

October 3, 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, City Attorney Sam Fritschner, Planning Director Sue Anderson, Engineering Director Brent Detwiler, Zoning Administrator Susan Frady, Downtown Director Lew Holloway, 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.*

Steve Franks, 514 Fifth Ave. W., Hendersonville, commented on the proposed System Development Charges proposed policy stating it may be unfair to homeowners to increase the fee that much in order to reduce fees to businesses. He requested the Council place a moratorium on all charges so it may be further studied. He stated a majority of cities do not place impact fees on customers.

4. Consideration of Agenda:

Additions:

- 9a. Presentation/Discussion of Grey Hosiery Mill Building/Wingate University Proposals
Presenter: Mr. Bob Englander
- 9b. Consideration of Budget Amendment to Fund the School Resource Officer Position
Presenter: Police Chief Herbert Blake

Deletion:

- 16. Closed Session

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: September 5, 2013 Regular Meeting, September 18, 2013 Special Meeting

B. Consideration of Abatement of Nuisances: Mrs. Susan Frady, Zoning Administrator, explained six nuisances were sent prior to the amendment to the City Code last month and therefore, need City Council approval. She certified the six property owners were notified of a nuisance condition on their property but they failed to take corrective action. She requested permission to remedy the nuisances and assess the actual cost to the property owner.

C. Consideration of Resolution Adopting Amendments to the 2012 Municipal Records Retention and Disposition Schedule: City Clerk Tammie Drake explained the State Archives of North Carolina, Division of Cultural Resources, has recently published amendments to the 2012 Municipal Schedule. They tend to publish amendments when the law changes, when they learn of records that were not created before or were not on the schedule, or they realize the language in the previous schedule needs clarification. The amendments include:

- adds Accreditation Records to the schedule
- clarifies language for retention period of employee eligibility records to match the U.S. Code, and
- consolidates three different types of leave records.

The City Council adopted the latest Records Retention and Disposition Schedule in December 2012. When adopted, this schedule sets forth the standards for retaining and destroying public records. Without it, the City would be obligated to obtain DCR's permission to destroy any record.

Resolution 13-1049

RESOLUTION ADOPTING AMENDMENTS TO THE 2012 RECORDS RETENTION AND DISPOSITION SCHEDULE ISSUED BY THE NC DEPARTMENT OF CULTURAL RESOURCES

WHEREAS, The City Council of the City of Hendersonville adopted, by Resolution 12-1238, the 2012 Municipal Records Retention and Disposition Schedule issued by the North Carolina Department of Cultural Resources, Division of Archives and History, Archives and Records Section, Records Services Branch dated September 10, 2012 along with the staff-recommended agency policy, and

WHEREAS, the North Carolina Department of Cultural Resources, Division of Archives and History, Archives and Records Section, Records Services Branch has issued the following amendments:

1. STANDARD 4. BUDGET, FISCAL AND PAYROLL RECORDS - Amending item 32 Escheat and Unclaimed Property File (as shown on substitute page 29).
2. STANDARD 12. PERSONNEL RECORDS:
 - a. Adding item 1-A Accreditation Records as shown on substitute page 101.
 - b. Amending item 19 Employee Eligibility Records as shown on substitute page 105.
 - c. Amending items 36 Family Medical Leave Act (FMLA) Records, 42 leave File, and 43 leave Without Pay File as shown on substitute pages 110-111.

WHEREAS, In accordance with the provision of Chapters 121 and 132 of the North Carolina General Statutes, the City Council hereby agrees that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified in the Record Retention and Disposition Scheduled and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of the schedule. Public records including electronic records not listed in this schedule are not authorized to be destroyed.

NOW, THEREFORE, BE IT RESOLVED THAT THE City of Hendersonville City Council hereby adopts the amendments as shown above.

Adopted this third day of October 2013.

/s/Barbara G. Volk, Mayor

Attest: Tammie K. Drake, MMC, City Clerk

D. Consideration of Special Event Permits: Mrs. Susan Frady reported the Special Events Committee reviewed and voted unanimously to recommend the granting of a special event permits for:

- i. **Downtown Hendersonville Turkey Trot:** The City's Employee Wellness Committee requested the closing of Fifth Avenue West between Main and King Streets and the Maple Parking lot (across from City Hall) on Thursday, November 28, 2013 from 7:00 a.m. - 10: 00 a.m. The event will be a family fun 5k walk/run through Hendersonville. The Police Department will escort the runners/walkers.

ii. **Only Hope WNC, Inc. – Sleep Out:** Only Hope WNC, Inc. requested the closing of the parking spaces in front of the Historic Courthouse from 5:00 p.m. on November 15 until 8:00 a.m. on November 16. The attendees will sleep on the Historic Courthouse steps to raise money for their charity to help homeless youth in Western North Carolina.

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

6. Recognition of “Hendersonville Heroes”: Mr. Connet recognized employees of the Public Works Department: Larry Reeves, John Rhinehart and the crew of employees for the excellent job they did during the 2013 Apple Festival. He stated they collected and disposed of 15.5 tons of trash over the three-day event and more than three tons of recyclables.

7. Public Hearing – Consideration of Zoning Ordinance Text Amendment – Repealing Article X, Board of Adjustment and adopting a new Article X Board of Adjustment, and Amending Article VII Section 7-4-9 Special Use Review Public Hearing due to NC General Assembly Sessions Law 2013-126 (House Bill 276):

Mr. Sam Fritschner, City Attorney, presented a draft ordinance in accordance with Sessions Law 2013-126 (House Bill 276), effective October 1, 2013, an act passed by the North Carolina General Assembly to clarify and modernize statutes regarding zoning boards of adjustment. The new law does not drastically alter the fundamental aspects of the prior law, but makes a number of important changes. He explained many of these regulations are already contained in the Board of Adjustment By-Laws.

City Attorney Fritschner reviewed the substantive changes including:

- 1) paragraph h) should be “Subject to the provisions of subdivision (f)...,”
- 2) the definition of what constitutes a hardship,
- 3) will grant variances only when 4/5 of the board vote in favor of the variance and all other votes will now only require a majority vote.

He explained there is special legislation that applies to the City of Hendersonville that requires seven votes. He advised action of the General Assembly does not change the variance requirement for the City.

Mayor Volk opened the public hearing at 5:59 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Council Member Smith moved City Council to adopt an ordinance repealing City of Hendersonville Zoning Ordinance Article X Board of Adjustment, adopting a new Article X Board of Adjustment, and amending Article VII Section 7-4-9 Special Use Review Public Hearing, subject to the change mentioned by the City Attorney. A unanimous vote of the Council followed. Motion carried.

[Insert Ordinance #13-1050]

8. Public Hearing - Consideration of Zoning Ordinance Text Amendment – of Article XVIII Mixed Use Zoning, Section 18-5-2 and 18-5-2.2, relating to the Alternative Design Committee:

Ms. Anderson explained the Zoning Ordinance Section 5-22-5 Greenville Highway Mixed Use Zoning District Design Standards, Section 5-23-5 Highway Mixed Use Zoning District Design Standards and Section 5-27-5 Commercial Highway Mixed Use Zoning District Design Standards have provisions for specific design standards for developments in these districts. These design standards relate to architectural details, building materials and building scale. It also contains provisions to provide for flexibility by allowing the review of a project by an Alternative Design Committee. This Committee is intended to serve as a resource to the Planning Director and to the Planning Board. An applicant who wants to develop their projects in an alternative manner may choose to have their project reviewed by the Alternative Design Committee.

Ms. Anderson explained currently, the Alternative Design Committee is appointed by City Council for a term of three years. Given that this committee has only met and reviewed two alternative designs in the past eight years, staff suggests the Committee become an ad hoc committee to meet only on an as-needed basis.

Ms. Anderson reported the Planning Board recommended City Council adopt an ordinance amending the Zoning Ordinance with the following addition: In Section 18-5-2.2, the Planning Board recommended that in addition to members of the committee be chosen from the Planning Board and the Historic Preservation Commission, the members may also be chosen from the general public residing within the city limits or the extraterritorial jurisdiction along with the representation of certain professions: an architect, landscape architect; builder or developer is represented on the Advisory Design Committee as stated in the language in 18-5-2.2. This language has been added to the proposed ordinance.

Council Member Smith asked why the appointing authority is proposed being changed from the City Council. Ms. Anderson explained this was suggested in order to expedite the process, to contact members quickly, etc. so projects are not delayed.

Council Member Smith asked if there is an appeal process. City Attorney Fritschner explained decisions of the Alternative Design Committee are appealable to the Board of Adjustment.

Mayor Volk opened the public hearing at 6:06 p.m. in accordance with North Carolina General Statutes by notice published in the Times News. No one expressed a desire to speak. The public hearing was closed.

The Council discussed who the appropriate appointing authority would be. A member of the public asked to speak. There was no objection from the Council to reopen the public hearing. The public hearing was reopened at 6:11 p.m.

Mr. Steven Doten, 1104 Pinebrook Circle, expressed a concern that the board should be appointed by the elected body, not by another board, so the Council is not bypassed nor have a choice in the decision.

There were no further comments. The public hearing was closed.

Council Member Smith agreed with the concern but stated the committee meets infrequently. He stated the Council would not have to meet to appoint the members if the Mayor is given that authority. Council Member Caraker agreed, stating the Mayor could seek recommendations, if needed, from the Planning Board Chairman and Historic Preservation Commission Chairperson to move the process quickly.

Council Member Smith moved City Council to adopt an ordinance amending the City of Hendersonville Zoning Ordinance Article XVIII Mixed Use Zoning, Section 18-5-2 and 18-5-2.2 as it pertains to Alternative Design Committee appointments, with the amendment that the members are appointed by the Mayor instead of the Planning Board Chairman. A unanimous vote of the Council followed. Motion carried.

Ordinance #13-1051

AN ORDINANCE AMENDING ARTICLE XVIII MIXED USE ZONING, SECTION 18-5-2 AND 18-5-2.2 OF THE ZONING ORDINANCE OF THE CITY OF HENDERSONVILLE AS IT PERTAINS TO THE ALTERNATIVE DESIGN COMMITTEE

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 desires to amend those regulations with regards to the Alternative Design Committee.

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

1. Article XVIII Mixed Use Zoning, Section 18-5-2 Alternative Design Committee is hereby amended to read as follows:

There shall be an ad hoc alternative design committee, composed of not less than three nor more than five persons.

2. Article XVIII Mixed Use Zoning, Section 18-5-2.2 Membership of the Committee is hereby amended to read as follows:

The membership of the Alternative Design Committee shall ~~contain at least one each of the following professions: (1) architect, (2) landscape architect, (3) builder or developer. Members need not be residents of the City or its area of extraterritorial jurisdiction. Members of the Committee shall be appointed by City Council the Mayor,~~ to serve ~~terms of three years on as as-needed basis. The members shall be chosen from the membership of the Planning Board, the Historic Preservation Commission and/or the general public residing within the city limits or the extraterritorial jurisdiction, and if possible, shall contain one or more of the following professions: 1) architect, 2) landscape architect, 3) builder or developer.~~

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

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

5. 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.

6. 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.

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

Adopted this third day of October, 2013.

/s/Barbara G. Volk, Mayor

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

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

9. Consideration of Amendments to System Development Charges Policy: Mr. Connet explained staff has worked over the last several months to develop a system development charges policy with a complete analysis for the Council with several alternatives how to amend these fees that are more fair to all customers.

Mr. Connet presented an ordinance based on the discussion of the Council at the September meeting of 75% of the base charge (\$1,869 per residential unit for water), and \$1,684 per residential unit for sewer. Those fees increase based on the size of the meter and maximum flow.

Mr. Connet explained policy information is included in the ordinance as well as the past system development policy. He noted points of contention in the past such as water service relocation. Under the proposed ordinance, if businesses move from one location to another and the system development charges were paid previously for the service, no system development charge will be assessed by the City unless the requested meter size is increased over the size of the meter service at the previous location. The cost difference will be determined in accordance with the schedule of rates. The service relocation process will be allowed to occur one time per non-residential account. He explained the City may also waive system development charges in connection with a prospective customer to the system as long as they provide demonstrated economic development benefits to the City, addresses a definitive health hazard, provides low-income housing for City residents, or provides some other tangible benefit to the City as determined by the City Council.

Mr. Connet reported discussions with the Homebuilders Association and has heard neither positive nor negative comments. He stated this information has been presented to the Chamber of Commerce and through Mr. Steve

Dozier to the Board of Realtors, and the Partnership for Economic Development. The Partnership for Economic Development provided feedback that the proposed system development charges will not discourage economic development could easily be used by that organization. He stated staff has attempted to address all concerns.

Council Member Caraker asked about a reduction for existing homes. Mr. Connet reviewed options for reducing the residential rate including: establishing a residential rate which is 50 percent of the base rate or possibly base the charges on the size of the house or the number of bedrooms. Council Member Caraker commented in some instances residents may need City services if their wells or septic systems fail and a reduced charge would be helpful for existing homes. He opined the costs for new construction should be as presented in the policy. Council Member Stephens asked that the provision to allow payment over three years be included in the ordinance for businesses and residences. There was discussion of the residential equivalent unit (REU) based on equity or fair share of the system.

Mr. Steve Dozier, 62 Beaverdam, Mills River, representing the Chamber of Commerce, expressed appreciation for the changes to the system development charges. He stated the options presented by the City Manager are probably the best option for businesses and consumers long term. He expressed appreciation to the City Manager for reaching out to the community. He stated the Chamber will be expressing support of Alternate 2 in the McGill Study. He requested maintaining a three-year payment plan for the connection fees for businesses because the startup is a critical time. He also requested the fees be allocated to a capital fund, not in a general fund or the operating budget, for the intent it was designed. He reported he approached the Board of Realtors who also endorses Alternate 2 and their main concern is residential users.

Council Member Caraker asked whether the three-year payment provision would have an effect on residential real estate closings. Mr. Dozier explained the HUD statement will have the cost of the house and lot, but will not look at a breakout of that payment.

Council Member Stephens suggested a payment term not to exceed three years instead of 12 months. There was no objection from the Council for the three-year payment terms for all users and a reduced amount for existing residences.

After discussion, **Council Member Caraker moved City Council to approve the water and sewer system development charges and related policy, as amended, with the 50% reduction for existing residential and the three-year payment terms for system development charges. A unanimous vote of the Council followed. Motion carried.**

Ordinance #13-1052

AN ORDINANCE OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA APPROVING AND ADOPTING WATER AND SEWER SYSTEM DEVELOPMENT CHARGES AND RELATED POLICY

WHEREAS, the North Carolina General Statutes, § 160A-314, provides for municipalities to enact public enterprise fees, including system development charges; and

WHEREAS, on September 5, 2013 the City Council discussed during a regularly scheduled meeting, after compliance with all legal prerequisites, consideration of new water and sewer system development charges to be imposed; and,

WHEREAS, the City Council hereby desires to adopt the water and sewer system development charges and related policy for the purpose of recovering all or a portion of the capital investment made by the City to provide sufficient capacity in its system to serve new users, which was considered at the September 5, 2013 meeting; and,

WHEREAS, the City Council hereby finds and determines that all legal prerequisites have been complied with.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA:

Section 1: Inclusions

That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance by this reference.

Section 2: Recovery of Future Capital Investments

It shall be the City's policy to recover, to the extent possible, the value or some portion of the value of those future capital projects named in its Water and Sewer Capital Improvements Plan, which are intended to enhance or expand overall system capacities and performance.

Section 3: Updating of System Development Charges

It is the intent of City Council that the structure of System Development Charges and the related policies contained herein will be reviewed, at least every third year after adoption, to insure that the asset value estimates and related calculations that form the basis of said System Development Charges remain relevant to Hendersonville and best serve the needs of the Customers and the Utility Systems.

Section 4: System Development Charge Schedule

A charge shall be applied against each lot or tract of land and the owner or tenant thereof whose water and/or sewer service shall be connected with any water line and/or sewer line owned by the City, and the charge shall be applied in accordance with the following rate schedule:

WATER

**System Development Charges (SDC) - New Customers (Residential and Commercial)		
Meter Size, Inches	Meter Equivalent	Cost
5/8"	1	\$1,430.00
1"	3	\$2,330.00
1-1/2"	5	\$4,650.00
2"	7	\$7,500.00
3"	10	\$14,930.00
4"	16	\$23,400.00
6"	40	\$46,730.00
8"	70	\$74,780.00
10"	100	\$107,480.00
**System Development Charges (SDC) - Existing (Residential Only)		
5/8"	1	\$950.00
1"	3	\$1,550.00
**Eligible for financing SDCs up to 36-months.		

SEWER

**System Development Charges (SDC) - New Customers (Residential and Commercial)		
Meter Size, Inches	Meter Equivalent	Cost
5/8"	1	\$1,280.00
1"	3	\$2,100.00
1-1/2"	5	\$4,200.00
2"	7	\$6,750.00
3"	10	\$13,500.00
4"	16	\$21,080.00
6"	40	\$42,080.00
8"	70	\$67,350.00
10"	100	\$96,830.00
**System Development Charges (SDC) - Existing (Residential Only)		
5/8"	1	\$850.00
1"	3	\$1,400.00
**Eligible for financing SDCs up to 36-months.		

Section 5: Schedule Amendments

The City shall from time to time amend the schedule of System Development Charges when it determines that such amendments are in the best interest of the City and consistent with the intent of this ordinance.

Section 6: Master Metering

If a master meter, defined as a meter serving multiple residential units or multifamily units all located on one or many parcels, is in place, each unit shall be assessed a system development charge, for those utilities available to the affected property or properties. The charges shall be calculated using the total number of units to be served by water and/or sewer multiplied by the applicable residential water and/or sewer system development charge, in accordance with *A Resolution Amending the Schedule of Fees/Charges for the City Water System: Implementing Fees/Charges for Master Water Meters*, so adopted by City Council on December 10, 1998.

The owner shall be required to execute a *Master Meter Agreement* and shall adhere to all requirements set forth in said *Agreement* prior to initiation of services, as so adopted in form by City Council on March 3, 2011.

Section 7: Increasing Size of Meter

If a customer requests an increase in meter size to an existing service, the customer shall pay the charge difference between the new level of service and the existing level of service as set out in the schedule of rates and fees currently in force at the time the larger meter is connected. The additional charge shall be paid prior to installation of the enlarged meter service.

Section 8: Water Service Relocations

When a customer applies to the City to move an existing non-residential water meter, along with system development charges previously paid in association with said service(s), to a new and different address for the same non-residential account, no system development charge will be assessed by the City, unless the requested meter size is increased over the size of the metered service at the previous location, in which case the cost difference shall be determined in accordance with the schedule of rates and fees currently in force. This service relocation process shall only be allowed to occur one time per non-residential account.

Section 9: Application Procedure

All future applicants or new connections to the City's water and/or sewer systems shall adhere to the City's procedures, as follows:

The new customer shall make application for services as provided for in the City Code of Ordinances in Chapter 52, Section 10 *Application for service*.

The applicant shall remit to the City payment for the prescribed system development charge(s) in accordance with the Schedule of Fees and Charges currently in force.

The Applicant must demonstrate compliance with related policies and procedures inherent to the City's Utilities Extension and Capacity Allocation policies.

In the event that the City finds that the applicant does not make the applied for connection to the City's water and/or sewer system or the City determines that said connection is not feasible due to insufficient system capacity to meet anticipated service demands, the City shall reimburse said system development charges to the applicant, upon request from the applicant.

Section 10: Payment of and Accounting for System Development Charge

The system development charge shall be fully paid in cash prior to the issuance of any building permit for the development and/or when application for water and/or sewer service is submitted to the City. New users may opt to pay system development charges owed to the City, upon connecting to the City's water and/or sewer systems, on a monthly basis for a period not to exceed 36 months.

Section 11: Use of System Development Charge Receipts

It shall be the policy of the City to deposit System Development Charges into reserve accounts created for the purpose of offsetting future capital costs related to maintaining and enhancing the overall capacity and performance of the City's water and sewer system infrastructures.

Section 12: Waiver

The City may waive the System Development Charge(s) or any portion thereof in circumstances when the connection by a prospective customer to the water and/or sewer systems provides demonstrated economic development benefits to the

City, addresses a definitive health hazard, provides low-income housing in the City, or provides some other tangible benefit to the City, which in the City Council's opinion outweighs the value of the system capacity to be consumed by said prospective customer's connection or in accordance with the City's System Development Charge Waiver Policy, as so amended.

Section 13: Authority of Political Subdivisions to Pay Charge

Political subdivisions and other government entities are subject to the system development charges imposed under this ordinance.

Section 14: Effect of this Ordinance

- (1) This ordinance is subject to amendment by the City Council pursuant to its governmental and legislative power.
- (2) This payment and collection of the system development charges shall not obligate the City to provide any specific capital improvement unless approved by the City Council and shall not guarantee any specific level or quality of capital improvement or facility expansion.

Section 15: Severability

If any section, article, paragraph, sentence, clause, phrase or word in this ordinance or application thereto any person or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 16: Repeal

All ordinances or any parts thereof in conflict with the terms of this ordinance are hereby repealed and of no force or effect to the extent of such inconsistency. In all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance.

Section 17: Effective Date

This ordinance shall be effective immediately from the date of passage and approval, and the full System Development Charges shall be collected as shown on the system development charge schedule currently in force.

Adopted on this third day of October, 2013.

/s/Barbara G. Volk, Mayor

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

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

9a. Presentation/Discussion of Grey Hosiery Mill Building/Wingate University Proposal: Mr. Bob Englander, addressed the Council and announced he was unable to come to terms with Wingate University for their use of the Grey Hosiery Mill Building although both parties worked diligently toward it. He reported a concern on Wingate's part on their operational cost in a renovated mill opposed to their existing location.

Mr. Englander stated his plan included approximately 24,000 square feet instead of the 17,000 square feet they were considering and they could not reconcile the numbers. He stated their rental rate would have been approximately \$14 per square foot. He stated general contractors went through the building, developed a demolition plan, and provided two scenarios of space planning for Wingate and three site plans for parking. He stated they could not overcome their concerns. He expressed appreciation to the Council for the opportunity.

Mayor Volk expressed appreciation to Mr. Englander for his time, effort and honesty. Mr. Englander stated he was anxious to get this done and enjoyed his time in Hendersonville. He stated he will be happy to discuss future potential plans.

Mayor Volk expressed frustration at this point on everyone's part. She relayed a variety of suggestions: reviewing previous proposals, opening it up to the highest bidder, and possibly consider new proposals.

Council Member Caraker expressed concerns about auctioning the property because of running a risk of a low bid. He suggested tabling any decision. Council Member Stephens asked about the environmental study. Mr. Connet replied the site was recently retested. The information has been sent to the State for their review. He reported some small contamination but is waiting for their final analysis and recommendations. He does not believe it will require active remediation.

Council Member Smith voiced support of disposing of the property by the upset bid process and let the market choose its value. Mr. Connet reviewed some options for disposing of the property including: by auction, sealed bids or the upset bid provision with the caveat that the City may reject any or all bids. He explained the upset bid provisions which will include a deposit and advertising. Council Member Stephens supported waiting until after the first of the year. Council Member Caraker agreed, stating he would like more time to think about it.

There was further discussion about the value of the property, the upset bid process and how long the process may take. Mr. Connet offered to develop a package showing options for disposing of the property, including a description of the property, environmental information for prospective bidders, historic property status, etc. for Council's consideration. The City Attorney advised Council will have to decide first which method they want to use for disposal of the property.

Council Member Smith voiced support of staff putting together a package for Council's consideration of disposal of the property. Council Member Stephens disagreed stated he does not want to waste staff time because of the election and possible changes to the Council. After discussion, Mayor Volk asked for a vote of the Council on whether to direct staff to put together a proposal for the potential sale of the Mill Building, for consideration at next meeting. **The vote was four in favor; one opposed (Stephens).**

9b. Consideration of Budget Amendment to Fund the School Resource Officer (SRO)

Position: Chief Blake explained the department applied for a grant to fund an officer in the Middle School but the department was not chosen for the grant. He requested a budget amendment to allow that.

There was discussion on the work load of the existing SRO. Chief Blake stated he would like to concentrate on the middle school and have an officer available at the high school and Bruce Drysdale and an officer at the middle school and elementary school full time.

Council Member Smith reported an incident at the high school stating it is vitally important that an officer was on site. He stated the officers serve a valuable safety option but they also develop great relationships with students and citizens. He stated even though these are county schools the county is not able to fund the SRO positions. He voiced support of funding the extra position as a benefit to City taxpayers.

Council Member Stephens expressed a concern that the School Board funds officer positions in other high schools in the county and questioned why the City is funding the position. Mr. Connet reported discussions with the Sheriff and the Henderson County Manager and was informed Henderson County provides funds to the Board of Education for the school system, and they use funds how they see fit. He stated if it is a priority of the Board, they may redirect their funds. There was discussion of making the request to the Board of Education. Mr. Connet reported the City receives a reimbursement of 78 percent of the SROs salary, the same as the Sheriff receives for the other high schools in the county. There was discussion of State funding of SROs. Mr. Connet explained the Board of Education has not yet agreed to fund SROs in other middle schools in the county. Council Member Caraker voiced support of funding the position temporarily but a request should be made for the salary from the Board of Education.

Council Member Smith moved Council to approve the budget amendment to fund the SRO position. Council Member Caraker asked to amend the motion to direct staff to continue discussion with Henderson County and the school system about the funding formula in the future for the funding of the positions to

include the City. There was no objection from the Council to adding the amendment to the motion. A unanimous vote of the Council followed. Motion carried.

Budget Amendment: Police Department: To reallocate budgeted funds in the amount of \$40,000 for a City School Resource Officer.

Mayor Volk reported Officer Philon made an excellent presentation at the Rotary meeting and it was well received.

10. Consideration of Repairs to the Bridge on West Allen Street: Mr. Wooten explained the bridge located on West Allen Street next to Four Seasons Rotary Park was damaged during recent heavy rains. He stated the rapid flow of water, along with debris in the creek, has caused significant erosion under the right wing wall causing the wing wall to settle and crack next to the bridge structure. This wall will have to be removed and rebuilt.

Mr. Wooten reported the project has been designed, bid and is awaiting Council approval to make the necessary repairs.

Mr. Wooten explained there are some Powell Bill Funds available but he would like to use those funds to continue making repairs to roads. He requested a budget amendment allocating funds from Fund Balance to pay for the repairs to the bridge. He reported the following bids:

Bid #1: Brushy Mountain Builders, Inc. at \$77,754.00 and
Bid #2: NHM Constructors, LLC at \$85,727.00

Mr. Wooten requested that Brushy Mountain Builders, the low bidder, be awarded the repair contract, the low bidder, at \$77,754.00.

Mayor Pro Tem Collis moved to award the West Allen Street Bridge Repair contract to Brushy Mountain Builders for \$77,754.00 and to approve the budget amendment for \$77,754.00. A unanimous vote of the Council followed. Motion carried.

Budget Amendment: Public Works Department: To transfer funds from Fund Balance Appropriated in the amount of \$77,754.00 to fund the West Allen Street Bridge Repair Project.

11. Presentation of Pavement Condition Survey: Mr. Wooten reviewed the Pavement Condition Survey with the findings and recommendations made by US Infrastructure of Carolina, Inc., consulting engineers. There was discussion on whether there is credit offered for recycling asphalt and the amount of paving on all streets. Mr. Wooten explained streets with heavy trucks receive a different level of pavement and many factors determine the recommended level of paving. **No action was taken.** *[The Pavement Condition Survey is available in the office of the Public Works Director.]*

12. Reports from Staff

a. Update on Fire Station 2: Fire Chief Dorian Flowers provided a history of the need for the second fire station and provided a progress report on the construction of Fire Station #2. **No action was required.** Council Member Caraker offered tours of the construction site.

b. Update/Results of Downtown Parking Survey: Mr. Lew Holloway, Downtown Economic Development Director, stated he has not had the opportunity to break down the suggested solutions from the survey released in early September. He will prepare and submit a report to the Council in the near future. **No action was required or taken.**

c. Meeting Announcements/Reminders: Mrs. Tammie Drake, City Clerk, reminded the Council of these events: October 13-15, 2013, NCLM Annual Conference, Hickory Metro Convention Center and October 9, 2013, Land-of-Sky Regional Council Annual Celebration. **No action was required or taken.**

Mr. Connet reminded the Council of the following ribbon cuttings on Friday, October 11, 2013: Pets' Own Place Dog Park at 3:30 and for Main Street at the corner of Sixth/Main at 4:00 p.m.

13. Consideration of Appointments to Boards and Commissions

a. Consideration of Appointments: There was none.

b. Announcement of Vacancies and Upcoming Appointments:

Historic Preservation Commission: City Clerk Tammie Drake reported the terms of three members will expire in November: Charles Kuester, Marty Payton and John Ogletree. These appointments will be considered at Council's November meeting.

Planning Board: The terms of Steve Johnson, Ralph Freeman and Fred Dutcher will expire in December. These appointments may be considered at Council's November meeting.

No action was taken.

14. Comments from Mayor and City Council Members:

a. Council Member Stephens commented on the recently adopted Small Water Service - Meter Box Access Permit Policy that charges \$50 for plumbing companies who want to be trained. He stated some companies have to pay additional insurance premiums because the City has to be listed as additional insured. He stated he will ask to put this on the agenda for consideration next month so the plumbers may be trained without cost. He stated the plumbers are saving the City money because it keeps an employee from having to go. He agreed they should buy the key for \$10. **No action was taken.**

15. New Business: There was none.

16. Closed Session: This item was removed from the agenda.

17. Adjournment: The meeting adjourned at 7:57 p.m. upon unanimous consent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk