

January 5, 2017
Regular Meeting of the City Council
Assembly Room – Operations Center
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Assistant to the Manager Brian Pahle, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, 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 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.*

Kevin Hoover, 2560 Spartanburg Hwy., stated he owns unoccupied units that do not have power, are 2,000 square feet or less and questioned why he has to pay for a fire inspection of these units. Mr. Connet offered to meet with Mr. Hoover and the Fire Chief.

Ken Fitch, 1046 Patton Street, expressed his appreciation to Senior Planner Dave Hazzard who is leaving employment with the City. He stated his lasting legacy is his work on the Oklawaha Greenway. Mayor Volk echoed her appreciation to Mr. Hazzard.

4. Consideration of Agenda: Item 6a. Furman United Soccer Club - 02G Purple – moved to February 9, 2017 meeting. **Mayor Pro Tem Caraker moved City Council's approval of the agenda as amended. 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: December 1, 2016 Regular Meeting

B. Consideration of Budget Amendments

- 1) Fund 60 Increase \$1,030,000: to provide funds for the purchase and associated administrative costs for the Etowah Sewer System.
- 2) Fund 325 Increase \$38,955: to establish a fund for the Governor's Crime Commission Grant awarded to the City for \$38,955 with no required match.
- 3) Fund 460 Increase \$129,500, Fund 60 Increase \$129,500: to provide funding for the full scope of the AIA wastewater master plan.
- 4) Fund 440 Increase \$199,614: to cover the costs associated with a change order for the Glenbrook Sewer Project.
- 5) Fund 435 Increase \$22,000, Fund 10 Increase \$7,875, Fund 60 Increase \$14,125: to increase the budget for the N. Oak Street widening project due to the additional survey and design work performed on the site.
- 6) Fund 20 Increase \$28,790: to increase the Main Street MSD Fund Revenues to reflect new/ unexpected revenues.
- 7) Fund 130 Increase \$6,783: to increase the Needy Persons fund to reflect the donations received for the Shop with a Hero event.
- 8) Fund 10 Increase \$3,600: to increase the Police Department's budget for a donation received to purchase bulletproof vests.
- 9) Fund 10 Increase \$9,906, Fund 60 Increase \$15,321: to reflect insurance reimbursements.
- 10) Fund 80 Increase 2,785: to reflect the increase in the Turkey Trot revenues and to repay the Wellness Committee.
- 11) Fund 410 Increase \$793,000, Fund 420 Increase \$445,800: to increase the budget SCADA/Rutledge Rd. Projects.

C. Consideration of an Ordinance Amending Section 18-11 of the Code of Ordinances Respecting the Placement of Temporary Markers at Grave Sites and Removing Height Restrictions of Monuments: City Attorney Fritschner presented an ordinance for Council's consideration to require markers be placed on graves within 24 hours of internment and eliminating the four-foot height limit for monuments.

Ordinance #17-0101

AN ORDINANCE AMENDING SECTION 18-11 OF THE CODE OF ORDINANCES RESPECTING THE PLACEMENT OF
TEMPORARY MARKERS AT GRAVE SITES AND REMOVING HEIGHT RESTRICTIONS OF MONUMENTS

WHEREAS, the City of Hendersonville operates a municipal cemetery for the welfare and convenience of the public, and

WHEREAS, the City deems it important to assure that new graves in its cemetery be properly designated, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Section 18-11 of the Hendersonville Code of Ordinances is hereby amended to read as follows:

Sec. 18-11. - Interment of human remains.

(a) No person shall inter a human corpse or the remains remaining from the cremation of a human corpse at any place or location within the city limits other than in a recognized and established cemetery or other area regularly dedicated for this purpose. No interment shall occur in the city cemetery unless the city public works director or his designee shall have been notified of the interment at least 48 hours earlier.

(b) No person shall cause to be built, installed or created any aboveground curbing, borders or fencing around any plot or grave, or multiple grave sites.

(c) No headstones, level stones or any other type of grave marker shall be wider than the width of two adjacent grave sites, or spaces, ~~and shall not have a height, measured from ground level, more than four feet high.~~

(d) All interment shall be accomplished with the use of an approved container, and there shall be only one interment on each grave site, provided that more than one cremated remains may be placed in a grave space, or site, upon the granting of permission for such second, or more, interment by the city official in charge of the cemetery is first obtained.

(e) After interment is completed, the top of any concrete box or vault used in such interment shall not be less than 24 inches below the ground level, and such concrete box or vault shall be covered with 24 inches of compacted soil.

(f) Prices, fees, charges and assessments representing the purchase price of burial rights in any cemetery lot or grave site, the opening and closing of graves, interment fees and any other services rendered by the city incidental to, or relative to, the use of the cemetery shall be determined by resolution of the city council, and a fee schedule listing the amount and nature of such fees shall be filed in the office of the city clerk.

(g) Within 24 hours after interment in a cemetery operated by the City the funeral director or other person arranging the interment shall cause to be placed at an appropriate place on the interment site a temporary marker designating at least the identity of the person interred. The marker shall remain for six months or until placement of a permanent identifying monument or other identifier, whichever is earlier. The temporary marker may be removed at the discretion of the public works department not earlier than six months after interment.

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 fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

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

D. Consideration of Amendment to the Fee Schedule - Fire Inspection Fees Pertaining to Apartment Complexes and to Reinstate Certain Fees as Authorized by North Carolina General Statutes:

Mr. Brian Pahle presented amendments to the Fee Schedule adopted by the Council on June 2, 2016. The Fee Schedule did not include how apartment complexes would be charged. The NC Fire Code considers apartment complexes "R-2 occupancies" and are defined as residential occupancies containing sleeping units or more than two dwelling units. Fees are based on the number of units of such complexes.

The second amendment to the Fee Schedule is to reinstate certain licenses authorized by NC General Statutes for: These are beer and wine licenses, carnival permits, and precious metal permits. *[The amended Fee Schedule is available in the office of the City Clerk.]*

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

City Attorney Sam Fritschner presented an amendment to the Code repealing the ordinance relating to excessive false alarms. Administration of the ordinance has proved cumbersome and difficult to enforce in court. Excessive false alarms have not constituted a serious problem to responder departments in recent years.

Ordinance #17-0102

AN ORDINANCE REPEALING ARTICLE II OF CHAPTER 32 OF THE CODE OF ORDINANCES RESPECTING PERMITS FOR EMERGENCY ALARMS

WHEREAS, the Code of Ordinances provides for permits for the use of emergency alarms, and

WHEREAS, in the opinion of the City Council, being advised, the requirement to obtain such permits does not at present contribute significantly to the health, safety and welfare of persons within the City,

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

SECTION 1. Article II of Chapter 32 of the Code of Ordinances entitled "Emergency Alarms" is hereby repealed in its entirety.

SECTION 2. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

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

F. Consideration of a Resolution Accepting a Grant from the Governor's Crime Commission:

Resolution #17-0103

RESOLUTION BY THE GOVERNING BODY OF THE CITY OF HENDERSONVILLE

WHEREAS, the City is in receipt of a grant award from the Department of Public Safety Governor's Crime Commission in the amount of \$38,955, and

WHEREAS, the City Manager is the authorizing official for the grant, and

WHEREAS, the grant will assist the City in conducting online internet crimes against children (ICAC) investigations, to identify and apprehend individuals who trade, send, and receive child pornography and videos via the internet, and

WHEREAS, City of Hendersonville detectives conduct reactive investigations, forensic examinations, and assist in criminal prosecutions, and

WHEREAS, the City of Hendersonville intends to act and perform duties in accordance with the awarded grant,

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

That City of Hendersonville does hereby accept the Governor's Crime Commission Grant offer of \$38,955.00.

Adopted this the fifth day of January 2017 at 305 Williams St., Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

G. Consideration of Special Event Permit for Apple Country Cider Jam: Development Assistance Director Susan Frady reported the Special Events Committee recommends approval of a special event permit for the Apple Country Cider Jam to be held on April 22, 2017. Main Street will be blocked from Allen to Caswell Streets from 9:00 A.M. - 8:00 P.M. This will be a one-day ticketed event focusing on the hard ciders being made with North Carolina apples, particularly those sourced in Henderson County. The event will include cideries from across North Carolina, food and musical performances.

H. Consideration of Revisions of Job Descriptions for Customer Service Positions: Human Resources Director Jennifer Harrell requested revisions to the Customer Service Specialist positions into Customer Service Collections Specialists and Customer Service Representatives. She also requested the revision of the Revenue Accountant position to Senior Customer Service Specialist to emulate what each position encompasses. *[The job descriptions are available in the HR Director's Office.]*

I. Consideration of Appointing Accounting Supervisor and the Revenue Supervisor as Deputy Finance Directors: Finance Director Lisa White requested City Council appoint the Accounting Supervisor and the Revenue Supervisor to be named as Deputy Finance Officers for the purposes of pre-audit requirements. This will ensure that the Pre-audit certificate required on all written contracts can be signed by a Finance Officer in all instances including when the Finance Director may be out of the office.

J. Consideration of Authorizing the City Manager to Declare a Vehicle Surplus and to Dispose of by GovDeals: Utilities Director Lee Smith reported staff's use of the Toyota Camry Hybrid has not provided for adequate charging of the batteries. He requested the Council authorize the City Manager to surplus and sell the vehicle on GovDeals with a starting price of \$10,200.

K. Consideration of Waterline Extension to Serve Proposed Bojangles in Mills River: Mr. Lee Smith reported this project will require an installation of a water system to serve a commercial development/fast food restaurant. The proposed water system consists of 917 linear feet of eight-inch ductile iron pipe. The project was approved by the Town of Mills River on September 19, 2016.

Mr. Lee Smith stated the Water and Sewer Department has the capacity to support this additional infrastructure and associated connections and recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

L. Consideration of a Resolution Authorizing the City Manager to Execute a Memorandum of Understanding Concerning a Radio System Operated with Henderson County: Police Lieutenant Tracy Cox reported the Police Department and Sheriff's office jointly operate a radio system for dispatch purposes. Both desire a memorandum of understanding with respect to this operation. The purpose of the memorandum is less to be a legally binding document than to demonstrate the parties' intentions and to memorialize their undertakings.

**MEMORANDUM OF UNDERSTANDING BETWEEN HENDERSON COUNTY
AND CITY OF HENDERSONVILLE**

In order to serve the interest of the citizens of Henderson County, Henderson County government and the City of Hendersonville mutually agree to the following conditions to facilitate improved communications. This MOU is mutually agreed upon in a spirit of cooperation, commencing as of 1 January 2107 and will be reviewed annually by both parties.

The City of Hendersonville agrees to the following:

- Working in conjunction with JVC/Kenwood and Kimball Communications license two additional "channels" for the Henderson County NXDN radio system.
- Purchase and have installed the necessary equipment for the above channels to operate on the existing NXDN radio system. Required equipment may include but not limited to: power supplies, repeaters, power amplifiers and associated equipment.
- The City of Hendersonville will retain ownership of equipment added to the system by the City and may remove said equipment when adequate time is allowed for system engineering and demobilization.
- The annual support cost will vary based on total system support costs and the percentage of overall usage by the City of Hendersonville. For FY17 the City of Hendersonville agrees to pay to Henderson County an estimated support payment of \$10,000 in the absence of historical usage data.
- Maintain all subscriber devices to include base stations, mobile and handheld radios in accordance with the manufacturer's specifications. Maintenance may include programming, installation and consumables such as batteries, belt clips and antennas.
- Notify the County in a timely manner when the City is to add a new device is to be onto the NXDN
- Notify the County in the event of a lost or stolen radio to ensure the radio is deactivated from the system.

Henderson County agrees to the following:

- Maintain system infrastructure and utilities for the NXDN system.
- Maintain the system in accordance with the manufacturer's recommendations.
- Work with the City of Hendersonville to ensure they have adequate access to the agreed upon talkgroups and/or channels.
- Maintain access to the system for subscriber units and remove devices from the system as requested by the City.

Henderson County and the City of Hendersonville agree to communicate on an ongoing basis about the utility of this MOU and any changes that may be needed. Such communication may be initiated by either party.

Henderson County
/s/Steve Wyatt, County Manager

City of Hendersonville
/s/John Connet, City Manager

M. Consideration of Resolution of Intent to Close a Portion of 9th Avenue West between N. Church Street and Oakland Street:

Resolution #17-0105

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider the closing of a portion of 9th Avenue West between N. Church Street and Oakland Street

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys; and

WHEREAS, Henderson County and the Henderson County Board of Public Education, have petitioned the Council of the City of Hendersonville to close a portion of 9th Avenue West between N. Church Street and Oakland Street; and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of 9th Avenue West between N. Church Street and Oakland Street.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville:

1. A meeting will be held at 5:45 p.m. on the ninth day of February, 2017, in the Council Chambers of City Hall to consider closing a portion of 9th Avenue West between N. Church Street and Oakland Street.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the fifth day of January 2017.

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

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

6. Recognitions by Mayor Barbara Volk:

a. Furman United Soccer Club - 02G Purple HVL – moved to February meeting.

b. Government Finance Officers Association Distinguished Budget Presentation Award: Mayor Volk presented the Budget Presentation award to Assistant to the Manager Brian Pahle for fiscal year 2016-17 and congratulated him. Mr. Connet echoed his appreciation.

c. City of Hendersonville's 170th "Birthday": Mayor Volk read a proclamation noting the anniversary of the 170th anniversary of the City's incorporation.

7. 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 (Continued to January 5, 2017 Meeting): Mayor Volk began by reviewing the procedures for the quasi-judicial hearing including quasi-judicial public hearings are required by the State of North Carolina in certain situations. Quasi-judicial hearings differ from regular public hearings in that interested persons have the following rights: to cross examine witnesses, to present evidence, to inspect documentary evidence presented against them, and to be afforded all the procedural steps set out in the pertinent ordinance and statute.

Mayor Volk asked the members of City Council to announce any contacts concerning the application that are not included in the file. There was none.

Mayor Volk asked the members of City Council to announce any conflicts of interest they may have pertaining to this matter. There was none.

Mayor Volk asked if any person present is aware of anything of value that has been given or promised in exchange for a vote on the application. There was none.

Mayor Volk explained the City Council may only consider factual information and/or expert testimony and not feelings or opinions. She asked those who anticipate speaking to be sworn in. Two persons were sworn in to provide testimony.

Senior Planner David Hazzard provided the following testimony:

The City is in receipt of an application to amend a Special Use Permit from Housing Assistance Corporation for the Oklawaha Village development located on North Main Street. This project was approved by City Council at their regular meeting on March 5, 2015 and an amended Special Use permit was approved by City Council at their regular meeting on March 3, 2016. The applicant has proposed to donate lot number 23 to the City. Lot 23 is approximately 5.67 acres and is located in the flood plain adjacent to Mud Creek as shown on the site plan. This area is currently part of Oklawaha Village's required open space thus the applicant is requesting a variance to reduce the required open space. There are no proposed changes to the buildings, unit count, roads, or parking from the previously approved site plans.

Generally, minor modifications to approved Preliminary Site Plans are only subject to staff review and approval. Section 7-6 of the Zoning Ordinance does not allow staff to approve modifications that are a substantial change in the property boundary or amount of open space. Additionally a variance is now necessary for the open space. Therefore, an amended Special Use Permit approved by City Council is required.

This parcel is now approximately 12.65 acres and will have a total of 78 multi-family units, 17 single-family lots, a 2,214 square foot office/community building and a 4,200 square foot office/support building. The City Council approved the final subdivision plat for the single-family lots on March 3, 2016.

Variance Request: He reviewed Section 5-14-7.1 of the Zoning Ordinance and stated due to the proposed donation of approximately 5.67 acres of land to the City the proposed open space is now approximately 52.3% (6.62 acres) and does not meet the minimum required 60%. The applicant is requesting a variance to reduce the required open space from 60% to 52.3%.

A neighborhood compatibility meeting concerning the application was held on October 26, 2016. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property as required by Section 7-4-4.1 of the Zoning Ordinance. Four people representing the public attended the meeting. The following concerns were raised: traffic and donation of the property. He provided a copy of the neighborhood compatibility report.

Planning Board recommendation: The Planning Board voted unanimously to recommend City Council approve the variance request and to recommend approval of the amended special use permit.

Mayor Volk opened the public hearing in accordance in North Carolina General Statutes by notice published in the Hendersonville Lightning.

Mr. Daines, representing the Housing Assistance Corporation, stated they are pleased to offer this property identified by Mr. Hazzard. They are not changing any of the uses, buildings, etc. The only difference will be the ownership of the open space. It is owned by the Housing Assistance Corporation. When they met with the Housing and Urban Development Department in connection with the funding of the project, they asked why they had such a large amount of land. They preferred that it not be owned by the Housing Assistance Corporation as

part of the apartments. This created the opportunity for them to dedicate this land as public open space and seek a variance. He stated the parcel will become public and will complement the greenway on the south side of Mud Creek and will be maintained in pristine condition. He asked the City to accept the donation.

No one else expressed a desire to speak. The public hearing was closed at 6:11 p.m.

Mayor Pro Tem Caraker moved City Council approve a variance from Section 5-14-7.1 to reduce the required open space from 60 percent to 52.3 percent because it is an insignificant portion of the project. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker moved City Council approve the application of Housing Assistance Corporation for an amended Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions because it is a good project and fits in the area. A unanimous vote of the Council followed. Motion carried.

8. Public Hearing – Consideration of a Request to Close a Portion of Market Street off White Street (continue to February 9, 2017 Meeting): Mrs. Frady explained this hearing is continued from the October Council meeting. She reported staff is continuing to wait for an access agreement for the City's property. She requested the hearing be continued until the February 2017 meeting.

Council Member Smith moved Council to continue the public hearing until the February 9, 2017 meeting. A unanimous vote of the Council followed; motion carried.

9. Public Hearing – Consideration of an Application from Pace Brothers Construction Co. Inc. Requesting the Rezoning of Parcel #9578-24-7373 Located between Central Street and Edney Street from R-15 Medium Density Residential to C-3 Highway Business -- Continued to January 5, 2017 Meeting: Mrs. Susan Frady, Development Assistance Director, reported the City is in receipt of an application, dated June 28, 2016, for a zoning map amendment. The applicant is William A. Pace, Jr. representing Pace Brother's Construction Co., Inc. The application is for parcel 9578-24-7373 consisting of 0.985 acres. This parcel is located between E. Central and Edney Streets.

Comprehensive Plan Consistency: The 2030 Comprehensive Plan's Future Land Use Map designates these parcels as High Intensity Neighborhood. She stated the High Intensity Neighborhood future land use category is to encourage low-maintenance, high-density housing that supports neighborhood and regional activity centers and downtown and to provide a transition between commercial and single-family development. She reviewed the primary and secondary uses. She stated the application appears to be consistent with the Comprehensive Plan.

Mrs. Frady reported this vacant parcel is proposed to be rezoned to C-3 Highway Business Zoning District which is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents. She reviewed the surrounding land uses: residential and a vacant property, and the zoning classifications of those uses: R-15 and C-3.

Mrs. Frady reviewed the dimensional requirements for both the R-15 and C-3 classifications as well as the primary and conditional uses allowed in each.

Planning Board Recommendation: Mrs. Frady reported the Planning Board voted unanimously to recommend City Council amend the zoning map changing the zoning designation from R-15 to C-3 finding the rezoning is consistent with the Comprehensive Plan and is the best use of the property.

Mrs. Frady reviewed the factors contained in Section 11-4 of the Zoning Ordinance that must be considered prior to rezoning.

Mayor Volk opened the public hearing at 6:19 p.m. The following addressed the Council:

Billy Pace, Pace Brothers, offered to answer questions. He stated the parcel is adjacent to the Board of Elections and there is one residential use off that street. He stated traffic should not affect the residence. He stated C-3 zoning is in place now and daytime businesses are located there now. He stated O'Reilly's has access from Spartanburg Highway and the area consistently has had commercial uses.

No one else expressed a desire to speak. The public hearing was closed at 6:22 p.m.

Mayor Pro Tem Caraker moved City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel number 9578-24-7373 from R-15, Medium Density Residential to C-3, Highway Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: because it is contiguous to C-3 zoning. A unanimous vote of the Council followed; motion carried.

Be it ordained by the City Council of the City of Hendersonville:

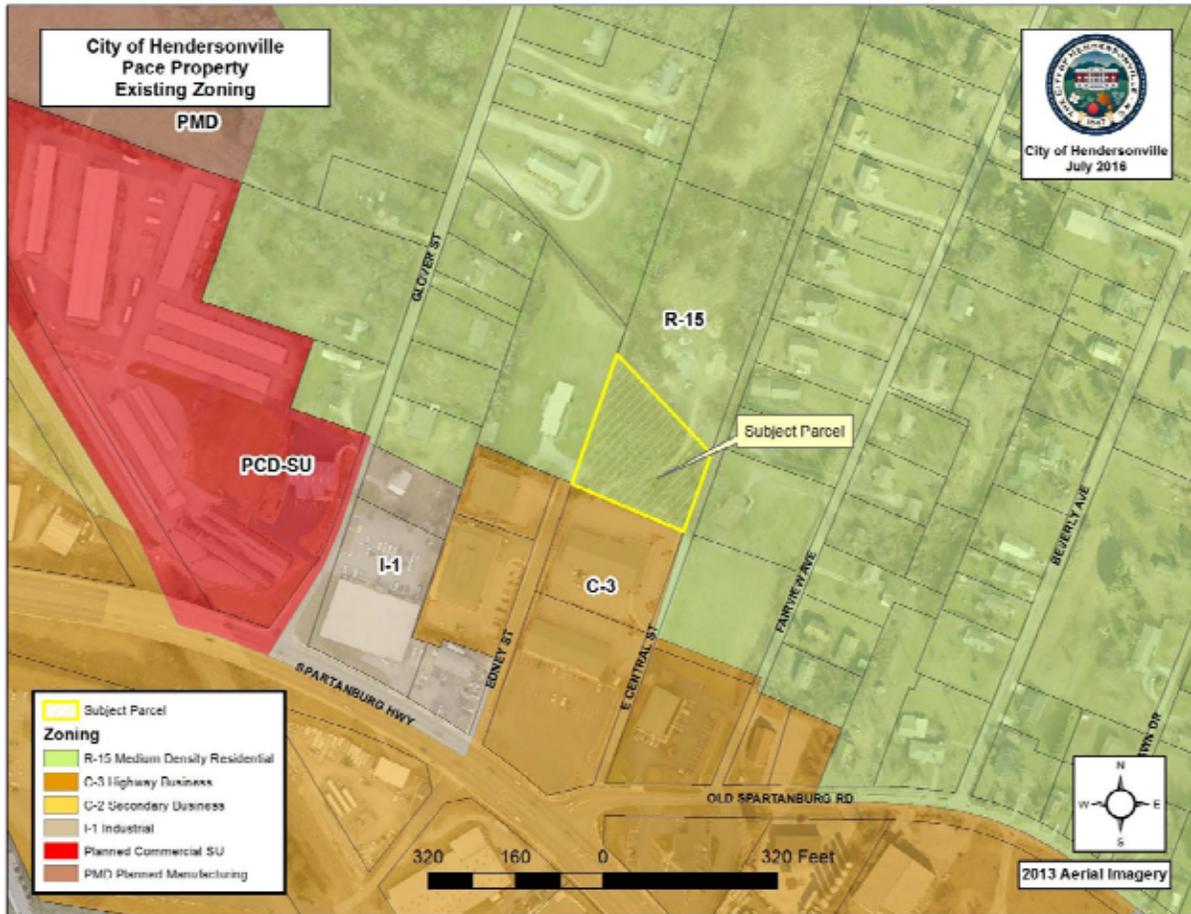
1. Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel numbers 9568-24-7373 from City of Hendersonville R-15, Medium Density Residential to City of Hendersonville C-3, Highway Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

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



10. Public Hearing - Consideration of a Request to Close an Unnamed and Unopened Alleyway which runs from North Main Street to Algeria Street: Mrs. Frady reported the City received a request from Sherry Brewer, Attorney, to substitute the current property owners Ella Jean Boggio and Grant and Susan Sitler for the previous owner John G. Liberatos, concerning the petition to close an unopened alley located on PIN 9569-71-4068. This alley is on property located between N. Main Street and Algeria Street. She reviewed the procedures contained in NCGS 160A-299 for permanently closing streets and alleys.

Mayor Volk opened the public hearing at 6:25 p.m. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved Council to adopt the order to permanently close an unopened alley/street located on PIN 9569-71-4068 as petitioned by Ella Jean Boggio and Grant and Susan Sitler. A unanimous vote of the Council followed; motion carried.

ORDER #17-0107

ORDER TO PERMANENTLY CLOSE A PORTION OF AN UNOPENED ALLEYWAY
(Petition by Boggio and Sitler [Liberatos])

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, Ella Jean Boggio and Grant and Susan Sitler, have petitioned the City of Hendersonville to close a portion of an unopened right-of-way; and

WHEREAS, on the third day of November 2016, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the fifth day of January 2017, 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 in the Hendersonville Lightning (a newspaper of general and regular circulation in Hendersonville and Henderson

County) 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 streets; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the fifth day of January 2017.

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

1. The closing of the street portions hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the streets or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order:

Being located within the City of Hendersonville, Hendersonville Township – Henderson County, North Carolina and being more particularly described as follows:

Beginning at an iron pin the eastern margin of North Main Street, said pin marking the westernmost corner of Lot 1 of Cold Spring park as shown on a plat thereof recorded in Plat Cabinet B at Slide 18, Henderson County Registry, reference to which is hereby made, said beginning point also being the westernmost corner of the John G. Liberatos property described in Deed Book 1240 at page 458, and running thence with the southern margin of the said Liberatos property, South 46 deg. 00' 00" East 226 feet to the southernmost corner of Lot 4 in the western margin of Algeria Street; thence with the said Algeria Street, South 44 deg. 50'10" West 15 feet to an iron pin at the easternmost corner of Tract Two of the John Anthony Liberatos property described in Deed Book 1543 at page 434, and running thence North 46 deg. 00'00" West 218.81 feet to an iron pin in the eastern margin of North Main Street, the northernmost corner of Tract One of the John Anthony Liberatos property; thence with the eastern margin of North Main Street, North 19 deg. 03'55" East 16.54 feet to the point and place of BEGINNING, containing 0.08 acres more or less and being the 15 foot wide unnamed alley lying to the south of Lots 1 and 4 of Cold Spring Park as shown on a survey of said property by F.V. Clinkscales, Jr., PE recorded in Plat Slide 10318, Henderson County Registry, reference to which is hereby made.

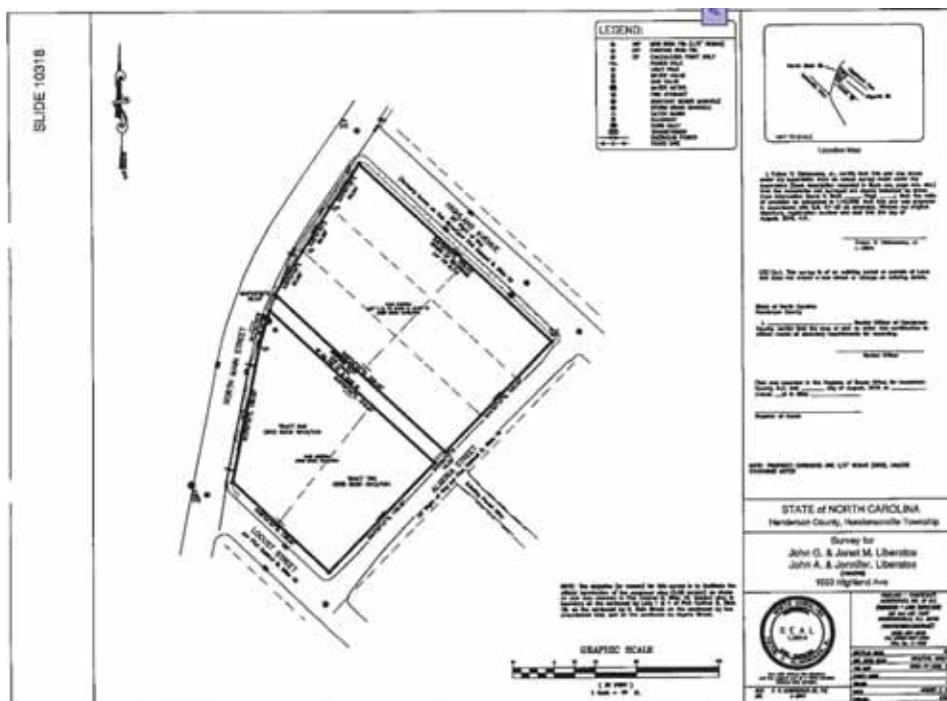
2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

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



11. Public Hearing - Consideration of a Request from the Housing Assistance Corporation to Close an Unnamed and Unopened Right-of-Way that runs from North Main Street Southward:

Development Assistance Director Susan Frady reported the City received an application from Housing Assistance Corporation to close a portion of an unopened right-of-way that extends from North Main Street, southwardly. She reviewed NCGS 160A-299 that sets forth the procedures for permanently closing streets and alleys.

Mayor Volk opened the public hearing at 6:28 p.m. The following spoke:

Don Danes, Development Director for HAC, requested the alley be closed and vacated. He stated residential lots back up to the alley.

No one else expressed a desire to speak. The public hearing was closed at 6:29 p.m.

Council Member Smith moved Council to adopt the Order to Permanently Close a Portion of an Unopened Right-of-Way as petitioned by Housing Assistance Corporation. A unanimous vote of the Council followed; motion carried.

ORDER #17-0108

**ORDER TO PERMANENTLY CLOSE A PORTION OF AN UNOPENED RIGHT-OF-WAY
(Petition by Housing Assistance Corporation)**

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, Housing Assistance Corporation, has petitioned the City of Hendersonville to close a portion of an unopened right-of-way; and

WHEREAS, on the third day of November 2016, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the fifth day of January 2017, 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 in the Hendersonville Lightning (a newspaper of general and regular circulation in Hendersonville and Henderson County) 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 streets; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the fifth day of January 2017.

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

1. The closing of the street portions hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the streets or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order:

Being located within the City of Hendersonville, Hendersonville Township – Henderson County, North Carolina and being more particularly described as follows:

Beginning at a #4 Rebar with McAbee ID Cap Set on the Southern Margin of the said subject 20' Right of Way; said Rebar also being located on the Western Margin of another 20' Right of Way (shown on Plat Slide 5648 and described in Deed Book 1200 Page 408) and also being located on the Northern Line of Oklawaha Village as recorded on Plat Slide 10082; and further bearing NC Grid Coordinates (NAD83-Epoch 2011) of: Northing = 595,036.06' and Easting = 968,519.30'; thence following the Southern Margin of the subject 20' Right of Way and Northern Boundary of Oklawaha Village North 45°34'50" West 649.96 feet to a calculated point located on the Eastern Margin of North Main Street (SR 1503); thence turning and running South 88°19'10" East 29.56 feet to a calculated point located on the Northern Margin of the said 20' Right of Way; thence following the Northern Margin of the said Right of Way South 45°34'50" East and passing a Concrete Monument at a distance of 258.72 feet for a total distance of 603.25 feet to a calculated point located on the Western Margin of the 20' Right of Way shown on Plat slide 5648; thence following this Right of Way South 06° 49'25" East 32.05 feet to the Point and Place of Beginning.

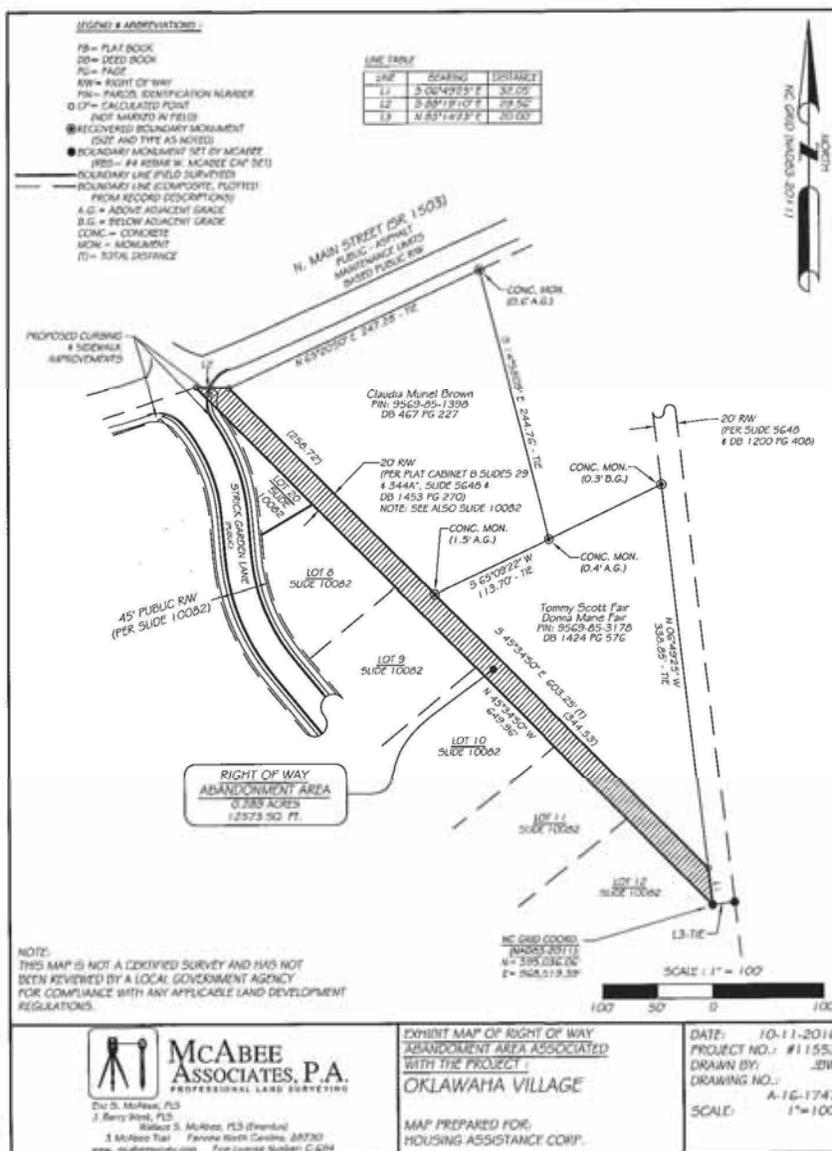
2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

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



12. Public Hearing – Consideration of an Amendment to Zoning Ordinance Section 6-5-2.5 to Extend Off-Street Parking Requirements Exemption in the Seventh Avenue Municipal Services District to Encourage the Redevelopment and Revitalization of the Area (Continued to January 5, 2017 Meeting): Mrs. Frady presented an ordinance to exempt the Seventh Avenue Historic District from the off-street parking requirement to encourage the redevelopment and revitalization of that area. She provided a history of the establishment of the Seventh Avenue Municipal Service District.

Mrs. Frady stated additional on-street parking spaces will be painted within the district. She stated this change will make the off-street parking requirements for the Seventh Avenue Historic District consistent with the requirements in the Downtown Historic District.

Mayor Volk opened the public hearing at 6:33 p.m. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved Council to adopt the ordinance amending Zoning Ordinance Section 6-5-2.5 Exemption to Off-Street Parking. A unanimous vote of the Council followed; motion carried.

Ordinance #17-0109

AN ORDINANCE AMENDING ARTICLE VI GENERAL PROVISIONS SECTION 6-5-2.5 EXEMPTION TO OFF-STREET PARKING

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 understands the need to encourage redevelopment and revitalization of the community, and

WHEREAS, the City of Hendersonville supports the 7th Avenue Municipal Service District, and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to off-street parking requirements.

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

- Article VI General Provisions Section 6-5-2.5 exemption to off-street parking is hereby amended to include the following:

Add: Off-street parking is not required in the Seventh Avenue Depot Historic District 7th Avenue Municipal Service District.

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 fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

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

13. Presentation of Audit: City Manager John Connet introduced Mr. David Phillips, CPA, Partner with Greene, Finney & Horton, LLP. Mr. Phillips provided highlights of the audit: The City received the best opinion possible: an “unmodified opinion.” The Comprehensive Annual Financial Report (CAFR) has received the GFOA Award for Excellence in Financial Reporting for the 26th consecutive year. He stated the CAFR contains statistical information for the past ten years.

Mr. Phillips stated it is the City’s responsibility to have strong internal controls. It is the auditor’s responsibility to audit and provide reasonable assurance that financial statements are materially correct based on samples they have taken. An “Emphasis of Matter” paragraph was included to correct Capital Assets and other items correct.

General Fund:

- The Fund Balance decreased approximately \$700,000. Mr. Connet explained the decrease is a transfer. Mr. Pahle explained approximately \$661,000 of Capital Reserve Funds were moved to a Debt Service Fund that will pay off three debt service payments over the next three years. This freed up operating capacity in future years while maintaining the goal of above 35 percent for the Fund Balance. Mr. Connet commented transferring the funds was good financial planning on the Council’s part. Funds were also used for improving N. Oak Street at the Health Sciences Building. Expenditures were for capital items, not operational expenses.
- Restricted fund balance is approximately \$1.8 million required by the State
- Assigned fund Balance is approximately \$400,000 as appropriated by the budget.
- Non-spendable fund balance is approximately \$100,000.
- Unassigned or available fund balance is \$5.1 million or 35 percent of 2016 actual expenditures and 36 percent of 2017 budgeted expenditures. The City’s minimum Fund Balance Policy requires 25% - 35% of budgeted expenditures.

Revenues: Totaled \$13.9 million which reflects a 6% increase from 2015. Much of increase came from local sales tax revenue which is a volatile type of revenue.

Expenditures: Totaled \$13.5 million, 3% decrease from 2015 and \$500,000 under budget.

General Fund Net Transfer Out: primarily to set up the new Debt Service Fund.

Water and Sewer Fund (modified accrual): had a decrease in fund balance of approximately \$400,000.

Revenues of \$15.8 million, expenditures of \$16 million, and other financing uses of \$200,000.

Expenditures were primarily for salaries, benefits, and other operating expenses.

Capital asset additions of \$1.7 million primarily related to water/sewer system projects (i.e., Etowah, Jackson Park, Shepherd Creek, etc.)

Depreciation expense of \$6.4 million.

Environmental Service Fund (modified accrual): had an increase in fund balance of approximately \$5,000.

Revenues of \$1.2 million, other financing sources of \$200,000, and expenditures of \$1.4 million.

Expenditures were primarily for salaries, benefits, and other operating expenses.

Capital asset additions of \$300,000 primarily related to a garbage truck purchase

Depreciation expense of \$1,000.

Other items noted:

Total capital assets were \$101.3 million at June 30, 2016 – decrease of \$3.0 million from June 30, 2015

Total capital asset additions of \$4 million

Depreciation expense of \$7.9 million.

Construction in progress is \$1.8 million

Total long-term obligations outstanding at June 30, 2016 were \$34.8 million, a decrease of \$3 million

Debt service payments in FY 2017 contracts is expected to be \$4.9 million

Management Letter: Mr. Phillips reported no issues but some recommendations were made. Meetings are planned to discuss these items and how the City plans to address these matters.

Compliance: A single audit was required for FY 2016 for Federal funds received. No issues were noted on the two programs tested. He reported there were some findings that will be discussed in meetings.

Mr. Phillips stated the City has a strong financial condition. He gave the Council an opportunity to ask questions. Mayor Volk expressed appreciation to Mr. Phillips for the audit report.

There was a brief recess.

14. Consideration of Amendments to the Leak Adjustment Policy: Finance Director Lisa White presented amendments to the Leak Adjustment Policy. This amendment allows staff to give credit to customers on their account for leaks. She explained the current policy can still leave a large balance. She reviewed the amended policy stating when the City is notified of a leak the customers' bill may be adjusted to an average of the last three months bills.

Ms. White reported customers were notified of the opportunities through AquaHawk and encouraged them to update their contact information.

Mr. Connet commented much of the work on the policy was already in motion. He expressed appreciation to the Finance Department staff and noted the work they are doing to help our customers. Mayor Pro Tem Caraker commented the responsibility for leaks is on both sides and asked if there anything in the policy about contact information being invalid. Mrs. White stated a request was made for current information and the amended policy will allow all customers who report a leak to be treated equally.

Mayor Pro Tem Caraker moved Council's approval of the Leak Adjustment Policy. A unanimous vote of the Council followed; motion carried.

Leak Adjustment Policy

1. PURPOSE: The purpose of the City's Leak Adjustment Policy is to provide an avenue for review and determination on relief provided to customers who have experienced an irregular and involuntary increase in water consumption.
2. RELEVANT INFORMATION: This policy applies to adjustments made to customer accounts due to leaks that result in a high water and/or sewer bill where the source of excess consumption is clearly identified and repaired.
3. PERSONNEL AUTHORITY: This policy details the administration of applying financial adjustments to customer accounts, therefore authority regarding the execution and administration of this policy is vested in the Finance Director.
4. SCOPE/OPERATING REQUIREMENTS: In order to receive relief, the leak must be non-preventable. A leak adjustment will be granted whether the leak occurred inside or outside of the address being served. Only one leak adjustment may be granted every 24 months per customer/ per account. The adjustment can only be provided if leak has been fixed or there has been one normal month of a billing cycle showing leak is no longer occurring.
5. PROCEDURES
 - Within 30 days of discovery of the leak (by the City of Hendersonville or by the customer), the customer must make a written request to the City of Hendersonville for a leak adjustment using the form provided by the City.
 - Verification of the repair must be submitted to the City with the Leak Adjustment Request form. Acceptable verification includes plumber's receipt or other proof of the repair.
 - After all documentation has been received by the Water Sewer Finance Department, a review of the documentation received will be conducted by City staff, and a determination will be made on the type of relief to be granted. A notice of determination will be sent to the mailing address on file within the billing system.
 - Accounts determined to be eligible for a leak adjustment will follow a standard formula for determining the amount of relief provided. The amount adjustment will be the difference between the bill(s) in question and the average consumption of the account. Average Consumption shall be calculated using three (3) normal utility billing records. If there is insufficient usage history, it may be necessary to wait until additional consumption history is available before an adjustment can be made.

Adopted by the City Council of the City of Hendersonville, North Carolina, on this fifth day of January 2017.

/s/Barbara G. Volk, Mayor

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

15. Consideration of Placing Certain Traffic Signals to Flash after 11:00 p.m.: Mr. Connet reported Mayor Volk received this request from a citizen. Mr. Wooten reported after studying the intersections, considering sight distances, staff believes a safer and more efficient alternative would be to put the signals on a loop system. He stated it might take two to three months to install at a cost of \$4,000 to \$5,000 using City staff.

Mr. Connet explained the initial proposal was to put certain intersections on flash (main roads flashing yellow, side streets flashing red requiring vehicles to stop). He stated site distance was obscured in some cases. He proposed the loop system so the signal on the main road, after 11 p.m. will stay constantly green with side streets on red. The loop sensors will trip the signal. He believes the loop system will give more protection and is a safer option. There was discussion on what triggers the signalized loop system. Mr. Wooten stated he will investigate to make it more efficient.

Council Member Smith moved City Council to authorize the Public Works Department to install a traffic loop system at the following intersections as listed from 11 p.m. to 5 a.m.:

**Third Avenue and Washington Street
Fifth and Washington Street
Fifth and Fleming Street
Fifth and Whitted Street**

**Fourth Avenue and Washington Street
Fifth and Buncombe Street
Fifth and Justice Street**

A unanimous vote of the Council followed; motion carried.

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

16. Reports from Staff:

A. Contingencies Report: Mr. Connet provided a contingencies report in accordance with NC Statute 159-13 (b) (3). The following contingency appropriations were made:

- 1) Fund 10 & 60. \$8,628 for Worker's Comp. Ins. Premiums
- 2) Fund 60, \$500 for Emergency Truck Repair (to be reimbursed through insurance settlement)

B. ABC Board Report: Mr. Connet reported he was notified by ABC Board Chairman Charlie Byrd that the ABC Board store is renovating store #1 on Church Street.

C. Special Meeting Notice: Mr. Connet reminded the Council of the Special Joint Meeting scheduled for January 9, 2017, 6:00 p.m., at the Operations Center, with the Seventh Avenue Advisory Committee to Discuss Urban Redevelopment Areas.

D. Regular Meeting Change: Mr. Connet reminded the Council of the change in February's Council Meeting: February 9 instead of February 2, 2017.

17. Consideration of Appointments to Boards and Commissions: City Clerk Tammie Drake announced the board/commission openings, reappointments, etc.

Council Member Miller moved to reappoint Mac Brackett, Wes Burlingame and Judy Frank to the Tree Board. The terms will expire 02-01-2020. A unanimous vote of the Council followed; motion carried.

Mrs. Drake also reported upcoming (re)appointments to the Business Advisory Committee and the vacant alternate position on the Board of Adjustment.

18. New Business: There was none.

19. Closed Session: Mayor Pro Tem Caraker moved City Council enter Closed Session in accordance with NCGS 143-318.11 (a) (5) to instruct staff concerning the position to be taken on behalf of the City Council in negotiating the price for acquisition of real property by purchase or option and to preserve the attorney-client privilege between the attorney and the City Council as provided under NCGS §143-318.11(a)(3) 7:18 p.m. A unanimous vote of the Council followed. Motion carried.

The Council gave direction to staff regarding the purchase of property. The City Attorney also advised the Council on quasi-judicial matters.

20. Adjournment: The meeting adjourned at 8:15 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk