

May 2, 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: Steve Caraker, Jerry Smith and Ron Stephens

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

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

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

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

Donna Hasty, 365 Kenmure Drive, Flat Rock, President of Hendersonville Symphony Board of Directors, addressed the Council and reviewed the success of the youth orchestra. She requested funding for the Third and Sixth Grade concerts. Mayor Volk responded the Council will hold a budget workshop in May and will discuss special appropriations.

Gary C. Jones, 1111 Asheville Highway, expressed concerns and the street closing proposed by Ingles. He stated he owns property in front of this property. The property was platted and recorded in 1948 as a commercial subdivision and lots were sold, and the streets were recorded. He believes everyone in the subdivision has rights to the rights-of-way. He stated and his attorney, Mr. Mullinax, and surveyor Jon Laughter, believe the City can denounce ownership but does not have right to close dedicated rights-of-way. He stated they bought their property with all rights, for life, in that platted, recorded subdivision. He stated he is in favor of the new Ingles store. Mayor Volk commented Council will be conducting a public hearing on this issue.

Edward Jones, Lawn Avenue, stated he owns approximately 4.75 acres near the proposed street closing and this is the way he gets in and out of his property. He stated he is trying to sell his property and doesn't want the rights-of-way closed. Mayor Volk encouraged Mr. Jones to make his comments during the official public hearing.

Barbara Hughes, Narnia Studios, thanked the Council for the improvements on Main Street that will benefit merchants and residents for decades in the future. She also expressed appreciation for the professionalism of Trace and Company and the notifications of Mr. Detwiler. She requested that the City request NCDOT to change the signs for Historic Hendersonville on I-26 to brown. She also announced La Vida Loca has a new Facebook page and requested followers. Council Member Caraker agreed to mention the sign to Mr. Setzer at NCDOT.

4. Consideration of Agenda:

Removed (at the request of the applicant): 11. Consideration of a Request to be Removed from the City's Extraterritorial Jurisdiction

Removed (at the request of the City Attorney): 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

Addition: 17a. Closed Session to Discuss Litigation

Mayor Pro Tem Collis moved approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

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

A. Consideration of Minutes: April 4, 2013 Regular Meeting, Special Meetings of: April 5, 2013, April 16, 2013, April 17, 2013, and April 18, 2013

B. Consideration of Special Event Permits:

i. Boys and Girls Club 20th Birthday Party The Special Events Committee voted unanimously to recommend approval of a special event permit for this event to be held 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.

ii. Corvette Night in Conjunction with Music On Main Street: The Special Events Committee voted unanimously to recommend approval of an application for this special event 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.

iii. Deep Impact: The Special Events Committee voted unanimously to recommend approval of an application for this special event proposed by the Carolina Baptist Association 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.

C. Consideration of Abatement of Nuisances: Mrs. Frady certified four 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 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:

Resolution #13-0530

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.

/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, MMC, City Clerk

F. Consideration of Annual Contract to Audit Accounts of the City of Hendersonville with Carland & Andersen, Inc.: Mr. Rudisill presented a contract with Carland & Andersen, Inc. for the audit of City accounts. [The contract is available in the office of the Finance Director.]

G. Consideration of Tax Releases and Refunds: Ms. Donna Fox, Tax Collector, presented tax releases, discoveries and refunds. [A complete listing is available in the office of the Tax Collector.]

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

6. Public Hearing – Consideration of an Application to Close Portions of Two Streets near the Ingles at 625 Spartanburg Highway: Ms. Sue Anderson, Planning Director, addressed the Council and presented the 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. She presented an updated survey and legal description.

Ms. Anderson explained City Council adopted a Resolution of Intent to close these rights-of-way at their March meeting. 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 a local newspaper.

Ms. Anderson reported comments were also solicited from City Departments. She reported Mr. 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: Ms. Anderson explained at this 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 the street portions.

At 6:00 p.m. Mayor Volk opened the public hearing as advertised in accordance with North Carolina General Statutes. She asked for questions from Council. There was none.

Those speaking in favor:

Attorney Mike Egan, representing Ingles Markets, stated the closing of the streets is a critical preliminary step in the redevelopment and modernization of the Ingles store at this site. He reviewed the standards in the North Carolina General Statutes for street closings: not contrary to the public interest, and those who own property in the vicinity will not be deprived of reasonable means of ingress/egress. He stated there is no evidence these streets were ever opened. He stated a 1948 plat depicted these streets and lots were purchased. Ingles acquired

the property in 1979 and built the store in 1980. The platted streets are covered by the parking lot serving the store and have been since that time and have been maintained as parking since the construction of the store. Evidence indicates the City has never maintained those streets or rights-of-way. He stated property owners in the vicinity will continue have the same egress/ingress. He provided satellite imagery showing points of ingress and egress for each of the adjoining properties. In response to Mr. Jones' comments, he stated the City has the right to close the streets and it is not contrary to public interest to close the streets. He requested the opportunity to respond to any public comments made during the hearing.

There was discussion of the buildings located behind Ingles and were identified as buildings owned by the Paces and are a part of the application.

Also speaking in favor of the application: Billy Pace who is a part of the application, and represents another property, 101 Copper Penny and a family partnership building. He stated the Ingles project will bring this property up to its potential value and will give the south end of town a viable commercial look that will benefit the entire business community. They had to be a part of the road closing because they own property that is adjacent to the road closure. He stated when the Ingles project is completed, there will be a new access between those roads that may be used by the public. He has an agreement with Ingles that if they do not complete the \$10 million project in total, the road may continue to be used with no grade changes of any kind. He stated all the property owners will continue to hold the rights to use the streets as they are now.

Jim Barnett, owns property on Greenville Highway at the corner of Copper Penney Drive. He stated he uses the streets frequently. He is not opposed to closing the streets but it should be subject to the approval of the site plan for Ingles. He would like to see Ingles improve their facilities.

Gary Jones addressed the Council stating the City doesn't own the streets and has never accepted them nor maintained them. He stated the rights-of-way are on the recorded 1948 plat and it belongs to the owners of the subdivision. He stated he is in favor of Ingles having a new store and he doesn't mind the street closing. He stated he spoke to Attorney Toms who represented Mr. Bill Pace and Mr. Bob Ingle when they purchased the property. He stated they knew the rights-of-way existed for the subdivision but didn't have time to close them. He stated Mr. Ingle designed the store around the rights-of-way and agreed to open side streets. He stated the 25-foot lots were purchased up to and beyond the rights-of-way.

Speaking in opposition of closing the streets:

Fred Duebert, Stonebridge Drive, stated he would like to see the traffic department review this. He stated traffic will get heavier and there will be more frequent, heavier storms because of climate change. It would be prudent to have an escape route which now exists with Chadwick Avenue to Grove Street but it is a narrow two-lane street in a residential area. He stated the building will be occupied for 50 years and asked what will happen with traffic during this time. He stated White Street to Kanuga Road is also congested and there is no escape.

Mr. Mike Egan asked to respond. He stated he is pleased to hear Mr. Jones is not objecting to the street closing. He stated the issue of the right-of-way is a private property issue. He referred the Council to the survey showing the boundaries of the Ingles property and rights-of-way, and stated the rights-of-way are totally within the boundaries of the Ingles property. He stated he has not done a title search but he has an e-mail from Frank Queen, a real property attorney from Waynesville who performed the property work and said Ingles owns the fee title to all of the rights-of-way that they are requesting to be closed.

Council Member Smith asked if these streets have to be closed for the upgrade. Mr. Egan stated yes, the street closings are necessary. He stated the building will be bigger and will look a lot better.

The public hearing was closed at 6:21 p.m.

Discussion: Council Member Smith commented the Council has some control of the project when the site plan is considered. There was also discussion on the possibility of delaying the effective date of the street closing based on site plan approval. City Attorney Fritschner advised the street cannot be close provisionally or conditions imposed on the closing. He stated the street closing could be delayed and approved at the time of site plan approval. The Council expressed a desire that Ingles be able to know now.

After discussion, Mayor Pro Tem Collis moved 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. In discussion, Council Member Smith asked if the determination has been made that no one will be deprived of ingress/egress. City Attorney Fritschner advised that will be a determination by the Council, based on the facts heard, and by making a finding. Mayor Volk asked Ms. Anderson if she or the Planning Board reviewed this to ensure ingress/egress. Ms. Anderson stated street closings do not go before the Planning Board so they were not involved in this petition. She stated the Paces are a party to application. There was discussion of Lawn Avenue which is partially open and has the potential to be extended to provide access to Mr. Jones' property and other property. Ms. Anderson stated she has not identified any other pieces of property that would be denied access with the closing of the unopened street and alley. Council Member Smith noted a parcel that would not have access based on paved streets at present.

Mr. Egan asked to speak. The public hearing was reopened at 6:33 p.m.

Mr. Egan reviewed an exhibit that shows multiple points of access for all of the adjoining properties. Mr. Edward Jones property has access from Garden Lane. He stated the statutes require reasonable, not universal, means of ingress/egress. Regarding making the street closing contingent upon site plan, Mr. Egan explained Council has the authority to rezone the property but the difficulty with postponing the decision, is the great deal of expense in the plans for special use zoning without knowing if the streets will be closed. He stated this would be a hardship on Ingles. He opined no property owner would be damaged if the streets are closed and they will continue to have the access they have always had.

Mr. Gary Jones stated he spoke to Ms. Anderson who told him the City of Hendersonville has never accepted, owned, nor maintained the streets proposed to be closed. He stated it is a right-of-way in the platted, recorded subdivision. He stated Ingles does not own the right-of-way but purchased lots around them. He stated the City does not have the right or power to give it to Mr. Ingle or anyone.

Mr. Mark Pace reiterated if Ingles does not complete the project, anyone may still use those easements per his agreement with Ingles, as they are now. He stated he is not giving up his rights, his brothers rights, or other family interest rights because the roads will remain the same.

Being no further comments, the public hearing was closed at 6:41 p.m.

At 6:45 p.m., **Council Member Smith moved to enter closed session to preserve the attorney-client privilege between the attorney and the City Council as provided under NCGS §143-318.11(a)(3). The vote was unanimous.**

The Council discussed the street closing with the City Attorney. The Council returned to open session at 6:55 p.m.

[Item 13a. the meeting announcements and reminders were reviewed by City Clerk Tammie Drake. No action of the Council was necessary or taken.]

Substitute Motion: Mayor Pro Tem Collis moved the Council accept dedication of the right-of-way and find that closing the street or alley is not contrary to the public interest, and that no individual owning property

in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property. He further moved the Council to close the right of way. The Council voted unanimously to substitute this motion for the original motion. The Council then voted unanimously to approve the substitute motion. Motion carried.

ORDER #13-0528

**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 313.22 feet to a point in the western line of a 10' ditch, as shown on Plat Book 4, Page 66, said western line of ditch also being the eastern margin of said street; thence with said 10' ditch South 13°49'43" West 379.48 feet to a point, said point lying North 76°08'38" West, 5.00 feet from a #5 rebar with a yellow plastic cap stamped: Ed Holmes & Assoc., hereinafter called: "EHA rebar", said point 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 297.59 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.

/s/Barbara G. Volk, Mayor

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

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



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

Ms. Sue Anderson, Planning Director, addressed the Council and presented the application from Henderson County for a Zoning Ordinance text amendment. Section 16-4-23.2 contains specific standards for siting telecommunication antennas and wireless facilities. She explained 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. She explained the request relates to new antennas installed at the Henderson County building at 100 N. King Street.

Ms. Anderson noted similar language in another section of the Zoning Ordinance 16-4-23.2(e) for antennas for emergency services.

Ms. Anderson reported the Planning Board voted unanimously to amend the Zoning Ordinance exempting antennas owned by governmental entities and providing emergency services. She reviewed the guidelines for Zoning Ordinance text amendments.

Ms. Anderson stated a conversation with the manufacturer confirmed the antennas may be screened with non metallic materials. She reviewed options for rooftop concealments.

Ms. Anderson reported emergency services will be moving to the Sheriff's building and antennas will be installed on the Sheriff's building.

Mayor Volk opened the public hearing in accordance with North Carolina General Statutes by published noticed at 7:05 p.m. No one expressed a desire to speak. The public hearing was closed.

Council Member Caraker moved 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. A unanimous vote of the Council followed. Motion carried.

Ordinance #13-0529

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

Adopted this second day of May, 2013.

/s/Barbara G. Volk, Mayor

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

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

8. Presentation by Community Partnership for Pets: Ms. Mary Cervini made a presentation to the Council on the work of the Community Partnership for Pets and expressed appreciation for their past support.

This all-volunteer organization provides families with affordable spay and neuter services. She requested Council's consideration of their funding request stating every dollar goes back into the community. Their mission is to reduce the pet over-population problem in our community. She reviewed how the program works with local veterinarians, the target pit bull program and the results: the number of animals coming into shelter dropped 22% and the number of animals euthanized dropped 32.7%.

Mayor Volk expressed appreciation for their work. Council will hold their budget review session on May 17. **No action was taken.**

9. Presentation of Awards by the Historic Preservation Commission's Community Affairs Committee: Ms. Anderson requested the awards be postponed to the June meeting. **There was no objection to the postponement.**

10. Consideration of Grant Application and Funding Commitment for School Resource Officer: Mr. Tracy Cox, Staff Sergeant, reported the Department of Justice has opened a COPS grant and the top consideration will be for funding School Resource Officers (SRO). The grant provisions include: funding 75% of the salary for the first three years and the City funds it totally in year 4. He stated the City must commit to the total funding before the application is made. He stated the grant will fund only an entry level salary of \$46,000 and does not cover equipment but the Police Department will be able to cover the equipment. Sgt. Cox stated the total City commitment over four years will be \$80,500; the total Federal grants will be \$103,500. The application deadline is May 22, 2013.

Mayor Volk asked if there has been any discussion of funding by the State. Sgt. Cox stated he has not heard any information on funding by the State at this point. There was discussion of the Federal fiscal year which is October 1. Council Member Stephens asked if Henderson County or the Sheriff are doing anything in the schools. Council Member Smith stated there will be a revolving deputy that comes by the schools but he hasn't heard about new positions. He stated there is a SRO at every high school but no one is dedicated to the middle schools.

Mayor Volk commented she would prefer the Council discuss this as part of the budget discussion on May 17. She explained the City must be willing to commit to all four years. **The Council agreed by consensus. No action was taken.**

~~**11. Consideration of a Request to be Removed from the City's Extraterritorial Jurisdiction**~~

12. Consideration of a Five-year Lease Agreement with the Hendersonville Bridge Club for the Use of the Whitmire Activity Center: Mr. Tom Wooten, Public Works Director, presented the proposed lease agreement with the Hendersonville Bridge Club. He stated they have leased the Whitmire Activity Center for more than a year and have requested a new five-year lease.

Mr. Wooten reviewed the changes from the current lease: 1) remove the cleaning responsibility from the City and 2) requested sole use of the building with the exception of those who already use the building. He stated they have agreed to an increase of \$200 per month for a total of \$2,200/month. He stated the club continues to ask for additional parking but the City has no plans to make changes in the parking at this time. He stated the Club is using the Hendersonville Little Theatre parking lot and on-street parking on Allen Street.

The Council discussed the new lights, the number of hours the building is used and if they have permission to sublease the building. City Attorney Fritschner advised to insert a clause saying they cannot sublease the building without written permission of the City. **Council Member Smith moved Council to approve the five-year lease agreement with the Hendersonville Bridge Club for the use of the Whitmire Activity Center with a clause inserted that they cannot sublease the property without the permission of the City Council. A unanimous**

vote of the Council followed. Motion carried. [The lease agreement is available in the office of the Public Works Director.]

13. Consideration of Offer of Employment for the Hiring of the City Manager: Mayor Barbara Volk presented an offer of employment with Mr. John Connet. She reported Mr. Connet agreed to the final offer. **Council Member Caraker moved Council to offer employment to Mr. John Connet with the contract as distributed to the Council. A unanimous vote of the Council followed. Motion carried.** Mayor Volk announced his first official day will be May 28, 2013.

14. Reports from Staff:

a. City Manager Report: Mr. Lee Galloway , City Manager, recognized Ms. Anderson for completing the Municipal Administration Course at the School of Government.

FY 2013-14 Budget: Mr. Galloway distributed the proposed budget for FY 2013-14 at the request of Council Member Stephens to allow time for review before the May 17 meeting. He expressed appreciation to Mr. Rudisill for his hard work on the budget during a difficult year.

Mr. Galloway stated property values declined after the 2011 revaluation and have not grown much so there are no expected additional revenues to fund operations. He stated the biggest challenge was to fund the \$6 million debt incurred for Fire Station #2, the fire truck, and the Main Street project. He stated if all requests are funded, it would require \$2.7 million in fund balance. He complimented the Council for being good stewards of public funds and building up the fund balance. He stated attachment "A" of the budget shows the significant increases requested and Attachment B shows cuts/reductions. He stated \$1.2 million in expenditures was cut. In order to come up with the needed revenues, he stated a recommendation for a tax increase will be made because staff could not find another way around it but will continue to look for ways to curtail expenditures. He stated with the proposed cuts, a fund balance appropriation of approximately \$900,000 will be necessary.

Mayor Volk expressed appreciation to Mr. Galloway and Mr. Rudisill for their work on the budget agreeing that it is a difficult year. **No action was taken.**

b. Meeting Announcements/Reminders: Mrs. Tammie Drake, City Clerk, announced the following

- Arbor Day Celebration - May 10, 2013, Rotary Park, Noon
- 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:

a. Appointments for Consideration – ABC Board: Mayor Pro Tem Collis nominated Mr. Charles Byrd for a three-year term on the ABC Board. This term will expire 06-30-16. A unanimous vote of the Council followed. **Motion carried.**

b. Announcement of Vacancies: 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.**

16. Comments from Mayor and City Council Members:

a. Discussion of Procedure for Reviewing Grey Hosiery Mill Redevelopment Proposals: The Council agreed to review the proposals at the special meeting scheduled for May 17, 2013 and decide which proposals to move forward.

b. Appointment to Mills River Partnership: Council Member Smith nominated Council Member Steve Caraker to serve as the official City Council representative on the Mills River Partnership. A unanimous vote of the Council followed. Motion carried. Mayor Volk suggested Mr. Ralph Freeman serve as alternate on the Mills River Partnership. The Council expressed no objection to Mr. Freeman serving as alternate.

17. New Business: There was none.

17a. Closed Session:

At 7:50 p.m., Council Member Caraker 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 a judicial action: in particular the matters of Rector vs City of Hendersonville and to establish or instruct the public body, staff and negotiating agent concerning the position to be taken by, or on behalf of the public body in negotiating the price or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease. A unanimous vote of the Council followed. Motion carried.

The Council conferred with City Attorney Fritschner on the settlement of the aforementioned litigation case and possible property purchase. The Council exited the closed session at 8:19 p.m. No action was taken.

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

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk