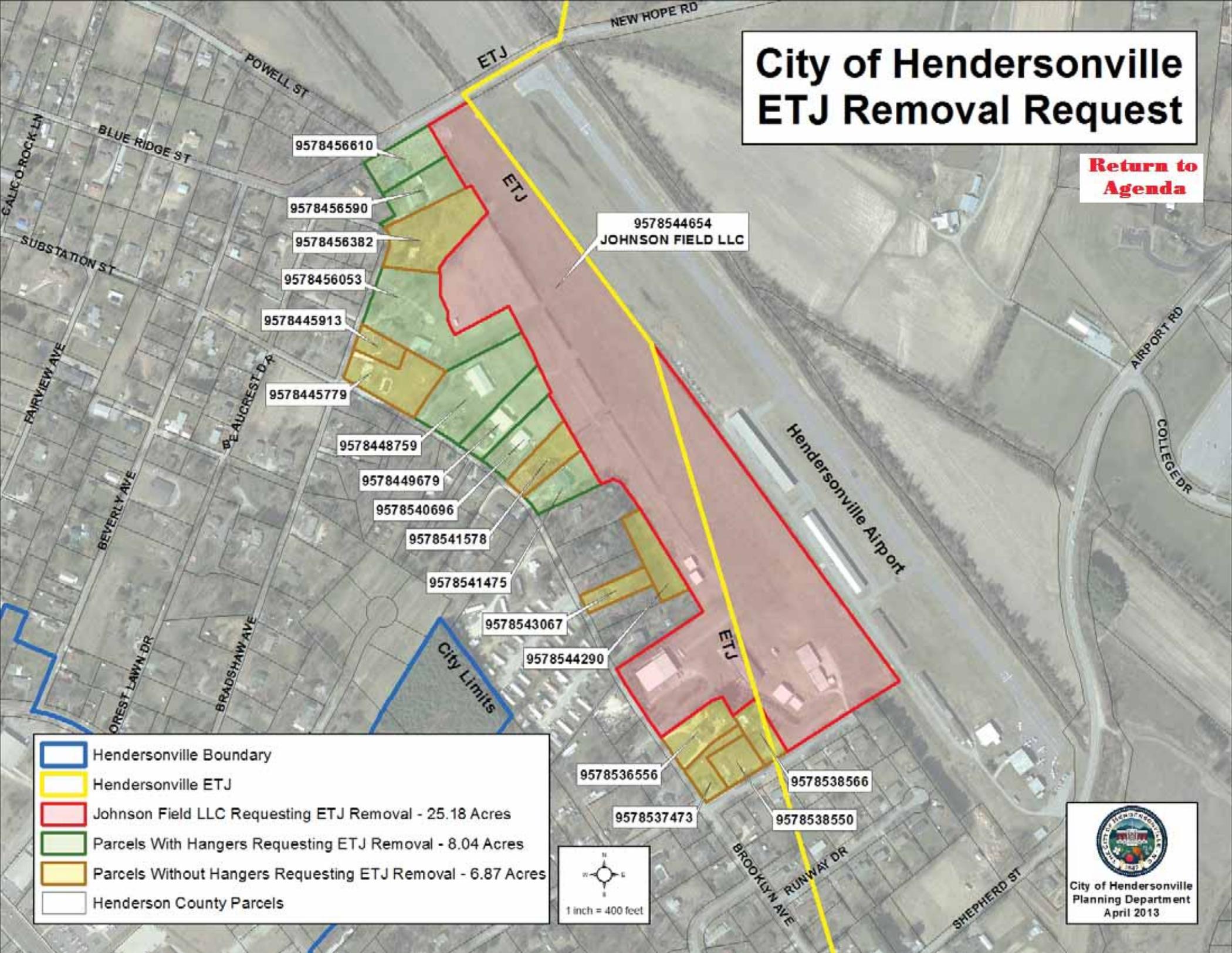
15. A Norman Earl (.46 Acre)
1034 Brooklyn Avenue
Hendersonville, NC 28792
PIN #9578538550

16. Molly A Pace (.45 Acre)
1032 Brooklyn Avenue
Hendersonville, NC 28792
PIN #9578537473

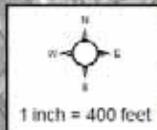
17. Johnson Field, LLC (25.18 Acres)
1195 Eastbrook Drive
Hendersonville, NC 28792
PIN #9578544654
Mailing Address: PO Box 613
Hendersonville, NC 28793

City of Hendersonville ETJ Removal Request

**Return to
Agenda**



-  Hendersonville Boundary
-  Hendersonville ETJ
-  Johnson Field LLC Requesting ETJ Removal - 25.18 Acres
-  Parcels With Hangers Requesting ETJ Removal - 8.04 Acres
-  Parcels Without Hangers Requesting ETJ Removal - 6.87 Acres
-  Henderson County Parcels





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Tom Wooten

Department: Public Works

Date Submitted: 04/16/13

Presenter: Tom Wooten

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 12

The Hendersonville Bridge Club has been leasing the Whitmire Activity Center for a year and has requested a new five year lease. The proposed lease has two changes that vary from our current lease. They have asked to remove the cleaning responsibility from the City and have asked for sole use of the building. The proposed lease does not preclude use of the building by the City, Board of Elections, Southern Lights Square Dance Club, the Gem and Mineral Club during the Apple Festival plus two or three other Holiday celebration events, all of which are listed in the lease agreement. We have agreed to a \$200 increase in the monthly lease amount since they will have sole use of the building. This addition will bring total monthly lease amount to \$2,200.

Limited parking continues to be an issue but the Club is currently utilizing on street parking and the parking lot behind the Hendersonville Little Theater.

The proposed lease agreement is attached for your review. I will be happy to answer any questions.

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

I move to approve the proposed five year lease agreement with the Hendersonville Bridge Club for use of the Whitmire Activity Center.

Attachments:

Proposed Lease Agreement with the Hendersonville Bridge Club.



FACILITY AGREEMENT

This agreement, made and entered this 2nd day of May 2013, between the City of Hendersonville, hereafter referred to as City and Hendersonville Bridge Center hereafter referred to as HBC c/o David Keierleber PO Box 1470, Flat Rock, NC 28731 (828) 606-5570.

The Agreement reads as follows:

1. The HBC will use said facility only on the dates and times listed in this agreement. This agreement will be in effect for a period of five (5) years beginning January 1, 2013 and ending December 31, 2017. The HBC will utilize the facility Monday through Sunday from 9:00 am through 9:00 pm, except as noted in paragraph 8. HBC has permission to leave their tables set up unless they have been notified to move them.
2. The HBC will be responsible for all damages or stolen property during their usage of said facility replacing in full. HBC shall take out all trash and recycling and any other debris generated by activity and place in approved receptacles located outside of building on the Lily Pond Road side of facility. HBC will routinely clean the floors, restrooms and kitchen in the facility. The City of Hendersonville provides basic paper products for the facility including paper towels, toilet tissue paper, trash bags for receptacles and some basic cleaning supplies. A floor mop, wet mop and bucket are available and in the Hallway off the kitchen for cleanup of any debris generated by building user. The City of Hendersonville snow removal teams will keep the parking area around the buildings plowed in the event of inclement winter weather.
3. **Hold Harmless Agreement:** The HBC, will hold harmless the City of Hendersonville, its officers, employees and agents, the Public Works Department and Staff, free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional, Attorney's fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this a element and/or the performance hereof and caused by the negligence of the sponsor. The Sponsor will take full responsibility. The City of Hendersonville will not be responsible for personal items or personal property left in facilities by persons or organizations using said facility.
***The HBC will provide the City of Hendersonville with a copy of their "Certificate of Liability Insurance" listing the City of Hendersonville as 'Certificate Holder" prior to the usage of the facility and will provide a yearly updated copy as needed.**
4. The HBC will be responsible for the conduct and action of all members, spectators, and staff during all times. The HBC will abide by all City Ordinances, especially those pertaining to **No Smoking, No Alcohol, Profanity, and Loud Noise.** HBC will notify proper law enforcement and City Officials of any serious violations. The building is a public building and is monitored and accessible to the City of Hendersonville Police Department and/or other City personnel for routine building maintenance and general upkeep and compliance of City Ordinances. Any violation of these rules will result in forfeiture of building usage.

5. The HBC will have access to areas called the Main Floor, Center Office (next to the kitchen), Small Classroom (right back corner of large room), Kitchen and Restrooms. Parking for the Whitmire building includes the paved parking lot in front and to the side. Additional parking is available on West Allen Street and South Washington Street. Extra storage is available in the back classroom.

6. Whereas: The HBC agrees to make a monthly payment of \$2,200.00 for use of said facility (a one-time Security Deposit of \$100.00 is already on file with the City of Hendersonville). The monthly payment of \$2,200.00 is due by the tenth day of the month. Fee and security deposit are for certain areas attached to the Whitmire Building as specified in Paragraph 5.

7. Termination: This agreement may be changed by the City or Hendersonville Bridge Center before the end of the term if either party gives ninety (90) days written notice of termination or change.

8. Excluded Dates for HBC facility usage:

- 1st & 3rd Saturday evening of each month. 5pm-11pm for Southern Lights Square Dance Club
- Labor Day - Wednesday night before through Monday (Labor Day) 24/7 - Gem & Mineral Spectacular
- Spring Dance - date to be determined - Mountain Bowlers - Dance for Special Needs Adults 5/10pm
- December - Mountain Bowler - Dance for Special Needs Adults - Date to be determined
- December - Four Seasons Rotary Club - 10am - 1:00pm - Children's Party, Date to be determined
- December - City of Hendersonville Holiday Dinner - 7am - 2pm- Date to be determined

*Elections - Henderson County Board of Elections- Election Day (All day). Occasional Runoff elections may require use of the building. Voting booths are delivered the day before the Elections take place.

***All tables and chairs need to be removed from the room for these events unless the HBC is told otherwise. The City of Hendersonville reserves the right to use the facility at any time with notice to HBC (for emergency purposes).

9. Payment is due in the Public Works Office by the tenth day of every month.

Signature of Public Works Director

Date

Contact Phone Numbers:

Whitmire Building Wall Phone	697-3012
Public Works Department	697-3084 Mon - Fri . 7am-4pm
Emergency	Dial 911
Police General Business	697-3025 (after hours contact for Public Works on call staff)

PROCLAMATION

WHEREAS, In 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, the City of Hendersonville has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree-planting ways, now

THEREFORE, I, Barbara G. Volk, Mayor of the City of Hendersonville, do hereby proclaim May 10, 2013 as

"ARBOR DAY"

in the City of Hendersonville, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Signed this tenth day of May, 2013.

Barbara G. Volk, Mayor, City of Hendersonville



February 07, 2013

Mayor Barbara Volk
145 5th Avenue East
Hendersonville, NC 28792

Dear Tree City USA Supporter,

On behalf of the Arbor Day Foundation, I write to congratulate Hendersonville on earning recognition as a 2012 Tree City USA and for receiving a Growth Award. Residents of Hendersonville ought to be proud to live in a community that makes the planting and care of trees a priority.

Your community joins more than 3,400 Tree City USAs, with a combined population of 140 million. The Tree City USA program is sponsored by the Arbor Day Foundation in partnership with the U.S. Forest Service and the National Association of State Foresters.

As a result of your commitment to effective urban forest management, you already know that trees are vital to the public infrastructure of cities and towns throughout the country, providing numerous environmental, social and economic benefits. In fact, trees are the one piece of community infrastructure that actually increases in value over time.

We hope you are excited to share this accomplishment. Enclosed in this packet is a press release for your convenience as you prepare to contact local media and the public. If you wish to receive an electronic version of the release, please email Sean Barry, Director of Media Relations at sbarry@arborday.org and we will reply with a copy within one business day.

State foresters are responsible for the presentation of the Tree City USA flag and other materials. We will forward information about your awards to Jennifer Rall in your state forester's office to coordinate presentation. It would be especially appropriate to make the Tree City USA award a part of your community's Arbor Day ceremony.

Again, we celebrate your commitment to the people and trees of Hendersonville and thank you for helping to create a healthier planet for all of us.

Best Regards,

A handwritten signature in black ink that reads "John Rosenow".

John Rosenow
Chief Executive

cc: Tom Wooten

enclosure



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Tammie Drake

Department: Administration

Date Submitted: 04/25/13

Presenter: Tammie Drake

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 14

Consideration of Board Appointments:

The term of Charles Byrd on the ABC Board will expire 06/30/13. He is willing to serve another term. He currently serves as Chairman of the ABC Board.

Announcement of Vacancies:

There is 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 nominate Charles Byrd to serve a three-year term on the ABC Board.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

**Return to
Agenda**

Submitted By: Lee Galloway

Department: Administration

Date Submitted: 04/25/13

Presenter: Lee Galloway

Date of Council Meeting to consider this item: 05/02/13

Nature of Item: Council Action

Summary of Information/Request:

Item # 15

a. Discussion of Procedure for Reviewing Grey Hosiery Mill Redevelopment Proposals

Four proposals were received on April 15, 2013 for the redevelopment of the Mill property. These proposals have been placed in the Dropbox folder under "Mill Building Redevelopment" for your review and consideration. Please let us know if you would like a hardcopy of these proposals.

Staff is requesting direction from the Council as to how you wish to proceed on consideration of these proposals:

- scheduling a special meeting to review all proposals -or-
- special meeting(s) for presentations by each of the four entities offering proposals, etc.

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

Attachments: