

January 8, 2015
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Planning Director Sue Anderson, Police Chief Herbert Blake, Engineering Director Brent Detwiler, Zoning Administrator Susan Frady, Fire Chief Dorian Flowers, Public Information Officer Tara Ledbetter, Utilities Director Lee Smith, Finance Director Lisa White, 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.*

Ken Fitch, 1046 Patton Street, spoke about Seventh Avenue as a historic destination and stated the goal should be not be just a destination but an integral part of the larger community.

4. Consideration of Agenda:

Council Member Caraker moved approval of the agenda as presented. 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: December 4, 2014 Regular Meeting

B. Consideration of Tax Releases, Refunds, Discoveries: Tax Collector Donna Fox presented the following:

Refund Total	\$9,932.00
Discovery Total	\$128,217.53
Release Total	\$19,270.41

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

6. Hendersonville Heroes: Recognition of the Hilliard Family: PIO Tara Ledbetter introduced the Hilliard family: Jason, Heidi and their twin sons. Mr. Hilliard works near the section of the Oklawaha Greenway that intersects with Seventh Avenue. He spends many lunch breaks walking or cycling the trail and noticed that a large tree had fallen into Mud Creek and litter and debris had accumulated along it. He and his family spent about four hours removing litter and cleaning up the stream, greenway and Pets' Own Place.

Mayor Volk presented a "Mayor's Certificate of Commendation" to the Hilliard family to recognize their community spirit and to express appreciation for their cleanup efforts that benefit everyone who uses these City facilities as well as the nearby residents and businesses. She expressed appreciation for their service in support of our community and for teaching their children the importance of giving back to our community.

Brief comments were made by the Hilliards. **No action was required or taken by the Council.**

7. Public Hearing - Closing-Out of the Community Development Block Grant Awarded to Support the Academy Road Water Improvements Project: City Manager John Connet reported the Academy Road project that provided water service to residents with contaminated wells is complete and they now have safe drinking water. He explained the project was funded through CDBG funding and a public hearing is required to discuss the performance of the Academy Road Water Improvements project. He explained the purpose of this hearing is to review the accomplishments of the Grant.

Mr. Connet explained the activities are complete and the City is in the process of closing out the grant. Activities for this project included: the installation of approximately 500 linear feet of 12-inch waterline, 4,300 linear feet of

8-inch waterline, 2,300 linear feet of 6-inch waterline, 1,800 linear feet of 2-inch waterline, installed 60 water services, and nine fire hydrants on Academy Road, East Hill Drive, Jade Walker Drive, Emerald Lane, Largo Lane, and the east end of Meadow Woods Drive.

Mr. Connet reported the total CDBG grant amount was \$453,500 with additional funding provided by the Rural Economic Development Division and Bernard Allen Memorial Emergency Drinking Water Fund. This was a great project and a partnership between the City, Henderson County and the State of North Carolina to provide assistance to those citizens.

Mayor Volk asked for questions from the Council. There was none. Mayor Volk opened the public hearing at 5:58 p.m. in accordance with the provisions of the notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed. **No action was required or taken by the Council.**

8. Public Hearing - Consideration of Amendments to Zoning Ordinance Text Amendment of Sections 4-5 Classification of Uses Table 4-5, 5-7-1 C-2 Secondary Business Permitted Uses, 5-8-1 C-3 Highway Business Permitted Uses, 5-12-1 I-1 Industrial Permitted Uses, 5-19-1 CMU Central Mixed Use Permitted Uses, 5-19-3 CMU Central Mixed Use Special Uses, Article VI General Provisions Table 6-5-2 Parking, Section 12-2 Definition of Commonly Used Terms and Words and Article XVI Special Requirements for Certain Uses Section 16-4 Standards Pertaining to Shelter Facilities and Day Centers: Planning Director Sue Anderson gave a history of this text amendment including a moratorium adopted in November 2014 through January 8, 2015 to permit the City Council and Planning Board a reasonable period of time to consider the proper zoning of these facilities, partly in light of the plans for the Seventh Avenue corridor.

Ms. Anderson explained the Zoning Ordinance was amended in 1998 to add the category "shelter facilities" as a permitted use in the C-2 Secondary Business and C-3 Highway Business zoning districts. Additional requirements were added in Article XVI Special Requirements for Certain Uses. She reviewed the special requirements. She also reviewed definitions established in 1998 and amended in 2004.

Ms. Anderson explained a new district, CMU Central Mixed Use, was added in December 1999 and that district included shelter facilities as a permitted use. The CMU district surrounds the C-1 Central Business District. The Hendersonville Rescue Mission located on Maple Street is in the CMU zoning district.

Ms. Anderson explained the Zoning Ordinance was also amended in 2011 to allow shelter facilities with special requirements as a special use in the C-1 Central Business District. Mainstay, a shelter facility located at 130 Fifth Avenue West, was issued a Special Use Permit by City Council in July 2011, and included a variance reducing the use separation from 1,500 feet to 1,000 feet because Mainstay is located approximately 1,360 feet from the Hendersonville Rescue Mission.

Ms. Anderson reviewed the proposed text amendments and the recommendations of staff, the Text and Policy Committee and the Planning Board.

Ms. Anderson reported the Text and Policy Committee recommended to not allow day centers or shelter facilities in the C-2 Secondary Business district due to the proximity of the C-2 district to residential districts and the lack of public transportation. She reported the Planning Board voted unanimously to recommend that City Council adopt an ordinance with modifications:

- remove the requirement that both day centers and shelter facilities not be located adjacent to residential uses
- concurred with the Text and Policy Committee to remove both shelter facilities and day centers from the C-2 Secondary Business District and
- require both shelter facilities and day centers in the C-3 and I-1 Zoning Districts be subject to a special use permit and not a permitted use in those districts.

At 6:12 p.m., Mayor Volk opened the public hearing in accordance with NCGS by notice published in the Hendersonville Lightning.

Ken Fitch, 1046 Patton Street, voiced support of the idea that shelter facilities and day centers not be located adjacent to residential uses and asked about the placement in relation to schools.

Ms. Anderson responded the location in relation to the location of schools was not addressed. No one else expressed a desire to speak. The public hearing was closed.

Discussion from the Council included: whether the Rescue Mission would be allowed under the proposed amendments, residential use versus residential district, whether schools were discussed and which schools may be effected, the regulations do not apply to organizations serving six or less people, and whether these facilities should be allowed only through the special use permit process which would allow applicants the opportunity to request variances, provide notice to nearby properties and to add consistency.

Discussion followed on the 200-foot separation requirement from residential districts.

After discussion, Council Member Smith moved the City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Sections 4-5 Classification of Uses Table 4-5, 5-7-1 C-2 Secondary Business Permitted Uses, 5-8-1 C-3 Highway Business Permitted Uses, 5-12-1 I-1 Industrial Permitted Uses, 5-19-1 CMU Central Mixed Use Permitted Uses, 5-19-3 CMU Central Mixed Use Special Uses, Article VI General Provisions Table 6-5-2 Parking, Section 12-2 Definition of Commonly Used Terms and Words and Article XVI Special Requirements for Certain Uses Section 16-4 Standards Pertaining to Shelter Facilities and Day Centers with the following modifications: to follow Planning Board recommendations with the following changes: to allow shelter facilities and day centers in C-2 as a special use. A unanimous vote of the Council followed. Motion carried.

Ordinance #15-0101

**AN ORDINANCE AMENDING SECTIONS 4-5 CLASSIFICATION OF USES TABLE 4-5,
5-7-1 C-2 SECONDARY BUSINESS PERMITTED USES,
5-7-5 C-2 SECONDARY BUSINESS SPECIAL USES,
5-8-1 C-3 HIGHWAY BUSINESS PERMITTED USES,
5-19-1 CMU CENTRAL MIXED USE PERMITTED USES,
5-19-3 CMU CENTRAL MIXED USE SPECIAL USES,
ARTICLE VI GENERAL PROVISIONS TABLE 6-5-2 PARKING,
SECTION 12-2 DEFINITION OF COMMONLY USED TERMS AND WORDS AND
ARTICLE XVI SPECIAL REQUIREMENTS FOR CERTAIN USES,
SECTION 16-4 STANDARDS PERTAINING TO SHELTER FACILITIES AND DAY CENTERS**

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures; and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances; and

WHEREAS, the City of Hendersonville understands the need to serve all members of the community; and

WHEREAS, the City of Hendersonville supports organizations that supply services to those in need; and

WHEREAS, the City of Hendersonville desires that individual neighborhoods are not overburdened with shelter facilities and day centers; and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to the shelter facilities and day centers.

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

1. Article IV Establishment of Districts Section 4-5 Classification of Uses Table 4-5 is hereby amended to include the following:

- Remove shelter facilities as permitted by right subject to special requirements (SR) in the CMU Zoning District.
- Add shelter facilities as Special Use (S) in the CMU Zoning District.
- Remove shelter facilities as permitted by right subject to special requirements (SR) in the C-2 Zoning District.
- Add shelter facilities as Special Use (S) in the C-2 Zoning District.
- Remove shelter facilities as permitted by right subject to special requirements (SR) in the C-3 Zoning District.
- Add shelter facilities as Special Use (S) in the C-3 Zoning District.
- Add shelter facilities as Special Use (S) in I-1 Zoning District.
- Add day centers as Special Use (S) in the CMU, C-2, C-3 and I-1 Zoning Districts.

2. Article V Zoning District Classifications, C-2 Secondary Business Section 5-7-1 Permitted Uses is hereby amended to remove the following permitted use:

~~Shelter facilities, subject to the special requirements contained in Section 16-4, below.~~

3. Article V Zoning District Classifications, C-2 Secondary Business Section 5-7-5 Special Uses is hereby amended to include the following special uses:

Day centers
Shelter facilities

4. Article V Zoning District Classifications, C-3 Highway Business Section 5-8-1 Permitted Uses is hereby amended to remove the following permitted use:

~~Shelter facilities, subject to the special requirements contained in Section 16-4, below.~~

5. Article V Zoning District Classifications, CMU Central Mixed Use Section 5-19-1 Permitted Uses is hereby amended to remove the following permitted use:

~~Shelter facilities, subject to the special requirements contained in Section 16-4, below.~~

6. Article V Zoning District Classifications, Central Mixed Use Section 5-19-3 Special Uses is hereby amended to include the following special uses:

Day centers, subject to the special requirements contained in Section 16-4, below.
Shelter facilities, subject to the special requirements contained in Section 16-4, below.

7. Article VI General Provisions Section 6-5 Off-Street Parking Table 6-5-2 is hereby amended to include the following parking requirements:

USES	PARKING SPACE REQUIREMENT
Day centers	1 per 2 employees and volunteers at maximum staffing on a single shift
Shelter facilities	1 per 2 employees and volunteers at maximum staffing on a single shift

8. Article XII Definition of Terms Section 12-2 Definition of Commonly Used Terms and Words is hereby amended to include the following definition:

Day Centers: An establishment that provides a combination of case management, resources or a range of like services to aid persons who are primarily indigent, needy, homeless, or transient.

9. Article XVI Special Requirements For Certain Uses Section 16-4 Standards is hereby renumbered as follows:

- 16-4- ~~12~~ 13 Golf Driving Ranges
- 16-4- ~~13~~ 14 Mini-Warehouses
- 16-4- ~~14~~ 15 Nursing Homes
- 16-4- ~~15~~ 16 Private Clubs
- 16-4- ~~16~~ 17 Progressive Care Facilities
- 16-4- ~~17~~ 18 Public Utility Facilities
- 16-4- ~~18~~ 19 Residential Care Facilities
- 16-4- ~~19~~ 20 Rest Homes
- 16-4- ~~20~~ 21 Restaurants
- 16-4- ~~21~~ 22 Schools, Primary & Secondary
- 16-4- ~~22~~ 23 Shelter Facilities
- 16-4- ~~23~~ 24 Telecommunications Towers and Antennas

10. Article XVI Special Requirements For Certain Uses Section 16-4 Standards is hereby amended to include the following uses and special requirements:

16-4-12 Day Center.

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.
- b) The parcel on which a day center is situated shall not be within 200 feet of a residential district.
- c) Permissible hours of operation shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

11. Article XVI Special Requirements For Certain Uses Section 16-4-22 Shelter Facilities is hereby amended to read as follows:

16-4-223 Shelter Facilities.

- a) ~~A shelter facility shall not be permitted to locate within 1500 feet of another shelter facility. The parcel on which a shelter facility is situated shall not be closer than 1,500 feet to any parcel on which another shelter facility is situated.~~
- b) ~~The parcel on which a shelter facility is situated shall not be adjacent to a residential use. For purposes of this paragraph, properties situated across a street right-of-way from a proposed shelter facility shall be deemed to be adjacent.~~
- e b) The parcel on which a shelter facility is situated shall not be ~~situated~~ within 200 feet of a residential district.

12. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.

13. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

14. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

15. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

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

Adopted this eighth day of January 2015.

/s/Barbara G. Volk, Mayor

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

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

9. Presentation of Financial Audit: Mr. Ron Carland presented the audit report for fiscal year ending 2014 and explained the structure of the report. A Comprehensive Annual Financial Report (CAFR) has been published by the City for the last 25 years. Highlights of the audit report included:

- The City's Fund Balance, combined General Fund and Capital Reserve Fund, is approximately 60 percent of governmental expenditures for the year, compared to the required 8 percent
- City governmental revenues are almost \$13 million with expenses slightly more than that
- City Enterprise Funds revenues are almost \$16 million with expenses around \$14 million
- The net worth of the City increased \$1.6 million to more than \$103 million
- The cost of capital assets are valued at \$25 million plus \$75 million for the water/sewer assets

Mayor Volk thanked Mr. Carland for the audit report. **The Council received the audit report. No action was taken.**

10. Downtown Hendersonville Annual Report: Mr. Lew Holloway provided a report on downtown Hendersonville. Highlights included: new initiatives and goals were established including: excellence in organizational communication, and a revised website. Accomplishments included: drone footage of the district, an updated business directory and phone book, developed roles and responsibilities for committee members. He reported the Downtown Fund includes a \$100,000 transfer to the General Fund currently and special events are now managed separately and will be reviewed individually. New initiatives include: way-finding signage for vehicles and pedestrians, façade rehabilitation, parking options, and review of the eleven major annual events, added a fifth Rhythm & Brews Concert in September, and building a volunteer network.

For the period of July 2013 to December 2014, there was a net business loss of three businesses; 22 businesses closed their doors in Downtown Hendersonville and 19 businesses opened. During that same time period, there was an approximate net job gain of more than 52 employees.

Total Assessed MSD land and building property value is \$72,948,900.

Awards include: North Carolina American Planning Association, 2014 Great Places for Great Main Street in the Professional's Choice Category and North Carolina Main Street Program Award for Best Downtown Special Event or Event Series for the 2013 Rhythm & Brews Concert Series.

No action was required or taken by the Council.

11. Consideration of Amendments to Section 36-1 of the City's Code of Ordinances Pertaining to the Solicitation of Alms: City Attorney Fritschner reviewed proposed amendments to the current ordinance which he opined unconstitutional. He stated the Supreme Court has repeatedly struck down broad bans on begging and the Fourth Circuit has followed them. He stated the proposed amendments will provide the Police with a sense of what to enforce.

City Attorney Fritschner explained parts of the amendments came from the comprehensive ordinance from Winston-Salem. He explained the ordinance allows a person to ask for a donation to yourself or to a cause but you cannot put them in danger, fear of danger nor harassing in some way, etc.

Council Member Caraker commented the proposed ordinance provides criteria for Police enforcement. Discussion followed. **Council Member Caraker moved adoption of the ordinance amending the begging ordinance. A unanimous vote of the Council followed. Motion carried.**

Ordinance #15-0102

**AN ORDINANCE AMENDING SECTION 36-1 OF THE CODE OF ORDINANCES
PERTAINING TO SOLICITATION OF ALMS**

WHEREAS, the City of Hendersonville recognizes the constitutional right of person to solicit alms for themselves and others within the City, and

WHEREAS, the City recognizes further the need of pedestrians to use City sidewalks without undue obstruction or fear of molestation,

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

SECTION 1. Section 36-1 of the Hendersonville Code of Ordinances is hereby amended to add an additional section as follows:

Sec. 36-1. - ~~Begging~~ Solicitation of Alms.

~~No person shall beg or solicit alms in or on the streets or roadways of the city.~~

(a) Purpose. The purposes of the restrictions on begging or soliciting alms imposed under this section are to:

(1) Reduce the detrimental effect that threatening and intimidating conduct has on a safe environment within the city;

(2) Restrict certain aggressive acts of solicitors without prohibiting constitutionally protected activity;
and

(3) Maintain the peace and order of the city and preserve and protect the rights of all citizens to be free of intimidation.

(b) definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) For purposes of this section, "ask, beg or solicit" includes, without limitation, the spoken, written or printed words or such other acts conducted in furtherance of the purpose of obtaining alms or contributions.

(2) For purposes of this section, "accosting" means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

(3) For purposes of this section, "forcing oneself upon the company of another" means:

a. Continuing to request, beg or solicit alms after the person to whom the request is directed has declined or ignored the request;

b. Blocking the passage of the person addressed;

c. Following or walking alongside the person being solicited; or

d. Otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(c) Prohibited conduct. It shall be unlawful for any person to ask, beg or solicit, or exhibit oneself for the purpose of begging or soliciting, as defined in subsection (b) above:

(1) By accosting another, or by forcing oneself upon the company of another;

(2) Within 100 feet of an entrance or exit of any bank or financial institution or other establishment whose primary function is dispensing cash or within 100 feet of any automatic teller machine or other machine which dispenses money to the public.

(3) At any outdoor dining area or outdoor merchandising area, provided such areas are in active use at the time;

(4) At any transit stop or taxi stand or in a public transit vehicle;

(5) At the entrance to or exit of any toilet facility open to the public, including any temporary use site;

(6) In a parking lot or garage including entryways, stairwells, exits or pay box or pay stations connected therewith;

(7) Upon the grounds of any hospital

(8) At any valid mobile food cart vendor location;

(9) Upon the grounds of any public, private, or parochial elementary, middle or high school without the consent of the principal or acting principal thereof;

(10) While the person being solicited is standing in line waiting to be admitted to a commercial establishment;

(11) By touching the person being solicited or the motor vehicle occupied by the person being solicited without that person's consent;

(12) By or with the use of abusive language during the solicitation or following an unsuccessful solicitation and/or by or with the use of any gesture intended to cause a reasonable person to be fearful of the solicitor;

(13) After dark, which shall mean one-half hour after sunset until one-half hour before sunrise;

(14) While under the influence of alcohol or after having used any illegal substances defined in the North Carolina Controlled Substance Act;

(15) By knowingly making any false or misleading representation in the course of soliciting. False or misleading representations include, but are not limited to, the following:

a. Stating falsely that the solicitor is from out-of-town and stranded.

b. Stating or suggesting falsely that the solicitor is either a present or former member of the armed services.

c. Stating falsely that the solicitor is homeless.

d. Stating falsely that the solicitor is seeking money for charitable purposes.

(16) On a center median;

(17) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;

(18) By stepping into, standing, sitting or walking in any roadway;

(19) By delivering or receiving any tangible item to or from any occupant of any vehicle in a lane that is not contiguous with the curb or roadside on which the solicitor is present;

(20) By stopping or attempting to stop a vehicle that is approaching a traffic signal unless the traffic signal requires the vehicle to come to a complete stop;

(21) By interfering with or impeding the normal movement and quick and safe passage across the roadway of pedestrians or of persons in or on wheelchairs or other devices designed or intended to assist the mobility-impaired or by interfering with or impeding the normal flow of vehicle traffic; or

(22) While violating any litter or traffic safety laws.

(d) Severability. Severability is intended throughout and within the provisions of this section. If any section, subsection, sentence, clause, paragraph or portion thereof is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of any of the remaining portions of this section.

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 eighth day of January 2015.

/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 Recommendations of Traffic Calming Measures at the Intersection of Ash and Ray Streets: Police Chief Blake explained traffic and safety concerns at the Boys and Girls Club were brought to the attention of City staff. Concerns were the speed of vehicles and the safety of children exiting school buses.

Chief Blake reported the Public Works Department conducted a traffic study to determine the average speeds of vehicles. The speed limit is 20 mph and the average speed is 17 mph. He concluded there is not a speeding problem. Only one accident was reported but it was related to a domestic incident.

Chief Blake reported staff met with staff of the Boys and Girls Club for their input and did not receive any safety concerns.

Recommendations from staff include:

- Construct a pedestrian crosswalk near the entrance
- Allow timed on-street parking on Ashe Street across from the Boys and Girls Club
- Allow parking for “drop-off only” on the street side closest to the Boys and Girls Club.

He estimated the cost of these recommendations at \$550 to the City. He did not recommend the installation of stop signs.

The Council reviewed an aerial map, discussed the timed parking, placing the crosswalk directly across from the main entrance of the Boys and Girls Club.

Council Member Caraker moved City Council to direct the Public Works Department to install a crosswalk, additional on-street parking with a 15-minute time limit and erect signs on the side of Ashe Street for drop-off parking only. A unanimous vote of the Council followed. Motion carried.

13. Discussion of Proposed Changes to the Maple Parking Lot: Public Works Director Tom Wooten explained staff has been preparing to make changes to the Maple Parking Lot. He reviewed the possible changes:

- A new entrance/exit off King Street, closing the entrance on Fifth Avenue for two-way traffic thru the lot to make it more accessible and user-friendly,
- remove Sweet Gum trees and stumps and replant with appropriate street trees to eliminate problems,
- remove/replace sidewalk,
- addition of a kiosk at Fifth Avenue/alley that will accept coins and credit cards,
- new landscaping,
- new signage and LED lighting.
- This will result in a net gain of three spaces and may possibly expand the leased parking lot.

Mr. Wooten explained the City will seek permission from NCDOT for the proposed access drive off of King Street. The configuration of the alley will be changed to allow vehicles to exit from the lot.

He expressed appreciation to Mr. Lew Holloway for his help on the design. Discussion followed on whether to allow backing into parking spaces. Council requested staff to investigate why this is not allowed. **There were no objections by the Council to proceed with the changes to the Maple Parking Lot.**

14. Consideration of a Change Order for the Shepherd Creek Sewer Line Project: Engineering Director Brent Detwiler explained Hall Contracting Corporation has been constructing the Shepherd Creek/Atkinson Elementary Sanitary Sewer Improvements project. They recently submitted several change orders totaling approximately \$162,000 due to greater than estimated rock excavation quantities and removal of unsuitable materials. He reported staff reviewed the request in detail and has determined the change orders are justified.

Mr. Detwiler also explained Hall Contracting Corporation is installing sewer line on North Lakeside at Osceola Lake. They are installing another 5,000-6,000 feet of gravity sewer line and there is a potential for additional rock. He requested some latitude in funding additional change orders. He requested approval of the budget

amendment moving \$300,000 from Water and Sewer Fund balance to project contingencies to also cover potential changes orders.

The Council discussed the elevations, the borings that were done at 500 feet spacing when the rock was discovered. He stated the sewer line had to be raised about 1.5 feet.

After discussion, **Council Member Caraker moved to authorize the city engineer to negotiate and approve change orders totaling \$161,537.46 to Hall Construction Corporation for additional work beyond the scope during the Shepherd Creek/Atkinson Elementary sanitary sewer installation as described by staff. He further moved Council to approve the associated budget amendment to move \$300,000 from sewer fund balance to project contingencies to cover these change orders as well as potential future change orders.** There was discussion by the Council that if the additional funds are not used, the funds will be moved back into the Enterprise Fund. **A unanimous vote of the Council followed. Motion carried.**

15. Presentation on Employee Performance Pay Program: City Manager John Connet gave a presentation to the City Council on a proposed employee performance pay program that will need formal approval by the Council in the future.

Mr. Connet explained there is no policy currently on how or why we conduct performance evaluations. The City is currently utilizing purchased software that is problematic because it does not require the supervisor to track employee's performance throughout the year. Also, there has not been any formal training on how to conduct performance evaluations. The software system in use is antiquated and does not run on most new computers which forced departments to develop their own forms. The system is also problematic because all employees are rated on the same criteria. He stated the software does not allow for documentation for rewards or disciplinary action.

Mr. Connet explained also under the current system, every employee gets the same level of raise regardless of their performance level which is a disincentive for those trying to excel.

Mr. Connet explained there has been an informal policy that only 80 percent of the workforce will get raises in a given year and is a de-motivator for employees. Some departments have simply alternated who gets the raise and who did not from year to year.

Mr. Connet reported a new program is being developed by City employees with the assistance of a Human Resources consultant. Focus group meetings with employees and supervisors have been held to determine what they wanted in a performance evaluation system. Evaluation forms will be tailored to specific work groups (i.e., police, fire, labor and trades, technical, management, etc.). These forms will allow setting goals and objectives based on their job. The forms will be Word documents that may be printed or converted to electronic documents depending on the desire of the individual supervisor.

Mr. Connet explained the program will be implemented during a trial period through April, May and June and will allow everyone to practice on the new system. Supervisors are undergoing a five-day intensive training program to learn how to do performance evaluations. This new program will allow supervisors and employees to establish goals and objectives. He stated no salary increases will be tied to the evaluations conducted during the trial period. If approved by the Council, the new program will be fully implemented in fiscal year 2015-2016. The Human Resources Director will play an important role in managing the program. He reviewed the proposed pay for performance levels:

- Outstanding – Employees will be given highest available raise (i.e. 3%)
- Exceeds Expectations – Employees will be given slightly lower raise (i.e. 2%)
- Achieves Expectations – Employees will be given minimum raise (i.e. COLA)
- Needs Improvement – No raise; reevaluated in six to 12 weeks. No improvement can result in disciplinary action and/or termination
- Fails to Achieve Expectations – No raise; reevaluated in six to 12 weeks. No improvement - can result in disciplinary action and/or termination.

There was discussion of the COLA being awarded with the available raises and the appeal process.

Mayor Pro Tem Stephens voiced support of the program which is an improvement over the current system. He stated the Council wants to award employees who do a good job. **No action was required or taken.**

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

17. Reports from Staff:

a. Reminder of February 13, 2015 Council and Staff Retreat: Mr. Connet reminded the Council of the retreat scheduled for this date. The retreat will be held at Fire Station #2, beginning at 8:00 a.m.

b. City Manager Requesting Permission for Absence from February meeting to attend the NC City/County Managers' Association Conference: Mr. Connet requested permission to attend the

NC City/County Managers' Conference in February and to be absent from the February 5, 2015 Council meeting. He will be leading a session on crisis communication. **The Council agreed by general consensus.**

18. Consideration of Appointments to Boards and Commissions

a. Review of Effectiveness of Business Advisory Committee: City Clerk Tammie Drake reported the City Council formed the Business Advisory Committee at their January 9, 2014 meeting and agreed they would evaluate the work of the committee after one year and make the determination of whether or not to continue it.

Mayor Pro Tem Stephens voiced support of continuing the Business Advisory Committee stressing its importance: it gives the business owners an opportunity to express themselves. They are the largest taxpayers in Henderson County. He stated this is a formal way of passing ideas by them and getting their response. He stated they bring ideas and have made progress in a couple of areas.

Mr. Connet agreed it is a good way to get feedback from business leaders, provide accurate information to them, hear their concerns, share information, presentations, get good feedback and develop relationships within the community. There was discussion of attendance of the members. Mayor Pro Tem Stephens reported he has received feedback that they appreciate the opportunity. Council Member Caraker agreed it is a good vehicle to communicate with business leaders to receive input and it reduces misinformation.

Ms. Drake informed the Council all members currently serving are willing to be reappointed for another term with the exception of Dr. Robert Laborde.

The Council requested staff to develop a suggestion for rotation and term limits of members for consideration at the next meeting.

b. Consideration of Appointments:

i. Tree Board: City Clerk Tammie Drake announced the term of Albeiro (Alex) Rodriguez on the Tree Board will expire February 1. Mr. Rodriguez is interested in serving another term. **Council Member Smith nominated Mr. Rodriguez. The Council voted unanimously to appoint Mr. Rodriguez to the Tree Board. This term will expire 02-01-18. Motion carried.**

c. Board of Adjustment: Mrs. Drake provided the application of a citizen interested in serving on the Board of Adjustment. **The Council agreed to postpone consideration of the appointment until the next meeting.**

19. New Business: There was none.

20. Closed Session: At 8:41 p.m., Council Member Caraker moved the Council enter closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by this body under G.S. 143-318.11(a)(4) and to instruct the staff regarding the position of the public body. A unanimous vote of the Council followed. Motion carried.

The Council discussed the possibility of providing services related to the location or expansion of an industry and the possible sale of property.

At 9:06 p.m., Council Member Caraker moved to exit closed session. A unanimous vote of the Council followed. Motion carried.

Council Member Caraker moved Council to approve the \$268,000 water economic development project on Schoolhouse Road with a request that the Henderson County Economic Development staff pursue grant funding to help with the cost if at all possible. The vote was four in favor: Volk, Stephens, Caraker and Miller, opposed: Smith. Motion carried.

21. Adjournment: The meeting adjourned at 9:08 p.m. upon unanimous assent of the Council.