

City Council Minutes

Regular Meeting

April 8, 2019

PRESENT

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

ABSENT

Council Members Simmons and 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, Fire Chief Steve Cordell, Assistant Fire Chief Curtis Tyndall, Assistant City Manager Paylor Spruill, Human Resources Director Elgin Lane, Development Services Director Corey Williams, Recreation and Parks Director Kendrick Vann, Customer Service Manager Shay Bennett and Public Works Director Andy Perkinson

CALL TO ORDER

The 8 April 2019 Special Called Meeting of the Henderson City Council was called to order by Mayor Eddie Ellington at 6:00 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 stated a quorum was present. Council Member Simmons was unable to attend due to health reasons and Council Member Rainey arrived late due to a prior commitment.

INVOCATION AND PLEDGE OF ALLEGIANCE

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

OPENING COMMENTS

Mayor Ellington welcomed everyone and asked the City Clerk to proceed.

ADJUSTMENTS TO/APPROVAL OF AGENDA

Mayor Ellington asked if there were any adjustments to the Agenda. Council Member Daeke moved to accept the Agenda as adjusted. Motion seconded by Council Member Burnette and unanimously approved.

APPROVAL OF MINUTES

Mayor Ellington asked for any corrections to and/or approval of the minutes. The Clerk mentioned the agenda package minutes contained two minor errors that have since been corrected. Council Member Burnette moved the approval of the 11 March Regular meeting minutes as adjusted. Motion seconded by Council Member Coffey and unanimously approved.

PUBLIC HEARING

Amending the Zoning Map to Rezone 1337 Dabney Drive (Parcel 0013 03052), 1343 Dabney Drive (Parcel 0013 03001), and 1511 Lynne Avenue (Parcel 0013 03002) from OIA (Office Institutional “A”) District and R-8 (Moderate to High Density Residential) District to B-4 (Neighborhood Commercial) District. (Reference: CAF 19-05-A; Ordinance 19-01)

City Manager Frazier asked Development Services Director Corey Williams to update Council on this request. Mr. Williams stated this request was heard several months ago and it is now being brought back to Council for consideration. Mr. Williams showed a map of the property and reminded Council that there was concern regarding traffic. Mr. Williams said he had received no additional information from the applicant regarding traffic flow nor did he have any information regarding the NCDOT plans for traffic flow on Dabney Drive.

Council Member Coffey asked if all three parcels had to be included in the rezoning. Mr. Williams said if Council decided to do so, the parcels could be considered individually. Council Member Burnette asked for an explanation of what is included in the OIA district to which Mr. Williams stated it is a transitional mixed use that includes but is not limited to schools, churches, and police stations,

Council Member Williams remembered part of the previous concern was whether traffic could be directed through the existing mall parking lot and she wondered when the DOT would release preliminary plans for Dabney Drive. Mr. Williams had no knowledge of using the mall parking lot, and the Manager said the DOT is currently surveying the area; however, no preliminary plans have been received.

Council Member Daeke stated he was not in favor of having traffic exiting onto Lynne Avenue.

With no further discussion, Mayor Ellington opened the Public Hearing by asking if anyone was present who wished to speak in favor of this amendment.

Harold Frazier, Frazier Realty – Mr. Frazier, along with Mr. Joe Lancaster, represent the petitioner. Mr. Frazier updated Council by saying they have received a verbal

agreement with the owners of the mall as ingress/egress for these three parcels. He said if approved the proposed business would bring upwards of 50 jobs to the community. Council Member Burnette asked if all three parcels were necessary. Mr. Frazier said with a variance from the City to reduce parking by four (4) to six (6) spaces, two parcels would suffice.

Discussion continued with the focus on traffic in the residential area of Lynne Avenue with Council Member Williams asking specifics about traffic flow. Mr. Lancaster said a plan will have to be developed by the engineer that would satisfy the zoning/planning board and meet the fire department regulations. Council Member Daeke expressed concern regarding egress onto Dabney Drive.

The City Manager reminded Council that this rezoning needed to consider all categories in the zoning district and the City Attorney emphatically stated that the discussion was becoming too site specific and that Council needed to look at the rezoning overall.

With no further questions, Mayor Ellington asked if anyone was present who wished to speak in opposition to the rezoning.

Linnoya Williams–Royster, 1536 Lynn Avenue Ms. Royster attended both the December Planning Board meeting and the January Council meeting where she expressed her opposition to this rezoning. Her concerns are the already congested area and the safety of the elderly and children. She said perhaps if a traffic signal is assigned to Lynn Avenue or if traffic is diverted into the mall, she would be amenable to this rezoning. She said she is not opposed to growth but has a strong concern when it will affect her neighborhood.

Cordell Royster, 1536 Lynn Avenue Mr. Royster asked the council members how they would feel if traffic increased in their specific residential area. He expressed concern about the potential increase in traffic and asked Council to consider this matter carefully.

Mayor Ellington closed the Public Hearing and asked for Council's pleasure.

Council Member Coffey asked if the matter could be tabled. Mayor Ellington asked if the matter should be tabled since several council members were absent. There was no objection to tabling this matter until the next regular meeting.

Council Member Coffey moved to TABLE Ordinance 19-01, *Amending the Zoning Map to Rezone 1337 Dabney Drive (Parcel 0013 03052), 1343 Dabney Drive (Parcel 0013 03001), and 1511 Lynne Avenue (Parcel 0013 03002) from OIA (Office Institutional "A") District and R-8 (Moderate to High Density Residential) District to B-4 (Neighborhood Commercial) District.* Motion seconded by Council Member Elliott, and APPROVED by the following vote: YES: Williams, Coffey, and Elliott. NO: Burnette and Daeke. ABSTAIN: None. ABSENT: Rainey, Simmons and Daye. (See Ordinance Book 10, p 619)

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

City Clerk McCrackin advised no citizen wished to address Council.

NEW BUSINESS

Confirming the City's Desire to Continue Services with Waste Industries, Inc., Relative to the Contracting of Sanitation Services. *(Reference: CAF 19-26; Resolution 19-16)*

City Manager Frazier stated the City originally contracted with Waste Industries in 2010. The contract allowed for three-year extensions and this agreement is now being brought before Council for consideration of approving another three-year extension. Mr. Frazier said the City Attorney has suggested that an addition to the arbitration clause be added to allow the matter to be resolved by the courts of Vance County or the United States Eastern District. The Attorney clarified the City's position on this matter.

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

Council Member Elliott moved the approval of Resolution 19-16, *Confirming the City's Desire to Continue Services with Waste Industries, Inc., Relative to the Contracting of Sanitation Services*. Motion seconded by Council Member Burnette, and APPROVED by the following vote: YES: Coffey, Burnette, Elliott, Daeke and Williams. NO: None. ABSTAIN: None. ABSENT: Rainey, Simmons and Daye. *(See Resolution Book 6, p 223)*

(Clerk's Note: Council Member Daeke left the meeting at 6:40 p.m. and Council Member Rainey arrived at about the same time)

Authorizing the Demolition of 813 Andrews Avenue, 435 N. Chestnut Street and 210 Chestnut Street Alley. *(Reference: CAF 19-28; Resolution 19-18)*

City Manager Frazier said since preparing this request, the County has received an offer to purchase 435 N. Chestnut Street and the County placed a caveat on the sale that if sold, the property must be brought up to code or remove the structure within twelve months. City staff feels twelve months is too long and Mr. Frazier asked Development Services Manager Corey Williams to provide further details. Mr. Williams found all three properties to be unsafe, He referenced the CAF that included pictures of all three properties and noted that 435 N. Chestnut is a two story building that burned recently. The same individual owns both Chestnut Street properties. The owner has unsuccessfully attempted to sell the properties, thus the foreclosure process was started and the City and County now own these properties. The process is still enforceable; however, if the offeror is willing to demolish the property or bring it up to code within six months, the City would be agreeable to the sale of this property. Mr. Frazier added that leaving an easement but closing the alley has been considered; however, nothing definite has been decided.

(Clerk's Note: The CAF inadvertently reversed the street numbers for two of these properties. It should have read 435 N. Chestnut Street and 210 Chestnut Street Alley).

There was no further discussion, so Mayor Ellington asked Council how it wished to proceed.

Council Member Coffey moved the approval of Resolution 19-18, *Authorizing the Demolition of 813 Andrews Avenue, 210 Chestnut Street and 435 Chestnut Street Alley*. Motion seconded by Council Member Burnette, and APPROVED by the following vote: YES: Burnette, Rainey, Elliott, Williams and Coffey. NO: None. ABSTAIN: None. ABSENT: Daeke, Simmons and Daye. (See Resolution Book 6, p 227)

Approval to Purchase Property at the Corner of Beckford Drive and Andrews Avenue Further Identified as Parcel No. 0104 03001 for the Purpose of Redevelopment. (Reference: CAF 19-31, Ordinance 19-13, Budget Amendment #29)

City Manager Frazier asked Assistant City Manager Paylor Spruill to explain this request further. Mr. Spruill said the purchase of this parcel involves about 8/10th of an acre at the corner of Beckford Drive and Andrews Avenue that will encompass a large fountain along with a welcome to Henderson sign. He said the fountain will be lit at night and the space is large enough to create a small playground and perhaps some benches and tables for playing games such as chess. Mr. Spruill said he envisioned a few parking spaces with an entrance/exit being created on Andrews and Beckford Drive that will also allow for proper maintenance.

Council Member Rainey asked if there is a sidewalk at this intersection. Mr. Frazier said the sidewalk is on the opposite side of the street. Mr. Rainey then asked why there would be benches and parking when people cannot walk to the space and felt parking would deter from the esthetics of the fountain. Mr. Spruill said there would only be 3-4 spaces and thought once a site plan is developed it would be easier to grasp the overall look.

Council Member Williams asked who would be responsible for taking care of this area. Mr. Frazier said the City would be responsible; however, the particular department has not been determined.

Mayor Ellington asked if funds have been allocated for this project. Mr. Frazier said this is part of the redevelopment plan and the costs would be brought back to Council for consideration during the budget process as well as further progression of the Redevelopment Plan.

There were no other questions so Mayor Ellington asked Council how it wished to proceed.

Council Member Elliott moved the approval of Ordinance 19-13, *Approval to Purchase Property at the Corner of Beckford Drive and Andrews Avenue Further Identified as Parcel No. 0104 03001 for the Purpose of Redevelopment*. Motion seconded by Council Member Rainey, and APPROVED by the following vote: YES: Rainey, Elliott, Williams, Coffey and Burnette. NO: None. ABSTAIN: None. ABSENT: Daeke, Simmons and Daye. (See Ordinance Book 10, p 643)

Approving a Contract Between the City of Henderson and Thompson, Price, Scot, Adams and Co., P.A., to Conduct the Annual Audit for Fiscal Year 2018-2019. (Reference: CAF 19-32; Resolution 19-19)

City Manager Frazier said although this firm went past the deadline in getting the annual audit completed, he felt for the first year they did a good job. There is no increase in the fees for the

FY19 audit and Mr. Frazier felt now that the firm has completed one audit, it will be better prepared to meet the October deadline for the FY19 audit.

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

Council Member Burnette moved the approval of Resolution 19-19, *Approving a Contract Between the City of Henderson and Thompson, Price, Scott, Adams and Co., P.A., to Conduct the Annual Audit for Fiscal Year 2018-2019*. Motion seconded by Council Member Coffey, and APPROVED by the following vote: YES: Elliott, Williams, Coffey, Burnette and Rainey. NO: None. ABSTAIN: None. ABSENT: Daeke, Simmons and Daye. (See Resolution Book 6, p 229)

Approving a Small Cell Wireless Facility Ordinance. (Reference: CAF 19-34; Ordinance 19-15)

City Manager Frazier first apologized for not including the full ordinance with the agenda package. He said City Attorney Edwards recently attended the Municipal Attorney's Conference where he learned about the necessity of a small cell wireless ordinance, which is why it is before Council this evening. Mr. Frazier then asked Attorney Edwards to explain this request in detail. Attorney Edwards said by having this ordinance in place by April 15, the City will establish esthetic standards for placement of cell towers by small cell wireless companies. Because of the short notice, Mr. Edwards said tweaks may need to be made to the ordinance in the future but it is very important to have an ordinance in place as required before April 15, 2019. Mr. Edwards also stated that this ordinance needs to be placed on the City's website prior to April 15.

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

Council Member Elliott moved the approval of Ordinance 19-15, *Approving a Small Cell Wireless Facility Ordinance*. Motion seconded by Council Member Coffey, and APPROVED by the following vote: YES: Williams, Coffey, Burnette, Rainey and Elliott. NO: None. ABSTAIN: None. ABSENT: Daeke, Simmons and Daye. (See Ordinance Book 10, p 647)

Establishing a CIP Project for the Replacement of the Generator at the Martin Creek Pump Station FY2018-2019 Budget Amendment #30. (Reference: CAF 19-33; Ordinance 19-14; Budget Amendment #30)

City Manager Frazier explained the Martin Creek Pump Station generator was purchased in 1979 and it is no longer working. It will cost \$10,000 to repair with no warranty. Gregory Poole submitted a cost of just under \$50,000 for a new generator. Staff is in the process of gathering other pricing and this action will allow the City Manager to determine where to purchase the generator. Mr. Frazier also stated a generator will need to be rented until the new one is installed.

Mayor Ellington asked Council how it wished to proceed.

Council Member Burnette moved the approval of Ordinance 19-14, *Establishing a CIP Project for the Replacement of the Generator at the Martin Creek Pump Station FY2018-2019 Budget Amendment #30*. Motion seconded by Council Member Coffey, and APPROVED by the following vote: YES: Williams, Coffey, Burnette, Rainey and Elliott. NO: None. ABSTAIN: None. ABSENT: Daeke, Simmons and Daye. (See Ordinance Book 10, p 645)

CONSENT AGENDA

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

Issuance of Certificate of Sufficiency and Fixing Date of Public Hearing on Question of Annexation of 429 Birch Street and 432 Bobbitt Street Pursuant to N.C.G.S. §160A-31. (Reference: CAF 19-16-A; Resolution 19-09-A) Action on this item allows the City Clerk to publicize the public hearing date for the regular May Council meeting. (See Resolution Book 6, p 209-A)

Approving FY19-20 Budget Review Calendar and Scheduling of Special Council Budget Work Sessions. (Reference: CAF 19-27; Resolution 19-17) This action sets the dates for budget discussions and the required public hearing. (See Resolution Book 6, p 225)

Tax Releases and Refunds from Vance County for the Month of February 2019. (Reference: CAF 19-30) 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 2019.

February 2019 Tax Releases & Refunds			
Name	Reason	Tax Year	Amount
Real & Personal Property Releases			
Vaughn, Thomas	Taxes Lost To Forclosures	2013-2018	\$ 1,180.19
Henderson, Robena	Taxes Lost To Forclosures	2014-2018	\$ 287.10
Renn, Louise	Taxes Lost To Forclosures	2014-2018	\$ 433.95
Ayscue, Hugh	Taxes Lost To Forclosures	2015-2018	\$ 908.62
Branch Banking	Taxes Lost To Forclosures	2015-2016	\$ 804.82
Owens, Frida	Taxes Lost To Forclosures	2016-2018	\$ 1,527.14
Merritt, James	Taxes Lost To Forclosures	2017-2018	\$ 1,593.76
Newton, Robert	Personal Property Billed In Error	2018	\$ 20.48
Real & Personal Property Releases - Total			\$ 6,756.06
Real & Personal Property Refunds			
			\$ -
Real & Personal Property Refunds - Total			\$ -
Audit Discoveries			
			\$ -
Audit Discoveries - Total			\$ -
Total Discoveries, Refunds & Releases			\$ 6,756.06

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

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

City Clerk McCrackin advised two citizens wished to address Council.

Jacqueline Wright, 1203 North Pinkston Street Ext. Ms. Wright stated she has been dealing with a nuisance motor vehicle since May 2018. She has spoken to the Development Services Director, the Police Chief and the City Manager and feels the responses she has received are not sufficient. She read the ordinance to Council and would like the vehicle in her neighbor's yard removed. The Police Chief read the letter he sent to the neighbor and he stated he had prepared an administrative search warrant and felt the neighbor is in compliance with the ordinance. Ms. Wright feels the vehicle is causing mosquitos and rodents in her yard and says she is not able to enjoy her patio.

Council Member Rainey asked the Manager to take this issue under advisement.

Jacquelyn Wilson, 11 Matthew Drive As spokesperson for the Oxford-Henderson Alumnae Chapter of Delta Sigma Theta Sorority, Inc., Ms. Wilson informed the Council of the sorority's five-point program which includes: Educational Development, Economic Development, International Awareness and Involvement, Physical and Mental Health and Political Awareness and Involvement. She shared a little about each point and concluded by saying sorority is committed to making Henderson a better place to live. She also asked Council to keep the local group in mind when making appointments to local boards.

REPORTS

a) Mayor/Mayor Pro-Tem – (No Report)

b) City Manager - Mr. Frazier reported on the following:

- i. Litter Sweep is April 27. City staff will be volunteering and items not normally accepted such as paint will be accepted at the Public Works department on that Saturday.
- ii. Bids for Beckford Drive had been received. The City is looking into possible funding through the State or reducing the scope of the project.
- iii. Funding for the Weybosset/Skenes Avenue project was not received so a meeting will be set up with the residents to discuss this further.
- iv. The FY19-20 Budget will be presented at the regularly scheduled May meeting.
- v. The contract has been awarded to start the outdoor pavilion project.

c) City Attorney - (No Report)

d) City Clerk – The City Clerk will be out of the office from April 12 and will return on April 29. She wished everyone a Happy Easter.

OTHER

Council Member Coffey asked the City Manager if a meeting has been set up with restaurants in the area to discuss litter. Mr. Frazier said a list is being compiled and a meeting will be set up shortly.

WORK SESSION

Amending Elmwood Cemetery City Code Article II. Section 4-12, Cemetery Maintenance and Operation, and Article IV. Section 4-18, Plants, Flowers, Etc., and Section 4-22, Other Rules and Regulations Enumerated. (*Reference: CAF 19-29*)

Mr. Frazier said revisions and reformatting to this ordinance are sorely needed so he has worked with the City Attorney and some of the things that have been changed relate to internment time, correcting terminology and establishing tombstone (monument) standards.

Council Member Rainey asked about tree removal if the tree was planted in a family plot by the family. Mr. Frazier said if the tree needs to be removed, staff attempts to contact the family for permission to remove the tree; however, if contact is unsuccessful, the City will remove the tree.

There was no other discussion and it was the consensus of Council to bring this back for consideration at the May meeting.

Amending City Code Title 11, Chapter 10, Section 34 Pertaining to Peddlers, Solicitors, Park Concessions and Food Trucks. (*Reference: CAF 19-13*)

Mr. Frazier reminded Council that this has been discussed in previous work session and he then asked Police Chief Marcus Barrow to highlight some of the amendments. Chief Barrow said specifics have been added to the code for when applications and permits are needed. Definitions are included and background checks will be performed when required.

Council Member Rainey asked if panhandlers are considered solicitors and Council Member Coffey asked about corner plate sales. Chief Barrow said if someone knocks on your door asking for money, it is considered soliciting. He also said if the plate sale is for a non-profit, specific requirements are included in this ordinance.

Council Member Elliott asked about how food trucks are governed by the Health Department. The Chief explained food trucks function in two ways and said the Health Department does govern the preparation requirements. His concern is the pop-up trucks that could potentially cause illness to the city's citizens.

City Manager Frazier emphasized this ordinance is not designed to take business away. Chief Barrow said having background information on peddlers and solicitors is important for safety.

Council Member Elliott asked how this new information will be distributed. Chief Barrow said that like any new ordinance, it will have to be publicized in numerous ways.

It was the consensus of Council to bring this back to Council at the May meeting.

Before adjourning, City Manager Frazier mentioned that he has received a request for no parking signs on Harriett Street from a parent of the student killed recently in a motor vehicle accident on that street. The normal steps are being taken to consider this request.

With no other business, Mayor Ellington asked Council if they were prepared to adjourn.

ADJOURNMENT

Council Member Rainey moved for adjournment. Motion seconded by Council Member Coffey, and unanimously approved. The meeting adjourned at 7:40 p.m.

Eddie Ellington
Mayor

ATTEST:

Esther J. McCrackin, City Clerk