



## AGENDA

Henderson City Council Regular Short Meeting  
Monday, 26 March 2012, 6:00 p.m.  
R. G. (Chick) Young, Jr. Council Chambers, Municipal Building  
134 Rose Avenue  
Henderson, North Carolina

---

### Mayor and City Council Members

Mayor James D. O'Geary, Presiding

Councilmember James C. Kearney, Jr.  
Councilmember Sara M. Coffey  
Councilmember Michael C. Insoe  
Councilmember D. Michael Rainey

Councilmember Brenda G. Peace—Jenkins  
Councilmember Garry D. Daeke  
Councilmember Lonnie Davis, Jr.  
Councilmember George M. Daye

### City Officials

A. Ray Griffin, Jr., City Manager  
John H. Zollicoffer, Jr., City Attorney  
Esther J. McCrackin, City Clerk

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION AND PLEDGE OF ALLEGIANCE
- IV. OPENING REMARKS

In order to provide for the highest standards of ethical behavior and Transparency in Governance as well as provide for good and open government, the City Council has approved Core Values regarding Ethical Behavior<sup>1</sup> and Transparency in Governance<sup>2</sup>. The Mayor now inquires as to whether any Council Member knows of any conflict of interest, or appearance of conflict, with respect to matters before the City Council. If any Council Members knows of a conflict of interest, or appearance of conflict, please state so at this time.

---

<sup>1</sup> **Core Value 4: Ethical Behavior:** We value the public trust and will perform our duties and responsibilities with the highest levels of integrity, honesty, trustworthiness and professionalism.

<sup>2</sup> **Core Value 10: Transparency in Governance:** We value transparency in the governance and operations of the City.

**V. ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA**

**VI. APPROVAL OF MINUTES**

a) 12 February 2012 Regular Meeting [*See Notebook Tab 1*]

**VII. PUBLIC HEARING**

a) Consideration of Approval of Ordinance 12-06, An Ordinance Providing for the Zoning of Solar Farms, Wind Turbines and Other Tall Utilities. (CAF 12-09) [*See Notebook Tab 2*]

- Public Hearing
- Ordinance 12-06

**VIII. PUBLIC COMMENT PERIOD ON AGENDA ITEMS**

Citizens may only speak on Agenda items at this time. Citizens wishing to address the Council must sign-in on a form provided by the City Clerk prior to the beginning of the meeting. The sign-in form is located on the podium. When recognized by the Mayor, come forward to the podium, state your name, address and if you are a city resident, and identify the Agenda Item about which you wish to speak on the sign up sheet. Please review the Citizen Comment Guidelines that are provided on the last page of this Agenda.<sup>3</sup>

**IX. NEW BUSINESS**

a) Consideration of Approval of Resolution 12-24, Authorizing the Amendment of Rural Center Contract #2010-266-40101-112 and 2008-349-40101-112 Allowing Funds Originally Approved for the UV Replacement Project to be Utilized for Further Improvements to the Sanitary Sewer System for Reduction of Infiltration and Inflow. (CAF 12-10) [*See Notebook Tab 3*]

- Resolution 12-24

b) Consideration of Approval of Resolution 12-29, Authorizing the Waiving of Certain Sanitation Fees Related to the Collection of Yard Debris/Trash in Excess of 200 Pounds During the Henderson-Vance Spring Litter Clean-Up Effort.(CAF 12-50)[*See Notebook Tab 4*]

- Resolution 12-29

c) Consideration of Approval of Ordinance 12-07, FY 11-12 Budget Amendment #35, Providing for the Creation of a Rate Stabilization Fund for the Water Plant Expansion Project. (CAF 12-42) [*See Notebook Tab 5*]

- Ordinance 12-07

- d) Consideration of Approval of Resolution 12-30, Ratifying and Approving the Mayor's Signature on the North Carolina Rural Economic Development Center Contract #201-050-40101-102, Amendment No. 1 and Amendment No. 2 re: KLRWS Master Plan Update and Sewer System Hydraulic Capacity Study Downstream of Sandy Creek P/S Discharge Point. (CAF 12-51) [See Notebook Tab 6]
- Resolution 12-30
- e) Consideration of Approval of Resolution 12-28, A Resolution of the Henderson City Council Ratifying and Approving the Mayor's Signature on the North Carolina Rural Economic Development Center Contract #2008-349-40101-112, Amendment No. 5. (CAF 12-49) [See Notebook Tab 7]
- Resolution 12-28
- f) Consideration of Approval of Resolution 12-32, Authorizing the Development of an Inter-local Agreement with the NC Extension of Vance County Providing for the Use of the Operations Center Parking Lot for the Purpose of Operating the Vance County Farmers Market on Saturdays from Mid April 2012 through November 2012. (CAF 12-52) [See Notebook Tab 8]
- Resolution 12-32
- g) Consideration of Approval of Ordinance 12-24, FY 11-12 Budget Amendment #36, Providing for the Creation of a Unified Regional Reserve Fund. (CAF 12-44) [See Notebook Tab 9]
- Ordinance 12-24

## **X. CONSENT AGENDA**

All matters listed under the Consent Agenda have either been previously discussed by City Council during a previous meeting and/or are considered in the ordinary course of business by the City Council and will be enacted-on by one motion and a roll call vote in the form listed. If discussion is desired by either the Council or the Audience, the item in question will be removed from the Consent Agenda and considered separately after the revised consent agenda has been approved.

- a) Consideration of Approval of Ordinance 12-22, FY 12 Budget Amendment #33, Authorizing Funds to Various Street Repair Projects. (CAF 12-28)[See Notebook Tab 10]
- Ordinance 12-22
- b) Consideration of Approval of Ordinance 12-18, FY 12 Budget Amendment #34, Creating Contingency Budget for Construction of the US Hwy #1 Sewer Project. (CAF 12-31)[See Notebook Tab 11]
- Ordinance 12-18

- c) Consideration of Approval of Ordinance 12-A-11, An Ordinance Repealing the Water Availability Charge for Failing to Connect to Utilities. (CAF 12-A-14)[See Notebook Tab 12]
- Ordinance 12-A-11
- d) Consideration of Approval of Resolution 12-20, Approving FY 12-13 Budget Review Calendar and Scheduling of Special Council Budget Work Sessions. (CAF 12-38) [See Notebook Tab 13]
- Resolution 12-20

## XI. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

Citizens may only speak on non-Agenda items at this time. Citizens wishing to address the Council must sign-in on a form provided by the City Clerk prior to the beginning of the meeting. The sign-in form is located on the podium. When recognized by the Mayor, come forward to the podium, state your name, address and if you are a city resident. Please review the Citizen Comment Guidelines that are provided on the last page of this Agenda.<sup>3</sup>

---

### <sup>3</sup> Citizen Comment Guidelines

The Mayor and City Council welcome and encourage citizens to attend City Council meetings and to offer comments on matters of concern to them. Citizens are requested to review the following public comment guidelines prior to addressing the City Council.

- 1) Citizens are requested to limit their comments to five minutes; however, the Mayor, at his discretion, may limit comments to three minutes should there appear to be a large number of people wishing to address the Council;
- 2) Comments should be presented in a civil manner and be non-personal in nature, fact-based and issue oriented. Except for the public hearing comment period, citizens must speak for themselves during the public comment periods;
- 3) Citizens may not yield their time to another person;
- 4) Topics requiring further investigation will be referred to the appropriate city official, Council Committee or agency and may, if in order, be scheduled for a future meeting agenda;
- 5) Individual personnel issues are confidential by law and will not be discussed. Complaints relative to specific individuals are to be directed to the City Manager;
- 6) Comments involving matters related to an on-going police investigative matter and/or the court system will not be permitted; and
- 7) Citizens should not expect specific Council action, deliberation and/or comment on subject matter brought up during the public comment section unless and until it has been scheduled as a business item on a future meeting agenda.

## **XII. REPORTS**

- a) Mayor/Mayor Pro-Tem
- b) City Manager
- c) City Attorney
- d) City Clerk
  - i. Calendar Notes and Schedule Update *[See Notebook Tab 14]*

## **XIII. CLOSED SESSION**

- a) Pursuant to NCGS §143-318-11 (a)(3), Attorney Client Matters
- b) Pursuant to NCGS §143-318-11 (a)(6), Personnel Matters

## **ADJOURNMENT**

**City Council Minutes**  
**Regular Short Meeting**  
**26 March 2012**

---

**PRESENT**

Mayor James D. O'Geary, Presiding; and Council Members James C. Kearney, Sr., Sara M. Coffey, Michael C. Insoe, D. Michael Rainey, Garry D. Daeke, and George M. Daye.

**ABSENT**

Brenda G. Peace-Jenkins and Lonnie Davis, Jr.,

**STAFF PRESENT**

City Manager Ray Griffin, City Attorney John Zollicoffer, City Clerk Esther J. McCrackin, Assistant City Manager Frank Frazier, Finance Director Katherine Brafford, Zoning Administrator Sherry Moss, and Henderson Water Reclamation Facility Director Tom Spain.

**CALL TO ORDER**

The 26 March 2011 Short Regular Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary at 6:01 p.m. in the R. G. "Chick" Young, Jr. Council Chambers, Municipal Building, 134 Rose Avenue, Henderson, NC.

Mayor O'Geary noted two of the Council Members were unable to be present due to health reasons and is hopeful they will be able to join the meeting next month.

**ROLL CALL**

The City Clerk called the roll and advised Mayor O'Geary a quorum was present.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Council Member Rainey led those in attendance in a prayer and the Pledge of Allegiance.

**ADJUSTMENTS TO/APPROVAL OF AGENDA**

Mayor O'Geary asked if there were any adjustments to the Agenda. City Clerk McCrackin stated there was one addition to New Business: *Consideration of Approval of Resolution 12-33, Grant Application for Funding Through the NC Governor's Highway Safety Program*. She also said there was a technical change to the Budget Workshop Session in that there would be no

Short Regular meeting on May 21 as noted on the schedule but there would be a budget work session. City Attorney Zollicoffer stated there will be three items discussed during Closed Session relating to G.S. §143-318.11(a)(3) Attorney-Client Privilege Matters, one being a lawsuit entitled City of Henderson vs. Henderson Motels and Others and another relating to Halim vs. Donovan, and two (2) issues under G.S. §143-318.11(a)(6), Personnel Matters. No other requests were made to adjust the Agenda. Mayor O'Geary asked for the pleasure of Council. Council Member Rainey moved to accept the Agenda with the stated changes. Motion seconded by Council Member Daye and unanimously approved.

## **APPROVAL OF MINUTES**

Mayor O'Geary asked for any corrections to and/or approval of the minutes. Council Member Daeke moved the approval of the following minutes as presented: 12 March 2012 Regular Meeting. Motion seconded by Council Member Daye and unanimously approved.

## **PUBLIC HEARING**

**An Ordinance Providing for the Zoning of Solar Farms, Wind Turbines and Other Tall Utilities.** (*Reference: CAF 12-09; Ordinance 12-06*)

City Manager Griffin asked Zoning Administrator Sherry Moss to come forward and explain the Planning Board's recommendation.

Ms. Moss stated this issue originally came before the Planning Board in January and was tabled twice in an effort to combine solar farms with wind turbines and other tall utilities. Currently, nothing exists in the zoning code for these issues and since alternative energy is becoming more common, the Planning Board felt it was time to set guidelines. The guidelines include lot size, set back restrictions and decibel (noise) limitations.

Council Member Daeke asked how the decibels were determined and since Oxford recently approved a solar farm, if anyone was aware of their restrictions. Ms. Moss responded the number was taken from research found on the American Wind Industry web site and as far as she was aware, there has been no input from Oxford. Council Member Coffey inquired if the ordinance covered both the ETJ and the City. City Attorney Zollicoffer stated yes.

With no discussion, Mayor O'Geary opened the Public Hearing by asking if anyone was present who wished to speak in favor of this amendment. No one came forward, so Mayor O'Geary then asked if anyone was present who wished to speak in opposition to the amendment.

**Benny Finch, 150 Crestwood, Henderson.** Mr. Finch stated he did not wish to speak against the ordinance but said he works in the solar field and would like to offer suggestions. Mr. Finch felt solar farms should be separated from the other two items as solar does not produce noise nor lights and said the setback could be a problem for businesses. He suggested contacting the North Carolina Solar Center for sample ordinances and helpful information.

Council Member Rainey, as a member of the Planning Board, asked Mr. Finch what type of security is suggested for solar farms. Mr. Finch responded usually a 10' fence surrounds the farm.

**Stuart Litvin, EDC Director.** Mr. Litvin said the EDC is currently working with several RFP's (Request for Proposal) and said the solar farms seem to be on large tracts of non-urban/agricultural property.

Council Member Kearney asked what the revenue benefit would be to the City. Mr. Litvin said usually the energy generated is sold back to the local utility and anticipated there would be only limited numbers of jobs. Council Member Rainey asked in what area the requests have been made. Mr. Litvin said one was in the ETJ and one in the county.

Council Member Inscoe asked how existing businesses would be affected. City Attorney Zollicoffer said perhaps the ordinance should be defined further.

City Manager Griffin inquired as to why the 1,000' setback saying he had traveled through an area with many turbines that were not that far off the road and were close to homes. Attorney Zollicoffer said the thought was to decrease the noise created by the wind turbines.

Mr. Finch added tax credits are offered and should also be considered.

With no further discussion, Mayor O'Geary closed the Public Hearing and asked for Council's pleasure.

Council Member Daeke made a motion to table this issue, asking the Planning Board to review the ordinance and clarify the questions raised. Motion seconded by Council Member Kearney and Approved by the following vote: YES: Kearney, Coffey, Inscoe, Rainey, Daeke and Daye. NO: None. ABSTAIN: None. ABSENT: Davis and Peace-Jenkins.

#### **PUBLIC COMMENT PERIOD ON AGENDA ITEMS**

The City Clerk advised the Mayor and Council Members that no citizen wished to speak on agenda matters.

## NEW BUSINESS

**Authorizing the Amendment of Rural Center Contract #2010-266-40101-112 and 2008-349-40101-112, Allowing Funds Originally Approved for the UV Replacement Project to be Utilized for Further Improvements to the Sanitary Sewer System for Reduction of Infiltration and Inflow.** (Reference: CAF 12-10; Resolution 12-24)

City Manager Griffin said this is good news and asked Assistant City Manager Frazier to advised Council. Assistant Manager Frazier said the UV project is practically 100% complete and staff is asking for approval to use the approximately \$110,000 remaining for infiltration and inflow projects. Mr. Frazier has talked with the Rural Center and they are agreeable. With Council's approval and final approval from the Rural Center, these funds would be used to upgrade the Sandy Creek area.

There was no discussion and Mayor O'Geary asked for the pleasure of Council.

Council Member Inscoe moved the approval of Resolution 12-24, *Authorizing the Amendment of Rural Center Contract #2010-266-40101-112 and 2008-349-40101-112, Allowing Funds Originally Approved for the UV Replacement Project to be Utilized for Further Improvements to the Sanitary Sewer System for Reduction of Infiltration and Inflow.* Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Coffey, Inscoe, Rainey, Daeke, Daye and Kearney. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins. (See Resolution Book 2, p 297)

**Authorizing the Waiving of Certain Sanitation Fees Related to the Collection of Yard Debris/Trash in Excess of 200 Pounds During the Henderson-Vance Spring Litter Clean-Up Effort.** (Reference: CAF 12-50; Resolution 12-29)

City Manager Griffin said one of the Retreat items was to partner with the community and this is one way to do so. It shows good will in an effort for a cleaner community and no budget impact is anticipated.

Council Member Daeke asked how the waiver would be determined since it does not apply to construction sites, building materials, stumps, etc. Assistant City Manager Frazier said normally you can tell by looking at the site.

With no further discussion, Mayor O'Geary asked for Council's pleasure.

Council Member Kearney moved the approval of Resolution 12-29, *Authorizing the Waiving of Certain Sanitation Fees Related to the Collection of Yard Debris/Trash in Excess of 200 Pounds During the Henderson-Vance Spring Litter Clean-Up Effort.* Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Inscoe, Rainey, Daeke, Daye, Kearney and Coffey. NO: None. ABSTAIN: None: ABSENT: Davis and Peace-Jenkins. (See Resolution Book 2, p 307)

**FY 11-12 Budget Amendment #35, Providing for the Creation of a Rate Stabilization Fund for the Water Plant Expansion Project.** (Reference: CAF 12-42; Ordinance 12-07)

City Manager Griffin said it was a happy day when the first installment of \$951,139 was received from Granville County for the Water Sales Agreement. He thanked Council Member Inscoe for his part in the negotiation in helping to offset future costs of the plant expansion with the agreement and said this Ordinance establishes a new capital reserve fund which will accrue interest which will provide funds for future work such as moving the booster station and meter at Granville Triangle North Business Park.

Council Member Kearney asked for clarification that the funds would be set aside to offset costs for expansion. Mr. Griffin stated yes, saying these funds will go a long way toward offsetting the debt service cost of the necessary future expansion.

Council Member Inscoe added this agreement was also solidified for economic development within the Park with the County receiving 25% of the revenue generated by Park businesses.

There was no further discussion. Mayor O'Geary asked Council for its pleasure.

Council Member Inscoe moved the approval of Ordinance 12-07, *FY 11-12 Budget Amendment #35, Providing for the Creation of a Rate Stabilization Fund for the Water Plant Expansion Project.* Seconded by Council Member Rainey and APPROVED by the following vote: YES: Rainey, Daeke, Davis, Kearney, Coffey and Inscoe. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins. (See Ordinance Book 8, p 365)

**Ratifying and Approving the Mayor's Signature on the North Carolina Rural Economic Development Center Contract 2011-050-40101-102, Amendment No. 1 and Amendment No. 2 re: KLRWS Master Plant Update and Sewer System Hydraulic Capacity Study Downstream of Sandy Creek P/S Discharge Point.** (Reference: CAF 12-51; Resolution 12-30)

City Manager Griffin said this is a housekeeping matter. This purely moves the date for completing the grant, and the Rural Economic Development Center is in agreement. This Resolution ratifies the Mayor's signature extending the final report date to 30 June 2012.

Mayor O'Geary asked for Council's pleasure.

Council Member Rainey moved the approval of Resolution 12-30, *Ratifying and Approving the Mayor's Signature on the North Carolina Rural Economic Development Center Contract 2011-050-40101-102, Amendment No. 1 and Amendment No. 2 re: KLRWS Master Plan Update and Sewer System Hydraulic Capacity Study Downstream of Sandy Creek P/S Discharge Point.* Motion seconded by Council Member Coffey and APPROVED by the following vote: YES:

Daeke, Daye, Kearney, Coffey, Inscoc and Rainey. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins. (See Resolution Book 2, p 309)

**Ratifying and Approving the Mayor's Signature on the North Carolina Rural Economic Development Center Contract 2008-349-40101-112, Amendment No. 5.** (Reference: CAF 12-49; Resolution 12-28)

City Manager Griffin said this is also good news and asked Assistant City Manager Frazier to come to the podium. Mr. Frazier said this also related to the UV project closeout and an amendment is necessary for the submission of the final report. The Mayor executed the amendment and this Resolution ratifies his signature which extended the completion deadline to 6 July 2012.

There was no discussion. Mayor O'Geary asked for Council's pleasure.

Council Member Coffey moved the approval of Resolution 12-28, *Ratifying and Approving the Mayor's Signature on the North Carolina Rural Economic Development Center Contract 2008-349-40101-112, Amendment No. 5.* Motion seconded by Council Member Kearney and APPROVED by the following vote: YES: Daeke, Daye, Kearney, Coffey, Inscoc, and Rainey. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins. (See Resolution Book 2, p 305)

**Authorizing the Development of an Inter-Local Agreement with the NC Cooperative Extension of Vance County Providing for the Use of the Operations Center Parking Lot for the Purpose of Operating the Vance County Farmers Market on Saturdays from Mid April 2012 through November 2012.** (Reference: CAF 12-52; Resolution 12-32)

City Manager Griffin said the City received a request from the NC Agriculture Extension to use the Operations Center parking lot from mid-April 2012 through November 2012 for the Vance County Farmers Market. A new location has been chosen for the Market but it will not be available for use until 2013. If approved, this agreement will provide for the typical inter-local requirements such as insurance and Mr. Griffin said staff has no objection to this request.

Council Member Coffey asked if both existing farmers markets will move to this location and Council Member Kearney asked if there would be problems with a market on any day other than Saturday.

Mayor O'Geary invited Ms. Mary Helen Jones, representing the NC Cooperative Extension of Vance County, to respond. Ms. Jones said the current Wednesday market will remain at the YMCA. She also said they are hopeful that having the market in the same area as the new site will draw more people to the Saturday market.

With no further discussion, Mayor O'Geary asked for the pleasure of Council.

Council Member Daeke moved the approval of Resolution 12-32, *Authorizing the Development of an Inter-Local Agreement with the NC Cooperative Extension of Vance County Providing for the Use of the Operations Center Parking Lot for the Purpose of Operating the Vance County Farmers Market on Saturdays from Mid April 2012 through November 2012*. Motion seconded by Council Member Daye and APPROVED by the following vote: YES: Daye, Kearney, Coffey, Inscoe, Rainey, and Daeke. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins. (See Resolution Book 2, p 313)

**FY 11-12 Budget Amendment #36, Providing for the Creation of a Unified Regional Reserve Fund.** (Reference: CAF 12-44, Ordinance 12-24)

City Manager Griffin said this is another housekeeping matter. Currently there are three separate capital reserve funds for the Regional Water Plant. It is the recommendation of staff to consolidate these three funds into one unified fund (78 Capital Reserve Regional Fund) which will still provide for appropriate and necessary monetary controls.

Council Member Inscoe asked if the accounts would be separately identified for audit purposes. Mr. Griffin responded yes and mentioned there are other accounts that may be brought before Council in the future for the same reason.

With no further discussion, Mayor O'Geary asked for the pleasure of Council.

Council Member Rainey moved the approval of Ordinance 12-24, *FY 11-12 Budget Amendment #36, Providing for the Creation of a Unified Regional Reserve Fund*. Motion seconded by Council Member Inscoe and APPROVED by the following vote: YES: Daye, Kearney, Coffey, Inscoe, Rainey, and Daeke. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins (See Ordinance Book 8, p 399)

**Grant Application for Funding Through the NC Governor's Highway Safety Program.** (Reference: CAF 12-53; Resolution 12-33)

City Manager Griffin asked Police Chief Keith Sidwell to address Council. Chief Sidwell stated this grant recently became available and it will provide a reimbursement to the City of 75% of the cost requested. He stated the funds for the 25% match will come from the Federal Asset Forfeiture Funds so no dollars are required from the City. The total Grant amount requested will be \$25,312 which will purchase one (1) traffic equipment trailer, one (1) portable light tower and generator, one (1) portable generator, forty (40) high visibility traffic cones, three traffic Checkpoint Signs with portable stands and twenty (20) OSHA/DOT certified traffic vests.

There was no discussion. Mayor O'Geary asked for Council's pleasure

Council Member Coffey moved the approval of Resolution 12-33, *Grant Application for Funding Through the NC Governor's Highway Safety Program*. Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Kearney, Coffey, Inscoe,

Rainey, Daeke, and Daye. NO: None: ABSTAIN: None: ABSENT: Davis and Peace-Jenkins.  
(See Resolution Book 2, p 315)

## CONSENT AGENDA

The City Clerk read the Consent Agenda, summarized as follows:

- a) FY 12 Budget Amendment #33, Authorizing Funds to Various Street Repair Projects.** This item allows for replacing and/or stabilizing storm drain pipes on Birch Circle, Hillside Avenue and Cameron Drive and based on the unanimous consensus of City Council Members, was approved to proceed with the project. (Reference: CAF 12-28; Ordinance 12-22) (See Ordinance Book 8, p 395)
- b) FY 12 Budget Amendment #34, Creating Contingency Budget for Construction of the US Hwy #1 Sewer Project.** This item allows for Council to appropriate funds from the operating funds' contingency accounts for the costs of replacing the water main on Lamb Street which was deteriorated beyond repair. (Reference: CAF 12-31, Ordinance 12-18) (See Ordinance Book 8, p 387)
- c) An Ordinance Repealing the Availability Charge for Failing to Connect to Utilities.** This item reflects the consensus of Council that adopting a failure to connect to City sewer fee should be delayed requiring the repeal of Ordinance 12-11, adopted on 13 February 2012. (Reference: CAF 12-A-14; Ordinance 12-A-11) (See Below)
- d) Approving FY 12-13 Budget Review Calendar and Scheduling of Special Council Budget Work Sessions.** This item provides dates for the budget work sessions. (Reference: CAF 12-38, Resolution 12-20) (See Resolution Book 2, p 289)

Mayor O'Geary asked if anyone wished to remove an item from the Consent Agenda. Following a brief discussion item (c), *An Ordinance Repealing the Availability Charge for Failing to Connect to Utilities* was removed Mayor O'Geary asked for a motion to approve the consent Agenda as presented.

Council Member Inscoe moved the approval of the Consent Agenda items a), b) and d). Motion seconded by Council Member Kearney and APPROVED by the following vote: YES: Coffey, Inscoe, Rainey, Daeke, Daye and Kearney. NO: None. ABSTAIN: None. ABSENT: Davis and Peace-Jenkins.

**An Ordinance Repealing the Availability Charge for Failing to Connect to Utilities.**  
(Reference: CAF 12-A-14; Ordinance 12-A-11)

Council Member Daeke summarized his statements from the prior meeting, saying citizens were told they did not have to hook up, they were given an option with a reduction in cost from \$1,000 to \$500, and citizens should not have to pay for something they do not use. There is the

possibility of grant funds which the Council of Government (COG) seems to feel qualified citizens could utilize and Mr. Daeke felt the grant option should be offered. Mr. Daeke said he understood there was an ordinance in the books that had not been enforced and felt it should be enforced going forward.

Council Member Coffey expressed her feelings that the law should be enforced and suggested a payment schedule be considered. City Attorney Zollicoffer said he thought the ordinance was not enforced due to an oversight.

Council Member Kearney said the Council should legislate for the good of the majority of citizens and didn't feel decisions should be made under pressure. Mr. Kearney said the Council needed to do what is right for the majority of citizens.

Council Member Rainey agreed with Council Member Daeke saying he did not feel it was right to be charged for something not used.

Council Member Inscoe suggested repealing this ordinance for 24 months giving Council an opportunity to review the budget, and time to see how many citizens qualify for the grant. Council Member Kearney agreed with the moratorium saying it would also allow time to look for other economic incentives.

Council Member Inscoe moved to repeal Ordinance 12-A-11 for 24 months at which time it would be revisited. Motion seconded by Council Member Daeke and APPROVED by the following vote: YES: Daye, Kearney, Coffey, Inscoe, Rainey, and Daeke. NO: None. ABSTAIN: None. ABSENT: Davis and Peace-Jenkins.

## **PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS**

City Clerk advised no citizen requested an opportunity to address City Council on no-agenda items.

## **REPORTS**

- a) Mayor/Mayor Pro-Tem/Chairman Pro-Tem (No Report)
- b) City Manager – Mr. Griffin said the agreement with the County for the alternative E-911 facility have gone forward with only a few minor change orders. There will be a groundbreaking ceremony on April 5<sup>th</sup> at 11:00 a.m. at the Operations Center.
- c) City Attorney (No Report)
- d) City Clerk (No Report)

Before going into Closed Session, City Manager Griffin asked Engineering Director, Peter Sokalski to respond to Council Member Inscoe request for an update on the Shirley Drive problem.

Mr. Sokalski summarized saying following the study by Hazen and Sawyer, the surge problem seems to come from Oxford and two pump stations in the Oxford area where large spikes occurred. The City attempted to change the valve opening/closing to as slow as possible which did not make much difference so another resource is being attempted --- basically going from the least expensive solution to the most expensive solution.

Council Member Inscoe asked if the expense cost incurred was being taken from the KLRWS budget since that is where the problem was identified. Mr. Sokalski responded yes and stated Council would be updated as the work continues.

### **CLOSED SESSION**

With no further discussion, Mayor O'Geary asked if Council was prepared to go into Closed Session and stated there would be no report following the session.

Council Member Inscoe moved for Council to convene in closed session pursuant to G.S. §143-318.11(a)(6), two (2) Personnel Matters and G.S. §143-318.11(a)(3) regarding three (3) Attorney-Client Privilege Matters, one being a lawsuit entitled City of Henderson vs. Henderson Motels and Others and another relating to Halim vs. Donovan. Motion seconded by Council Member Kearney and unanimously approved. *(Council convened in closed session at 7:15 p.m.)*

Council Member Rainey moved for Council to convene into open session. Motion seconded by Council Member Coffey and unanimously approved. *(Council convened in open session at 8:40 p.m.)*

### **ADJOURNMENT**

Council Member Rainey moved for adjournment. Motion seconded by Council Member Coffey and unanimously approved. *(Council convened in open session at 8:40 p.m.)*

---

James D. O'Geary  
Mayor

***ATTEST:***

---

Esther J. McCrackin, City Clerk