



AGENDA

Henderson City Council Regular Meeting
Monday, 9 July 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. Inscoc
Councilmember D. Michael Rainey

Councilmember Brenda G. Peace—Jenkins
Councilmember Garry D. Daeke
Councilmember Lonnie Davis, Jr.
Councilmember George M. Daye
Council Member Elect Vernon L. Brown

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) 25 June Short Regular Meeting [*See Notebook Tab 1*]
- b) 25 June Work Session

VII. PRESENTATION/RECOGNITIONS

- a) Economic Development Director – Stuart Litvin

VIII. PUBLIC HEARING

- a) Consideration of Approval of Ordinance 12-08, An Ordinance Eliminating Distance Restrictions On Electronic Gaming Operations Within Shopping Centers. (*CAF 12-A-66*) [*See Notebook Tab 2*]
 - Public Hearing
 - Ordinance 12-08

IX. 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.³

X. OLD BUSINESS

- a) Consideration of Approval of Resolution 12-51, Authorizing the Assignment of Current Contract with O'Brien and Gere for Engineering Services for Various Projects, Including the Sanitary Sewer Replacement Project, to Municipal Engineering Co., P.A. (*CAF 12-A-74*) [*See Notebook Tab 3*]
 - Resolution 12-51
- b) Consideration of Approval of Ordinance 12-46, FY12 Budget Amendment #56, Amending the General Fund and Water Fund. (*CAF 12-84*) [*See Notebook Tab 4*]
 - Ordinance 12-46

XI. SEATING OF NEW COUNCIL

- a) Presentation to Outgoing Council Member Davis
- b) Swearing in of Mayor and Council

XII. RECESS FOR NEW COUNCIL RECEPTION (30 minute recess)

XIII. NEW BUSINESS

- a) Appointment of Mayor Pro Tempore.
- b) Appointment of City Manager A. Ray Griffin, City Attorney John H. Zollicoffer, Jr. and City Clerk Esther J. McCrackin.
- c) Consideration of Approval of Resolution 12-52, Awarding of Departmental Handgun and Badge to Retiree Sergeant Jody L Proctor. *(CAF 12-78) [See Notebook Tab 5]*
 - Resolution 12-52
- d) Consideration of Approval of Resolution 12-A-19, Authorizing the Acceptance of FM Global Fire Prevention Grant and Ordinance 12-47, FY 12-13 Budget Amendment #1. *(CAF 12-85) [See Notebook Tab 6]*
 - Resolution 12-A-19
 - Ordinance 12-47

X. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

Citizens may 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

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.

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. Various Departmental Reports
 - Henderson-Vance County 911
 - Henderson Fire Department

XIV. ADJOURNMENT

City Council Minutes
Regular Meeting
9 July 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, George M. Daye and Council Member Elect Vernon Brown.

ABSENT

Council Member 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 C. Brafford, Planning Director Erris Dunston, Police Chief Keith Sidwell, Fire Chief Danny Wilkerson, Recreation and Parks Director Alan Gill, Code Compliance Director Corey Williams, Engineering Director Peter Sokalski, and Human Resources Director Cathy Brown. Also present, Director Youth Services Donna Stearns, Program Supervisor Linwood Martin, and Program Specialist William Ragland

CALL TO ORDER

The 9 July 2012 Regular Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary at 6:02 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 prayer and the Pledge of Allegiance.

Mayor O'Geary thanked everyone for attending and said it is always good to see concerned citizens. He went on to say that because of his health, Council Member Davis is unable to attend this evening. Mr. Davis said he was very sorry he could not attend and extended his very best to the Council

ADJUSTMENTS TO/APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Mayor O'Geary asked for any corrections to and/or approval of the minutes. City Attorney Zollicoffer said he misspoke during the 25 June Short Regular Meeting when he said a performance bond would be required from Municipal Engineering. Attorney Zollicoffer clarified service firms are not required to present performance bonds. Council Member Peace-Jenkins moved to accept the adjusted minutes for 25 June 12 Short Regular Meeting and the 25 June 12 Work Session minutes as presented. Motion seconded by Council Member Daye and unanimously approved.

PRESENTATIONS/RECOGNITIONS

Economic Development Director Stuart Livin introduced the North Carolina Deputy Secretary of Commerce, Dale Carroll who attended both the County Commissioners Meeting and this Council meeting, stating that the County/City are among an elite group as part of the Certified Industrial Site Program. Mr. Carroll said North Carolina is the first state to implement such a program, and Triangle North and Henderson-Vance Industrial Park have exceeded the qualifications of this program. He then congratulated Mayor O'Geary and Mr. Sam Watkins by presenting each with a plaque. Mr. Carroll concluded saying both commercial parks will be heavily promoted on North Carolina's ecommerce site for heightened visibility of the areas.

PUBLIC HEARING

Eliminating Distance Restrictions on Electronic Gaming Operations Within Shopping Centers. (Reference: CAF 12-A-66; Ordinance 12-08)

City Manager Griffin asked Planning Director Erris Dunston to come forward and respond to Council regarding their questions during the previous meeting. Ms. Dunston explained that the Planning Board proposed the addition of a sentence to Section 670B1 eliminating distance restrictions on internet cafes within shopping centers relative to Unified Business Developments (UBD). She said not all strip malls fall under the UBD.

Council Member Daeke asked about the distance requirements for UBDs. Ms. Dunston said UBDs typically have more than a 50 foot set back from all property lines and require landscaping. Council Member Rainey asked about the 250 foot separation between two cafes. Ms. Dunston said that would not be required if the restrictions are eliminated.

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

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

Council Member Rainey moved the approval of Ordinance 12-08, *Eliminating Distance Restrictions on Electronic Gaming Operations Within Shopping Centers*. No motion was made to second the motion so the motion died. (See Ordinance Book 8, p. 367)

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

The City Clerk advised the Mayor and Council Members that no citizen wished to address Council.

OLD BUSINESS

Authorizing the Assignment of Current Contract with O'Brien and Gere for Engineering Services for Various Projects, Including the Sanitary Sewer Replacement Project, to Municipal Engineering Co., P.A. (Reference: CAF 12-A-74; Resolution 12-51)

City Manager Griffin asked Assistant City Manager Frazier to review this issue for Council. Mr. Frazier apologized again that the contracts were not available prior to the 25 June meeting and reminded Council that O'Brien and Gere is closing its municipal division and the City's main contact at O'Brien and Gere, Dr. Mike Acquesta, P.E., has taken a position with Municipal Engineering Co., P.A. It is suggested the City continue with Dr. Acquesta as the lead contact on the various projects, including the sanitary sewer replacement project that O'Brien and Gere are willing to release to Municipal Engineering Co., P.A.

City Attorney John Zollicoffer stated one of the considerations while reviewing the assignment amendment was O'Brien and Gere had a 30-day right to cancel the contract which would have relieved them of all liability. The amendment states if the new firm uses the old firm's business and something is wrong, they are still liable and vice versa which Attorney Zollicoffer said might have been a problem if the old contract was terminated.

Council Member Kearney stated he was comfortable since the City would be dealing with the same individual and that the appropriate safeguards were in place.

There were no other comments. Mayor O'Geary then asked for the pleasure of Council.

Council Member Kearney moved the approval of Resolution 12-51, *Authorizing the Assignment of Current Contract with O'Brien and Gere for Engineering Services for Various Projects, Including the Sanitary Sewer Replacement Project, to Municipal Engineering Co., P.A.* Motion seconded by Council Member Daeke and APPROVED by the following vote: YES: Coffey,

Inscoe, Rainey, Peace-Jenkins, Daeke, Daye and Kearney. NO: None. ABSTAIN: None. ABSENT: Davis. (See Resolution Book 3, p. 1)

FY12 Budget Amendment #56, Amending the General Fund and Water Fund. (Reference: CAF 12-84; Ordinance 12-46)

City Manager Griffin reminded Council that previously it gave the Finance Director and City Manager authority to close out FY 12 with whatever amendments were appropriate, and asked Finance Director Kathy Brafford to summarize this amendment. Ms. Brafford said this amendment adjusts several line items within the Water Fund and General Fund for a more accurate year end.

There were no questions. Mayor O'Geary then asked for Council's pleasure.

Council Member Coffey moved the approval of Ordinance 12-46, *FY12 Budget Amendment #56, Amending the General Fund and Water Fund*. Motion seconded by Council Member Inscoe and APPROVED by the following vote: YES: Inscoe, Rainey, Peace-Jenkins, Daeke, Daye, Kearney and Coffey. NO: None. ABSTAIN: None. ABSENT: Davis. (See Ordinance Book 8, p. 443)

SEATING OF NEW COUNCIL

Before seating of the new council, Mayor O'Geary said he was saddened that Council Member Davis was unable to attend this evening. He stated Mr. Davis is known to many as *coach, teacher, and dear friend*. The Mayor said he has had the pleasure of serving as council member and Mayor alongside Mr. Davis and said he will be greatly missed. He then asked Council Members if they wished to utter any thoughts.

Council Member Kearney said Mr. Davis is a good friend whom he will stay in touch with. Council Member Coffey said she did not know Mr. Davis as well as some others but said he has taught her a lot since coming on Council. Council Member Inscoe said Mr. Davis is a very good friend and he will miss his guidance and direction. Council Member Rainey echoed previous comments and said Mr. Davis was a mentor who will be missed. Mr. Rainey also said Mr. Davis is well read and brought knowledge to this Council. Council Member Peace-Jenkins said Mr. Davis was her school teacher who she has come to know as a friend through worship and appreciated his wisdom. Council Member Daeke felt Mr. Davis was always a teacher, and he will miss the *wise old sage*. Council Member Daye said Mr. Davis is a close friend who was also a giving friend. He said he knew Mr. Davis was disappointed not to be in attendance and will definitely miss his presence during Council meetings.

City Attorney Zollicoffer said he remembered when Mr. Davis first became a Council Member and said Mr. Davis brought honor, intelligence and integrity to the Council. City Manager Griffin commented that he saw Mr. Davis as the consummate sagacious statesman who always found the win-win to make progress in any situation.

Mayor O'Geary then asked J. Henry Banks, 9th Judicial District Court Judge, and former Council

Member to administer the Oath of Office to the Mayor and new Council. Judge Banks reminded the Mayor and Council Members of the serious commitment they were making. Mayor O'Geary, Council Members Kearney, Rainey, Daeke all had family members in attendance that held the Bible as they took their oath. New Council Member Vernon L. Brown had both his wife, Jo Ann, and their daughter at his side as he took his oath. The Mayor then recessed the meeting for approximately thirty (30) minutes for a brief reception.

NEW BUSINESS

Appointment of Mayor Pro Tempore. Council Member Peace-Jenkins nominated Council Member Rainey as Mayor Pro-Tem, saying he has done an excellent job while serving as Chairman Pro-Tem. Motion was seconded by Council Member Daeke and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Brown, Daye, Kearney, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: None.

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

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

Council Member Inscoe moved the appointment of *City Manager A. Ray Griffin, City Attorney John H. Zollicoffer, Jr., and City Clerk Esther J. McCrackin*. Motion seconded by Council Member Daye and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Brown, Daye, Kearney, Coffey, Inscoe and Rainey. NO: None. ABSTAIN: None. ABSENT: None.

Awarding of Departmental Handgun and Badge to Retiree Sergeant Jody L. Proctor.
(Reference: CAF 12-78; Resolution 12-52)

City Manager Griffin asked Police Chief Keith Sidwell to address Council. Chief Sidwell said Sergeant Proctor joined the police force on 7 October 1982. As has been the policy in the past, and according to NCGS 20-187.2, the Chief is asking for Council's approval to award Sergeant Proctor his sidearm and badge on 1 August 2012 when he retires.

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

Council Member Rainey moved the approval of Resolution 12-52, *Awarding of Departmental Handgun and Badge to Retiree Sergeant Jody L. Proctor*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Daeke, Brown, Daye, Kearney, Coffey, Inscoe, Rainey and Peace-Jenkins. NO: None. ABSTAIN: None. ABSENT: None. (See Resolution Book 3, p. 3)

City Manager Griffin then asked Police Chief Sidwell to brief Council on House Bill 54 which the Chief instigated with help from Representative Crawford and Senator Berger. The substance of this bill is if a defendant has four or more prior larceny convictions, a subsequent larceny

offense is a felony. Chief Sidwell said this is another step regarding Strategic Plan KSO-1: to reduce crime.

Council Member Rainey asked for clarification of petty larceny. Chief Sidwell said anything under \$200.00. Mayor O'Geary said this new law should help make a difference in the community.

On a separate note, Chief Sidwell said he is grateful to have served during Council Member Davis' term. The Chief said Mr. Davis's calm resolve, wit and tenaciousness has carried him through arduous times and he appreciated Mr. Davis's ability to see situations for what they are without involving politics.

Council Member Coffey made note that the Chief should be thanked for the quick arrest in the recent murder of a young man within the City, and also said the Chief should also be thanked for the recent seventeen year conviction of a ruthless offender.

City Manager Griffin complimented Chief Sidwell for his work with the State and said this is just another piece of the war on crime. Mr. Griffin said parts of the Strategic Plan come to fruition quickly and others, such as this war, come together more slowly.

Authorizing the Acceptance of FM Global Fire Prevention Grant and Ordinance 12-47, FY 12-13 Budget Amendment #1. (Reference: CAF 12-85; Resolution 12—A-19; Ordinance 12-47)

City Manager Griffin said this would be a tag team effort with Fire Chief Wilkerson coming first to update Council on the FM grant. Chief Wilkerson said the grant has been accepted, the check has been received and the best news is there is no local match required. He plans to use the grant as submitted: for a camera and camera case, a Model-C hydrocarbon detector, a photo documentation kit and battery operated hand tools.

Finance Director Brafford then explained that this amendment transfers dollars from the Regional Water Fund to the CIP Regional Fund; closes out Fund 87, accepts the FM Grant funds and establishes a small grant project for the demolition of property in the Orange/Breckenridge area.

Mayor O'Geary asked for the pleasure of Council as there was no discussion.

Council Member Daeke moved the approval of Resolution 12—A-19, *Authorizing the Acceptance of FM Global Fire Prevention Grant*, and Ordinance 12-47, *FY 12-13 Budget Amendment #1*. Motion seconded by Council Member Kearney and APPROVED by the following vote: YES: Brown, Daye, Kearney, Coffey, Inscoe, Rainey, Peace-Jenkins and Daeke. NO: None. ABSTAIN: None. ABSENT: None. (See Resolution Book 2, p. 287-A; Ordinance Book 8, p. 445)

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

City Clerk McCrackin advised no citizen wished to address City Council at this time.

REPORTS

- a) Mayor/Mayor Pro-Tem (No Report)
- b) City Manager (No Report)
- c) City Attorney (No Report)
- d) City Clerk – Ms. McCrackin said a thank you note was received from Henderson Boy Scout Troop 691, along with a request to learn more about the REEF Project to determine if the troop could contribute to the project as part of their Eagle Scout project. She also distributed a questionnaire and asked Council Members to indicate, by preference, which committees they would like to serve on in the coming year. She asked that the questionnaire be returned no later than Friday, 13 July so the Mayor/Mayor Pro Tem can make appointments.

Mayor O'Geary asked if there was any other business.

ADJOURNMENT

Council Member Daeke moved for adjournment. Motion seconded by Council Member Daye and unanimously approved. The meeting adjourned at 7:29 p.m.

James D. O'Geary
Mayor

ATTEST:

Esther J. McCrackin
City Clerk