

City Council Minutes

Regular Meeting

April 9, 2018

PRESENT

Mayor Eddie Ellington, Presiding; and Council Members Marion B. Williams, William Burnette, D. Michael Rainey, Melissa Elliott and Garry D. Daeke

ABSENT

Council Members Sara M. Coffey, Fearldine Simmons and George M. Daye

STAFF PRESENT

City Manager Frank Frazier, City Attorney D. Rix Edwards, City Clerk Esther J. McCrackin, Finance Director Joseph Fuqua, Police Chief Marcus Barrow, Assistant Police Chief Vance Johnson, Fire Chief Steve Cordell, Assistant Fire Chief Curtis Tyndall, Assistant to City Manager Paylor Spruill, Engineering Director Clark Thomas, Human Resources Director Elgin Lane, Development Services Director Corey Williams, Henderson Water Reclamation Facility Director Lamont Allen, and Youth Services Program Coordinator, Shantel Hargrove.

CALL TO ORDER

The 9 April 2018 Regular Meeting of the Henderson City Council was called to order by Mayor Eddie Ellington at 6:04 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 Ellington a quorum was present. The Clerk said both Council Members Coffey and Simmons are unable to attend this evening due to health issues and Council Member Elliott called earlier today to say she would need to leave the meeting early due to another commitment.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Elliott led those present in a prayer and the Pledge of Allegiance.

OPENING COMMENTS

Mayor Ellington said it good to see so many attendees at this meeting and thanked everyone for coming out this evening.

ADJUSTMENTS TO/APPROVAL OF AGENDA

Mayor Ellington asked if there were any adjustments to the Agenda. Council Member Elliott moved to accept the Agenda as presented. Motion seconded by Council Member Rainey, and unanimously approved.

APPROVAL OF MINUTES

Mayor Ellington asked for any corrections to and/or approval of the minutes. Council Member Daeke moved the approval of the 19 March 2018 Regular Meeting minutes as presented. Motion seconded by Council Member Burnette, and unanimously approved.

PRESENTATIONS/RECOGNITIONS

Mayor Ellington asked Henderson-Vance Chamber of Commerce Director John Barnes to introduce the 2018 Leadership Vance Class and welcomed them all to the meeting. Mr. Barnes thanked Council for collaborating with the Chamber and for having the Class attend this evening as part of the Leadership Class curriculum.

PUBLIC HEARING

Holding a Public Hearing on the Question of Seven (7) Annexations, Pursuant to North Carolina General Statute 160-A-31, and 2) Consideration of Approval of Ordinance 18-13, 1) Extending the Corporate Limits of the City of Henderson, North Carolina; 2) Assignment of Newly Annexed Areas Wards 2 and 4, and 3) Directing the City Attorney to Record Annexation with Vance County Board of Elections, Vance County Register of Deeds and the North Carolina Secretary of State. (Reference: CAF 18-13-B; Ordinance 18-13)

City Manager Frazier said seven petitions have been received for annexation. The Salvation Army's new building is mainly inside the city limits. The State Employees Credit Union (SECU) has purchased land adjacent to their facility on Graham Avenue where they intend to install an ATM. The parcels on Birch and David streets are within city boundaries and the two David Street parcels are owned by the City and are vacant lots. The parcels on Birch Street are requesting annexation as their neighbors did through an annexation earlier this year.

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

Andrea Harris, 340 W. Rockspring Street. Ms. Harris encouraged the City to share annexation information so residents would have a clear understanding of what areas are being annexed and felt a map should be published also.

No one else came forward so Mayor Ellington then asked if anyone was present who wished to speak in opposition to the amendment. No one came forward. Mayor Ellington then closed the Public Hearing and asked for Council's pleasure.

Mr. Frazier mentioned these annexations are at the request of the property owners. In response to Ms. Harris' request for maps, he said maps were printed in the paper when the City was taking over property; however, State Statute no longer allows municipalities to annex as it was once able to do. He then emphasized these properties are all voluntary annexation petitions and when connecting to utilities are required to submit a petition if contiguous to the city limits.

Several Council Members expressed concerns about the Salvation Army annexation. Council felt with two middle schools soon to be vacated, one of those school buildings might serve the Salvation Army well since they have gyms, athletic fields and other facilities, and the buildings are centrally located. Ultimately, Council felt the Salvation Army should be removed from this annexation approval to give the staff time to discuss this further with the Salvation Army officials to see if there is any interest in the existing buildings.

Council Member Rainey moved the approval of Ordinance 18-13, *Holding a Public Hearing on the Question of Six (6) Annexations, Pursuant to North Carolina General Statute 160-A-31, and 2) Consideration of Approval of Ordinance 18-13, 1) Extending the Corporate Limits of the City of Henderson, North Carolina; 2) Assignment of Newly Annexed Areas Wards 2 and 4, and 3) Directing the City Attorney to Record Annexation with Vance County Board of Elections, Vance County Register of Deeds and the North Carolina Secretary of State. This motion excludes annexation of the Salvation Army location on Ross Mill Road until an unknown date in the future. Motion seconded by Council Member Burnette, and APPROVED by the following vote: YES: Williams, Burnette, Rainey, Elliott and Daeke. NO: None. ABSTAIN: None. ABSENT: Coffey, Simmons and Daye. (See Ordinance Book 9, p 519)*

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

City Clerk McCrackin advised no citizen wished to address Council.

OLD BUSINESS

Approving a Contract with Dewberry Engineering for Landscape Architectural Services in Support of the Pavilion (Special Use Permit #23840) and Transferring Funds from General Reserve to the Outdoor Pavilion CIP Budget in the Amount of \$10,000. *(Reference: CAF 18-35; Resolution 18-22, Ordinance 18-15, Budget Amendment #17)*

City Manager Frazier gave some of the background for this project and said there is a private entity that is willing to build the pavilion. However, it is believed that a landscape architect is needed to make sure this project is developed in the best way possible. The need for outside expertise was discussed during the Public Works Committee meeting and it was the Committee's recommendation to approve a task order with Dewberry Engineering to perform this work. Mr. Frazier said the total fee has been reduced to \$9,900 since the topographical map is being done by a surveyor through the Engineering Department.

Council Member Rainey wanted to know why a local firm is not being considered. Mr. Frazier said he was unaware of local landscape architects nor anyone that would perform the work necessary for no cost. Mr. Rainey noted that he did not say for free.

Council Member Daeke, Chairperson of the Public Works Committee, mentioned the need for a site study to ensure the parking, grading of land, seating, etc. are all done properly.

Engineering Director Clark Thomas added that it is important to have an architect's input to make sure this project meets ADA requirements, that the space is properly terraced and even where the bathrooms should be located. He said Killian, a local firm, does not have expertise in this area. Mr. Thomas noted that Council previously approved Dewberry Engineering as the on-call engineering firm and Mr. Frazier added that the whole purpose of the on-call services was to obtain a consultant in a timely manner.

Council Member Burnette asked if there is a timeframe for completing this project. Manager Frazier said he hoped it would be completed before the end of summer and said the owner that agreed to build the pavilion was able to do it at this time and is ready to proceed.

Council Member Williams mentioned that during the Public Works Committee meeting, she asked about the possibility of a water area such as a fountain and she would like that to be considered in the plans.

With no further discussion, Mayor Ellington asked Council how it wished to proceed.

Council Member Daeke moved the approval of Resolution 18-22, *Approving a Contract with Dewberry Engineering for Landscape Architectural Services in Support of the Pavilion (Special Use Permit #23840)* and Ordinance 18-15, *FY18 BA #17, Transferring Funds from General Reserve to the Outdoor Pavilion CIP Budget in the Amount of \$10,000*. Motion seconded by Council Member Williams, and APPROVED by the following vote: YES: Burnette, Elliott, Daeke and Williams. NO: Rainey. ABSTAIN: None. ABSENT: Coffey, Simmons and Daye. *(See Resolution Book 6, p 71; Ordinance Book 9, p 523)*

(Clerks Note: Council Member Elliott left the meeting at 6:40 p.m.)

Authorizing a Contract with Dewberry Engineers to Assist with Establishing a Stormwater Utility, Ordinance and Associated Rate Structure. *(Reference: CAF 18-37; Resolution 18-23)*

City Manager Frazier said this project has been discussed several times in the past and it was discussed during the Public Works meeting. Staff feels professional input is needed to help develop a stormwater utility and to avoid pitfalls that other cities have experienced such as determining the appropriate rate structure and ordinance provisions. He then asked Engineering Director Clark Thomas to introduce the Dewberry representative.

Mr. Thomas said that several years ago Council approved Dewberry as the on-call engineering firm to assist with projects such as this. Mr. Thomas then introduced Mr. Larry Mitchell from Dewberry. Mr. Mitchell said Dewberry assisted Oxford in a similar stormwater utility project about eight years ago. He felt Dewberry could help with stakeholder buy-in by both residents

and commercial/industrial developments. They can also help with the environmental concerns that may be raised, as well as helping staff with stakeholder meetings.

The stormwater utility fee would help pay for storm sewer pipe replacements that are identified as well as other stormwater improvements such as BMP's that are greatly needed throughout the City.

Council Member Daeke said this item was also discussed during the Public Works meeting and it was his understanding that there is a dire need for replacements. The proposal, of \$35,500 was also discussed in that meeting and each Council member received a copy of the proposal at the beginning of this meeting.

With no further discussion, Mayor Ellington asked Council how it wished to proceed.

Council Member Rainey moved the approval of Resolution 18-18, *Authorizing a Contract with Dewberry Engineers to Assist with Establishing a Stormwater Utility, Ordinance and Associated Rate Structure* Motion seconded by Council Member Daeke, and APPROVED by the following vote: YES: Burnette, Rainey, Daeke and Williams. NO: None. ABSTAIN: None. ABSENT: Coffey, Elliott, Simmons and Daye. (See Resolution Book 6, p 73)

NEW BUSINESS

Establishing a Written Policy for Pre-Audit and Electronic Disbursement of Funds. (Reference: CAF 18-30; Resolution 18-18)

City Manager Frazier said this is a housekeeping matter and asked Finance Director Joey Fuqua to explain this resolution. Mr. Fuqua said that new State policies were put in place in November 2017 that require internal controls to ensure funds are available prior to making payments. The city was already meeting these requirements with the institution of the PCard system in June 2017. However, the new guidelines require a resolution be passed by Council.

There was no discussion and Mayor Ellington asked Council how it wished to proceed.

Council Member Burnette moved the approval of Resolution 18-18, *Establishing a Written Policy for Pre-Audit and Electronic Disbursement of Funds.* Motion seconded by Council Member Daeke, and APPROVED by the following vote: YES: Rainey, Daeke, Williams and Burnette. NO: None. ABSTAIN: None. ABSENT: Coffey, Elliott, Simmons and Daye. (See Resolution Book 6, p 63)

Approving a Contract Between the City of Henderson and Thompson, Price, Scott, Adams & Co., P.A. to Conduct the Annual Audit for Fiscal Year 2017-2018. (Reference: CAF 18-32; Resolution 18-20)

City Manager Frazier explained William L. Stark and Co. who has done the audit for the last three years elected not to submit a proposal for this year. He said no local firms submitted proposals but a proposal was received from Thompson, Price, Scott, Adams and Co., PA. This firm performed an audit for the City in 2007. Mr. Frazier said they audited the County in FY 16-17 and both the County Manager and the Finance Director were pleased with their work. The

Manager added that Council is approving this firm for one year but the firm was willing to commit to three years at the same cost of \$50,250.

Mayor Ellington asked if they would perform the same work as William L. Stark and the Manager replied yes.

Council Member Rainey asked where the firm is located. Mr. Frazier said their main office is in Whiteville, NC. Mr. Rainey also asked why the current auditors did not submit a bid. Mr. Frazier said he spoke to the principals and right now, they felt the manpower needed to do a municipal audit was more than they wanted to take on for another year. Mr. Frazier added he was told the City was a good customer and the firm may be open to submitting a proposal in coming years.

Council Member Daeke said he had heard smaller firms are no longer doing audits such as what the city needs and since these audits all come at the same time, he could understand the reasoning.

With no further discussion, Mayor Ellington asked Council how it wished to proceed.

Council Member Rainey moved the approval of Resolution 18-20, *Approving a Contract Between the City of Henderson and Thompson, Price, Scott, Adams & Co., P.A. to Conduct the Annual Audit for Fiscal Year 2017-2018*. Motion seconded by Council Member Burnette, and APPROVED by the following vote: YES: Daeke, Williams, Burnette and Rainey. NO: None. ABSTAIN: None. ABSENT: Coffey, Elliott, Simmons and Daye. (See Resolution Book 6, p 67)

Amending the Agreement with T-Mobile for an Additional Ten (10) Year Lease.
(Reference: CAF 18-21, Resolution 18-21)

City Manager Frazier said T-Mobile has used the water tower on Chavasse Street for many years and that the current agreement expires December 7, 2018. He said T-Mobile has met with the City staff and the amended agreement is for ten years and will provide \$3,500 monthly income with a 2% escalation clause every year.

Council Member Daeke asked if the existing lease had an escalation clause and Mr. Frazier referred this question to Assistant to the City Manager Mr. Spruill who responded yes.

Mr. Spruill said the agreement currently provides for \$2,600 monthly.

With no further discussion, Mayor Ellington asked Council how it wished to proceed.

Council Member Rainey moved the approval of Resolution 18-21, *Amending the Agreement with T-Mobile for an Additional Ten (10) Year Lease*. Motion seconded by Council Member Burnette, and APPROVED by the following vote: YES: Daeke, Williams, Burnette and Rainey. NO: None. ABSTAIN: None. ABSENT: Coffey, Elliott, Simmons and Daye. (See Resolution Book 6, p 69)

Amending Article IV, Section 16-61 Sidewalks of the City Code and Adding Section 16-69 to Include Downtown Sidewalk Café Regulations. *(Reference: CAF 18-36; Ordinance 18-14)*

City Manager Frazier said the DDC has requested outdoor seating be allowed for downtown restaurants. After meeting with staff an amendment to the city code has been drafted and presented to the Public Works Committee. The Committee suggested safety issues, possible liability issues, furniture standards and questioned whether furniture should remain outside overnight, along with how the trash should be disposed of from outside tables.

Council Member Rainey asked if this amendment is restaurant specific. Mr. Frazier said yes and City Attorney Edwards referenced the definition section of the amendment.

Mr. Frazier said if this amendment is approved and problems occur, further changes could be recommended to the ordinance if there are further adjustments needed. It was also stated that the staff would provide a standard guide for this similar to the one provided by the City Attorney from the city of Richmond, VA.

With no further discussion, Mayor Ellington asked Council how it wished to proceed.

Council Member Burnette moved the approval of Resolution 18-21, *Amending Article IV, Section 16-61 Sidewalks of the City Code and Adding Section 16-69 to Include Downtown Sidewalk Café Regulations*. Motion seconded by Council Member Rainey, and APPROVED by the following vote: YES: Williams, Burnette, Rainey and Daeke. NO: None. ABSTAIN: None. ABSENT: Coffey, Elliott, Simmons and Daye. *(See Ordinance Book 9, p 521)*

CONSENT AGENDA

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

Approving FY 18-19 Budget Review Calendar and Schedule of Special Council Budget Work Sessions. *(Reference: CAF 18-29; Resolution 18-17)* This is a routine matter to allow time for Council to discuss/review the budget prior to approving in June to meet State guidelines. *(See Resolution Book 6, p 61)*

Declaring the Opioid Crisis a Public Nuisance. *(Reference: CAF 18-33; Resolution 18-16)* Opioids have become a nationwide epidemic and the consensus of Council was to join with other municipalities to hold the pharmaceutical industry accountable for the influx of these drugs. *(See Resolution Book 6, p 59)*

Tax Releases and Refunds from Vance County for the Month of February 2018. The Finance Director has reviewed the following releases/refunds and found them to be in order. This action approves the tax releases and refunds for February 2018.

February 2018 Tax Releases & Refunds			
Name	Reason	Tax Year	Amount
Real & Personal Property Releases			
Personal Property (Various)	Personal Property Billed In Error	2017	\$ 7,349.53
Brame, Beatrice	Real Property Billed In Error	2017	\$ 3,972.10
Anoviv Realty of NC	Real Property Billed In Error	2017	\$ 134.30
Williams, Bobby	Real Property Billed In Error	2017	\$ 306.62
			\$ -
Real & Personal Property Releases - Total			\$ 11,762.55
Real & Personal Property Refunds			
			\$ -
Real & Personal Property Refunds - Total			\$ -
Audit Discoveries			
			\$ -
Audit Discoveries - Total			\$ -
Total Refunds & Releases			\$ 11,762.55

Mayor Ellington asked if anyone wished to remove an item from the Consent Agenda. There were no requests. Mayor Ellington asked for a motion to approve the consent Agenda

Council Member Rainey moved the approval of the Consent Agenda as presented. Motion seconded by Council Member Williams, and APPROVED by the following vote: YES: Williams, Burnette, Rainey and Daeke. NO: None. ABSTAIN: None. ABSENT: Coffey, Elliott, Simmons and Daye.

Council Member Daeke asked the Finance Director for an explanation of “Personal Property – Various” as listed on the Tax Releases above. Mr. Fuqua said they were many very small amounts that were combined. Mr. Daeke was satisfied knowing the Finance Department had reviewed this amount.

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

City Clerk McCrackin advised four citizens wished to address Council.

Susie Geronimo Ms. Geronimo would like to work with the City in finding ways to renovate properties so they can be purchased and bring in revenue.

Mayor Ellington thanked Ms. Geronimo for her concern.

Charles Powell, P.O. Box 74, Henderson Mr. Powell came before Council to ask for a waiver of the Special Use Permit for the community gardens. He felt the \$450 special use permit could smash dreams and prevent individuals from making a living and realizing their dream.

Ardis Crews, 424 Hamilton Street As spokesperson for Green Rural Redevelopment, Inc., Ms. Crews asked that the Special Use Petition required for using 725 Roberson St. as a GAP Farm be waived.

Andrea Harris, 340 W. Rockspring Street Ms. Harris also asked that the Special Use Permit be waived for Roberson Street. She stated use of the property for farming would be seen positively by the community.

There was discussion by Council whether a waiver would set a precedent, if a lease could be utilized, and whether the property could be granted with certain restrictions. No conclusions were determined; however, the City Manager, City Attorney and Development Services department will continue to look into this matter and bring back a recommendation to Council.

REPORTS

- a) Mayor/Mayor Pro-Tem - Mayor Ellington reported that a thank you note was received from Council Member Williams for the kind words, prayers and plant she received with the passing of her sister.
- b) City Manager - Mr. Frazier reported on the following:
 - i. The DDC has asked the City to assist with renovations to the Orange Street parking lot. The DDC would like to install new light posts, benches and a sculpture at no cost to the City. However, the City may need to put down a seal coat and new bumper stops. In addition, the DDC would like the City's assistance in cutting down the overgrown trees.
 - ii. The Manager is still working to gather information regarding the minimum charge for any habitable structure or commercial business for failure to connect to available water and sewer
- c) Staff Report
 - i. Youth Services Program Coordinator Shantel Hargrove and Police Chief Marcus Barrow reported on the *ShopTalk* meetings that began last week. Ms. Hargrove said four meetings have been held and more are scheduled. The purpose is to gather information from teens and young adults about what programs they would like to see the City/County offer. Overall, they would like to see a teen center downtown so they would have a safe place to gather. They would like the Aycock Recreation Center open longer on Saturday and Sunday afternoons. A shadowing program was mentioned and some commented that more resource/job readiness programs would be helpful. In addition, a parenting class for parents was mentioned. Chief Barrow said overwhelmingly there was mention of more centrally located services. Many of the youth come downtown because they feel safe and, they can find free wi-fi hot spots. The Chief said there has been very little talk about law enforcement. Ms. Hargrove said a meeting is scheduled for April 16 at the Perry Memorial Library for the teen council to review these ideas and to begin an implementation process.
- d) City Attorney - (No Report)
- e) City Clerk – (No Report)

At this time, Mayor Ellington asked if Council was prepared to go into Closed Session and stated there would be no report following the session.

(Clerk's Note: Council Member Simmons arrived at 7:35 p.m.)

CLOSED SESSION

Council Member Rainey moved for Council to convene in closed session pursuant to G.S. §143-318.11(a)(3) for a Client-Attorney Matter. Motion seconded by Council Member Williams, and unanimously approved.

Council Member Rainey moved for Council to convene in open session. Motion seconded by Council Member Burnette, and unanimously approved.

WORK SESSION

Establishing a No Parking Zone on Zeb Robinson Road. *(Reference: CAF 18-38; Ordinance 18-16)*

City Manager Frazier asked Police Chief Barrow to explain this request. Chief Barrow said he has requested no parking signs for a portion of Zeb Robinson Road due to the trash, bottles, etc. that have accumulated along the road. This debris can be seen from I-85 and is an eyesore for those traveling on Zeb Robinson Road. The majority of this trash comes from a bar and lounge on the road. There is also a sweepstakes business that shares the same parking lot and when the lot is full, the overflow parks along both sides of the street. The Chief has spoken to White's Funeral Home to assure them that the no parking will begin far enough down the road so that vehicles can park along the road for a large funeral. He has also talked with The Peanut Roaster. Both businesses are pleased to know action is being considered. There is also a hotel on this road. Overall, the Chief feels restricting parking in the specified area will greatly reduce the trash accumulation in the area as well as other safety concerns for the traveling public.

ADJOURNMENT

Council Member Rainey moved for adjournment. Motion seconded by Council Member Burnette, and unanimously approved. The meeting adjourned at 8:20 p.m.

Eddie Ellington
Mayor

ATTEST:

Esther J. McCrackin, City Clerk