



AGENDA

Henderson City Council Regular Short Meeting
Monday, 27 February 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. Inscoe
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 Behavior¹ and Transparency in Governance². 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.

¹ **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.

² **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) 13 February 2012 Regular Meeting *[See Notebook Tab 1]*
- b) 20 February 2012 Special Called Meeting

VII. PRESENTATIONS AND RECOGNITIONS

VIII. PUBLIC HEARING

- a) Consideration of Approval of Ordinance 12-19, Amending Sections of Zoning Codes for the City of Henderson to Provide for Bed & Breakfast. (CAF 12-33) *[See Notebook Tab 2]*
 - Public Hearing
 - Ordinance 12-19
- b) Consideration of Approval of Ordinance 12-17, Amending the Zoning Map to Rezone .68+/- Acres Located at 1202 West Andrews Avenue and .78+/- Acres Located at 1204 West Andrews Avenue from R8 (Moderate to High Density Residential) to B2 (Highway Commercial). (CAF 12-27) *[See Notebook Tab 3]*
 - Public Hearing
 - Ordinance 12-17

IX. PUBLIC COMMENT PERIOD ON AGENDA ITEMS

Citizens may only speak on Agenda items only 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.³

X. NEW BUSINESS

- a) Consideration of Approval of Resolution 12-17, Declaring the City Council's Intent to Reimburse the City of Henderson for Certain Expenditures in Conjunction with Improvements at the Henderson Water Reclamation Facility. (CAF 12-35) *[See Notebook Tab 4]*
 - Resolution 12-17
- b) Consideration of Approval of Resolution 12-18, Authorizing the Mayor to Sign and Submit an Application to the State Revolving Fund Grant/Loan for Future Funding Relative to Improvements at the Sandy Creek Pump Station of the Sanitary Sewer Collection System. (CAF 12-36) *[See Notebook Tab 5]*
 - Resolution 12-18

- c) Consideration of Approval of Ordinance 12-10, Amending City Code 16-37 Relative to Stormwater Runoff Regulations. (CAF 12-13) [See Notebook Tab 6]

- Ordinance 12-10

XI. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

Citizens may only speak on non-Agenda items only 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.³

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 7]
 - ii. Proclamations

³ **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.

XIV. CLOSED SESSION

- a)* Pursuant to G.S. §143-318.11 (a)(3) Attorney-Client Privilege
- b)* Pursuant to G.S. §143-318.11 (a)(6) Personnel Matter

ADJOURNMENT

City Council Minutes
Short Regular Meeting
27 February 2012

PRESENT

Mayor James D. O'Geary, Presiding; and Council Members James C. Kearney, Sr., Sara M. Coffey, Michael C. Inscoc, D. Michael Rainey, Brenda G. Peace—Jenkins, Garry D. Daeke, Lonnie Davis, Jr., and George M. Daye.

ABSENT

None.

STAFF PRESENT

City Manager Ray Griffin, City Attorney John Zollicoffer, City Clerk Esther J. McCrackin, Finance Director Katherine C. Brafford, Planning Director Erris Dunston, Engineering Director Peter Sokalski and Henderson Water Reclamation Facility Director Tom Spain.

CALL TO ORDER

The 27 February 2012 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.

ROLL CALL

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

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Peace-Jenkins 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. No requests were made to adjust the Agenda. Mayor O'Geary asked for the pleasure of Council. Council Member Peace-Jenkins moved to accept the Agenda as presented. Motion seconded by Council Member Inscoc and unanimously approved.

APPROVAL OF MINUTES

Mayor O'Geary asked for any corrections to and/or approval of the minutes. There was one typographical error and with that correction, Council Member Inscoe moved to accept the 13 February Regular Meeting minutes and the 20 February Special Called Meeting minutes as presented. Motion seconded by Council Member Daye and unanimously approved.

PUBLIC HEARING

Amending Sections of Zoning Codes for the City of Henderson to Provide for Bed & Breakfast. (Reference: CAF 12-33; Ordinance 12-19)

City Manager Griffin asked Planning Director to brief Council on the Planning Board's recommendation. Ms. Erris Dunston explained the recommendation saying the ordinance added language regarding issues such as safety, guest occupancy time, parking and owner occupancy to provide proper zoning codes for bed and breakfasts.

Various Council Members asked questions regarding the number of bathrooms, general parking, off-street parking, guest parking, hired help parking, whether a guest could move from room to room thereby extending their stay longer than stated, the motor vehicle registration requirement and number of guests allowed to name a few.

Mayor O'Geary then opened the Public Hearing by asking if anyone was present who wished to speak in favor of this amendment.

Ms. Elissa Yount, 216 Chavasse Avenue, Henderson. Ms. Yount said overall, she was pleased with the Bed and Breakfast ordinance and suggested several issues she felt needed tweaking. She asked about parking for hired help, whether a fire escape was required, if rooms could be subdivided and if so, how, could the kitchen be outside the guest house and could the lighting issue be addressed more specifically.

Mr. Greg Nelson, 835 Wilson, Henderson. Mr. Nelson is the individual expecting to open the Bed & Breakfast. He sees bed and breakfasts as a business and new industry for Henderson. He did request tweaks to the ordinance regarding removal of owner occupancy as he felt that could create a conflict if an innkeeper was hired. He also asked that the number of guests be increased from 10 at any time to at least 12 stating most guests are couples. Mr. Nelson explained many guest packages are couple oriented. He asked to have the motor vehicle registration requirement rewritten and also asked that the *meals* section be rewritten as many bed and breakfasts survive by doing wedding and other outside events. Lastly, Mr. Nelson said it is recommended that 2% of the facility be reserved for living space, excluding guest rooms.

No one else came forward to speak in favor of this amendment, so Mayor O'Geary then asked if anyone was present who wished to speak in opposition to the amendment. No one came forward.

Mayor O'Geary then closed the Public Hearing and asked for Council's pleasure.

Council Member Rainey felt the issues raised by Ms. Yount and Mr. Nelson were valid and needed to be considered. He also said he felt this was a great way to promote older homes in Henderson. Discussion then turned to parking and whether with ample frontage the requirement should be tweaked.

When the discussion turned to parking, Mr. Nelson said often a couple is hired to run and operate the B&B and the issue of help depends on how successful the operation becomes.

With so many questions, Council Member Daeke suggested this item go back to the Planning Board for another review.

Council Member Coffey asked for more information regarding weddings and outside events. Mr. Nelson said using his 2% living space calculation they could accommodate 50 guests but felt that might be overdoing it.

Mayor O'Geary asked how many bedrooms would be on the first floor. Mr. Nelson said only the innkeeper's suite.

Council Member Inscoe said any fire code issues would be determined by the fire marshal and moved the discussion to parking. He wondered if the Board of Adjustment should be consulted for a parking variance if two thirds of the front yard could be used to parking.

Council Member Peace-Jenkins inquired about the number of bathrooms. Mr. Nelson anticipates nine (9) total bathrooms. He also said they would be ADA compliant.

Ms. Yount asked Council to carefully evaluate their decision as whatever they decide will affect the entire city and she emphasized the desire to keep the historic nature of the City intact.

(Clerk's Note: Council Member Daye assisted Council Member Davis out of the meeting at approximately 6:55 and Mr. Davis returned with Mr. Daye's assistance at approximately 7:00 p.m.)

City Attorney Zollicoffer said this should go back to the Planning Board and Council Member Rainey made a motion to table this for further discussion and tweaking by the Planning Board.

City Manager Griffin said by law, the Planning Board could hold a special meeting with no requirement for another public notice and that Council is not required to hold another Public Hearing. Council Member Rainey said the next meeting of the Planning Board is scheduled for March 5th.

Motion was made by Council Member Rainey to table this issue for further discussion and tweaking by the Planning Board. Council Member Kearney seconded the motion and it was approved by the following vote: YES: Kearney, Coffey, Inscoc, Rainey, Peace-Jenkins, Daeke, Davis and Daye. NO: None. ABSTAIN: None. ABSENT: None.

Mayor O'Geary thanked everyone for their input.

Amending the Zoning Map to Rezone .68 +/- Acres Located at 1202 West Andrews Avenue and .78 +/- Acres Located at 1204 West Andrews Avenue from R8 (Moderate to High Density Residential) to B2 (Highway Commercial). (Reference: CAF 12273; Ordinance 12-17)

City Manager Griffin asked Planning Director Dunston to again brief Council. Ms. Dunston explained that this is basically a map correction to the existing zoning map. She said the two parcels have been used for many years for commercial purposes and are within the City of Henderson's Comprehensive Land Use Plan. The Planning Board unanimously recommended approval at their 6 February 2012 meeting.

There was no discussion so Mayor O'Geary opened the Public Hearing by asking if anyone was present who wished to speak in favor of this amendment.

Mr. Leo Kelly, 1214 Alpha Road, Henderson. Mr. Kelly asked for clarification of where the parcels were located. Council Member Kearney and Ms. Dunston explained the location and he seemed satisfied.

No one else came forward to speak in favor of this amendment so Mayor O'Geary asked if anyone was present who wished to speak against this amendment. No one came forward. Mayor O'Geary then closed the Public Hearing and asked for the pleasure of Council.

Council Member Peace-Jenkins moved the approval of Ordinance 12-17, *Amending the Zoning Map to Rezone .68 +/- Acres Located at 1202 West Andrews Avenue and .78 +/- Acres Located at 1204 West Andrews Avenue from R8 (Moderate to High Density Residential) to B2 (Highway Commercial)*. Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Coffey, Inscoc, Rainey, Peace-Jenkins, Daeke, Davis, Daye and Kearney: NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p.385)

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

The City Clerk advised the Mayor and Council Members that one citizen wished to speak to Council on agenda matters.

Ms. D. Chevon Davis, 217 N. Bullock Street, Henderson. Ms. Davis stated she understood what the City was doing with the water situation and wanted to suggest the City use other means of notifying citizens of changes saying the younger generation did not listen to the local radio and thought using other radio stations and television stations would be a better

method of communication. She also found the use of the term good *customers* offensive because there are many citizens who are not trying to duck payment but are just unable to pay.

City Manager Griffin said he would certainly look into broadening notices.

Mr. Leo Kelly, 1214 Alpha Road, Henderson. Mr. Kelly asked for clarification regarding the decisions made during the Special Called Meeting regarding refunds. He explained due to a water problem which his son was trying to resolve with his landlord, his son was caught in the water problem and wondered if his son would receive a refund.

City Manager Griffin said Finance Director Kathy Brafford would look into the situation and respond to Mr. Kelly.

NEW BUSINESS

Declaring the City Council's Intent to Reimburse the City of Henderson for Certain Expenditures in Conjunction with Improvements at the Henderson Water Reclamation Facility. (*Reference: CAF: 12-35; Resolution 12-17*)

City Manager Griffin said from time to time it may be necessary for the City to provide short term financing, depending on cash flow within the sewer fund, for this project until reimbursement is received from the State Revolving Loan Fund. Passage of this resolution will allow funds used from the Fund Balance or contingency funds to be restored into the original account as loan proceeds become available.

Council Member Rainey asked if this would be a one-time event. Mr. Griffin stated it is a one-time approval but it may occur more than once. Council Member Kearney asked that the City verify the State's commitment prior to the movement of dollars.

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

Council Member Inscoe moved the approval of Resolution 12-17, *Declaring the City Council's Intent to Reimburse the City of Henderson for Certain Expenditures in Conjunction with Improvements at the Henderson Water Reclamation Facility* Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Inscoe, Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney and Coffey. NO: None. ABSTAIN: None. ABSENT: None. (*See Resolution Book 2, p. 283*)

Authorizing the Mayor to Sign and Submit an Application to the State Revolving Fund Grant/Loan for Future Funding Relative to Improvements at the Sandy Creek Pump Station of the Sanitary Sewer Collection System. (*Reference: CAF 12-36; Resolution 12-18*)

City Manager Griffin said both Henderson Water Reclamation Facility Director Tom Spain and Mr. Denny Martin from McGill Associates were present to answer questions. He then asked Mr. Spain to provide a brief synopsis of the project.

Mr. Spain stated a previous Preliminary Engineering Report identified many issues with the existing pumps at Sandy Creek which are not pumping at rated capacity. If approved, this project would allow a tap to be installed which would help keep a catastrophic event from happening in the event of an overflow into the Creek. Mr. Spain said this project does not eliminate the problems but will provide improvement.

Council Member Inscoe asked for verification that the total project will cost \$1.8M with 50% forgiveness. Mr. Spain confirmed this and stated the remaining \$900,000 would be loaned at 1.89% interest.

City Manager Griffin said the station needs major work that is very expensive but this will help alleviate the problems. Mr. Spain said ultimately if the problem continues, the State could stop industry from hooking up to the system.

(Clerk's Note: Council Member Coffey left at 7:13 p.m. and returned at 7:15 p.m.)

Mayor O'Geary asked for Council's pleasure.

Council Member Rainey moved the approval of Resolution 12-18, *Authorizing the Mayor to Sign and Submit an Application to the State Revolving Fund Grant/Loan for Future Funding Relative to Improvements at the Sandy Creek Pump Station of the Sanitary Sewer Collection System.* Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: None. *(See Resolution Book 2, p. 285)*

Amending City Code 16-37 Relative to Stormwater Runoff Regulations. *(Reference: CAF 12-13; Ordinance 12-10)*

City Manager Griffin reminded Council that this issue has been discussed previously and City Engineer Peter Sokalski was available to answer any questions.

No questions were raised so Mayor O'Geary asked for the pleasure of Council.

Council Member Inscoe moved the approval of Ordinance 12-10, *Amending City Code 16-37 Relative to Stormwater Runoff Regulations.* Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey, Inscoe and Rainey. NO: None. ABSTAIN: None. ABSENT: None. *(See Ordinance Book 8, p. 371)*

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

City Clerk McCrackin advised no citizen wished to address City Council.

REPORTS

- a) Mayor/Mayor Pro-Tem (No Report)
- b) City Manager (No Report)
- c) City Attorney (No Report)
- d) City Clerk (No Report)

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 Kearney moved for Council to convene in closed session pursuant to G.S. §143-318.11(a)(3) for two (2) Attorney-Client Privilege Matters, one of which was a lawsuit between the City of Henderson vs. Henderson Motels.. Motion seconded by Council Member Peace-Jenkins and unanimously approved. *(Council convened in closed session at 7:15 p.m.)*

Council Member Rainey moved for Council to convene in open session. Motion seconded by Council Member Daye and unanimously approved. *(Council convened in open session at 8:31 p.m.)*

ADJOURNMENT

Council Member Coffey moved for adjournment. Motion seconded by Council Member Daye and unanimously approved. The meeting adjourned at 8:33 p.m.

James D. O'Geary
Mayor

ATTEST:

Esther J. McCrackin
City Clerk