

March 6, 2014
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: Planning Director Sue Anderson, Police Chief Herbert Blake, City Manager John F. Connet, Engineering Director Brent Detwiler, City Clerk Tammie Drake, IT Director Allen Edge, Fire Chief Dorian Flowers, Zoning Administrator Susan Frady, City Attorney Sam Fritschner, Personnel Officer David Sapp, Utilities Director Lee Smith, 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, commented on and supported merit pay raises for City employees. He commended on the recent work of employees who addressed a problem quietly and quickly stating their work should be valued highly and honored. Mayor Volk explained the Council is not considering eliminating merit pay increases but how they should be given and who qualifies. Council Member Miller agreed stating 80 percent of employees receive an identical increase but Council wants to consider a method whereby employees are given an opportunity to excel instead of a one size fits all increase.

Brenda Ramer, Team ECCO, 511 N. Main Street, thanked the Council for their support and invited them to upcoming events. Mayor Volk commented Team ECCO is an asset to Main Street.

4. Consideration of Agenda:

Additions to Consent Agenda:

- F. Consideration of Agreement with NCDOT for “Historic Hendersonville” signs at Exit 49 on Interstate 26
- G. Consideration of Resolution accepting the amended State Revolving Loan offer for the Jackson Park Sewer Interceptor Project

Deletions:

- 13. Consideration of Bids for the Shepherd Creek/Atkinson Sewer Line Project
- 08. Annual Report by Mills River Partnership

Council Member Caraker moved approval of the agenda with the listed amendments. 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:** January 24, 2014 Special Meeting, February 6, 2014 Regular Meeting

B. Consideration of Special Event Permits for: The Special Events Committee voted unanimously to recommend approval of the following:

i. 2014 Bearfootin' Public Art Reveal: This event will be held Friday, May 9, 2014, from 4 – 6 p.m. at the First Citizen's Bank Plaza at the corner of Sixth Avenue and Main Street. The 15-minute parking spaces will be closed from 3 – 8 p.m. In addition to the bear reveal, this year a jazz band will play on the First Citizens Plaza during the event.

ii. 2014 Downtown Rhythm & Brews Concert Series: The 2013 Downtown Rhythm & Brews Concert Series will be held on May 15, June 19, July 17, August 21 and September 18, 2014. The events will again be held in the Azalea Parking Lot between Third and Fourth Avenues. The events will feature live music and local brewing and outdoor-related industries. This year, the stage will be on the Fourth Avenue end of the parking lot and Third Avenue will be closed from the alley to King Street during the event. One lane of Fourth Avenue will be left open to the alley until 4:00 p.m. The alcohol area and vendors will be on the Third Avenue end of the parking lot. Approval of this application will include approval of the sale of alcohol at this event.

iii. 2014 Mad Mountain Mud Run and Family Fun Run: This event will be held May 30, 2014 from 6-8 p.m. and May 31, 2014, from noon – 7 p.m. at Berkeley Mills Park and quarry. The family fun run will be held on Friday night and will include dinner, music and family mud games. The mud run will be held on Saturday and will include a festival as well as the mud run.

The application includes approval of the designated area (same as last year) for the consumption of alcohol. Approval of the area authorizes the sponsors to serve alcohol at Berkeley Mills Park in the specified area in conjunction with the special event permit contingent upon the City Manager's certification that all requirements of the City's Policy Governing the Sale of Alcohol at Special Events in City Parks have been satisfied. The Police Department reported there were no problems with the alcohol consumption at this event last year. The event pays for three off-duty police officers.

C. Consideration of Resolution Donating Recycling Bins to Schools and Non-profits: Mr. John Connet, City Manager, reported the Environmental Sustainability Board, along with ECO, worked together to get the City's old recycling bins donated to the public schools. The groups contacted the schools to determine if they had a need for the bins and the quantity needed. The schools indicated an interest in receiving the bins. The City recently replaced all of its recycling collection bins with new rollout carts to increase recycling and the old bins are now surplus.

NC General Statute §160A-280 requires the City to post a notice of the donation at least five days prior to the adoption of the resolution approving the donation. The notice has been posted in City Hall and on the City's website since February 20, 2014.

Resolution #14-0318

RESOLUTION AUTHORIZING THE DONATION OF SURPLUS PROPERTY TO HENDERSON COUNTY PUBLIC SCHOOLS AND NON-PROFIT ORGANIZATIONS PURSUANT TO NCGS 160A-280 ENTITLED DONATIONS OF PERSONAL PROPERTY TO OTHER GOVERNMENTAL UNITS

WHEREAS: The City of Hendersonville has in its possession surplus recycling bins, and

WHEREAS: The City of Hendersonville desires to donate this surplus property to the Henderson County public schools and non-profit organizations, and

WHEREAS: The City of Hendersonville is authorized to make such a donation pursuant to NCGS 160A-280 entitled "Donations of Personal Property to other Governmental Units", and

WHEREAS: The City of Hendersonville has posted its intention to conduct such donation by means of public notice posted in City Hall on February 20, 2014 and on its website at: www.cityofhendersonville.org; now, therefore

BE IT RESOLVED THAT the City Council of Hendersonville, North Carolina seeks to donate surplus recycling bins to the Henderson County public schools and other non-profit organizations.

Adopted this sixth day of March 2014.

/s/Barbara G. Volk, Mayor

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

D. Consideration of Lease Agreement with Norfolk Southern: Mr. Connet reported the Historic Railroad Depot is located on property owned by Norfolk Southern Railroad, but leased by the City. The City was recently contacted by the Norfolk Southern who informed us the original lease expired a number of years ago and requested a new lease. He reported the lease was reviewed by the City Attorney. He recommended City Council's approval of the lease. The City paid \$100/year for the former lease and Norfolk Southern is now requesting \$11,000 annually. *(The lease is available in the office of the City Clerk.)*

E. Consideration of Job Description for Public Information Officer: Mr. Connet provided a draft job description for Council's review for a Public Information Officer. *[The job description is available in the Human Resources Office.]*

F. Consideration of Agreement with NCDOT for "Historic Hendersonville" signs at Exit 49 on Interstate 26: Public Works Director Tom Wooten provided an agreement between the City and NCDOT for the Historic Hendersonville interstate signs for a cost of \$2,500.

NORTH CAROLINA
TRAFFIC – DIRECTIONAL SIGNS AGREEMENT
HENDERSON COUNTY
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND CITY OF HENDERSONVILLE
WBS Elements: 36249.3341

Agreement ID # 4792 1

DATE: 2/25/2014

THIS AGREEMENT is made and entered into on the last date executed below, between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Hendersonville, hereinafter referred to as the "Municipality".

W I T N E S S E T H:

WHEREAS, the Department and the Municipality propose to make certain public information improvements/traffic control improvements under said project 36249.3341, in Henderson County; and,

WHEREAS, the Municipality has agreed to participate in the actual cost of the project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF WORK

1. The Project consists of fabricating and installing two (2) "Historic Hendersonville" signs at exit 49, one westbound and one eastbound, on I-26 in Henderson County.

DESIGN

2. The Department shall design, fabricate and provide the necessary labor for the installation of the signs. Said work shall be accomplished in accordance with Departmental standards and specifications, and all local codes and ordinances.

UTILITIES AND RIGHT OF WAY

3. It is understood by the parties hereto that all work shall be contained within the existing right of way and that there are no utilities in conflict with the installation of the signs. However, should it become necessary, the Municipality shall be responsible for providing any additional right of way and relocate any utilities, at no expense or liability whatsoever to the Department.

FUNDING

4. The Municipality shall reimburse the Department one hundred percent (100%) of the actual cost of the work performed by the Department, including administrative costs, associated with the installation and/or replacement of said signs. Based upon the estimated cost of the work, the Municipality shall submit a check for \$2,500 to the Department's Division Engineer upon execution of the agreement by the Municipality. It is understood by all parties that this is an estimated cost and is subject to change. Upon completion of the project, if actual costs

exceed the estimated amount of payment, the Municipality shall reimburse the Department any underpayment within sixty- (60) days of billing by the Department. If actual costs are less than \$2,500, the Department shall reimburse the Municipality any overpayment. The Department shall charge a late payment penalty on any unpaid balance due in accordance with G.S. 147-86.23.

MAINTENANCE

5. During the life of these directional signs, the Municipality shall be solely responsible for all maintenance and replacement costs associated with the signs and supports due to damage, deterioration or loss, at no expense or liability to the Department. The Department shall be released from any and all damages or claims for damages associated with the signs, except, to the extent allowed by Law, those damages and claims for damages which arise as a result of the negligence of the Department, its engineers or agents.

6. It is understood by the Municipality that should the installation of any of these directional signs become problematic, the signs may be removed at the Department's sole discretion, and the Municipality will be responsible for any cost incurred by the Department associated with the removal of the signs.

7. In the event the signs require relocation or removal for highway construction, reconstruction, maintenance or safety, the Municipality shall be given the option to remove or relocate the signs immediately upon notification by the Department, at no expense to the Department.

ADDITIONAL PROVISIONS

8. Each of the parties covenants that if it enters into any subcontracts in order to perform any of its obligations under this contract, it shall require that the contractors and their subcontractors comply with the requirements of NC Gen. Stat. Article 2 of Chapter 64. In this E-Verify Compliance section, the words contractors, subcontractors, and comply shall have the meanings intended by N.C. Gen. Stat. § 160A-20.1.

9. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED that the approval of the project by the Department and the Municipality is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

Approved by unanimous vote of the local governing body of the City of Hendersonville as attested to by the signature of Clerk of said governing body on 03-06-14 (Date)

This instrument has been pre-audited in the Manner required by the Local Government Budget and Fiscal Control Act.

/s/Lisa White

Federal Tax Identification Number: 56-6001242

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

City of Hendersonville

145 Fifth Ave. E.

Hendersonville, NC 28792

DEPARTMENT OF TRANSPORTATION

BY: /s/(CHIEF ENGINEER)

DATE:

PRESENTED TO BOARD OF TRANSPORTATION ITEM O:

- G. Consideration of Resolution accepting the amended State Revolving Loan offer for the Jackson Park Sewer Interceptor Project:** Mr. Detwiler explained the Jackson Park Sewer Interceptor project was tentatively awarded to John D. Stephens Inc. for \$4,552,956.05 at Council's February 6 meeting. The project is mostly funded by a North Carolina Department of Environment and Natural Resources (NCDENR) Clean Water State Revolving Fund (SRF) loan. The original SRF loan offer was

\$3,946,000.00. Staff requested a 10 percent increase in the loan amount. He reported the City received an amended loan offer letter from NCDENR for a total of \$4,340,600.00. He explained NCDENR requires a resolution by City Council accepting the amended Jackson Park Sewer Interceptor loan offer.

Resolution #14-0319

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects, and

WHEREAS, the North Carolina Department of Environment and Natural Resources has offered a State Revolving Loan in the amended amount of \$4,340,600.00 for the construction of the Jackson Park Sewer Interceptor Project, and

WHEREAS, the City of Hendersonville intends to construct said project in accordance with the approved plans and specifications,

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

That City of Hendersonville does hereby accept the amended State Revolving Loan offer of \$4,340,600.00,

That the City of Hendersonville does hereby give assurance to the North Carolina Department of Environment and Natural Resources that all items specified in the loan offer, Section II - Assurances will be adhered to.

That Brent Detwiler, City Engineer, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That City of Hendersonville has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the sixth day of March, 2014 at Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

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

6. Public Hearing – Consideration of a Petition to Close a Portion of a Street: Ms. Sue Anderson, Planning Director, presented a petition from Craig Franks to close an unopened alley located between parcel numbers 9568-66-7430 (lot 16) and 9568-66-8442 (lot 17) on Summit Circle off of Toms Hill Drive. The Council adopted a Resolution of Intent to close this unopened right of way at their January 9, 2014 meeting. A copy of the Resolution of Intent was mailed to the adjoining property owners, notification of the proposed closing was posted on the property, and the Resolution of Intent and notice of the public hearing was advertised four times in the legal notice section of the local newspaper.

Ms. Anderson reported comments were solicited from City Departments. Tom Wooten, Public Works Director, requested a stormwater easement right-of-way be obtained. She reviewed the required findings including: any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

Mayor Volk opened the public hearing at 5:56 p.m. in accordance with North Carolina General Statutes by notice published four times in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Council Member Smith moved Council to adopt the Order to Permanently Close an unopened alley located between lots 16 and 17 on Summit Circle as petitioned by Craig Franks. A unanimous vote of the Council followed. Motion carried.

ORDER #14-0320

ORDER TO PERMANENTLY CLOSE THE STREET OR ALLEY
(Petition of Craig Franks)

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, Craig Franks, has petitioned the City of Hendersonville to close an unopened alley located between parcel number 9568-66-7430 (lot 16) and parcel number 9568-66-8442 (lot 17) on Summit Circle; and

WHEREAS, on January 9, 2014, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close an unopened alley between parcel number 9568-66-7430 (lot 16) and parcel number 9568-66-8442 (lot 17) on Summit Circle and setting March 6, 2014 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 as required and a copy thereof has been sent by certified mail to all owners of property adjoining the unopened alley 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 unopened alley; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the sixth day of March 2014.

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

1. The closing of an unopened alley located between parcel number 9568-66-7430 (lot 16) and parcel number 9568-66-8442 (lot 17) on Summit Circle, hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the unopened alley or in the subdivision in which it is located would be deprived by the closing of such unopened alley of reasonable means of ingress and egress to their property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following unopened alley located between parcel number 9568-66-7430 (lot 16) and parcel number 9568-66-8442 (lot 17) on Summit Circle. is permanently closed and no longer existent as of the effective date of this order:

BEGINNING at an iron pin set, a 5/8 rebar with "J.R. Ownbey" I.D. cap; said iron pin lying N 42°52'02" W a distance of 39.02' from an iron pin set, northwest corner of lot 15 as shown on Plat Slide 8859, Henderson County Registry; thence N 47°41'21" W a distance of 10.02' to an iron pin set; thence N 46°18'54" E a distance of 94.00' to a Mag-Nail set in the western margin of Tom's Park Circle; thence S 43°41'06" E a distance of 10.00' to a Mag-Nail set, also in the western margin of Tom's Park Circle; thence S 46°18'54" W a distance of 93.30' to the point and place of BEGINNING, having an area of 0.021 acres. 936.3 square feet; and BEING the 10' alley as shown on plat made by Jared R. Ownbey, PLS bearing date of February 27, 2013, Job number 130203, entitled "Boundary & Recombination Survey for Craig Franks".

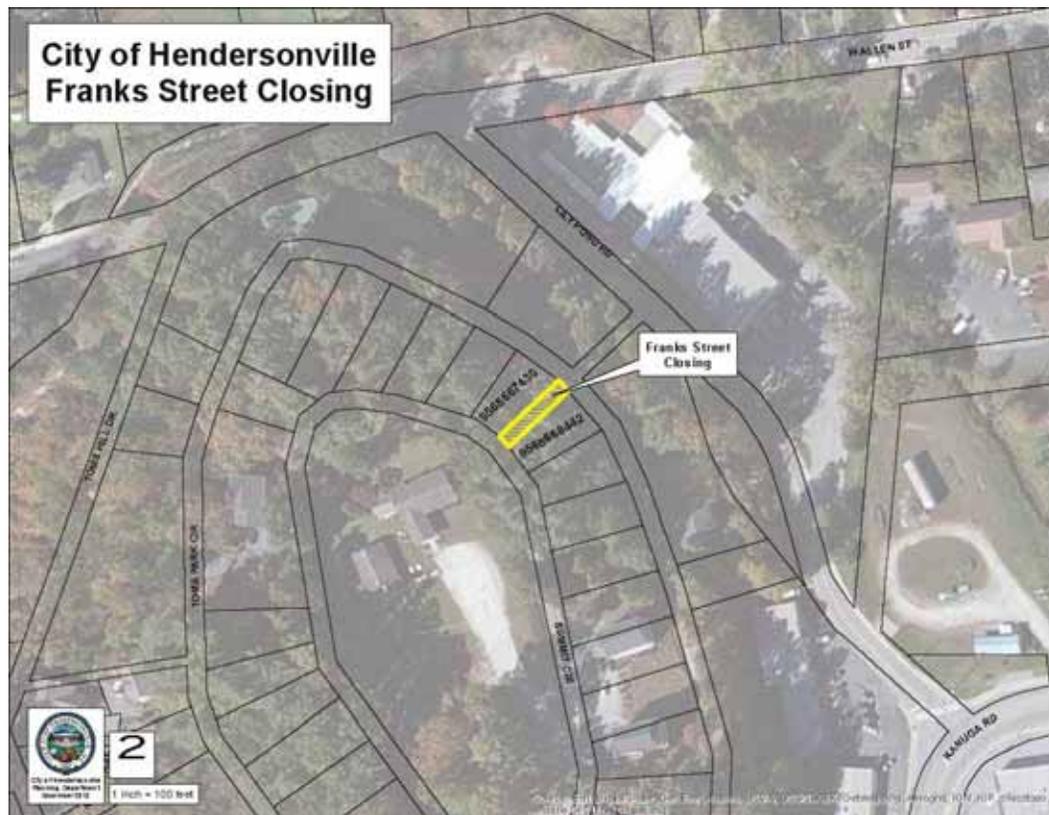
2. The City Clerk shall forthwith cause a copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the sixth day of March 2014.

/s/Barbara G. Volk, Mayor

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

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



7. Annual Report by Hendersonville Sister Cities: The City Council received an annual report from Mrs. Karen Hultin, President of Hendersonville Sister Cities. Their activities include: a pen-pal relationship between students in Hendersonville and our Sister City Almuñécar, Spain, a social gathering at Saint Paul's vineyard, presentations of the Hendersonville Sister Cities program and a related newsletter, and upcoming programs on Japan, France and Italy to expand knowledge and appreciation of global cultures. The group will begin the task of identifying another sister city. **No action was required or taken by the Council.**

8. Annual Report by Mills River Partnership

9. Presentation by Blue Ridge Bicycle Club regarding Designating Fourth Avenue as Bicycle Boulevard: The City Council received a presentation from Mr. Joe Sanders, President, Blue Ridge Bicycle Club, and considered his request to designate Fourth Avenue West as a bicycle boulevard. His presentation began with facts on diabetes and obesity which have reached epidemic proportions in the U.S.

Mr. Sanders explained bike boulevards are designated on streets with low motorized traffic volumes and speeds less than 25 mph. It is designated and designed to give bicycle travel priority. Methods, such as road markings and signs, are used to raise motor vehicle awareness that the road is used by bicyclists making it safer for bicyclists and so the bicyclist know where to position themselves in the lane. Bike boulevards also provide connectivity to destinations of interest such as the library, the historical districts, parks and the greenway, schools, grocery stores, etc.

Mr. Sanders explained the most popular way to designate a bicycle boulevard is by “shared lane markings” which help position the bicyclists where they should be to prevent conflicts between vehicles and bicycles. This also alerts motorists to the potential that bicycles will be on the road. He stated this also provides a way-finding element along bike routes and requires no additional street space.

Mr. Sanders spoke about community interest and their survey results. He stated the Blue Ridge Bike Plan identified Fourth Avenue as a secondary corridor stating it would make a family-friendly connection to Jackson Park. He requested the Council consider trying the shared-lane markings on Fourth Avenue, either in phases or the entire length from Laurel Park to Jackson Park. He suggested installing way-finding signs, then track usage and community interests and eventually create more bike boulevards.

Mr. Sanders reported the Blue Ridge Bicycle Club received a \$10,500 donation and they are willing to pay for the shared lane markings and provide assistance as requested. He also offered to work with the City to develop and implement a comprehensive bike plan and lead rides to address the needs and desires of the “interested but concerned citizens”.

The Council discussed the number of signs needed, the cost, street markings, legal designations and traffic counts. Council Member Miller voiced support of the idea stating it may slow the speed of motorists. Mr. Sanders commented it is also important that cyclists obey the traffic laws.

There was discussion of whether the project could be ready for this season. **The consensus of the Council was to proceed with granting the request to designate Fourth Avenue as a bicycle boulevard.** Mr. Connet requested 30 days to allow staff to review and make recommendations to the Council at their next meeting. **The Council agreed by consensus.** Mayor Volk thanked Mr. Sanders for his presentation.

10. Discussion of Grey Hosiery Mill Building: At the direction of Council, Mr. Connet gave a presentation on Preservation North Carolina (PNC) as an option for transferring the Grey Hosiery Mill building and property. He explained PNC is a non-profit historic preservation organization with a National reputation for success. They have experience with getting troubled building types into the possession of someone who will restore the property and put it to a good use. He stated they pride themselves in finding preservation solutions for historic properties that are threatened with demolition or disuse. He stated their endangered properties program has generated more than \$200,000,000 in private investment, supports local tax rolls and has created hundreds of jobs.

Mr. Connet reported conversations with staff at PNC and suggested the following:

- The City maintain ownership of the property with the option of donating the property to PNC if they find a suitable project. PNC will market the property and evaluate all proposals to find the best option for the use of the property.
- The option would remain for one year with a non-automatic six-month option for renewal.
- Request that PNC first review the projects that have been proposed to the City and if these projects are determined unsustainable, then solicit outside proposals.
- Give PNC the authority to recommend the most viable project to the City Council.

Mayor Volk commented she would like PNC to look for other opportunities instead of just the three proposals previously submitted to get the best proposal for the property. Council Member Caraker agreed and stated he wants to create a link between Seventh Avenue district and Main Street.

Mr. Connet explained PNC North Carolina has requested review criteria from the City and he suggested the following:

- Capacity of the developer to complete the project and preserve the mill;
- Past experience and overall track record;
- Financial capability of the project developer to accomplish the project;

- Potential number of jobs, investment and tax base generated by the project;
- Ability to start the project within the next 18 months;
- Prospective developer willing to sign a rehabilitation agreement with PNC
- Prospective developer willing to compensate PNC for the property
- The project is compatible with the City's goals for this area. No opposition was expressed by the Council.

Mr. Connet reviewed the benefits of working with PNC: PNC's experience with the redevelopment of deteriorating historic structures, their access to historic tax credit experts, their extensive experience with historic preservation covenants and an unbiased arms-length review of the proposals resulting in the preservation of the property. The cons of working with PNC include: limited control of the projects, little or no compensation for the property and could possibly slow down the redevelopment process.

Mr. Connet stated a third proposal was submitted to the City for the property.

The Council discussed the expiration of the tax credits at the end of 2014, other benefits of using PNC, the final decision of the project by PNC or in partnership with the City and the proceeds of the sale going to PNC for facilitating the project. The City Council would have the opportunity to review and approve the recommendation of PNC.

Council Member Caraker stated this is an economic development project that does not differ from making a donation to the Flat Rock Playhouse. He stated this is a fair and equitable means to dispose of the property because it eliminates local influence over the project. Council Member Miller agreed. Discussion followed on whether there is a requirement that a nonprofit purchase the property which there is not. Council Member Miller expressed a concern that even if the property is sold at auction, the purchaser does not have to do anything to the building allowing it to deteriorate further and nothing is gained. He stated PNC has a proven track record and getting a project that enhances the building or location, then another promise is fulfilled of working on a gateway into Seventh Avenue. He stated the tax credits make the property more valuable. Council Member Caraker and Mayor Pro Tem Stephens agreed it would not be profitable without tax credits. Council Member Caraker stated it would cost a lot of money to raze the building in order to make the property sell.

Mr. Connet commented the City is close to having a Brownfields agreement and should complete that before transfer of the property.

Council Member Smith stated he would prefer the City try to sell the property, possibly by auction, with the option that the City could choose not to accept the bid. He stated there is enough time for the process to take place before the tax credits expire. He stated he prefers to recoup some funds from the property so the taxpayers receive some compensation for the property. The Council further discussed the benefits of PNC versus auctioning the property and the fact that the property would not be transferred to PNC until the Council approves their recommendation.

Ms. Anderson provided some history of previous proposals including the Mill Center for the Arts.

The Council discussed restrictive covenants to preserve portions of the building. Mayor Volk asked whether the City could put restrictions on the rehabilitation such as preserving the 1915 and 1919 portions. Council Member Caraker responded yes, the City may put stipulations on the preservation of the sections that are contributing structures. Mr. Connet explained PNC would like specific direction from the Council. He stated he would defer to PNC for their guidance on the tax credits for the remaining portion of the building. Mr. Connet stated the City would be operating under a specific NC General Statute that allows the City to transfer the property below market rate to a nonprofit organization that deals with historic preservation.

Council Member Smith asked if there are any restrictions that PNC could put on the project that City couldn't put on it. City Attorney Fritschner stated no, they do not have a greater power to place restrictions. Council Member

Smith stated Council began discussing selling the property in November and this action would not be selling the property.

Council Member Caraker moved Council to authorize the City Manager to execute a one-year agreement with Preservation North Carolina to explore possibilities for the Grey Hosiery Mill Building property. The vote was four in favor; one opposed (Smith). Motion carried.

11. Consideration of Recommendations to the Henderson County Transportation Advisory

Committee: In response to the request of the Henderson County Transportation Planner Matt Cable for Council to assign projects NCDOT-defined complete street cross sections, Mr. Connet reviewed the following staff recommendations for Council's consideration:

1. Project C20: Shepherd St/Airport Rd (NC 225 to Tracy Grove Rd): **By consensus, the Council agreed to the Rural Road cross section, sidewalks installed in urban areas, and multi-use paths installed in the more rural areas.**
2. Project C21: Tracy Grove Rd (Airport Rd to Dana Rd): **By consensus, the Council agreed to the Rural Road cross section with multi-use path.**
3. C22: Duncan Hill Rd (US 64 to N Main St): **By consensus, the Council agreed to the Rural Avenue cross section with curb and gutter.**
4. C23: Berkeley Rd (N Main St to US 25 Business): **By consensus, the Council agreed to the Rural Road cross section with multi-use path.**
5. C25: Lake Ave (Blythe St to Hebron Rd): **By consensus, the Council agreed to the Local Subdivision street cross section with sidewalks on either side as it connects to Third Avenue.**
6. C26: Hebron Rd (Lake Ave to State St): **By consensus, the Council agreed to the Local Subdivision street cross section with sidewalks on both side (typical 2-lane cross section).**
7. C29: Erkwood Dr (Kanuga Rd to NC 225): **By consensus, the Council agreed to the Rural Road cross section, sidewalks installed in urban areas, and multi-use paths installed in the more rural areas.**
8. C30: Sugarloaf Rd (US Hwy 64 to Pace Rd): **By consensus, the Council agreed to the Rural Road cross section, sidewalks installed in urban areas, and multi-use paths installed in the more rural areas.**
9. C13: US Hwy 64 (Buncombe St to Brickyard Rd): most of the work inside the City has been completed. **By consensus, the Council agreed to the Rural Road cross section, sidewalks installed in urban areas, and multi-use paths installed in the more rural areas.**
10. C17: NC 225 (US 176/US 25 Business to Erkwood Dr): **By consensus, the Council agreed to the Rural Avenue cross section with curb and gutter, sidewalks and bike lane.**
11. C08: US 64 (Howard Gap Rd to Fruitland Rd): **By consensus, the Council agreed to an Urban/Suburban Parkway cross section with curb and gutter.**
12. C16: US 176/US 25 Business (NC 225 to Shepherd St): **After discussion the Council agreed to defer any decision on the cross section until more information is available from NCDOT. Mayor Volk commented multi-lane paths should be included wherever possible. The Council agreed by consensus.**

12. Consideration of Leased Parking Request from Beverly Hanks: Mayor Pro Tem Stephens asked to be removed from discussion and voting on this matter because of a possible financial conflict. He stated he is an independent contractor that works under the guidance of Beverly-Hanks. **Council Member Caraker moved the City Council to excuse Mayor Pro Tem Stephens from discussion and voting on this matter. A unanimous vote of the Council followed. Motion carried.**

Mr. Connet presented a request from Mr. Neal Hanks requesting additional leased parking spaces on the north end of Main Street. He stated Mr. Hanks is purchasing a building adjacent to Skyland Hotel and needs additional parking. He reported staff has reviewed and discussed the request.

Mr. Connet recommended allowing employees to park in the underutilized metered spaces in the City Hall parking lot freeing up the upper end of the Apple Lot (11 spaces) for leased spaces for Beverly Hanks and if they

do not use them all, they may be leased to other businesses. He stated Beverly Hanks is currently leasing 13 spaces in the Dogwood Lot and are requesting an additional seven to nine spaces in the Apple Lot.

Discussion followed on where City employees park in the Apple Lot. The spaces facing King Street, close to Sixth Avenue, behind City Hall are partially being used by Police detectives. The spaces closest to the entrance of City Hall are reserved for customers. The metered spaces are also available for the public/customers. **Council Member Caraker moved City Council to approve the proposal to include the parking spaces in the upper portion of the Apple Lot into the inventory of leased spaces. A unanimous vote of the Council followed. Motion carried.**

~~13. Consideration of Bids for the Shepherd Creek/Atkinson Sewer Line Project~~

14. Consideration of Bids for the Wolfpen Sewer Line Project: Mr. Brent Detwiler, Engineering Director, presented the three bids that were opened on February 21, 2014 for the Wolfpen sewer line project. He explained three of the seven prequalified bidders submitted bids with the following results:

John D. Stephens, Inc. - \$2,731,043.00

Strack, Inc. - \$2,846,514.00

Sanders Utility Construction Co., Inc. - \$5,226,518.00.

Council Member Smith moved Council to approve the resolution tentatively awarding the contract for the construction of the Wolfpen Sewer Interceptor project to John D. Stephens, Inc., the lowest responsive and responsible bidder, in the amount of \$2,731,043.00; as presented and recommended by staff. This tentative award is contingent upon the approval of the North Carolina Department of Environment and Natural Resources (NCDENR). A unanimous vote of the Council followed. Motion carried.

Resolution 14-0321

RESOLUTION OF TENTATIVE AWARD

WHEREAS, the City of Hendersonville, North Carolina has received bids, pursuant to duly advertisement notice therefore, for construction of the Wolfpen Sewer Interceptor Project, and

WHEREAS, the City Engineer has reviewed the bids; and

WHEREAS, John D. Stephens, Inc. was the lowest bidder for the Wolfpen Sewer Interceptor Project, in the total bid amount of \$2,731,043.00, and

WHEREAS, the City Engineer recommends TENTATIVE AWARD to the lowest bidder.

NOW, THEREFORE, BE IT RESOLVED that TENTATIVE AWARD is made to the lowest bidder, John D. Stephens, Inc. in the Total Bid Amount of \$2,731,043.00.

BE IT FURTHER RESOLVED that such TENTATIVE AWARD be contingent upon the approval of the North Carolina Department of Environment and Natural Resources.

Upon motion of Council Member Jerry Smith, seconded by N/A, the above RESOLUTION was unanimously adopted.

This is sixth day of March, 2014.

/s/Barbara G. Volk, Mayor

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

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

20. Comments from Mayor and City Council Members:

Council Member Caraker explained the City Attorney was requested to do searches for foreclosed properties in years past and stated he is not sure of the value of those searches at this time. He requested discontinuation of the search by the City Attorney. **No objection was expressed by the City Council to discontinue the searches for foreclosed properties by the Legal Department.**

21. Reports from Staff

a. Oakdale Cemetery Listing on the National Register of Historic Places: Ms. Anderson announced the National Park Service has listed Oakdale Cemetery onto the National Register of Historic Places. She reported a grant was received from the State to assist in preparing the nomination report.

Ms. Anderson explained the Historic Preservation Commission will be discussing potential projects for the cemetery. She asked for direction from the City Council on areas that should be focused on. Walking tours of the Cemetery will be given during Preservation Week. Council Member Caraker suggested enhancements to the pavilion, signage, iron gates, etc.

The Council discussed the possibility of a columbarium/ash garden. Mr. Connet stated this project is in the Capital Improvement Plan in year five. Council Member Miller suggested seeking donors for the project. Ms. Anderson suggested more plantings on the African-American side of the Cemetery. Council Member Smith suggested installing a plaque with an anecdotal story about the unidentified graves. **No action was necessary or taken.**

b. Reminder of Budget Workshop: Mr. Connet reminded the Council of the Budget Workshop scheduled for May 9, 2014, at 9:00 a.m. at City Hall.

22. Consideration of Appointments to Boards and Commissions

a. Consideration of Appointments to Board and Commissioners: These appointments were announced at Council's February meeting:

Business Advisory Committee: Mayor Volk stated she would like to see a broad representation on this committee with a good mix of the types of businesses/professions. **The Council agreed by consensus.** Council Member Miller suggested setting the number of members at nine; six appointed by the City, and one position appointed by each of the following entities: Henderson County Chamber of Commerce, the Partnership for Economic Development and Henderson County (non-elected official). He suggested the Chair be chosen by the committee members from those appointed by the City. **The Council agreed by consensus to the suggested changes.** The following nominations were made:

Chuck Edwards was nominated by motion of Mayor Pro Tem Stephens. The vote was unanimous. Motion carried.

Gloria Wagner was nominated by motion of Council Member Caraker: The vote was three in favor; two opposed (Smith, Miller). Motion carried.

Randy Hunter was nominated by motion of Council Member Smith. The vote was unanimous. Motion carried.

Matt Johnes was nominated by motion of Council Member Miller. The vote was unanimous. Motion carried.

Beau Waddell was nominated by motion of Council Member Caraker. The vote was unanimous. Motion carried.

Ansley Leitner was nominated by motion of Council Member Smith. The vote was one in favor (Smith), four opposed. Motion failed.

Lee Roy Nicholson was nominated by Mayor Pro Tem Stephens. After discussion that this business is not in the City, Mayor Pro Tem Stephens withdrew his nomination.

Robert Laborde was nominated by motion of Council Member Smith. The vote was three in favor, two opposed (Caraker, Stephens). Motion carried.

Virginia Gambill was nominated by Mayor Pro Tem Stephens. [No vote was taken as the six positions had been filled.]

Mr. Connet will serve as the staff member to this Committee and will set up the first meeting, etc. He will notify the entities of their positions.

Tree Board: City Clerk Tammie Drake announced the resignation of Karen Jackson. She presented the applications of the citizens willing to serve on the Tree Board. **Council Member Smith moved to appoint Albeiro Rodriquez to fill the unexpired term on the Tree Board. This term will expire 02-01-15. A unanimous vote of the Council followed. Motion carried.**

Board of Adjustment: Mrs. Drake reminded the Council of the vacant alternate position on the Board of Adjustment. **No action was taken.**

Seventh Avenue Advisory Committee: Mrs. Drake reviewed the applications received for the Seventh Avenue Advisory Committee. There was discussion of the makeup of the Committee.

23. New Business: Fire Chief Dorian Flowers introduced the newly-hired Deputy Fire Chief Joe Vindigni coming to Hendersonville from Rocky Mount. Mr. Vindigni commented he is excited to be here to assist Chief Flowers in serving the citizens of Hendersonville and providing excellent customer service.

24. Closed Session: At 8:08 p.m. **Council Member Caraker moved Council to enter a closed session to consider and give instructions concerning negotiating the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange, or lease as provided by NCGS 143-318.11(a)(5). A unanimous vote of the Council followed. Motion carried.**

The Council exited the closed session at 8:20 p.m. upon unanimous consent of the Council.

The Council consulted with the City Manager and City Attorney to consider and give instructions concerning negotiating the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange, or lease. **No action was taken.**

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

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk