

August 1, 2013
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Clerk Tammie Drake, Engineering Director Brent Detwiler, Finance Director Jim Rudisill, Public Works Director Tom Wooten

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

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

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

Donald Goldstein, 215 Fallen Timber Road, Hendersonville, stated he has been here for more than a year. He stated the grant for the Brightwater system was not sought through the traditional application process and has asked for the intervention of a Congressman.

Jim Martin, 232 Fallen Timber Road, followed up with Mr. Goldstein's comments, stating he has been in contact with the City Manager who assured him this issue will be settled and the City will issue their final position in September.

Mark Ray, owner of Dad's CATS, 221 N. Main Street, reported he has received more than \$1,600 in donations for the restoration of the McClintock Clock. He expressed appreciation to Mr. Tom Orr and Emily Weaver with Times News for their research and article. He reported donations came from all over the county including part-time residents. He also reported an event sponsored by Michelle Sparks for artists and residents to complete paintings of the clock which will be auctioned for the restoration efforts.

4. Consideration of Agenda:

Additions: 12a. Consideration of the Hiring of an Environmental Firm to Assist with the Redevelopment of the Grey Hosiery Mill

Under Comments from Mayor and Council Members:

- a. Update on Mills River Partnership by Council Member Steve Caraker
- b. Update on Fire Station #2 by Council Member Steve Caraker

Mayor Pro Tem Collis requested continuing item #8, Zoning Ordinance text amendment adding "Farm Stands" as a permitted use to the R-20 Low Density Residential Zoning District and to the R-15 Medium Density Residential Zoning District. He reported a discussion with Mark Williams who requested more time to review the proposed ordinance. **The Council agreed to the continuation without objection.**

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

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

A. Consideration of Minutes: July 11, 2013 Regular Meeting

B. Consideration of Abatement of Nuisances: Mrs. Frady certified seven property owners were notified of a nuisance condition on their property but failed to take corrective action. She requested permission to remedy the nuisances and assess the actual cost to the property owner.

C. Consideration of the Mills River Partnership Rental Agreement: City Attorney Sam Fritschner presented a rental agreement with the Mills River Partnership, Inc., for office space at the Water Treatment Plant. This lease will count as part of the required match for the 319 Grant being sought by the Mills River Partnership.

STATE OF NORTH CAROLINA
HENDERSON COUNTY

LEASE AGREEMENT

This Lease Agreement is made between the City of Hendersonville, North Carolina as Landlord (the "City") and Mills River Partnership, Inc. as Tenant ("MRP") as of the first day of August, 2013 for the occupancy of certain real property as herein described (the "Property"):

All of that office space described as the third-floor office on the southwest corner of the building situated within the City's Water Treatment Plant main building at 4139 Haywood Rd Mills River, NC.

For their agreement herein the parties hereto agree as follows:

1. The City hereby does grant a tenancy as provided herein unto MRP for the purposes of the use of office space for MRP to engage in and carry out the normal business purposes for which MRP was organized and does business.
2. MRP covenants that in its occupation and use of the Property and conduct of its business it will neither do nor suffer any person under its supervision or control to do anything to interfere with the City's use thereof for purposes of conducting and operating water utilities.
3. This lease shall not have a fixed term but shall begin on 1 August 2013 and shall terminate as herein provided.
4. The tenancy shall be one without requirement of rental payments herein by MRP to the City. MRP agrees that the City's actions taken in accordance with this document are voluntary and not contractual. Obligations of MRP hereunder are conditions upon which the Premises are leased and do not constitute consideration flowing to the City.
5. The City shall not be liable for any payment of any kind to MRP. MRP shall be responsible for payment of all expenses it deems necessary to carry on whatever business MRP, in its sole discretion, deems appropriate subject to the terms hereof.
6. MRP accepts the Premises as is and with all faults.
7. The City shall not be obligated to make any repair or otherwise keep the Premises in any particular condition.
8. MRP shall make no permanent alteration of any kind to the Premises without the prior express written consent in each case of the City Manager. If such consent is given, all such improvements shall be made at the expense of MRP and shall become the property of the City.
9. MRP may not sublet this Property or assign this License to any person without the prior express written consent of the City.
10. This lease agreement shall not create a partnership relationship between the City and MRP.
11. The City shall not unreasonably impair the access of MRP to the Premises nor unreasonably interfere with MRP's reasonable use of utilities and other normal uses that would reasonably be accorded a non-City office in the building.
12. The City does not insure any actions of MRP and does not undertake to carry any insurance covering MRP's tenancy. MRP shall deliver to the City Manager or his designee on or before 1 August 2013 and the like date of each ensuing year, provided it is then occupying the premises, evidence of renter's insurance for the contents of the Premises.
13. Either party may terminate this lease upon 45 days' written notice. Notice shall be completed when sent by any reasonable manner, including specifically, among others, due deposit in the U.S. mails and sent with correct postage for first class delivery or by hand delivery to the City Manager or president of MRP, as the case may be.

Done this day of 2013

City of Hendersonville, 145 Fifth Ave. East, Hendersonville NC 28792
By: /s/John F. Connet, City Manager
Mills River Partnership, Inc., 847 Case Street, Hendersonville NC 28792
By: Kieran Roe, President

D. Consideration Recycling Truck Purchase Request: Public Works Director Tom Wooten requested permission to purchase a truck for the recycling program. He explained the City was awarded a recycling cart grant and the purchase of a new recycling truck is necessary in order to move forward with the new recycling program. He recommended purchasing a Crane Carrier chassis with a Heil 20-yard compactor for \$208,721.08 that is available through the National Joint Powers Alliance (NJPA). This method of purchasing has no fees for the City and is allowed by NCGS 143-129(e)(3). He also reported the City received a grant of \$30,000 from North Carolina Department of Environment and Natural Resources toward the purchase of this truck.

E. Consideration of Request of Use of Berkeley Mills Park for the Mad Mountain Mud Run 2014 by Hands On!: Hands On! has held two successful mud runs at Berkeley Mills Park and is requesting permission to utilize the park again for the 2014 Mad Mountain Mud Run. The Mud Run will be held on May 30 and 31, 2014. Hands On! is requesting access to the unused portions of the property beginning May 1, 2014. They will be required to go through the special event process.

F. Consideration of Resolution for Police Grant for a new Motorcycle for the NC Bike Safe Program: Chief Blake reported the Police Department applied for and received a grant through the Governor's Highway Safety Program. The grant for \$38,000.00 will provide a new Harley Davidson motorcycle and trailer to assist with further training of motor officers in the NC Bike Safe Program. The NC Bike Safe Program motor officers teach civilian motorcycle drivers proper safety skills and defensive driving techniques.

Resolution #13-0840

**North Carolina Governor's Highway Safety Program
LOCAL GOVERNMENTAL RESOLUTION**

WHEREAS, the City of Hendersonville Police Department (herein called the "Agency") (The Applicant Agency) has completed an application contract for traffic safety funding; and that City of Hendersonville City Council (The Governing Body of the Agency) (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE City of Hendersonville City Council (Governing Body) in open MEETING ASSEMBLED IN THE CITY OF Hendersonville, NORTH CAROLINA, THIS _1_ DAY OF August , 2013, FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Mike Vesely, Lieutenant is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$38,000.00 to be made to the Governing Body to assist in defraying (Federal Dollar Request) the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$0 as (Local Cash Appropriation) required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by

/s/Barbara G. Volk, Mayor

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

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

6. Recognition of "Hendersonville Heroes": City Manager John Connet recognized employees Mike Cantrell, Tammie Drake and LuAnn Welter for organizing and running the paper shredding events for City residents. Mr. Cantrell also suggested a contribution of canned food from the public for local food pantries.

Mr. Connet also recognized the water treatment plant operators: Ron Reid, Keith Kirchner, for being awarded the EPAs 2012 Area-Wide Optimization Program Award for outstanding professionalism and diligent service to our customers. He stated he has heard other compliments from other organizations across the State.

Mayor Volk echoed his comments of appreciation to the staff.

7. Introduction of Bond Order by the City Council: Mr. Jim Rudisill, Finance Director, explained at the July 11, 2013, meeting, City Council adopted a resolution making certain findings and determinations related to the bond referendum to be held on November 5, 2013. The resolution also authorized the filing of an application with the Local Government Commission (LGC) and the application has been sent to the LGC.

Mr. Rudisill reported he participated in an informal meeting with the LGC and received informal approval for the proposed borrowing and the tentative date for the bond referendum of November 5, 2013. He stated Bond Counsel prepared the Bond Order and Sworn Statement of Debt. He introduced the bond order for the record and provided the Sworn Statement of Debt to the City Clerk.

Council Member Smith moved to introduce the Bond Order as prepared by Bond Counsel and submit the Sworn Statement of Debt to the City Clerk. A unanimous vote of the Council followed. Motion carried.

Order #13-0841

ORDER AUTHORIZING \$6,000,000 PARKS AND RECREATION BONDS

BE IT ORDERED by the City Council of the City of Hendersonville, North Carolina:

1. That pursuant to the Local Government Bond Act, as amended, the City of Hendersonville, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power and authority to contract, and in evidence thereof to issue Parks and Recreation Bonds in an aggregate principal amount not exceeding \$6,000,000 for the purpose of providing funds, together with any other available funds, for improving and expanding the existing parks and recreational facilities of said City and acquiring and constructing new parks and recreational facilities of said City, inside and outside its corporate limits, including, without limitation, the acquisition of any land, rights of way and equipment.
2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.
3. That a sworn statement of debt of said City has been filed with the City Clerk and is open to public inspection.
4. That this order shall take effect when approved by the voters of said City at a referendum as provided in said Act.

Thereupon, the order entitled "ORDER AUTHORIZING \$6,000,000 PARKS AND RECREATION BONDS" was passed upon introduction by the following vote:

Ayes: 5

Noes: 0

The City Clerk acknowledged that the Finance Director had filed with the City Clerk the sworn statement of debt of said City which is required by The Local Government Bond Act, as amended, to be filed after the bond order has been introduced and before the public hearing thereon.

On motion duly made, and carried, the City Council fixed 5:45 p.m., September 5, 2013, in the Council Chambers at City Hall located at 145 Fifth Avenue East in Hendersonville, North Carolina, as the hour, day and place for the public hearing upon the foregoing order and directed the City Clerk to publish said order, as required by The Local Government Bond Act, as amended, once in the Hendersonville Lightning not later than the sixth day before said date.

8. Public Hearing - Consideration of Zoning Ordinance Text Amendment, Article V Zoning District Classifications, Section 5-2-1 Permitted Uses and 5-3-1 Permitted Uses, adding "Farm Stands" as a permitted use to the R-20 Low Density Residential Zoning District and to the R-15

Medium Density Residential Zoning District and Amending Article XII to define "Farm Stands":

This hearing was continued to the September 5, 2013 Council meeting. **No action was taken.**

9. Consideration of System Development Charges Modifications: At the direction of the City Council, Mr. Connet, City Manager, presented options for modifying the System Development Charges. He reported staff has been diligently working on these modifications, but requested additional time to finalize options and allow time to meet with the Mayor and City Council members to review those modifications. He stated once the Mayor and City Council are satisfied with the proposed modifications, he would like the opportunity to share proposed modifications with some customers to receive their feedback.

Mr. Connet reviewed the old system in comparison with the current system. He stated the small businesses now pay less and have benefited from the new system. He stated problems have surfaced with the largest water users: restaurants, etc.

As a stopgap measure, Mr. Connet proposed continuing to operate under the current System Development Charges with the exception of capping the charges at \$10,000 for water and \$19,460 for sewer. These caps will provide immediate relief for any user of more than 5,000 gallons per day. He explained this will continue to allow the small businesses and small water users to continue to benefit from the current system.

Mr. Connet relayed some of the concerns regarding the current SDCs policy. Discussion followed on the appropriate size for meters for businesses and whether the business specifies the size of their meter. There was also discussion about the City's policy for the customer to pay the cost up-front and refund if less water is used and possibly credit for recycling water. The Council discussed a shorter reassessment period of one year. Mayor Volk asked staff to consider these options in the modified policy. Council Member Caraker also asked staff to run scenarios for future proposals. Mayor Pro Tem Collis commented the policy is working the way Council intended for smaller water users.

Council Member Caraker moved the City Council to modify the System Development Charges to cap the maximum charges for water SDCs at \$10,000 and sewer SDCs at \$19,460 and that these caps shall remain in place until modified by the City Council. A unanimous vote of the Council followed. Motion carried.

10. Consideration of Berkley Mills Park Rental Policy: Mr. Wooten presented a rental policy for the use of Berkeley Mills Park ball field, naming the responsibilities of the City and renters, fees associated, etc.

There was discussion on the tournament rate versus camp rate. Council Member Smith complimented the field and grass and stated the ball field is open to public to use and it has been well-received by the baseball community.

After discussion, of the requirement for a liability policy, **Council Member Smith moved the City Council to approve the rental policy for the Berkeley Mills Park ball field. A unanimous vote of the Council followed. Motion carried.** [The policy is available in the office of the City Clerk and Public Works Director.]

11. Consideration of Naming of Dog Park: Mr. Connet presented the suggestions for the naming of the dog park: "Oklapawpaw" by Bill Moss, "Dixie's Dog Park" by Steve Caraker and Chief Bud Hendricks, "Pet's Own Place" by Leah Ryel and Four Seasons Dog Park.

Mayor Pro Tem Collis suggested discussing the naming of the park with Tara Ledbetter. **The Council agreed by general consensus to name the dog park "Pet's Own Place on Seventh Avenue."** Mayor Volk expressed appreciation to Ms. Leah Ryel for the suggested name.

12. Consideration of Request for Funding for Restoration of the McClintock Clock: City Manager John Connet stated Mr. Ray had continued to solicit funds for the restoration of the McClintock Clock

and asked if the Council has a desire to make a commitment to funding. Mr. Ray reported he has now raised \$1,800 for the restoration. Council Member Stephens proposed the City giving \$1,500 toward the effort citing its historical significance. He also suggested Mr. Ray keep any funds above what is required for restoration for future repairs.

In discussion, Mr. Ray stated \$3,500 is needed to begin the work. He stated the original \$5,000 request included a donation to the National Clock Watchmen group for their expertise and guidance. He asked that any overage be applied toward the cost of a placard to recognize the clock and to educate visitors of this significant piece of downtown history. Council Member Caraker offered the use of his personal scaffolding for the restoration at no cost. Mr. Ray also requested the clock be formally recognized with ribbon cutting this fall. Discussion followed on the clock in Forest City which was completely restored. Mr. Ray stated the exterior of this clock will remain as is. He stated originally, it had a beveled stained glass underneath which is susceptible to damage. He proposed a turquoise-colored vinyl with the "H" logo.

Mayor Volk expressed appreciation to Mr. Ray for leading the effort.

Council Member Stephens moved the City donate \$1,500 to the McClintock Clock restoration fund and additional assistance from the Public Works Department as needed. A unanimous vote of the Council followed. Motion carried.

12a. Consideration of the Hiring of an Environmental Firm to Assist with the Redevelopment of the Grey Hosiery Mill: Mr. Connet explained in order for the City to proceed with the transfer of the Grey Hosiery Mill property to any future developer or purchaser, additional environmental work is required. He explained proposals were sought from numerous environmental firms. He reported receipt of two proposals: Altamont and S&ME. He recommended the hiring of Altamont for a cost of \$6,501 for the needed work including testing wells, updating the Phase II report done in 2005 and mediation of land.

After discussion, **Council Member Smith moved that the City Council hire Altamont Environmental, Inc. to update the Phase II Assessment and Remedial Action Plan for the Grey Hosiery Mill. A unanimous vote of the Council followed. Motion carried.**

13. Reports from Staff:

a. Meeting Announcements/Reminders: August 13, 2013, Town Hall Meeting to Discuss Parking Downtown: City Clerk Tammie Drake reminded the Council of this meeting. **No action was required or taken.**

b. Update on Main Street Project: Mr. Brent Detwiler, City Engineer, provided an update on the construction of Main Street Phase 3 project and spoke of the challenges resulting from the amount of days with rainfall. He reviewed the remaining work to be done on the project.

Mr. Detwiler explained in February, Council approved the installation of brick pavers at all intersections but recently there has been some concern regarding the installation of brick pavers at the Sixth and Seventh Avenues intersections because of the amount of traffic, the work would have to be done at night and the time frame for the installation. He also expressed concerns about the maintenance of the brick pavers. The Public Works Department would have to maintain the pavers which would require lane closures, etc. He recommended going back to the white-stripe high visibility crosswalks that meet NCDOT standards for these crosswalks. He stated this would result in a savings of approximately \$13,500 in eliminating brick pavers and allow quicker construction. **No objection was expressed by the Council to installation of the high-visibility crosswalks.** There was some discussion of the snow plows on the brick pavers. Mr. Detwiler also reported some of the crosswalks close to First Avenue have too much of a crown and the bricks have chipped and broken. He stated the Subcontractor will replace those bricks and reduce the crown.

c. Update on Greenway Grant: Mr. Brent Detwiler, City Engineer, reviewed the history of the grant application for Oklawaha Phase 3, and reported full funding of this project is possible if it is expedited. The estimated cost of the greenway is \$1.2 million. The original grant request was for \$700,000 and has been programmed by NCDOT. It is possible the NCDOT Transportation Board will approve the additional \$500,000. He stated once the reimbursement agreement is received, the work may begin. This portion of the greenway is 9,000 linear feet in length and extends from the end of Phase 2 to Balfour. He also noted several thousand feet of required easements have been obtained as part of the Jackson Park Sewer Project. **No action was required or taken.**

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

a. Appointments for Consideration: None.

b. Announcement of Vacancies: City Clerk Tammie Drake informed the Council of up-coming vacancies on the Board of Adjustment and on the Environmental Sustainability Board. She also reminded the Council of the vacancy on the Environmental Sustainability Board. **No action was required or taken.**

15. Comments from Mayor and City Council Members:

a. Update on Mills River Partnership by Council Member Steve Caraker: Council Member Caraker reported he is very impressed with this group and the resume of the new director who begins work August 15. He stated they have a detailed work plan of how they intend to spend the funding, locations of the work, etc. He reported they discussed Asheville's contribution and plan to send them an invoice. **No action was required or taken.**

Update on Fire Station #2 Construction: Council Member Caraker reported delays in the construction of Fire Station #2 resulting from the weather. He stated they are approximately 30 days behind schedule. He stated the Council may tour the building under construction. He complimented the diligence of the superintendent and expects a progress meeting in August. He reported there have been some renovations to the warehouse. **No action was required or taken.**

16. New Business:

17. Adjournment: Being no further business, the meeting adjourned at 7:13 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk