

December 1, 2016
Regular Meeting of the City Council
Council Chamber – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Assistant to the Manager Brian Pahle, Police Chief Herbert Blake, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Utilities Director Lee Smith, Fire Chief Joseph Vindigni, Finance Director Lisa White, Public Works Director Tom Wooten

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

Chuck Borman, 507 Belvidere Court, President of Plantation Walk, addressed the Council and complained about the amount of relief given as a leak adjustment for a water leak. He expressed concerns about the amount of water that was leaking before the customer was notified. He requested Council: 1) allow an exception to the leak adjustment policy and adjust the amount owed to the average of the three preceding water bills. 2) establish procedures to ensure timely identification and identify means that might be used to stem those leaks. 3) to examine the policy to determine when water service may be shut off to prevent major losses of water due to leaks.

Mayor Volk thanked Mr. Borman for raising good points and stated staff will follow up to see if anything can be done.

4. Consideration of Agenda: Mayor Pro Tem Caraker moved City Council's approval of the agenda as presented. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *Consent agenda items are considered routine, non-controversial in nature and are considered and disposed of through a singular motion and vote.*

A. Consideration of Minutes:

- i. November 3, 2016 Regular Meeting
- ii. November 8, 2016 Continued Meeting

B. Consideration of 2017 Regular Meeting Schedule: Mrs. Tammie Drake, City Clerk, presented the meeting schedule for the City Council, boards and commissions for 2017.

~~**C. Consideration of Budget Amendments**~~

- ~~i. Downtown Lights TDA Grant & Bearfootin' Revenue~~
- ~~ii. N. Oak Street Widening~~
- ~~iii. Glenbrook Change Order~~

D. Consideration of Bid Award for the U.S. Highway 64 Sidewalk Improvements Project:

Engineering Director Brent Detwiler reported formal bids were received for the US Highway 64 Sidewalk Improvements Project on 10/18/2016. He noted the scope of this project was reduced and rebid because all of the original bids were over the available grant funds. The project consists of 1,000 linear feet of new concrete sidewalk, curb and gutter, stormwater piping, asphalt pavement, curb ramps, pedestrian crosswalk and signals along US Highway 64. The engineer's estimate for this project is \$225,000. Four bids were received with the following results:

- Trace and Company - \$188,535.75
- Patton Construction Group - \$233,860.00
- Graham County Land Company - \$264,591.00
- Armen Construction - \$268,749.00

City staff reviewed each bid for completeness and accuracy. Unfortunately, there was an error discovered in the Trace and Company bid, and this bidder was determined to be unresponsive. City staff therefore recommends the award of said project to the lowest responsive, responsible bidder Patton Construction Group, Inc. of Asheville, NC (NC Contractor License No. 66109), for \$233,860.00. He provided the engineer's estimate as well as a bid tabulation showing all the bids and unit prices.

E. Consideration of Wastewater Asset Inventory and Assessment Project - Engineering

~~**Contract Award and Associated Budget Amendment:**~~ Mr. Detwiler explained the Council accepted a State Grant offer in the amount of \$150,000.00 from the NC Department of Environmental Quality's

Division of Water Infrastructure for a Wastewater Asset and Inventory (AIA) project at their November meeting. Staff intends for the AIA project to be a significant portion of an overall wastewater master plan so that, once complete, the City will have both water and wastewater system master planning documents. Staff had concurrently gone through the qualifications based selection process to obtain the services of an engineering consultant to complete the project. He requested Council authorize the City Manager to execute an engineering agreement with Black and Veatch to complete Phase 1 of the Wastewater AIA project. Phase 1 will include a system inventory, flow/rain monitoring, model development and calibration and a condition assessment. This portion of the project will be completed in summer 2017. He noted Phase 2 of the project will be scoped later and will result in a wastewater master plan.

F. Consideration of Resolution Donating a Surplus Police Vehicle to Asheville-Buncombe Tech: Police Chief Blake reported Asheville-Buncombe Technical College has requested the donation of an old police vehicle. The vehicle will be used on-campus in police pursuit training and is free to law enforcement agencies. The vehicle being donated is coming off line from use and would have normally been placed for auction. The value of the vehicle is approximately \$4,700 according to the Kelley Blue Book.

Resolution #16-1244

RESOLUTION AUTHORIZING THE DONATION OF SURPLUS PROPERTY TO ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE PURSUANT TO NCGS 160A-280 ENTITLED DONATIONS OF PERSONAL PROPERTY TO OTHER GOVERNMENTAL UNITS

- WHEREAS; The City of Hendersonville has in its possession a 2007 Dodge Charger, VIN 2B3KA43H17H770326, with 101,000 miles that has been declared surplus property; and
- WHEREAS; The City of Hendersonville desires to donate such surplus property to Asheville-Buncombe Technical Community College to be used for vehicle pursuit training which is without cost to law enforcement and would help the college in that effort; and
- WHEREAS; The City of Hendersonville is authorized to make such a donation pursuant to NCGS 160A-280 entitled "Donations of Personal Property to other Governmental Units" and
- WHEREAS; The City of Hendersonville posted its intention to conduct such donation on November 1, 2016 in City Hall as well as on their website at www.HendersonvilleNC.gov.

BE IT RESOLVED THAT the City Council of Hendersonville, North Carolina seeks to donate and provide to Asheville-Buncombe Technical Community College the property listed below:

2007 Dodge Charger VIN 2B3KA43H17H770326 with a value of \$4,707 as determined by Kelley Blue Book at fair condition

Adopted this first day of December 2016.

/s/Barbara G. Volk, Mayor

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

G. Consideration of Staff Request to Waive Water & Sewer Billing Late Fees and Approve No Water Cut-offs During December: Finance Director Lisa White requested the Council to waive the \$15 late fee and approve not cutting water off due to non-payment during the month of December in order to assist people in need during the holiday season. She reported on the efforts of the Finance Customer Service staff to increase communication and outreach to educate customers on ways to avoid late fees and continuously provide information about other financial assistance available for those in need.

H. Consideration of Amendment to the Fee Schedule - Fire Inspection Fees Pertaining to Apartment Complexes

~~I. Consideration of a Policy Requiring Temporary Cemetery Markers~~

~~J. Consideration of an Ordinance Repealing Article II of Chapter 32 of the Code of Ordinances Relating to Excessive False Alarms~~

~~K. Consideration of a Resolution Accepting a Grant from the Governor's Crime Commission and Related Budget Amendment:~~

L. Consideration of Special Event Permit for New Year's Celebration/Apple Drop: Mrs. Susan Frady, Development Assistance Director, reported the Special Events Committee voted unanimously to recommend City Council approve a special event permit for the New Year's Celebration/Apple Drop as requested by Henderson County Parks and Recreation, sponsor. The block in front of the Courthouse will be blocked from 10 p.m. to 12:30 a.m. on December 31, 2016. The Courthouse lawn will be used for the primary event area and the parking spaces and street will be used for spectators.

City Attorney Fritschner advised the Council under the voting rules in NCGS 160A-75, that ordinances or measures having the effect of an ordinance requires an affirmative vote of two-thirds of the actual membership of the Council on the date which an ordinance is regarded as the "date of introduction." **Mayor Pro Tem Caraker moved approval of the items listed on the consent agenda with the exception of items c, h, i, j and k. A unanimous vote of the Council followed. Motion carried.**

6. Recognition of Service Excellence MVPs: City Manager John Connet recognized Service Excellence MVPs for the July through September quarter. Twenty-four MVP nominations were submitted. The Service Excellence Design Team selected Marcus Vance, Pam Ludwig and Josh Hoard as the quarterly winners. The quarterly nominees will have the opportunity to be selected as the Service Excellence Employee of the year. Certificates were presented by Mayor Volk.

7. Introduction of Police Officer: Police Chief Herbert Blake introduced and welcomed a new Police Officer Michele Marie Hoyle.

8. Public Hearing – Consideration of a Request to Close a Portion of Market Street off of White Street (continued from October 6, 2016 Meeting): Mrs. Frady explained this hearing is continued from the October Council meeting. She reported staff is waiting for an access agreement for the City's property. The City Attorney is working with Publix's attorney to accomplish this. She requested the hearing be continued until the January 2017 meeting. She explained this action does not affect any property owners other than the City.

City Attorney Fritschner advised the Council may conduct the public hearing but a vote will not have any legal effect. After discussion, **Mayor Volk stated it is not appropriate to hold the hearing and expect the vote of the other Council members without hearing the matter. The Council agreed by consensus.**

9. Public Hearing – Consideration of an Application from Pace Brothers Construction Co. Inc. requesting a rezoning of parcel number 9578-24-7373 located between Central Street and Edney Street from R-15 Medium Density Residential to C-3 Highway Business: Mayor Volk opened the public hearing at 6:17 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. The public hearing was continued to the January 5, 2017 meeting without objection from the Council.

10. Quasi-Judicial Public Hearing – Consideration of an Application from Housing Assistance Corporation for the Oklawaha Village located on North Main Street to amend a previously-approved special use permit for a reduction in the size of open space resulting from a donation of 5.67 acres of land adjacent to Mud Creek to the City: Mr. Don Daines, Director of Development for Housing Assistance, applicant. He stated according to HUD timelines and financing, the hearing could be continued to the January meeting. Mayor Volk opened the public hearing at 6:18 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. **The public hearing was continued to the January 5, 2017 meeting without objection from the Council.**

11. Public Hearing – Consideration of an Amendment to Zoning Ordinance Section 6-5-2.5 to Extend Off-Street Parking Requirements Exemption in the 7th Avenue Municipal Services District to Encourage the Redevelopment and Revitalization of the Area: Mayor Volk opened the public hearing at 6:18 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. **The public hearing was continued to the January 5 2017 meeting without objection from the Council.**

12. Update on Drought Situation and Consideration of Associated Budget Amendment: Mr. Lee Smith provided an update on the drought situation stating the recent rain did not alleviate the drought situation. He provided peak flow information on the river. In 2010, the emergency raw water line was built. He reported staff has been talking to vendors about emergency pumping systems and are beginning to prepare the necessary infrastructure to connect to a 30-inch pipe. He explained the emergency intake may not be used until a state of emergency is declared.

Asheville gave pricing for the purchase of two million gallons per day and there is another interconnect near with possibly .5 million gallons/day from Fletcher. Mr. Lee Smith explained the State may require those interconnects prior to emergency intakes and is hopeful to get out of dry weather cycle. He stated Henderson County remains in extreme drought. Mr. Connet expressed appreciation to the customers who have decreased the demand by 9.72 percent. **No action was taken.**

13. Consideration of Request for Proposals (RFP) for a Downtown Hotel Project/Commercial Venture: Mr. Connet requested Council consider moving forward by approving the Request for Proposals for the project at the Grey Hosiery Mill Building. He presented a draft RFP for Council's consideration. He stated the RFP is for a hotel with event space or a commercial venture. He reviewed the process including: the RFP will be made available on December 2 and will seek developers for a hotel project or other commercial venture on the Grey Hosiery Mill property.

Mr. Connet explained market data has been reviewed, schematics for a potential hotel, project costs and returns were researched. The projected costs is \$24,700,000 including provisions for the City providing a loan for the acquisition of the property and extending streetscape project/improvements from Main Street down Fourth Avenue to the site.

Mr. Connet reviewed the process: receive Requests for Proposals through the end of February, Council may review the proposals in April 2017, work toward a Memo of Understanding in May, develop an agreement by July and possibly move forward with site plan review and permitting in the third quarter of 2017. It is possible to have ground breaking the fourth quarter of 2017 or the first quarter of 2018.

Council Member Smith asked that a paragraph be included related to a descriptive and disclaimer. Mr. Connet read the paragraph to be included and stated it was an oversight that it was not added. He stated the paragraph will be added before released. Council Member Smith commented although the Council does not have any projections for a commercial proposal but details what should be included. **Mayor Pro Tem Caraker moved City Council's approval of the Request for Proposals and move forward with the solicitation of proposals for a new hotel development on the Grey Hosiery Mill property. A unanimous vote of the Council followed. Motion carried.** *[A copy of the RFP is available in the office of the City Manager.]*

14. Consideration of Fundraising/Sponsorship Naming Policy: City Manager John Connet presented revisions to the existing Sponsorship Policy to allow for the solicitation of donations to fund improvements in our park facilities. He explained the Policy specifies that City Council must approve any donation over \$1,250. He explained the policy gives the City Council explicit authority to govern or regulate any sponsorship, gift or donation, any type of product for recognition, sayings, etc. related to advertising.

Mr. Connet reviewed the proposed amendments. Section 4 was amended to reserve the right for a few sponsorships related to alcoholic beverages. He stated it is appropriate for the Rhythm & Brews series but not for all facilities. He stated Section 6 Naming Rights was amended to allow a park facility to be named after a sponsor who has generously contributed to the construction or purchase of facility. The policy also reserves the right to accept or reject any proposal as Council deems fit. A signed letter of agreement will be necessary and will contain the minimum criteria. He stated if the amendments are approved, staff will present naming right levels for Council's consideration. Mayor Volk noted the amended date on the policy. **Council Member Smith moved City Council approve the amended Sponsorship Policy to allow for the solicitation of donations to fund improvement in our park facilities. A unanimous vote of the Council followed. Motion carried.**

City of Hendersonville

Policy Date: 04-09-09

Amended: 04-04-13

Amended: 12-01-16

Title: Sponsorship Policy

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

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

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

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

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

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

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

1. The value of the Sponsorship to the Sponsor and to the City
2. Aesthetics of any proposed display, whether physical or otherwise
3. Relationship of the Sponsor and its message to the sponsored activity or program
4. Level of cooperation from other governmental units

5. Inconsistencies between City policies and purposes and the Sponsor's activities, products, services, policies, purposes and practices
6. Any activity, product, service, policy, purpose or practice of the Sponsor or any other person or entity that may, in the opinion of the City, cause the sponsorship to bring the City into disrepute
7. Any other factor that the City reasonably believes would cause a proposed sponsorship not to be in the best interests of the City.

IV. Limitations: Because the City intends to maintain sponsorships as a nonpublic forum, it may make such decisions as, in its opinion, may be reasonably necessary to further the City's legitimate interests. The City's control may include the right to determine placement, content, appearance and wording of sponsorship messages. The City reserves the right to refuse sponsorships containing among other things, any of the following messages:

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

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

1. The legally recognized name of the Sponsor;
2. The Sponsor's organizational slogan if it identifies rather than promotes the organization or its products or services;
3. The Sponsor's product or service line, described in brief, generic, objective terms. Only one product or service line may be identified.
4. Brief contact information, such as phone number, physical address, or internet address, and only in such a manner that avoids the implication that the reader should take any action.
5. The City will not make any statement endorsing the sponsor or its products or services.

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

VI. PARKS FACILITIES NAMING RIGHTS POLICY: The City Council may enter into an agreement that calls for a park facility to be named after a sponsor who has generously contributed to the construction or purchase of said facility. The City Council ultimately reserves the right to accept or reject any proposal as it deems fit. The City Council's decision shall be binding.

The City shall create and modify from time to time a list of naming opportunities that will serve as a guide for the City Council and prospective sponsors. This list shall serve as minimum levels of sponsorship to be considered for naming rights to a park facility.

All agreements of this nature shall be in the form of a signed letter of agreement and shall contain the minimum following criteria:

1. Amount of contribution to be in cash and/or in kind service.
2. A date by which the contribution must be received.
3. A starting date and ending date as to when the naming rights begin and end.
4. A first right of refusal to renew the agreement by the contributor should be included with a clause that the determination whether to extend the first right of refusal offer is exclusively reserved by the City at the conclusion of the naming rights agreement.
5. Provision for cancellation of naming rights in the event the entity ceases business operations or becomes involved in an activity that is deemed unsuitable by the City, shall retain all contributions in this provision.

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

Adopted by the City Council at a regular meeting held April 9, 2009, amended on April 4, 2013 and December 1, 2016.

/s/Barbara G. Volk, Mayor

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

15. Comments from Mayor and City Council Members: Mayor Pro Tem Caraker asked to discuss the water problem reported at Plantation Walk. Mr. Lee Smith reported the leak was detected by AquaHawk. A call was made to the number on file for the property owner that was not monitored by the customer. The old line was not found and a new line was installed to save time and money. There was discussion of altering the policy to allow water service to be disconnected after a determined amount of leakage.

Mr. Connet explained the success of AquaHawk reporting is incumbent on customers keeping their contact information current. Staff will make an extra effort to notify customers of the service and request an update of customer's contact information via the City's website, bills, etc.

Mayor Pro Tem Caraker moved Council to authorize the City Manager to direct the Utilities Director to allow an exception to the current water leak adjustment policy to lower Mr. Gary Mach's September bill from \$3,990.63 to the average of the three preceding water bills. A unanimous vote of the Council followed. Motion carried. Mr. Connet explained staff has been discussing amendments to the policy and will bring recommendations for amendments to the policy for Council's consideration.

16. Reports from Staff:

A. Contingencies Report: Mr. Connet provided a contingencies report in accordance with NC Statute 159-13 (b) (3) required that all expenditures resulting from a contingency appropriation budget adjustment be reported to

The following contingency appropriations were made:

- 1) Fund 20, \$5,000, Temp. Funding to Cover Light Enhancements on Main Street and a tool for sidewalk maintenance. Funds will be reimbursed when the City receives grant proceeds from the TDA.
- 2) Fund 430, \$340,000, Costs for New Design/Engineering of the Etowah Water Project.

17. Consideration of Appointments to Boards and Commissions: City Clerk Tammie Drake announced the board/commission openings on the Board of Adjustment (alternate position), the Business Advisory Committee and upcoming appointments on the Tree Board.

18. New Business: There was none.

19. Adjournment: The meeting adjourned at 6:46 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk