

**February 9, 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.*

Mark Ray, 26 Victoria Park Dr., Hendersonville, Dad’s Collectibles, spoke on behalf of merchants on Main Street and expressed concerns with interactions of the increasing homeless population on Main Street with visitors and merchants. He requested increased foot patrols from law enforcement. He also requested that Council consider placing the new electric vehicle charging stations on the north end of Main Street. He supported the change of 15-minute to 30-minute parking.

**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. January 5, 2017 Regular Meeting
- ii. January 9, 2017 Special Joint Meeting with the Seventh Avenue Advisory Committee

**B. Consideration of Capital Project Ordinances and Associated Budget Amendments for:**

**i. French Broad River Intake Project:**

Ordinance #17-0210

**CAPITAL PROJECT ORDINANCE FOR THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE FRENCH BROAD RIVER INTAKE PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a water infrastructure project described as the French Broad River Intake Project.

Section 2: The following amounts are appropriated for the project:

Account Number	Account Name	Total Budget
4260000 519000	Professional Services	\$ 888,750
4260000 559850	Construction Contract	\$ 5,030,000.00
4260000 549750	Permits, License, & Fees	\$ 6,250.00
<b>Total Project Appropriation</b>		<b>\$ 5,925,000</b>

Section 3: The following revenues are anticipated to be available via debt proceeds and transfers from the Water and Sewer Fund for project expenses:

Account Number	Account Name	Total Budget
4260000 499100	Proceeds of Debt	\$ 5,036,250.00
4260000 998060	Transfer in From Water/Sewer	\$ 888,750.00
<b>Total Project Revenue</b>		<b>\$ 5,925,000</b>

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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

**Budget Amendment:**

Fund: 426: reflecting the Capital Project Ordinance adoption for the French Broad River intake project as detailed in the Capital Improvement Plan. Total Revenues/Expenditures: \$5,925,000

**ii. WWTP Sludge Drying System project:**

Ordinance #17-0211

**CAPITAL PROJECT ORDINANCE FOR  
THE ACQUISITION, CONSTRUCTION AND INSTALLATION  
OF THE WWTP SLUDGE DRYING SYSTEM PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a wastewater infrastructure project described as the WWTP Sludge Drying System Project.

Section 2: The following amounts are appropriated for the project:

Account Number	Account Name	Total Budget
4610000	519000 Professional Services	\$ 616,350
4610000	559850 Construction Contract	\$ 3,490,000.00
4610000	549750 Permits, License, & Fees	\$ 2,650.00
<b>Total Project Appropriation</b>		<b>\$ 4,109,000</b>

Section 3: The following revenues are anticipated to be available via debt proceeds and transfers from the Water and Sewer Fund for project expenses:

Account Number	Account Name	Total Budget
4610000	499100 Proceeds of Debt	\$ 3,492,650.00
4610000	998060 Transfer in From Water/Sewer	\$ 616,350.00
<b>Total Project Revenue</b>		<b>\$ 4,109,000</b>

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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

**Budget Amendment:**

Fund 461: reflecting the capital project ordinance adoption for the WWTP Sludge Drying System Project as detailed in the Capital Improvement Plan. Amount of Revenues/Expenditures \$4,109,000

**C. Consideration of Budget Amendments**

- i. Walk of Fame, Fund 821, Increase of \$4,648 from the fundraising event
- ii. General Fund, Fund 10, Increase of \$8,000 as a result of the TDA Contribution for barricades
- iii. Fund 460, 60: To increase project budget for Black & Veatch Sanitary Sewer AIA Engineering Services Agreement. Original estimated budget for this contract was approved for \$289,150 however; the awarded contract is \$302,000.

**D. Consideration of a Reimbursement Agreement with Duke Energy for Electric Vehicle**

**Charging Station:** Mr. Connet reported the City received a grant from Duke Energy for \$5,000 for a third electric vehicle station. He proposed locating the charging station in the Azalea parking lot. There are two charging stations in the Dogwood Lot. *[The agreement is on file in the office of the City Clerk.]*

**E. Consideration of a Resolution Accepting Property from the Housing Assistance Corporation:**

Resolution #17-0212

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL ACCEPTING THE DONATION OF PROPERTY FROM THE HOUSING ASSISTANCE CORPORATION**

Whereas: The Housing Assistance Corporation is a private, non-profit organization committed to providing safe and affordable housing for persons of limited income living in Henderson County and surrounding areas since 1988, and

Whereas: The Housing Assistance Corporation was granted a special use permit for "Oklawaha Village", a project located on North Main Street; and

Whereas: The Housing Assistance Corporation has donated Lot 23 comprised of approximately 5.67 acres located in the flood plain adjacent to Mud Creek, to the City of Hendersonville; and

Whereas: North Carolina General Statutes §160-A-240.1 authorizes the City to acquire by gift or any other lawful method, real or personal property for use by the City, and

Whereas: The City gratefully accepts this donation on behalf of its citizens, to provide additional green space for the public's use and compliment the Oklawaha Greenway.

Now, Therefore, Be It Resolved by the City Council of the City of Hendersonville, to accept the donation of 5.67 acres of land from the Housing Assistance Corporation.

Adopted this ninth day of February 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 Transferring Property to Boys and Girls Club of Henderson County:**

Resolution #17-0213

**A RESOLUTION APPROVING THE TRANSFER OF REAL PROPERTY TO THE BOYS AND GIRLS CLUB OF HENDERSON COUNTY**

WHEREAS, the City of Hendersonville is the owner of certain real property, hereinafter referred to as "the Real Property," which is more particularly described as follows:

That 0.465 acre tract described in that deed recorded in Deed Book 585 at page 436, Henderson County registry, and designated as PIN 9569815524

WHEREAS, the Boys and Girls Club of Henderson County, hereinafter referred to as "the Club," a charitable organization whose purpose is to benefit the youth of Hendersonville and Henderson County is proposing to expand their campus to allow them to serve their growing membership and is in need of property to meet the City's parking requirements to provide additional parking for staff and parents; and

WHEREAS, the City of Hendersonville agrees to transfer 0.465 acres of property to the Club for parking under the condition that if the Boys and Girls Club ceases to exist the property will revert back to the City of Hendersonville; and

WHEREAS, the transfer of property to a nonprofit entity providing a public purpose by private sale is authorized by N.C. General Statute 160A-279; and

WHEREAS, it is deemed to be in the interest of the City of Hendersonville and its citizens to transfer this property to the Club and thereby further the work of the Club; and

NOW, THEREFORE, it is hereby RESOLVED by the City Council of the City of Hendersonville as follows:

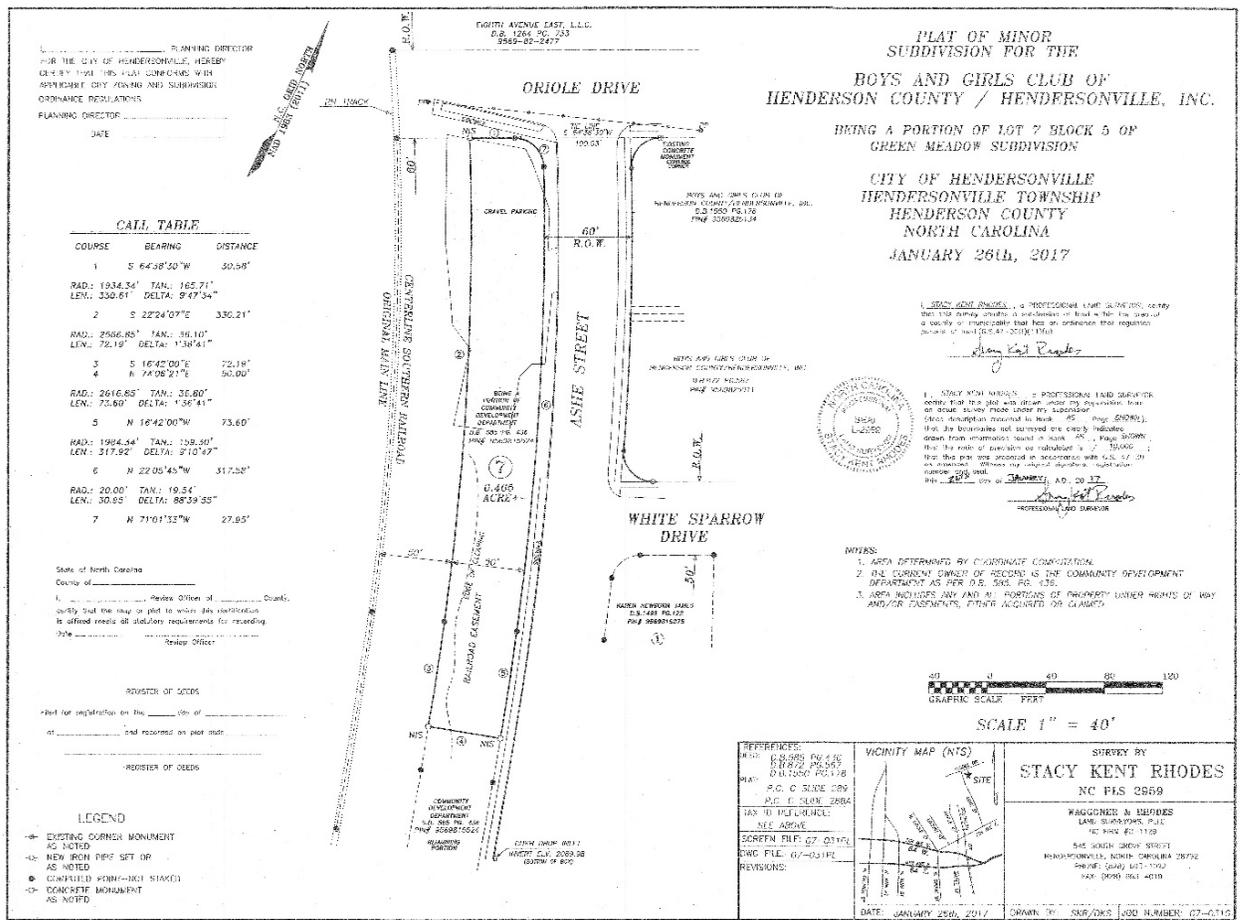
The City Manager is empowered and directed to execute all documents necessary to transfer the Real Property described herein to the Club in accordance with this resolution an N.C. General Statute 160A-279.

Adopted this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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



**G. Consideration of Mud Creek Bank Stabilization Project Contract Award:** Engineering Director Brent Detwiler reported informal bids were received for the Mud Creek Bank Stabilization Project on January 23, 2017. The project consists of the installation of approximately 100 linear feet of bioengineering geolifts, live staking, grading, seeding and erosion protection and sedimentation control measures. The construction is located along Mud Creek near the N. Main Street bridge and will stabilize the streambank, prevent further bank erosion and protect the existing 27-inch clay sanitary sewer. Disturbance to the nearby greenway will be minimized and the work will be coordinated closely with staff. The engineer's estimate for this project is \$23,590.00. Four bids were received with the following results:

- Penland Contracting Co., Inc. - \$29,311.00
- Haywood Grading & Excavating - \$31,980.00
- Baker Grading & Landscaping, Inc. - \$44,760.00
- South Core Environmental - \$50,070.00.

City staff and Wildlands Engineering reviewed each bid for completeness and accuracy. As a result, staff recommended Council authorize the City Manager to award the project and execute the contract with Penland Contracting Co, Inc. of Franklin, NC, the lowest responsive and responsible bidder, for \$29,311.00.

**H. Consideration of Converting Parking Spaces in the Downtown Main Street Municipal Service District from 15-minute time limits to 30-minute time limits:** Downtown Economic Development Director Lew Holloway reported the Downtown Main Street Advisory Committee, Police staff, Administration and the Downtown Economic Development Department have been meeting to review various operational components of the City's parking management strategy. One on-going concern since the hiring of "Parking Ambassadors" is the 15-minute parking spaces located along Main Street.

Mr. Holloway stated the need for "quick trip" parking is considered an important component of the parking infrastructure in the district, the ambassadors have heard repeatedly that 15 minutes does not allow enough time for even the quickest trip. The Dixon Resources study also indicated that 15 minutes is not enough time showing a consistent overstay in these spaces. To address this issue and improve the customer experience in downtown, staff is suggesting the time limit on these spaces be changed from 15 minutes to 30 minutes to allow customers more time for their "quick trip" needs. This will affect 27 spaces.

**I. Consideration of an Extension of a Special Use Permit for Signal Ridge:** Development Assistance Director Susan Frady presented a request for the extension of a special use permit request from Tom Ulrich of Pendergraph Development Companies for Signal Ridge Apartments for an additional two years due to the funding schedule for the project. Under requirements of Zoning Ordinance Section 7-4-13.1, approval of special use permits expire if the project has not begun within two years of the date of approval. City Council may extend special use permits for an additional period not to exceed 24 months. The approval date was April 2, 2015.

**J. Consideration of Sworn Law Enforcement Officers Badge and Service Side Arm Policy:** Human Resources Director Jennifer Harrell presented a policy to set standards of awarding law enforcement officers their badges and service firearms to honor their service in accordance with NCGS 20-187.2.

**Policy for the Granting of Badges and Service Side Arms for Sworn Law Enforcement Officers**

The City of Hendersonville recognizes the dedicated service provided to the citizens of our community by the sworn law enforcement officers of the Hendersonville Police Department. Therefore, as allowed by North Carolina General Statute 20-187.2, this policy is established to award the law enforcement officer a badge and service firearm to honor and show gratitude for their service.

**SECTION I: DEFINITIONS**

Service Badge: The shield or badge worn or carried by the officer at the time of his/her separation from office.

Retiree Badge: A shield or badge issued with "RETIRED" engraved beside the officer's title.

Service Sidearm: The duty handgun issued to and actually carried by the officer at the time of his/her separation from office.

Surviving Relative: Unless otherwise designated in writing by the law enforcement officer, the first person over age twenty-one (21) in the following list: spouse, biological/adopted child, stepchild, parent, grandchild, grandparent, sibling as it pertains to the service sidearm, and the above list at any age concerning the service badge. The eldest is given precedence in any instance.

**SECTION II: RETIREE ELIGIBILITY**

A retiree shall be considered to be awarded a Retiree Badge and sidearm only if he/she:

- (1) Is employed with Hendersonville Police Department at retirement and retires from the City under the provisions of the North Carolina Local Governmental Law Enforcement Officers Retirement System (LEORS); and
- (2) Has a total of ten (10) years' actual service with Hendersonville Police Department; and
- (3) Is recommended by the Chief of Police to receive his/her badge and service sidearm.

**SECTION III: RETIREE PURCHASE PRICE**

Badge: All eligible law enforcement officers shall receive at no cost to the officer a Retiree Badge.

Sidearm: The purchase price will be the replacement cost of the sidearm. After achieving 20 years of service with the Hendersonville Police Department, the sidearm will be offered at a cost of \$1 to the officer or surviving spouse upon request.

**SECTION IV: OFFICERS APPROVED TO RECEIVE DISABILITY RETIREMENT**

Badge: An officer with at least 5 years of service who retires due to disability resulting from an injury sustained in the line of duty may obtain a Retiree Badge at no cost.

Sidearm:

- An officer with 10 years of service who retires due to disability may obtain his/her sidearm at replacement cost.
- An officer with 15 years of service who retires due to disability resulting from an injury sustained in the line of duty may obtain his/her sidearm for \$1.

Any officer who retires due to disability not associated with his/her duty must meet the "retiree eligibility" requirements in SECTION II.

**SECTION V: OFFICERS APPROVED TO RECEIVE DISABILITY RETIREMENT AS RESULT OF AN ASSAULT**

An officer with at least 5 years of service who retires due to disability resulting from an assault injury sustained in the line of duty may obtain a Retiree Badge at no cost and his/her sidearm at \$1.

**OFFICERS KILLED IN THE LINE OF DUTY**

The surviving relative of any law enforcement officer killed in the line of duty may obtain the officer's service badge and sidearm at no cost regardless of years served with the City and/or years of service according to the LEORS.

**GUN PERMIT REQUIREMENT**

All officers and surviving relatives must secure a gun permit as required by N.C.G.S. 14-402 prior to being awarded the service sidearm. If the officer or surviving relative is unable to secure a gun permit, the sidearm shall be rendered incapable of being fired before the sidearm is transferred to the individual.

**K. Consideration of a Resolution Allowing the Purchase of a Service Side Arm by a Retiring Law Enforcement Officer:** Police Chief Herbert Blake presented a resolution in accordance with the Policy for the Granting of Badges and Service Side Arms for Sworn Law Enforcement Officers for Police Officer Eddie Youngblood, for a replacement cost of \$409.

Resolution #17-0214

**RESOLUTION ALLOWING THE PURCHASE OF SERVICE SIDE ARM FOR SWORN LAW ENFORCEMENT OFFICER**

WHEREAS, North Carolina General Statutes 20-187.2 provides that retiring members of law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service; and

WHEREAS, NCGS 20-187.2 further provides that the governing body of the governing law enforcement agency may, at its discretion, award to a retiring member their service side arm, at a price determined by such governing body, upon determining that the person receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law, and

WHEREAS, the City of Hendersonville wishes to recognize Police Officer Eddie Youngblood's service in a manner that is customary for persons retiring from law enforcement service.

NOW THEREFORE, the City of Hendersonville hereby declares as surplus property, and resolves to allow Police Officer Eddie Youngblood, to purchase his service side arm, Model Glock 17, serial number XAW343, for the replacement cost of \$409.00, as set forth in the Policy for the Granting of Badges and Service Side Arms for Sworn Law Enforcement Officers, and

FURTHER, we recognize and extend our appreciation to Officer Eddie Youngblood for his five years of service and dedication to the City of Hendersonville and its residents.

Adopted this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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

#### **L. Consideration of the Placement of a Stop Sign at Kensington Avenue and Ashwood**

**Road:** Councilman Stephens requested the placement of a stop sign at the intersection of Kensington and Ashwood Avenues. Currently, Ashwood Road has a stop sign and Kensington Avenue does not have a stop sign. However, there is a large plant bed and subdivision sign that obstructs the view of vehicles on Kensington from the Ashwood intersection. In order for the Police Department to enforce stop sign violations, the City Council must approve the placement of the stop sign at this intersection.

#### **M. Consideration of Request from Water/Sewer Finance for \$25 Credit for Automatic Bank**

**Draft:** Finance Director Lisa White reported a previous campaign to get customers to sign up for automatic bank draft was very successful. She requested Council again consider approving a \$25 credit as an incentive to get more customers sign up for automatic bank draft. This would apply to any existing water account customer not already on automatic bank draft and signs up March 1 - June 1, 2017. This does not apply to new customers who are offered a waiver of the \$100 deposit if they sign up for automatic bank draft.

#### **N. Consideration of an Ordinance Specifically Authorizing the Use of Cash Disbursements as Required by NCGS 159-28:**

Finance Director Lisa White explained as of October 1, 2015, local governments are allowed to pay bills, invoices, salaries, or other claims by cash if the local unit's governing board adopts an ordinance specifically authorizing the use of cash. She reminded the Council of the Petty Cash Policy approved in August 2014 that establishes procedures for the effective use and secure administration of the City's petty cash accounts. That policy will provide the procedures required to comply with the proposed ordinance.

Ordinance #17-0215

#### **AN ORDINANCE SPECIFICALLY AUTHORIZING THE USE OF CASH DISBURSEMENTS**

WHEREAS, it is the desire of the City Council that all public funds of the City of Hendersonville be maintained in a secure, efficient and effective manner; and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to local governments to use cash as a disbursement method; and

WHEREAS, North Carolina General Statute 159-28(d) 4 states that, a local government or public authority may pay a bill, invoice, or other claim by cash, if the local government has adopted an ordinance authorizing the use of cash, and specifying the limits of the use of cash; and

WHEREAS, the use of petty cash has been a standard operating practice in municipalities to facilitate improved operations by providing availability to cash for small purchases where it is not practical, possible or efficient to make the purchase through the normal process; and

WHEREAS, The Hendersonville City Council has approved a Petty Cash Policy to establish procedures for the effective use and secure administration of the City's petty cash accounts throughout the City. This policy provides guidance to city employees on the proper use of their department's petty cash, and their responsibilities in preventing loss and/or discrepancies in each petty cash account; and

WHEREAS, The City of Hendersonville wishes to establish an ordinance specifically authorizing the use of petty cash funds to support the payment of small obligations using cash, and

WHEREAS, The City of Hendersonville wishes to specify the limits of the use of cash,

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

1. Petty cash funds may be established by the Finance Director and held by authorized custodians as specified and restricted by the Petty Cash Policy as approved by City Council.
2. Cash may be disbursed by authorized petty cash custodians when appropriate to improve operations by providing cash for small purchases of products and services where it is not practical or efficient to make the purchase through the normal process of a check request or purchasing card.
3. Each individual cash transaction is limited to \$50.00, including sales tax. Any purchase exceeding \$50.00 should be processed utilizing the procedures as specified in the City Purchasing Policy as adopted by City Council.
4. Cash may not be used to pay employees for awards, employment earnings, travel expenses, clothing allowances or any similar payments.
5. It shall be the policy of the City of Hendersonville that no payments may be made from any Petty Cash Fund unless in compliance with all procurement laws and policies; that all payments made from the Petty Cash Funds be supported by proper documentation and receipts as required by the operating procedures established by the Finance Director; and that no loans or advances be made to employees or Council members from any Petty Cash Fund or Cash Change Fund.

SECTION 1. 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 2. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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

**O. Consideration of Special Event Permit for Lucky Ducky Drop:** Mrs. Frady announced the Special Events Committee recommends Council issue a special event permit for Lucky Ducky Drop for May 17, 2017. The event is sponsored by the Rotary Club of Hendersonville. The parking spaces in front of the Historic Courthouse and two spaces on both First and Second Avenues will be blocked from 6:00 A.M. until 3:00 P.M. Approximately 5,000 ducks will be dumped into a large pool set up on the courthouse plaza. The actual event will take place around noon. There will be games on the courthouse lawn for the children. Main Street will remain open during this event.

**P. Consideration of Mid-Year Budget Report and Associated Budget Amendments:** Assistant to the Manager Brian Pahle presented a mid-year and expenditure report and budget amendments.

Major Recommended Changes Summary

GENERAL FUND					
Revenues			Expenditures		
Description	Increase	Decrease	Description	Increase	Decrease
Ad Val Tax - Motor Veh.	\$ 25,000	\$ -	Engineering Salires	\$ 16,793	\$ -
ABC Revenues	\$ 32,257	\$ -	PW - Fleet Salires	\$ 12,631	\$ -
Utility Franchise Tax	\$ -	\$ 50,000	PW - Streets P/T	\$ 11,630	\$ -
Powell Bill	\$ -	\$ 2,678	PW - Streets Contracted Ser.	\$ -	\$ 11,630
Parking Violations	\$ 22,000	\$ -	PW - Grounds P/T	\$ 23,630	\$ -
Discounts Earned	\$ -	\$ 3,770	PW - Grounds Contracted Ser.	\$ -	\$ 23,630
Donations/Contributions	\$ 25,000	\$ -	Admin. Prof. Services	\$ 5,000	\$ -
Insurance Settlements	\$ 14,007	\$ -	Contingencies	\$ 27,392	\$ -
<b>Sub-Total</b>	<b>\$ 118,264</b>	<b>\$ 56,448</b>	<b>Sub-Total</b>	<b>\$ 97,076</b>	<b>\$ 35,260</b>

**\*\*TOTAL BUDGET INCREASE OF \$61,816\*\***

WATER & SEWER FUND					
Revenues			Expenditures		
Description	Increase	Decrease	Description	Increase	Decrease
Etowah Sewer Charges	\$ 35,000	\$ -	WS - Fleet Salaries	\$ 5,544	\$ -
Water/Sewer Late Fees	\$ 150,000	\$ -	Professional Ser.	\$ 10,000	\$ -
Water SDCs	\$ -	\$ 208,120	WS - Finance Salaries	\$ 36,752	\$ -
Sewer SDCs	\$ -	\$ 56,380	Engineering Salaries	\$ 10,697	\$ -
Customer Participation	\$ 6,614	\$ -	Facilities Maint. Salaries	\$ 4,250	\$ -
Sale of Fixed Assets	\$ 5,769	\$ -	WTP Salaries	\$ 29,109	\$ -
Discounts Earned	\$ -	\$ 8,964.00	WTP Pisgah Forest	\$ 10,000	\$ -
<b>Sub-Total</b>	<b>\$ 197,383</b>	<b>\$ 273,464</b>	Water Distribution R&M Trucks	\$ 30,000	\$ -
			WS - Construction O/T	\$ 8,000	\$ -
			Mud Creek Bank Stabilization	\$ 23,000	\$ -
			NCDOT Reimbursement	\$ -	\$ 457,867
			Contingencies	\$ 29,567	\$ -
			Transfer to French Broad	\$ 184,869	\$ -
			<b>Sub-Total</b>	<b>\$ 381,788</b>	<b>\$ 457,867</b>

**\*\*TOTAL BUDGET DECREASE OF \$76,081\*\***

Major Recommended Changes Summary

ENVIRONMENTAL SERVICES FUND					
Revenues			Expenditures		
Description	Increase	Decrease	Description	Increase	Decrease
Stormwater Fee	\$ 16,609	\$ -	ESF - Fleet Salaries	\$ 1,108	\$ -
Discounts Earned	\$ -	\$ 220	Intern Salary	\$ 280	\$ -
Mulch Sales	\$ 1,500	\$ -	Contingencies	\$ 13,945	\$ -
Donations/Contributions	\$ -	\$ 2,556	<b>Sub-Total</b>	<b>\$ 15,333</b>	<b>\$ -</b>
<b>Sub-Total</b>	<b>\$ 18,109</b>	<b>\$ 2,776</b>			

**\*\*TOTAL BUDGET INCREASE OF \$15,333\*\***

**Budget Amendments:**

Fund 10, an amendment to the General Fund budget, increase of \$61,816

Fund 60, an amendment to the Water and Sewer Fund budget, decrease of \$76,081

Fund 68, an amendment to the Environmental Services Fund, increase of \$15,333

**Q. Consideration of the Creation of a Water and Sewer Operations Manager in Pay Grade 20 of the Pay and Classification Schedule:** Mr. Connet requested an additional position, Water and Sewer Operations Manager, to improve customer service within that department. This individual will work

directly with frontline supervisors and outside customers to ensure tasks are completed efficiently and in a timely manner. This person will also assist the Utilities Director respond to day-to-day questions, which will allow the Director to focus on other items. This position will be classified in Pay Grade 20, \$51,940.22-\$80,507.34, in the Pay and Classification Salary Schedule.

**R. Consideration of a Resolution Accept the Governor's Crime Commission Grant in the amount of \$23,175 for equipment that aids the department's current abilities to combat users, sellers, and traffickers of illegal controlled substances:**

Resolution #17-0216

**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 \$23,175, and

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

WHEREAS, the grant will assist the City in Prescription Pill/ Opiate Diversion. Grant equipment to aid and enhance our current abilities in combating the users, sellers and traffickers of illegal controlled substances in Hendersonville, NC. Additionally, the ability to examine and identify individuals responsible for crimes, 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 \$23,175.00.

Adopted this the 9th day of February, 2017 at 305 Williams St., Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

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

**S. Consideration of an Ordinance Amending the Makeup of the Tree Board:** Tree Board Chairperson Mac Brackett requested the following change be made to the makeup of the Tree Board.

Ordinance #17-0217

**AN ORDINANCE AMENDING SECTION 46-146 OF THE CODE OF ORDINANCES PERTAINING TO ESTABLISHMENT AND COMPOSITION OF THE TREE BOARD**

WHEREAS, the City of Hendersonville's Tree Board is an integral part of the public services provided by the City of Hendersonville, and

WHEREAS, the City recognizes the services provided by the Tree Board and desires that the membership of the Board represent a broad base of the community, and

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

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

Sec. 46-146. - Creation and establishment; number and appointment of members.

There is hereby created and established the city tree board, hereafter referred to as the "tree board." The tree board shall be appointed by the City Council and shall be composed of seven persons, at least five four of whom shall be residents of the territory subject to the zoning jurisdiction of the city or property owners of the city. The director of public works shall serve on the tree board as an ex officio member but will not have voting rights.

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 ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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

**T. Consideration of Utility Line Extension Requests**

**i. Camp Judea:** This project will extend water service to the expansion of the existing Camp Judea property. This expansion will serve three new buildings: a new dining hall, art building and a pool bathroom. The proposed water system will consist of 416 linear feet of six-inch ductile iron pipe and one fire hydrant. Henderson County reviewed and approved this project on June 27, 2016. Based on this information, Mr. Lee Smith reported 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.

**ii. Planned Residential Development on Old Hendersonville Road, Phase I:** This request is to extend the City of Hendersonville water system to provide service to Phase 1 of a 50-unit planned residential development. This project is located on Old Hendersonville Road. The proposed water system will consist of 1,971 linear feet six-inch ductile iron pipe. The Town of Fletcher reviewed and approved this project on January 17, 2017. Based on this information, Mr. Lee Smith reported 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.

**U. Consideration of a Reimbursement Request for Oversizing and Extending Water Main to Serve Fairfield Inn and Suites on Upward Road:** Mr. Lee Smith presented a request to reimburse Flat Rock Hospitality for the upsizing of a waterline to an eight-inch water line instead of the six-inch line that will serve the Fairfield Inn & Suites. He believes this is an ideal opportunity to serve future development along the southern side of Upward Road. The City will compensate Flat Rock Hospitality for the increase in cost per section 52-92 of the Code of Ordinances.

**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 HENDERSONVILLE:** Mayor Volk presented a certificate for outstanding achievement to the Furman United Soccer Club 02G Purple HENDERSONVILLE and coaches for winning the 2016 President's Medal League State Cup. Captains Erin Price and Miriam Smith thanked the Council for their continuous support and use of Berkeley Mills Park for practice and presented a photo of their team and a jersey to Mayor Volk.

**b. Lieutenant Mike Vesely – North Carolina Justice Academy Traffic Enforcement & Investigation Certificate:** Chief Herbert Blake presented the Traffic Enforcement and Investigation Certificate to Lieutenant Mike Vesely. He sated Lieutenant Vesely is a significant contributor to the Police Department and congratulated him on this excellent achievement. Mr. Connet stated this program consisted of 500 hours of traffic crash investigation and includes core classes for DWI Recognition, Radar Operation and Traffic Crash Reconstruction.

**c. Service Excellence – Quarterly MVPs:** Mayor Volk and Mr. Connet recognized the following employees:

The Hendersonville Fire Department responded to an accident involving an elderly lady on her way home from the grocery store. After she was transported to the hospital for her injuries, **Lt. Christian Miller** took it upon himself to gather her groceries and ensure that they were kept in good shape until her son could pick them up at Fire Station 1. Lt. Miller showed great compassion and customer service by extending a helping hand to a community member in a time of need.

**Deon Mendosa, Terry Smith and Ross Henderson,** Public Works employees, had been spending a lot of time cleaning graffiti from sites around town, the greenway and skate park. While cleaning graffiti one day at Patton Park, they overheard a conversation leading them to contact the Police Department who sent an undercover officer. Once the officer arrived on the scene, he was able to gather evidence that led to four arrests on drug and vandalism charges.

**Captain Bruce Simonds** was told an employee was outside changing a flat tire on her car. He came immediately and did the work himself. He did not care that the ground was wet; he did what he needed to change her tire. He helps the Parking Department with collecting money always thinking of their safety first.

**d. Service Excellence – MVP of the Year:** Mr. Connet explained 100 MVP nominations were submitted in 2016 and each quarter three were chosen as Quarterly MVPs. From these, the Service Excellence Design Team selected Joshua Hoard, Environmental Service Supervisor, as the MVP of the Year. He received five MVP nominations in 2016 two of which were chosen as Quarterly MVPs. His nominations were for:

- stopping to help an elderly man shovel his walkway,
- volunteering to help City Hall employees move furniture,
- receiving a letter of thanks from Lance Lumber Co. for helping them remove a lot of debris prior to the Apple Festival,
- volunteering his time with the Turkey Trot and
- receiving a letter of thanks from Beacon Commons for his help with a cleanup of Wash Creek.

Mayor Volk presented Josh with a \$500 check. His name will be added to the MVP of the Year plaque. Mayor Volk extended her appreciation to all employees as well as those selected as MVPs.

**e. Proclamation for Cardiovascular Professionals Week:** Mayor Volk presented the proclamation for Cardiovascular Professionals Week to Pardee Hospital Chief Administrative Officer Johnna Reid, and

Tony Franklin with DLP Cardiac Partners LLC, Cardiac Cath Lab. Ms. Reid commented February is heart month and stated heart disease is the number one killer among all Americans. She expressed appreciation for the recognition of these cardiovascular professionals who respond to cardiac symptoms with procedures to help stop heart attacks. She also encouraged a healthy life style.

**7. Public Hearing – Consideration of a Request to Close a Portion of Market Street Located off White Street (Continued from October 6, 2016 Meeting):** Mayor Volk announced this hearing was continued from the October 6, 2016 meeting. Development Assistance Director Susan Frady reported the City received an application from Halvorsen Development Corporation to close a portion of Market Street off of White Street. She explained the hearing was continued for the past few months to allow the development of an access agreement for the City's property. City Attorney Sam Fritschner reported he has reviewed an electronic copy of the access agreement and is satisfied with the agreement.

No comments were made by the public.

**Council Member Smith moved Council to adopt an order closing a portion of Market Street as petitioned by Halvorsen Development Corporation. A unanimous vote of the Council followed; motion carried.**

ORDER #17-0218

**ORDER TO PERMANENTLY CLOSE A PORTION OF MARKET STREET  
(Petition of Halvorsen Development Corp.)**

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, Halvorsen Development Corp., has petitioned the City of Hendersonville to close a portion of Market Street; and

WHEREAS, on the fourth day of August 2016, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the sixth day of October 2016, 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 sixth day of October 2016.

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:

Beginning at a an existing pinion gear at the intersection of the easterly margin of the right-of-way of Market Street (formerly Shepherd Avenue – 25' public right-of-way) with the southerly margin of the right-of-way of White Street (public right-of-way), said pinion gear being located North 76°40'01" West, a distance of 78.00 feet along the southerly margin of the right-of-way of White Street from a new nail at its intersection with the westerly margin of the right-of-way of Greenville Highway (US Highway 225), and runs thence from said beginning point with the easterly margin of the right-of-way of Market Street South 16°34'05" West a distance of 300.84 feet to an existing metal monument at the southwesterly corner of the Atha Plaza Inc. property as described in Deed Book 574, Page 585 of the Henderson County Public Registry, said monument also being the northwesterly corner of the Larry G. Baber property as described in Deed Book Page 715, Page 277 of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South 15°57'12" West a distance of 49.20 feet to an existing iron rod at the southwesterly corner of the Baber parcel as described in Deed Book 715, Page 277, a common corner with another parcel owned by Larry G. Baber as described in Deed Book 1214, Page 93, all of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South 16°30'42" West a distance of 50.99 feet to an existing spike; thence South 16°27'13" West a distance of 150.20 feet to an existing iron pipe at the southwesterly corner of the Baber property as described in Deed Book 1214, Page 93 of said Registry, a common corner with the City of Hendersonville property as described in Deed Book 1107, Page 172 of said Registry; thence with a new line crossing Market Street North 73°30'22" West a distance of 25.48 feet to a point on the westerly margin of the right-of-way of Market Street; thence with the westerly margin of the right-of-way of Market Street North 16°29'38" East a distance of 23.80 feet to an existing iron pin at the common corner between the City of Hendersonville property as referenced above and the Prosource Land Holdings, LLC property as described in Deed Book 1337 Page 234 of said Registry; thence continuing along the westerly margin of the right-of-way of Market Street North 16°29'38" East a distance of 175.39 feet to a new iron rod at the southwesterly corner of the Larry and Annette Baber property as described in Deed Book 1402, Page 223 of said Registry; thence continuing along the westerly margin of Market Street North 16°29'38" East, and passing a new iron rod at 257.67 feet, for a total distance of 350.04 feet to an existing pinion gear at the intersection of the westerly margin of the right-of-way of Market Street with the southerly margin of the right-of-way of White Street; thence with the southerly margin of the right-of-

way of White Street, and crossing Market Street, South 77°59'52" East a distance of 25.40 feet to the point and place of Beginning.

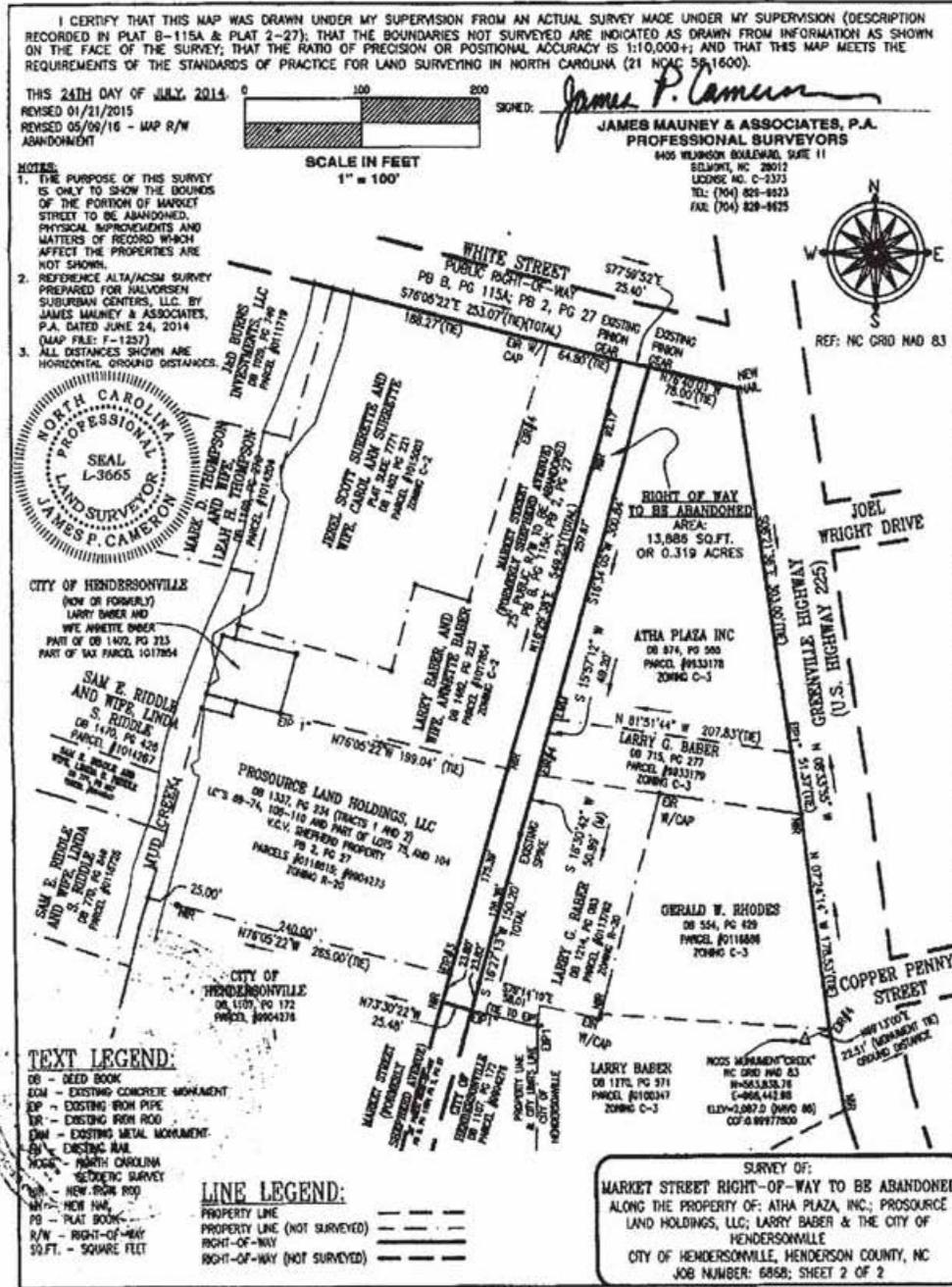
2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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



**8. Public Hearing – Consideration of the Closing of a Portion of Ninth Avenue:** Development Assistance Director Susan Frady reported the City received an application from Henderson County and the Henderson County Board of Public Education to close a portion of Ninth Avenue West between North Church Street and Oakland Street. She stated the City is reserving a utility easement as drafted by the City Attorney.

Mrs. Frady reported the City Council adopted a Resolution of Intent to close this street on January 5, 2017. She certified a copy of the Resolution of Intent was mailed to the adjacent property owners, notification of the proposed closing was posted on the property, and the Resolution of Intent and notice of public hearing was advertised four times in the legal notice section of the Hendersonville Lightning. She reviewed the procedures contained in NCGS 160A-299 for permanently closing streets and alleys. She stated any person may be heard on the question of whether or not the closing would be detrimental to the public interest or property rights of any individual. If it appears to the satisfaction of the City Council after the hearing that closing the street is not contrary to the public interest, and that no individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to their property, the City Council may adopt an order closing the street.

Council Member Smith asked if this is a special use permit request. Mrs. Frady responded no. Council Member Smith asked if this is a zoning or zoning variance request. Mrs. Frady responded no. He then asked if the petition could be withdrawn at any time. Mrs. Frady responded yes. He asked if the petition may be filed and considered at another time if denied. Mrs. Frady responded yes.

Russ Burrell, Henderson County Attorney, addressed the Council stating the co-applicants are the Henderson County Government and the Board of Education. He stated he is not representing the Board of Commissioners. He stated public interest is prime consideration in whether or not the street should be closed. He stated it is indeed in the public interest that this project move forward. He stated the Council is aware of the project that Henderson County and the Board of Education intend to come about as a result of the street closing. He stated the Council will hear from the architect Chad Robertson and the school system on why this project is needed. He stated from a legal perspective, the project cannot move forward without the street closing. As construction is planned, the land that encompasses the street is a part of the project. Any permits will require that Henderson County and the Board of Education own the property, which they do not now, and cannot request permits for that. He stated with the closing of this portion of Ninth Avenue, the project will meet all aspects of zoning and all ordinance requirements and applicable permits including parking. He stated Council will hear why this will be a real asset for the City but more importantly, a true benefit to the generations of students that will attend the school.

Chad Robertson, Clark Nexsen, principal architect on the project, presented plans for the new Hendersonville High School. They considered many components that would affect the design of the building: sun angles, prevailing winds, the impact to students, and they are attempting to strengthen the connection between the existing Stillwell building and the new proposed building so there is a relationship between the new and the old. They also considered the connectivity and civic presence of the building that is a gateway into downtown Hendersonville.

Mr. Robertson stated more than five schemes were developed in working with school system. The proposed building includes an auditorium space for 900+ students, and two gymnasiums. There is more than 30 feet of grade change from one street to the other. They tried to develop a condition to get natural light inside the building in classrooms and corridors by a courtyard space. He reviewed a schematic model showing the different adjacencies of the components of the building and the relationship to the Stillwell building. A key component is the Stillwell Building was used as inspiration in the design process: how it is organized, unique details – depth of brick, the precast belt course, and a wooden filigree panel.

Mr. Robertson reviewed a schematic of the plan showing the gymnasium and auditorium space over the portion of Ninth Avenue. They positioned the new proposed building to allow the gymnasium spaces and band buildings on the existing site to remain open during construction. He stated they will have 140+ percent more parking without counting the existing on-street parking. Because of safety concerns, they propose positioning the building as far away as possible from Asheville Highway. The side of the building is approximately 128 feet away from Asheville Highway. A central courtyard space is proposed for students to eat outside, etc. He stated the public will have access to the gymnasium and auditorium during off-hours while the remainder of the building is secure. Security is a key issue and they plan a centralized access point into the building. They plan to salvage existing stone on the old building to reuse for site walls to maintain security between the street and the building.

Mayor Pro Tem Caraker asked about relocating infrastructure. Mr. Robertson stated they are working on plans to redirect the utilities around the perimeter so they will be maintained throughout the construction process. They will present a separate drawing for relocating and the phasing of relocating utilities.

Bo Caldwell, Superintendent, Henderson County Public Schools, stated the existing Hendersonville High School campus does not have space to expand. He stated the street must be closed to build a new facility for the students.

Mayor Volk opened the public hearing at 6:28 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. She asked that comments be limited to 30 minutes total and that individual presentations be limited to no more than four minutes. The following is a summary of comments made by those who addressed the Council:

Chris Walters, 415 Linwood Pond Road, stated he wants to ensure a safe campus and a livable neighborhood around the school. The closing of Ninth Avenue would be detrimental to the neighborhood. The existing access points have worked well for approximately 90 years. He expressed concerns about the Stillwell building being reoccupied resulting in an increase in traffic and potentially the need for more parking. Oakland Street is the staging area for parades. The present plan will negatively impact the neighborhood.

Tom Hill, 2700 Mount Olivet Road, Zirconia, stated this is not a normal street closing because the street is being used. The public opposes this project. There is support of upgrading the Stillwell building and not building a new school. He opposed this closing because it is detrimental to the public interest because of an unsafe traffic situation. They cannot build the building without closing the street. There is not adequate parking and students will be parking and crossing the street which is not safe. They will be destroying parking on Ninth Avenue. For almost a century, Ninth Avenue has been used for public access, parade formation and commercial purposes. Commercial value of the Boyd property will be lost. The street closing cannot be separated from the zoning approval. He commented on Henderson County's approval of funds to be spent on facilities and County debt. He stated the growth rate of Hendersonville High School is approximately 12 students per year, which does not justify a new school.

Chuck Borman, 507 Belvidere Court, Hendersonville, he spoke in favor of the street closure to allow the expansion of the Hendersonville High School campus but against the timing of the closure because it is not yet clear that the plan will meet the City's zoning requirements. He voiced concerns about whether a street closure

may be revoked and if the City is reimbursed for the land. He stated he is willing to forego the use of street for a greater civic good but is not willing to forego the use of the street so Henderson County can derive profit should they sell the former Boyd property. He requested the Council table the decision until a zoning request has been approved so there is no doubt the closing of the street is for greater civic good.

Bill Puette, PO Box 129, Collettsville NC 28611, Caldwell County, stated approving the street closing will give authority to build a new school and requiring constituents to pay for it. Growth in enrollment does not justify need for a new high school. He expressed concerns about the Stillwell Building and historic sites falling into a state of disrepair. He asked the Council to consider seeking a voter referendum.

Ken Fitch, 1046 Patton St., Hendersonville, closing the street immediately without a plan would be detrimental and contrary to the public interest. He cited concerns about traffic and closing a dedicated access to the 5 Points intersection. Closing the street would negatively impact local and thru-traffic and neighborhoods. There is not a site-specific plan for this major project. He stated the City must review all complex issues with the purpose to ensure that the use or development will be located, designed and proposed to be operated so as to maintain or promote the public health, safety, general welfare. The schematic shows the gymnasium placed on water and sewer easements and gravity-driven lines adds additional concerns. There are many alternatives for the project. The plan should bring people together.

Bill Orr, 136 Derbyshire Dr., Hendersonville, president of the HHS alumni association, stated they serve and support the students, faculty and administration. They became aware of the planning process in October 2015 to replace the school facilities. He reviewed the process from the last 15-18 months. He stated the portion of Ninth Avenue will have to be closed when the new plan for the school is presented and approved along with the parking, safety, connectivity and density. He stated it is premature to close Ninth Avenue until the State Department of Public Instruction has reviewed and approved the plans and zoning variances. If the former Boyd property is sold by Henderson County, a third party will benefit from the closing of the street. He asked the Council to postpone the decision on the closing of Ninth Avenue until all of the facts are presented.

David Rhode, 315 N. Whitted St., stated the Clark Nexsen design does not meet DPI standards. He spoke to Mr. Phelps at the State School Planning Department who verified they have not received a plan for Hendersonville High School. Mr. Phelps recommended approximately 60 acres for a school of this size but they are proposing this project on approximately four acres. The project should be approached as a community. With the proposed building only 150 feet away from Asheville Highway, it presents a danger to the students. He has not heard public support for the project. He requested that the request be denied because not all of the information has been received yet.

Amy Lynn Holt, 1903 Country Club Rd., Hendersonville, Chair of the Board of Education, stated the Council needs correct information on the growth rate for the Hendersonville High School.

No one else expressed a desire to speak. Mayor Volk closed the public hearing at 7:02 p.m.

In discussion, Council Member Miller commented he thinks everyone involved has good intentions and does not like to see the discord. He voiced hesitancy about closing the street at this point because of the lack of information.

Council Member Stephens thanked those who made statements. He stated the Council is being asked to do something they have not done before. He supported delaying the decision on the street closing until plans for the project are submitted as changes are being made to the plan.

Mayor Pro Tem Caraker commented there may be a better solution. He stated the arguments on the infrastructure are invalid. He does not support giving away public property but will for a good plan. He agreed more detail is needed before a decision is made.

Council Member Smith supported denying the street closing because requests made to withdraw the application were not accommodated. Henderson County has not filed for a special use permit or zoning change and it is unfair for the Council to have to make a decision. He stated they may reapply at a later time. He stated it is in the public interest to deny the application at this time.

Mayor Volk commented there may not be another way to develop the property without closing the street. She did not support denying the request nor granting approval without a plan, detailed drawings and a rezoning request. She suggested putting off a decision until the point a final plan and rezoning request is received but she has heard different legal opinions on how that can be accomplished. There was discussion of motions.

**At 7:13 p.m., Council Member Smith moved Council 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). A unanimous vote of the Council followed. Motion carried.**

**At 7:36 p.m., the Council exited the closed session upon motion of Mayor Pro Tem Caraker and a unanimous vote of the Council.**

Mayor Volk announced the Council conferred with the City Attorney to determine what they can do legally regarding making a decision on the street closing. **Council Member Miller moved Council to postpone the vote on the closing of a portion of Ninth Avenue until the May 4, 2017 Council meeting so they can gather more information on the project. The vote was three in favor (Volk, Miller, Caraker), two opposed (Smith, Stephens). Motion carried.**

Mayor Volk explained the Council's reasoning in delaying the decision in that they were informed the earliest a full plan could be submitted to the Council is at their May meeting. She stated if that is not the case, Council may postpone the decision again or until a full plan is submitted.

**9. Presentation of Fire Department Strategic Plan:** Fire Chief Joseph Vindigni introduced Mr. Greg Grayson of Facets Consulting. He explained the development process and expressed appreciation to the Council for allowing this process and to those who participated in it. He explained how fire services have changed over the last decade and stated this strategic plan allowed an evaluation of the organization and overall effectiveness. It includes recommendations to improve safety and service delivery. He asked Chief Grayson to explain the process and findings.

Chief Grayson congratulated the City on its Public Protection Class 4 Rating. He stated the goal of this review is to help build, strengthen, improve and advance the fire and rescue service delivery system for the people of Hendersonville. The key objective of the review is to provide essential tools and resources for the City to construct a valuable, comprehensive fire protection strategic plan. He reviewed the process that engaged eight external subject matter experts collaborating with five internal staff.

The process components included collecting data from the Fire Department and City government. A forum for business and community leaders was held to gain insight and feedback, community feedback was solicited about the department's service quality and employees were engaged to learn about perceived strengths, weaknesses, opportunities and threats. They used the information gained create strategic recommendations for improvement and provide projections for a three to five year period. He reviewed the report in detail.

Mayor Volk expressed appreciation for the report and for working with the Fire Department. **No action was taken by the Council.**

**10. Consideration of Change to Special Event Permit for Art on Main:** Development Assistance Director Susan Frady reported a change to the Art on Main special event. The sponsors are requesting Main Street be closed from 5:00 p.m. on September 29 until 7:00 p.m. on October 1 from First Avenue to Sixth Avenue. The Downtown Advisory Committee recommended approval of this event. She reported the Special Events Committee recommended unanimously that the City Council issue a special event permit for Art on Main.

Downtown Economic Dev Director Lew Holloway reviewed the special event approval process. Council Member Smith asked if there is a safety issue if the street is not closed. Mr. Connet responded because the sidewalks are full, people may step into the street creating this safety concern.

Ms. Kim Adams, Event Coordinator for Art on Main, addressed the Council. She requested the Council approve allowing the event into the street to make it safer. She stated attendance at the event is increasing and due to tables and chairs and other items on sidewalks, the sidewalks are filled. She expressed concerns about public safety and stated art was damaged at a previous event. The event will include live art demonstrations.

There was discussion from the Council on the number of events when Main Street is closed which includes Garden Jubilee, Apple Festival, Art on Main, and Motorama (avenues remain open) and whether the number of events that require the closure of Main Street be limited. Mr. Holloway will present that idea to the committee for discussion.

Council Member Miller asked how the poll was taken. Mr. Holloway explained a closure petition form was circulated by the organizer to make businesses aware of the proposed closing. This form allows an opportunity to get approval from the business owner. Ms. Adams reported the petition was distributed to 82 businesses and she received 49 signatures; six opposed the closing and others chose not to sign the form. Council Member Smith asked if there any numbers on economic impact for events that close Main Street. Mr. Holloway stated no but heard a comment from a restaurant that they were not prepared staff-wise for the increase in business.

**Mayor Pro Tem Caraker moved Council to approve the Special Event Permit for Art on Main. A unanimous vote of the Council followed; motion carried.**

**11. Consideration of an Ordinance Amending Section 10-7 of the Code of Ordinances Respecting Animals at Special Events:** Downtown Economic Development Director Lew Holloway addressed the Council stating there have been challenges enforcing the current ordinance. He presented an amendment to the ordinance that will allow dogs that are property restrained and at all times and under the control of their handler. He stated the amendment also gives the committee discretion to determine which events should exclude such animals, and who should provide security at smaller events where the organizer wishes to exclude dogs. The larger events, such as the Apple Festival, will have security and will not allow dogs. There was discussion of how citizens will know if their dogs are allowed. Mr. Holloway stated it will be clearly stated in the marketing materials and may posted on the website.

**Council Member Smith moved Council to approve the amendment to City Code Section 10-7. A unanimous vote of the Council followed; motion carried.**

Ordinance #17-0220

**AN ORDINANCE AMENDING SECTION 10-7 OF THE CODE OF ORDINANCES  
RESPECTING ANIMALS AT SPECIAL EVENTS**

WHEREAS, the City has adopted an ordinance, codified as City Code section 10-7, and

WHEREAS, the City of Hendersonville has determined that the ordinance should be amended to provide wider discretion to the Special Events Committee with respect to allowing animals at various events and the provision of security therefor;

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

SECTION 1. Section 10-7 of the Hendersonville Code of Ordinances shall and it is hereby amended to read in its entirety as follows:

Sec. 10 7. Animals at special events.

(a) It shall be unlawful for any person to allow or permit any animal owned, kept, or harbored by, or under the control of, such person to be present within the boundaries of any special event permitted pursuant to section 46 84, below, during the hours of operation of such special event.

(b) The following animals are exempted from the prohibition contained in subsection (a):

- (1) ~~Guide (or seeing-eye) dogs assisting persons who are visually impaired service dogs;~~
- (2) Animals under the control of on duty law enforcement personnel;
- (3) Animals explicitly authorized by the terms of a street vendor permit issued pursuant to section 14 284, below.
- (4) Dogs that are properly restrained and are at all times be under the full control of their handler.

(c) The special events committee, as established in section 46 85, may require the suspension of the exemption for domesticated dogs contained in in subsection (b) item (4) above under either of two conditions.

- (1) The health, safety and welfare of the community or the dogs or both will be compromised should dogs be allowed, or
- (2) The event organizer requests that dogs be excluded from the event.

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. This ordinance does not purport to cover treatment of animals where such treatment has been preempted by federal or North Carolina law.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

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

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

**12. Consideration of Code Purple:** City Manager John Connet reported the City received a request from Joseph's Outreach Ministry to establish a "Code Purple" policy that will allow them to house homeless individuals overnight in their day center on Seventh Avenue when the outside temperature drops below 32 degrees. Currently, the Joseph's Outreach Ministries is operating under a special use permit that does not allow them to house individuals overnight. Mr. Connet granted temporary permission for overnight stays at Joseph's Ministry for three nights when the temperatures were in single digits.

Mr. Connet explained the Mission has a "Code Grace" policy when the temperature drops below 36 degrees that allows homeless to use their facilities even if they are not part of their regular programs. However, Joseph's Ministries believes there is still a segment of the population who will not use the services offered by the Rescue Mission.

Rev. Austin Watson, Board chair of Joseph's Ministry, explained their request grew out of concern for those who need an additional choice of where they can be safe and warm during period of extreme cold weather. He stated the building has been inspected by the Fire Department. He stated their request comes from unhoused street people who will not accept the hospitality of the Rescue Mission and sees Joseph's Ministry's approach acceptable. He stated their volunteers frequently refer guests to the Mission and encourage them to continue their programs there. He stated the Council voted to become a City of Compassion in August 2016. He stated offering alternatives to citizens who face extreme cold weather is compassionate and treats all people with dignity and the right to make their own choices. He stated they are willing to adjust the temperature to 25 degrees and are willing to negotiate that, to provide extreme cold weather accommodations.

Mayor Pro Tem Stephens asked how many individuals may be accommodated by Joseph's Ministry. Rev. Watson stated 25-30 people if needed. Mayor Pro Tem Caraker asked about policy differences between the Rescue Mission and Joseph's Center that some will not accept. Rev. Watson stated some people perceive they are not welcome, have criminal records, or may have out-used their ability to go there, etc. Council Member Miller asked if the individuals they served were turned away from the Mission. Rev. Watson stated some have said they were turned away or had the police called on them.

Council Member Smith asked if local churches could take people in during extreme cold rather than Joseph's Center. He referenced the ordinance requiring 1,500 feet between shelters and the churches may not fall within

that distance. Rev. Watson stated they do not consider themselves a shelter and do not want to be a shelter. He stated they are supported by the churches. He stated until something is in place, to their knowledge, there is no alternative. He stated the Homeless Coalition discussed there is no shelter other than the Mission for homeless people in the City. Mayor Pro Tem Caraker commented the City made a commitment not to have all of the service organizations in the same area. He agreed the churches would be a good source for extreme weather conditions.

Paulette White, 46 Blooming Lane, Hendersonville, addressed the Council and relayed stories of those who stayed in the recent 7-degree weather. They had seven people the first night, nine people the second night and 11 people the third night. Those people said they could not go to the Mission because they were banned -- did not follow rules or they preferred not to go to the Mission. They are a faith-based organization that partners with four to five other churches. The hosts at the Joseph's Center during the day, and possibly the few nights per year, come from a variety of churches in the community. She stated people brought in blankets, coverlets and people slept on the floor those nights and they are only requesting permission to do that. She stated they may have been grandfathered in on the 1,500 foot requirement as a day center for the homeless on Seventh Avenue. They attempted to send people to the Mission. She stated in 2016, being a day center, offering showers, laundry, coffee and a place to be during the day, they served more than 1,000 individuals.

Council Member Miller asked if Joseph's Ministry has tried to work in collaboration with the Mission. Ms. White stated yes, and she personally has been involved in three of the four meetings. They refer people to the Mission for meals, food, clothing, and overnight. She stated the Mission refers people to them for showers, laundry and haircuts.

Council Member Miller asked if the City should provide a facility in the same area as the Mission for people who choose not to stay at the Mission. Ms. White stated this would not be done for many nights per year.

Council Member Miller asked what kind of supervision is in place to check for weapons. Ms. White stated those who stay there have to sign an agreement to stay overnight that they will not bring in drugs, alcohol or weapons. Two people stay there during the day and at night: a male and a female. She stated at night, one person stays awake at all times. The volunteers have training and a background check performed.

Mayor Pro Tem Caraker commented he is willing to give the manager discretion to approve when there is a series of extreme cold night but is not willing to change the policy and does not want to betray the work that has been done on Seventh Avenue. Mr. Connet commented he would prefer amending zoning ordinance to give the manager discretion. He stated there are unintended consequences for providing services/activities to the same people who litter, do drugs and possibly prostitution. These people are still in the area and effect businesses and property owners. Mayor Pro Tem Caraker agreed it costs money in enforcement and public works. He asked if Joseph's Center will take those under the influence. Ms. White stated yes as long as they are not disruptive. She stated the host determines if they are disruptive and they may be asked to leave and are banned for that day. If they are asked to leave a second time, they are banned permanently. If they refuse, the Police are called. She stated they have called the Police four times in the 22 months they have operated. Mayor Pro Tem Caraker commented on a person's choice in extreme weather conditions.

Mr. Connet stated an amendment to the Zoning Ordinance will be presented to the Council with a temperature threshold. Mr. Connet stated they will include conditions for supervision, public safety, etc. Council Member Smith asked for historic data on how many days the temperature drops that low. Mayor Volk thanked Joseph's Ministry for work they are doing. **No action was taken.**

### **13. Comments from Mayor and City Council Members**

#### **14. Reports from Staff**

##### **A. Reminder of Council/Staff Retreat:**

Thursday, February 23, 2017, 6 p.m., at City Hall, Second Floor Conference Room, and  
Friday, February 24, 8 a.m., at the Chamber of Commerce Meeting Room, 204 Kanuga Rd.

##### **B. Announcement of Town Hall Day, Wednesday, March 29, 2017**

**C. Quarterly Investment Report:** This report was provided by Finance Director Lisa White. No action was required.

**D. Report on Surplus Property:** Mr. Connet provided a report on the items declared as surplus property. No action was required.

**E. Leak Adjustment Issue:** Mr. Connet requested Council's consideration of establishing a fund through Interfaith Assistance Ministries for customers that may have a leak on their side of meter but do not have the resources to repair it. He stated this results in a loss of water and a very high water bill for the customer.

Mr. Connet explained the City currently has a program with IAM that assists with utility bills. He stated the new program would provide assistance for emergency repairs to leaks. IAM would provide the intake process. Staff will work with IAM on the details but will identify contractors and let the homeowner work with the

contractor. IAM will work with the homeowner to help find a contractor for the repair, provide financial resources to pay for the repair and then encourage them to sign up for the service warranty program. The work will be performed by a licensed contractor or plumber. There was discussion about not allowing the leak to continue.

Mr. Connet requested the City put up to \$2,500 in this fund immediately to make a needed emergency repair. **Council Member Smith moved Council to authorize the City Manager to spend up to \$2,500 to create a fund at IAM to assist with emergency repair of water leaks. A unanimous vote of the Council followed. Motion carried.**

**15. Boards and Commissions: Consideration of (Re)Appointments, Announcement of Upcoming Vacancies:** City Clerk Tammie Drake announced the vacancies on the Business Advisory Committee, the Board of Adjustment, the Seventh Avenue Advisory Committee and the ABC Board. **No action was taken.**

**16. New Business:** There was none.

**17. Closed Session:** At 9:35 p.m., 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). A unanimous vote of the Council followed. **Motion carried.**

The Council gave direction to staff regarding the possible purchase of property. **No action was taken.**

**18. Adjournment:** The meeting adjourned at 9:43 p.m. upon unanimous assent of the Council.

---

Barbara G. Volk, Mayor

---

Tammie K. Drake, City Clerk