



AGENDA

Henderson City Council Regular Short Meeting

Monday, 23 January 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

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) 9 January 2012 Regular Meeting *[See Notebook Tab 1]*

VII. PRESENTATIONS AND RECOGNITIONS

VIII. 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

IX. NEW BUSINESS

a) Consideration of Resolution 12-06, Authorizing the Submission of the 2012 NC Governor's Crime Commission Grant Application for the Community Revitalization Initiative (CRI) for the Police Department. (CAF 12-19) *[See Notebook Tab 2]*

- Resolution 12-06

b) Consideration of Approval of Ordinance 12-14, Demolition of 250 Lowery Street. (CAF 12-20) *[See Notebook Tab 3]*

- Ordinance 12-14

c) Consideration of Approval of Ordinance 12-15, Demolition of 913 Lamb Street. (CAF 12-21) *[See Notebook Tab 4]*

- Ordinance 12-15
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d) Consideration of Approval of Ordinance 12-16, Demolition of 705 Jefferson Street. (CAF 12-22) *[See Notebook Tab 5]*

- Ordinance 12-16

e) Consideration of Approval of Resolution 12-07, Authorizing the Mayor to Sign and Submit an Application to the Clean Water Management Trust Fund (CWMTF) for Future Funding Relative to Improvements at the Henderson Water Reclamation Facility. (CAF 12-23) *[See Notebook Tab 6]*

- Resolution 12-07

X. 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. CLOSED SESSION

- a) Pursuant to G.S. §143-318.11 (a)(4) Economic Development Matter.

XIII. 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]*

XIV. ADJOURNMENT

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.

City Council Minutes--DRAFT
Regular Meeting
9 January 2012

PRESENT

Mayor James D. O'Geary, Presiding; and Council Members James C. Kearney, Sr., Sara M. Coffey, Michael C. Inscoe, 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, Assistant City Manager Frank Frazier, Finance Director Katherine C. Brafford, Fire Chief Danny Wilkerson, Recreation and Parks Director Alan Gill and Engineering Director Peter Sokalski.

CALL TO ORDER

The 9 January 2012 Regular Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary 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 advised Mayor O'Geary a quorum was present.

INVOCATION AND PLEDGE OF ALLEGIANCE

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

City Manager Griffin introduced Katherine Brafford as the new City Finance Director and stated she is a welcome addition to the staff. Ms. Brafford began with the City on December 29, 2011.

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 Inscoe

moved to accept the Agenda as presented. Motion seconded by Council Member Rainey and unanimously approved.

APPROVAL OF MINUTES

Mayor O'Geary asked for any corrections to and/or approval of the minutes. Council Member Rainey moved the approval of the following minutes: 12 December 2011. Motion seconded by Council Member Daeke and unanimously approved.

(Clerk's Note: Council Member Peace-Jenkins arrived at 6:03 p.m. and Council Members Daye and Davis arrived at 6:05 p.m.)

The entire Executive team was pleased that Council Member Davis was well enough to attend this evening.

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

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

NEW BUSINESS

Authorizing Funds for Engineering Design for 2" Water Main Replacement Project with State Revolving Fund, FY 12 Budget Amendment #29. *(Reference: CAF: 12-04; Ordinance 12-02)*

City Manager Griffin asked Engineering Director Sokalski to advise Council on this matter. Mr. Sokalski reminded Council of its approval on 26 September 2011 to submit an application to the NC Department of Environment and Natural Resources (DENR) for assistance with the maintenance, expansion and replacement of parts, lines and equipment for the local water system. Part of the process requires plans and specifications be submitted before 29 February, 2012, for the water main replacement portion of the project. Survey work is needed in order to proceed and staff now asks for Council's approval to perform survey work for the Water Main replacement portion and the pump project.

City Manager Griffin clarified the funds transfer by stating \$11,807.70 was recycled from the Perry Avenue project in 2011 and the remaining amount from internal transfers. Because of increased water sales, Mr. Griffin stated a capital projects account has been established.

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

Council Member Rainey moved the approval of *Authorizing Funds for Engineering Design for 2" Water Main Replacement Project with State Revolving Fund, Budget Amendment #29*. Motion seconded by Council Member Peace-Jenkins and APPROVED by the following vote:

YES: Kearney, Coffey, Inscoe, Rainey, Peace-Jenkins, Daeke, Davis and Daye: NO: None.
ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 355)

Amending a Portion of Chapter 29 Relating to Parks and Recreations Requiring Posting of Recreation Facilities Before Prohibiting Weapons. (Reference: CAF 12-06; Ordinance 12-03)

City Manager Griffin asked City Attorney John Zollicoffer to present this item. Attorney Zollicoffer explained On 12 September 2011, Council approved amending City Code Section 10-49 to include the word *post* to align the City code with State Law regarding prohibiting weapons relating to Parks & Recreation facilities. At that time Section 29-14(8) was overlooked and the NRA caught the oversight so Council is being asked to approve an amendment Chapter 29 to include the word *post* to be in compliance with State law.

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

Council Member Coffey moved the approval of *Amending a Portion of Chapter 29 Relating to Parks and Recreations Requiring Posting of Recreation Facilities Before Prohibiting Weapons*. Motion seconded by Council Member Kearney and APPROVED by the following vote: YES: Coffey, Inscoe, Rainey, Peace-Jenkins, Daeke, Davis, Daye and Kearney. NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 357)

Reimbursement of Funds Through Insurance Proceeds as a Result of Water Main Damage and Repair at Andrews Avenue and US #1 Bypass, FY 12 Budget Amendment #20. (Reference: CAF 12-07; Ordinance 12-04)

City Manager Griffin stated this is purely a housekeeping matter. On 21 November 2011, a J. E. Kerr Timber Co., truck and trailer, carrying heavy equipment, struck the City's water main suspended under the bridge at Andrews Avenue and US #1 Bypass. The police report stated the equipment was over the height restrictions. Assistant City Manager Frank Frazier filed an insurance claim and payment was received in the amount of \$12,084.46 which is payment in full. for the repairs and costs incurred by the City for overtime, loss of water and contractual costs to H.G. Reynolds Co. which was hired to perform the repair in conjunction with City crews. Mr. Griffin stated the funds were allocated to the water/sewer accounts.

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

Council Member Rainey moved the approval of *Reimbursement of Funds Through Insurance Proceeds as a Result of Water Main Damage and Repair at Andrews Avenue and US #1 Bypass, FY 12 Budget Amendment #20*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Inscoe, Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney and Coffey. NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 359)

Authorizing Transfer of Funds for Professional Services for Water Sales Agreement, FY12 Budget Amendment #31. (Reference: CAF 12-08; Ordinance 12-05)

City Manager Griffin stated unexpected expenses for legal services during the first six months occurred in contract development, negotiations and consultation for water sales discussion with Oxford, Vance County and Granville County. If approved, funds will be transferred from the water account (\$8,500) and sewer account (\$6,500) to cover these costs.

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

Council Member Peace-Jenkins moved the approval of *Authorizing Transfer of Funds for Professional Services for Water Sales Agreement, FY12 Budget Amendment #31*. Motion seconded by Council Member Daye and APPROVED by the following vote: YES: Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 361)

CONSENT AGENDA

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

- a) **Supporting Urban Progress Zone Designation.** This matter was discussed during the December 2011 Work Session and based on the unanimous consensus of City Council Members, was approved to continue with the application process. (Reference: CAF 12-01; Resolution 12-01) (See Resolution Book 2, p. 251)
- b) **Amending City Code Section 12-1, Providing for Appeal Rights Regarding the Fire Prevention Code.** This matter was discussed during the December 2011 Work Session and based on the unanimous consensus of Council Members, was approved for establishing appeal rights and a committee is to be formed to review appeals. (Reference: CAF 12-02; Ordinance 12-01) (See Ordinance Book 8, p. 353)
- c) **Adopting the KLRWS 2007 Local Water Supply Plan.** This matter was discussed during the December 2011 Work Session and based on the unanimous consensus of Council, was approved as submitted. (Reference: CAF 12-03; Resolution 12-02) (See Resolution Book 2, p. 253)

Mayor O'Geary asked if anyone wished to remove an item from the Consent Agenda. There were no requests for removal. Mayor O'Geary asked for a motion to approve the consent Agenda as presented.

Council Member Inscoe moved the approval of the Consent Agenda as presented. 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.

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

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

REPORTS

- a) Mayor/Mayor Pro-Tem - Mayor Pro-Tem Davis stated he was *extremely* glad to be back. Chairman Pro-Tem Rainey stated he was *extremely* glad Mr. Davis was back!
- b) City Manager - Ray Griffin asked Council's pleasure regarding the Strategic Planning Meeting. It was the consensus of Council to hold the meeting for one day at the Aycock Recreation Center on Thursday, 26 January 2012.
- c) City Attorney (No Report)
- d) City Clerk - Esther McCrackin reminded Council Members of the Annual Chamber Banquet on January 24 and reminded those bringing guests to submit payment no later than 13 January.

Council Member Inscoe inquired about the status of the Spring Street project. Assistant City Manager Frazier said the City is still waiting for the signed approval from CSX which will provide a start date. Mr. Inscoe asked if there was concern regarding the expiration of the current bid. Mr. Frazier stated yes, it was a concern. City Attorney Zollicoffer commented CSX can be slow in responding and Mr. Frazier said he would have Engineering Director Sokalski contact CSX in the morning.

ADJOURNMENT

Council Member Inscoe moved for adjournment. Motion seconded by Council Member Rainey and unanimously approved. The meeting adjourned at 6:20 p.m.

James D. O'Geary
Mayor

ATTEST:

Esther J. McCrackin
City Clerk

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Short Reg Meeting.

9 January 2012

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: **CAF: 12-19**

Consideration of Approval of Resolution 12-06, Authorizing the Submission of the 2012 NC Governor's Crime Commission Grant Application for the Community Revitalization Initiative (CRI) for the Police Department

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 2: Reduce Crime: *To reduce crime and provide for a safe community*
- KSO 8: Financial Resourcing: *To provide sufficient funds for municipal operations and capital outlay necessary to meet the needs of citizens, customers and mandates of regulatory authorities.*

Recommendation:

- Approval of Resolution 12-06, authorizing the submission of the 2012 NC Governor's Crime Commission Grant Application for the Community Revitalization Initiative (CRI) for the Police Department.

Executive Summary

The Community Revitalization Initiative (CRI) Grant II is a grant request for a third year of funding for the Henderson Police Department. This grant would provide continued funding to allow officers to work overtime to address the problems of high crime complaints and areas, as well as overtime for officers presenting training classes and programs at regular Community Revitalization meetings. It would also fund the purchase of a wireless "body microphone" and recorder for use by officers in covert investigations of drug and gang relate crimes.

This grant application is requesting \$53,666.10 with a local match of \$17,888.70. If awarded, this grant will not take effect until FY12-13. Therefore the local match will be requested to be funded in the upcoming FY12-13 budget from the asset forfeiture account.

Enclosures:

1. Resolution 12-06

R E S O L U T I O N 12-06

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE NC GOVERNOR’S CRIME COMMISSION FOR THE 2012 GRANT FOR COMMUNITY REVITALIZATION INITIATIVE—YEAR 3 FOR THE POLICE DEPARTMENT

WHEREAS, the Henderson City Council identified eight Key Strategic Objectives (KSO) at its 2011 Strategic Planning Retreat; *and*

WHEREAS, two of the Key Strategic Objectives are addressed by this request as follows: *KSO 2: To Reduce Crime and Provide for a Safe Community*, and *KSO 8: To Provide Sufficient Funds for Municipal Operations and Capital Outlay Necessary to Meet the Needs of Citizens, Customers and Mandates of Regulatory Authorities*; *and*

WHEREAS, the grant application is seeking \$53,666.10 in Federal funds and \$17,888.70 in local funds to provide for the Community Revitalization Initiative (CRI) for the Police Department; and said local match to be provided from Federal Asset Forfeiture account in the FY13 Budget; *and*

WHEREAS, said grant if awarded, will provide funding to allow officers to be paid overtime when working on CRI activities, as well as the purchase of a wireless “body microphone” and recorder for use by officers in covert investigations of drug and gang related crimes.

NOW, THEREFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY authorize the City Manager to file the grant application, said application being more fully articulated in *Attachment A* to this Resolution, to NC Governor’s Crime Commission as outlined above.

The foregoing Resolution 12-06, introduced by Council Member _____ and seconded by Council Member _____ on this the 23rd day of January 2012, and having been submitted to a roll call vote, was *****by the following votes: YES: . NO: . ABSTAIN: . Absent: .

James D. O’Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

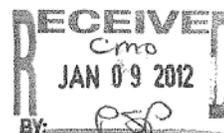
Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney
*Reference: Minute Book 42, p. **.*

**Chief Keith L. Sidwell
Henderson Police
Department**

Intra Office Memo

Date: 01/06/2012
To: **City Manager Ray Griffin, Jr.**
From: Chief K.L. Sidwell *[Signature]*
Subject: Governor's Crime Commission Application 2012



Please find attached with this memo a "hard copy" of the online application for the 2012 Governor's Crime Commission Grant process from the Police Department. As we have identified additional manpower hours as one of our primary needs to move forward with the Community Revitalization Initiatives we are requesting funding for overtime for sworn law enforcement personnel and upgraded surveillance equipment in this year's grant application.

I would request that this application, due to the deadline of 01/30/2012 for submission, be added to the City Council's Short Business Meeting Agenda for the meeting scheduled for Monday, January 23, 2012.

Please also find attached with the application and City Grant Information form a copy of the manual for the State's new "GEMS" grant management program which includes information on registration for this system for both you and our Finance Director as all grants through GCC will be made electronically through this system. Other state agencies will be moving their grant application processes and grant management to the GEMS system in the future. .

CC: Captain M.W. Barrow, Services Division Commander
GCC CRI Phase III 2012 Grant Application File

CITY OF HENDERSON

**INTERNAL PROCESS TO DECIDE WHETHER
GRANT APPLICATION IS APPROPRIATE**

Department: Police **Staff Contact:** Captain P.L. Twisdale

Funding Source: NC Governor's Crime Commission FY 2012-2013

Grant/Project Name: Community Revitalization Initiative Phase III

Date Application Due: 01/30/2012 *(The online application has been saved. The grant's signature forms must be received in the GCC office by 5 p.m. 01/30/2012).*

PLEASE NOTE: The implementation of the NC "GEMS" Grant online program will require the City Manager (Authorizing Official) and Finance Director (Financial Point of Contact) to register for NCID passwords in order to electronically sign the application prior to submission. The guidebook for this process is attached.

Brief Project Summary:

This grant is an effort to obtain grant monies that would fund overtime for police officers and purchase equipment and materials to allow the Police Department to expand our existing partnerships with citizen groups, government agencies and private businesses to reduce Part 1 UCR Crimes, particularly Breaking and Entering and Larceny, within the City of Henderson and to reduce gang-related crimes.

Maximum amount available from Funding Source: There is a maximum amount of \$80,000 per application in this solicitation. The grant requires a 25% cash and/or in-kind match.

Anticipated Award Notification Date: 04/01/2012

Anticipated Grant Term: Start Date: 07/01/2012
Finish Date: 06/30/2013

Amount to be requested: \$53666.10

Does the amount of the match requirement or other grant requirements necessitate City Council approval prior to the award? Yes X No

As the grant would be in effect for Fiscal Year 2012-2013 the grant match funding and in-kind match will be included in the Henderson Police Department's Annual Budget Request and can be approved by Council at that time.

Eligible types of match: Cash. We anticipate to budget 25% cash match.

If the match is cash, where will the match come from?

We anticipate requesting the cash match for this grant (\$17,888.70) as part of the 2012-2013 Police Department budget.

Is this project a cash award or X reimbursement (or drawdown)?

This project is a reimbursement account and would require a project budget and account. Reimbursements are submitted monthly.

If this is a reimbursement grant, will funds be available? Yes.

Is this project included in:

Departmental Budget	No
Capital Improvements Plan	No

This grant will be included in the Fiscal Year 2012-2013 Budget due for submission in February 2012.

Grant funds will be used for the following:

Personnel – Overtime for officers working planned, directed high crime complaints and geographical areas, as well as overtime for officers presenting training classes and programs at regular Community Revitalization meetings and to school, church and civic groups.

Equipment – Funding to purchase a wireless “body microphone” and recorder for use by officers in covert investigations of drug and gang related crimes. .

How will the program be funded after the grant expires?

Personnel overtime will continue to be funded through the department's budget. Other items in the grant will not require continuing funding.

There will be no recurring cost for this program (other than minor equipment repairs).

If the department receives only a portion of the amount requested, how will the project be funded?

The grant application is requesting the full amount for this project.

Some additional questions to consider:

Are any other departments within the City of Henderson eligible for this funding?

No. This request is being made under Law Enforcement Funding and other City departments are not eligible.

Are any other departments within the City of Henderson willing to collaborate on this project?

We hope to use this project to provide the Code Compliance Department with more information on abandoned, junked houses as well as giving them information to enable them to expedite the closing of "nuisance" houses. We will also work with the Finance Department on water meter and water service thefts, the Fire Department on fire code compliance and the Street Department on littering/traffic engineering problems.

Will this project duplicate or compete with another service or program provided by the City of Henderson or other local agency?

No. As the primary law enforcement agency for the City of Henderson, our enforcement services are not duplicated or competitive with other agencies in this area.

	Governor's Crime Commission 1201 Front Street, Suite 200 Raleigh, NC 27609 Phone: (919) 733-4564 Fax: (919) 733-4625 (Official GCC Use Only)	
	Project Number: PROJ008459	
2011 Grant Pre-Application		
Application Review This application has failed verification. Review & Submit cannot continue until the Application Verification process is complete.		
Name of Project: 2012 - Henderson - Community Revitalization Initiative Phase III		Committee Assignment: CRIMINAL JUSTICE SYSTEMS IMPROVEMENT
Organization Contacts and Personnel Information		
Application Organization Information Organization Name: City of Henderson Billing Address: P. O. Box 1434 City: Henderson State: North Carolina ZipCode: 27536 Phone: (252) 431-6000 DUNS Number: 082368556 CCR Registration: No Federal Tax ID: 565001241 Fiscal Year End Date: 6/30		Implementing Agency Information Implementing Agency Name: City of Henderson Address: 180 South Beckford Drive Address 2: City: Henderson State: North Carolina ZIP Code: 27536 Phone: (252) 431-6000 Fax: (252) 438-7311 <u>For Law Enforcement Agencies</u> # of Sworn Officers: 55
Authorizing Official: If the applicant agency is a non-profit, the Authorizing Official must be the Board Chair, Sheriffs, Police Chiefs, and Executive Directors can not be Authorizing Officials.		
Financial Officer: If the applicant agency is a non-profit, the Financial Officer must be the Board Treasurer.		
Project Director:		
General Information		
Program Priority: *12 Gang Prevention & Intervention		Project State Date: 7/1/2012 Project End Date: 6/30/2013
US Congressional Districts: 01, 02 N.C. House Districts: 27, 32 N.C. Senate Districts: 11, 24		Population of Project Area: 17000 Project Counties: Vance
Project Summary: This project will fund overtime for hours worked on CRI activities, equipment and materials to allow the Police Department to expand our partnerships with citizens, government agencies and businesses to reduce crimes and improve areas for economic development.		
Abstract and Narrative		
Project Abstract (The Problem): Briefly describe project's purpose, identify target population, and discuss program components which address the identified problem. Include local statistics to substantiate the need. The City of Henderson's per capita Part I crime rates are among the highest in NC and higher than many comparatively sized cities in the US. The area has seen a simultaneous decrease in the economic base and job availability at the same time that documented involvement with criminal and criminal gang activity has increased. The levels of larcenies (especially shoplifting) and breaking and entering have a negative effect on the ability of the City to bring in new industries and retail outlets (and thus jobs) while also making areas in which housing is primarily rental units less desirable for families moving to the area. Larcenies and breaking and entering crimes have been some of the primary activities other than drug and illegal weapon sales linked to criminal gang enterprises in Henderson in the last two (2) years.		
Project Narrative (Operation): Include a description of how grant funded positions are integral to the project and how contractual, travel, operating, and equipment expenses will support the project. Discuss how you will collaborate with other agencies. Focus on the project - do not give agency history, do not repeat abstract. The Community Revitalization Initiative (CRI) consists of a comprehensive plan for dealing with the high crime rates in the City through specific training, crime analysis, investigation strategies and community partnerships. It is a comprehensive collaboration between law enforcement, the affected neighborhoods (through community watch and other groups), rental property managers, private businesses, utility providers, local media and other governmental agencies to help promote both crime prevention and crime intervention efforts. Due to local revenue shortfalls the Department's projected budget for FY 2012-2013 will not include funding for premium overtime for Police Department personnel to address the law enforcement aspects of the CRI. Efforts include targeting larcenies, shoplifting and burglaries with saturated patrols, directed traffic enforcement based on crime analysis and surveillance. Officers will work and be paid premium overtime in assignments directed at addressing some of the environmental problems that affect areas in which property and violent crimes are heaviest. These areas have a higher percentage of rental housing than occupant owned housing and many vacant houses that are often used for crimes such as drug sales/use and gang activity. Officers will continue to work with City Code Compliance and the Fire Department to identify and address problems such as vacant houses and houses in which residents are living in sub-standard conditions. Officers work with utility providers such as the City Water Department, Progress Energy and Time-Warner Cable to deal with the high numbers of utility theft and fraud. Officers working these CRI assignments are not only trained to be familiar with the housing problems and conditions in the area but are informed as to what resources are available to assist persons living in these conditions. The CRI has developed and will continue to expand the association of rental property owners and continue training this group in crime prevention and maintain a livable, safe and healthy community. Property owners and managers will continue to work with the Police Department to maintain a joint database of all rental properties within the City as well as rental properties that are vacant. The Department and the CRI peer group will continue working to fully establish a "Business Watch" program within the City as well.		
Project Timeline of Activities: June 2012 - Police Staff working with CRI peer group outline individual projects to be address through GCC funding. Police Department Crime Analysis outlines areas of the City where larcenies, breaking and entering are concentrated. Crime Analysis indicates areas where persons identified as members of gangs are operating. July 2012 - Grant Period begins. Police Officers begin use of overtime funds for work, directed patrols, crime prevention through traffic enforcement and surveillance operations in cooperation with CRI agencies, community watches and businesses. Identification of partners to be included in the new Business Watch program is started. Property Owners Group identifies expansion areas. October 2012 - First quarter evaluation. January 2013 - CRI peer group and the Police Department review the CRI project process for second half activities.		

Grant Enterprise Management System

Project Goals

Goal 1 Reduction of rates of Part I property crimes and Larcenies.	Goal 2 Reduction of crime rates in areas shown by crime analysis as having activities by criminal gangs and gang related crimes.
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Project Objectives

- 1. Project Objective:**
Reduction of rates of Part I property crimes.
Performance Measure:
Comparison of Part I property crimes on a monthly and quarterly basis.
Evaluation Method:
Comparison of Part I property crimes on a monthly and quarterly basis.

- 2. Project Objective:**
Reduction of violent crime rates in areas where criminal gang activity is documented.
Performance Measure:
Based on criminal analysis by geographic areas show a reduction in Part I violent crime rates in areas where documented criminal gang activity has been documented.
Evaluation Method:
Crime analysis comparison of Part I violent crime rates on a monthly and quarterly basis.

- 3. Project Objective:**
Establish a "Business Watch" Program as part of the HPD CRI.
Performance Measure:
Establishment of a Business Watch program with participating partners.
Evaluation Method:
Establishment of a Business Watch program with participating partners by the end of the grant period.

Project Sustainability Planning

Describe your formal, working sustainability plan for the project and how it will result in permanent operational funding (not GCC funding) once this grant ends.
The CRI peer group will plan during the end of this grant's operation to incorporate funding of these projects into regular operating budgets as is allowed by the economic and fiscal abilities of the CRI partners in the fiscal year following the completion of this grant. The City of Henderson will continue to seek additional funding through other grants and funding sources, both governmental and private.

Project Budget Summary

Category	Total	Year 1 Total	Year 2 Total
EQUIPMENT	\$4,450.00	\$4,450.00	\$0.00
PERSONNEL	\$67,104.80	\$67,104.80	\$0.00
Total Budget:	\$71,554.80	\$71,554.80	\$0.00
(-)Match Funds:	-\$17,888.70	-\$17,888.70	-\$0.00
TOTAL FEDERAL REQUEST:	\$53,666.10	\$53,666.10	\$0.00

CRIMINAL JUSTICE SYSTEMS IMPROVEMENT - Description of Match
Matching funds may include local, state or private funds, but not other federal funds. 25 % cash match required
Describe amount and source of cash match:
The matching funds for this grant will be provided by local cash match by the City of Henderson from either the General Fund or Federal Asset Forfeiture funds.
Request For Match Waiver
If you choose to apply for a match waiver, check this box and state the reasons below.
Please note: A request for match waiver does not guarantee the waiver will be granted.

Budget Details

Short Description	Quantity	Unit Cost	Total
Covert microphone	1.00	\$350.00	\$350.00
Fringe Benefits:FICA (7.85%)	1840.00	\$2.38	\$4,379.20
Fringe Benefits:Other:401K	1840.00	\$1.55	\$2,852.00
Fringe Benefits:Retirement	1840.00	\$1.54	\$2,833.60
Overtime:Premium overtime for sworn officers	1840.00	\$31.00	\$57,040.00
Wireless Audio System	1.00	\$4,100.00	\$4,100.00

Project Certifications

- A. Certification of Non-Supplanting**
The applicant hereby certifies that federal funds will not be used to supplant or replace funds or other resources that would otherwise have been made available for Juvenile Justice, Justice Assistance Grants, Victims of Crime Act, Violence Against Women Act, or Children's Justice projects.
- B. Certification of Filing an Equal Employment Opportunity Program**
The project director certifies that the applicant/grantee has formulated an Equal Opportunity Program, which is dated 08/10/2010 in accordance with the Amended Equal Employment Opportunity Guidelines 28 C.F.R.42.301, et seq., Subpart E, and that it is on file in the office of:
Office: **Human Resources**
Name: **Cathy Brown**
Title: **Human Resources Manager**
Address: **134 Rose Avenue Henderson NC 27536**
Telephone: **(252)431-6000**
The project director certifies that the Amended Equal Employment Guidelines have been read (28 C.F.R.42.301, et seq., Subpart E.) and that no Equal Employment Opportunity Program is required to be filed by the implementing agency.

Grant Enterprise Management System

Page 3 of 3

C. Certification of Submission of Annual Audit:

- ✓ The project director certifies that a copy of the annual audit (required) will be submitted to the Office of State Auditor and the Department of Crime Control and Public Safety.

D. Certification of Submission of Project Reports:

- ✓ The project director certifies that a completed progress report (provided in the GCC Grant Award Package) will be submitted at the end of the 12 and 24 months, or more often if requested. If required, the project director certifies that quarterly reports will be submitted.

E. Certification that Applicant is Eligible to Receive Federal Funds:

- ✓ The project director certifies that neither grant applicant nor any of its officers, directors or consultants are presently debarred, proposed for debarment, suspended, declared ineligible or voluntarily excluded from receiving federal funds. [If the director cannot make this certification, an explanation must be attached. If this certification cannot be provided, the applicant will not necessarily be denied participation in this program. The certification or explanation will be considered in connection with the determination by the Governor's Crime Commission as to whether or not to approve the application. However, if neither the certification nor an explanation is provided, the application will be rejected.]

F. Certification Regarding Lobbying: (for agencies receiving \$100,000 or more)

- ✓ The project director certifies that (1) no Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any agreement; (2) If any non-Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal grant, the project director shall complete and submit Standard Form #LL, "Disclosure of Lobbying Activities," in accordance with its instructions

G. Drug Free Workplace Compliance: (for state agencies only)

- ✓ (project director) certify that (1) a drug-free workplace awareness program was held on and/or will be held annually on which all grant project employees are required to attend;(2) a copy of the agenda of that program, including an attendance sheet signed by all employees, will be provided to the Governor's Crime Commission;(3) a statement will be published notifying employees that any unlawful involvement with a controlled substance is prohibited in the grantees workplace and that specific actions will be taken against employees who violate this rule;(4) all employees will receive a copy of this notice;(5) all employees must agree to abide by the statement and to notify the applicant of any criminal drug statute conviction for a violation occurring in the workplace within 5 days of the conviction;(6) within 10 days of receiving such notice, the applicant will inform the Governor's Crime Commission of an employee's conviction;(7) any employee so convicted will be disciplined or required to complete a drug abuse treatment program; and (8) the applicant will make a good faith effort to maintain a drug-free workplace, in accordance with the requirements of Title V, Secs. 5153 and 5154 of the Anti-Drug Abuse Act of 1988.

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430-5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Reg. Mtg.

9 January 2012

TO: The Honorable Mayor James D. O'Geary and Members of City Council
FR: A. Ray Griffin, Jr., City Manager
RE: **CAF: 12-20**
Consideration of Approval of Ordinance 12-14, Demolition of 250 Lowry Street.

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 4: Improve Condition of the Housing Stock – To improve the condition of and expansion of the Housing Stock.
 - AP 4-1: Code Enforcement – *To actively enforce City Codes that result in the rehabilitation and/or demolition of substandard, dilapidated or deteriorated housing in order to remove blight.*

Recommendation

- Approval of Ordinance 12-14, Demolition of 250 Lowry Street.

Executive Summary

The structure located at 250 Lowry Street is owned by Janis P. Holt (Janis I. Moorefield). The structure meets the requirements of section 21A (Abandoned Structure) of City Code. The proper enforcement procedures have been followed in accordance with section 21A and North Carolina General Statutes 160A-429,443 and 445. Mr. John Zollicoffer, City Attorney, has reviewed the enforcement process and there are no foreseen problems at this time. Therefore, to proceed with the enforcement process, an Ordinance of Demolition needs to be adopted by the City Council.

Enclosures:

1. Ordinance 12-14
2. Picture of Structure

ORDINANCE 12-14

AN ORDINANCE DIRECTING THE CODE COMPLIANCE DIRECTOR TO REMOVE OR DEMOLISH THE STRUCTURE HEREIN DESCRIBED AS HAZARDOUS TO THE PUBLIC HEALTH, SAFETY, AND WELFARE AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, The City Council finds that all owners and parties of interest (whether known or unknown) in the structure described herein are the following (including spouses):

Janis P. Holt / Janis I. Moorefield

WHEREAS, The City Council of the City of Henderson finds that the structure described herein is hazardous to the health, safety and welfare of the residents of the City under the City Abandoned Structure Ordinance, and that all of the procedures of the Abandoned Structures Ordinance have been complied with; *and*

WHEREAS, the owners of this structure have been given a reasonable opportunity to bring the structure up to the standards of the Abandoned Structure Ordinance in accordance with G.S. 160A-443(5) pursuant to an order issued by the Code Administrator on **June 13, 2011** and the owners have failed to comply with the order; *and*

WHEREAS, the structure should be removed or demolished, as directed by the Code Administrator, and should be placarded by placing thereon a notice prohibiting use for human habitation;

NOW, “THEREFORE, BE IT ORDAINED by the City Council of the City of Henderson, that:

Section 1. The Code Administrator is hereby authorized and directed to place a placard containing the legend;

“This building is hazardous to the public health, safety and welfare; the use or occupation of this building for human habitation is prohibited and unlawful” on the structure located at the following address:

250 Lowry Street / Deed Book 1148 Page 469 Vance County Register of Deeds / Vance County Tax Parcel 0061 03025) in the City of Henderson, N.C.

Section 2. The Code Administrator is hereby authorized and directed to proceed to remove or demolish the above described structure in accordance with his/her order to the owners thereof dated the **13th** day of **June 2011** and in accordance with the Abandoned Structures Ordinance and G.S. 160A-443.

Section 3. Upon completion of the required removal or demolition, the Code Administrator shall reasonably dispose of any merchantable materials and shall sell any

merchantable materials of the structure and credit the proceeds against the cost of the removal or demolition. The Code Administrator shall certify the remaining balance to the Tax Collector. If a surplus remains after sale of the demolition, the Code Compliance Director shall deposit the surplus in the Superior Court where it shall be secured and disbursed in the manner provided by G.S. 160A-446(6).

Section 4. The Cost of removal or demolition and any landfill fees associated therewith constitutes a lien against the real property upon which the cost was incurred. The amount of the lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of G.S. Chapter 160A.

Section 5. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building therein declared to be hazardous to the public health, safety and welfare.

Section 6. This ordinance shall become effective upon its adoption.

The foregoing Ordinance 12-14, introduced by Council Member _____ and seconded by Council Member _____ on this the 23rd day of January, 2012 and having been submitted to a roll call vote, was _____ by the following votes: Yes: . No: . Absent: . Abstain: .

Mayor James D. O'Geary

ATTEST:

Esther J. McCrackin

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

Reference: Minute Book 42, p.41.

Attachment 2



City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430-5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Reg. Mtg.

9 January 2012

TO: The Honorable Mayor James D. O'Geary and Members of City Council
FR: A. Ray Griffin, Jr., City Manager
RE: **CAF: 12-21**
Consideration of Approval of Ordinance 12-15, Demolition of 913 Lamb Street.

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 4: Improve Condition of the Housing Stock – To improve the condition of and expansion of the Housing Stock.
 - AP 4-1: Code Enforcement – *To actively enforce City Codes that result in the rehabilitation and/or demolition of substandard, dilapidated or deteriorated housing in order to remove blight.*

Recommendation

- Approval of Ordinance 12-15 Demolition of 913 Lamb Street.

Executive Summary

The structure located at 913 Lamb Street is owned by Danismine Corporation. The structure meets the requirements of section 21A (Abandoned Structure) of City Code. The proper enforcement procedures have been followed in accordance with section 21A and North Carolina General Statutes 160A-429,443 and 445. Mr. John Zollicoffer, City Attorney, has reviewed the enforcement process and there are no foreseen problems at this time. Therefore, to proceed with the enforcement process, an Ordinance of Demolition needs to be adopted by the City Council.

Enclosures:

1. Ordinance 12-15
2. Pictures of Structures

ORDINANCE 12-15

AN ORDINANCE DIRECTING THE CODE COMPLIANCE DIRECTOR TO REMOVE OR DEMOLISH THE STRUCTURE HEREIN DESCRIBED AS HAZARDOUS TO THE PUBLIC HEALTH, SAFETY, AND WELFARE AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, The City Council finds that all owners and parties of interest (whether known or unknown) in the structure described herein are the following (including spouses):

Danismine Corporation

WHEREAS, The City Council of the City of Henderson finds that the structure described herein is hazardous to the health, safety and welfare of the residents of the City under the City Abandoned Structure Ordinance, and that all of the procedures of the Abandoned Structures Ordinance have been complied with; *and*

WHEREAS, the owners of this structure have been given a reasonable opportunity to bring the structure up to the standards of the Abandoned Structure Ordinance in accordance with G.S. 160A-443(5) pursuant to an order issued by the Code Administrator on **June 14, 2011** and the owners have failed to comply with the order; *and*

WHEREAS, the structure should be removed or demolished, as directed by the Code Administrator, and should be placarded by placing thereon a notice prohibiting use for human habitation;

NOW, "THEREFORE, BE IT ORDAINED by the City Council of the City of Henderson, that:

Section 1. The Code Administrator is hereby authorized and directed to place a placard containing the legend;

“This building is hazardous to the public health, safety and welfare; the use or occupation of this building for human habitation is prohibited and unlawful” on the structure located at the following address:

913 Lamb Street / Deed Book 1121 Page 342 Vance County Register of Deeds / Vance County Tax Parcel 0061 01012 in the City of Henderson, N.C.

Section 2. The Code Administrator is hereby authorized and directed to proceed to remove or demolish the above described structure in accordance with his/her order to the owners thereof dated the **14th** day of **June 2011** and in accordance with the Abandoned Structures Ordinance and G.S. 160A-443.

Section 3. Upon completion of the required removal or demolition, the Code Administrator shall reasonably dispose of any merchantable materials and shall sell any merchantable materials of the structure and credit the proceeds against the cost of the removal or demolition. The Code Administrator shall certify the remaining balance to the Tax Collector. If a surplus remains after sale of the demolition, the Code Compliance Director shall deposit the surplus in the Superior Court where it shall be secured and disbursed in the manner provided by G.S. 160A-446(6).

Section 4. The Cost of removal or demolition and any landfill fees associated therewith constitutes a lien against the real property upon which the cost was incurred. The amount of the lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of G.S. Chapter 160A.

Section 5. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building therein declared to be hazardous to the public health, safety and welfare.

Section 6. This ordinance shall become effective upon its adoption.

The foregoing Ordinance 12-15, introduced by Council Member _____ and seconded by Council Member _____ on this the 23rd day of January, 2012 and having been submitted to a roll call vote, was _____ by the following votes: Yes: . No: . Absent: . Abstain: .

Mayor James D. O'Geary

ATTEST:

Esther J. McCrackin

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 42, p.**.*

Attachment 2



City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430-5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Reg. Mtg.

9 January 2012

TO: The Honorable Mayor James D. O'Geary and Members of City Council
FR: A. Ray Griffin, Jr., City Manager
RE: **CAF: 12-22**
Consideration of Approval of Ordinance 12-16, Demolition of 705 Jefferson Street.

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 4: Improve Condition of the Housing Stock – To improve the condition of and expansion of the Housing Stock.
 - AP 4-1: Code Enforcement – *To actively enforce City Codes that result in the rehabilitation and/or demolition of substandard, dilapidated or deteriorated housing in order to remove blight.*

Recommendation

- Approval of Ordinance 12-16, Demolition of 705 Jefferson Street.

Executive Summary

The structure located at 705 Jefferson Street is owned by Edna Harris and Jamey Owens. The structure meets the requirements of section 21A (Abandoned Structure) of City Code. The proper enforcement procedures have been followed in accordance with section 21A and North Carolina General Statutes 160A-429,443 and 445. Mr. John Zollicoffer, City Attorney, has reviewed the enforcement process and there are no foreseen problems at this time. Therefore, to proceed with the enforcement process, an Ordinance of Demolition needs to be adopted by the City Council.

Enclosures:

1. Ordinance 12-16
2. Pictures of Structures

ORDINANCE 12-16

AN ORDINANCE DIRECTING THE CODE COMPLIANCE DIRECTOR TO REMOVE OR DEMOLISH THE STRUCTURE HEREIN DESCRIBED AS HAZARDOUS TO THE PUBLIC HEALTH, SAFETY, AND WELFARE AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, The City Council finds that all owners and parties of interest (whether known or unknown) in the structure described herein are the following (including spouses):

Edna O. Harris and Jamey A. Owens

WHEREAS, The City Council of the City of Henderson finds that the structure described herein is hazardous to the health, safety and welfare of the residents of the City under the City Abandoned Structure Ordinance, and that all of the procedures of the Abandoned Structures Ordinance have been complied with; *and*

WHEREAS, the owners of this structure have been given a reasonable opportunity to bring the structure up to the standards of the Abandoned Structure Ordinance in accordance with G.S. 160A-443(5) pursuant to an order issued by the Code Administrator on **June 14, 2011** and the owners have failed to comply with the order; *and*

WHEREAS, the structure should be removed or demolished, as directed by the Code Administrator, and should be placarded by placing thereon a notice prohibiting use for human habitation.

NOW, “THEREFORE, BE IT ORDAINED by the City Council of the City of Henderson, that:

Section 1. The Code Administrator is hereby authorized and directed to place a placard containing the legend;

“This building is hazardous to the public health, safety and welfare; the use or occupation of this building for human habitation is prohibited and unlawful” on the structure located at the following address:

705 Jefferson Street / Deed Book 436 Page 381 Vance County Register of Deeds / Vance County Tax Parcel 0097 01001) in the City of Henderson, N.C.

Section 2. The Code Administrator is hereby authorized and directed to proceed to remove or demolish the above described structure in accordance with his/her order to the owners thereof dated the **14th** day of **June 2011** and in accordance with the Abandoned Structures Ordinance and G.S. 160A-443.

Section 3. Upon completion of the required removal or demolition, the Code Administrator shall reasonably dispose of any merchantable materials and shall sell any merchantable materials of the structure and credit the proceeds against the cost of the removal or demolition. The Code Administrator shall certify the remaining balance to the Tax Collector. If a surplus remains after sale of the demolition, the Code Compliance Director shall deposit the surplus in the Superior Court where it shall be secured and disbursed in the manner provided by G.S. 160A-446(6).

Section 4. The Cost of removal or demolition and any landfill fees associated therewith constitutes a lien against the real property upon which the cost was incurred. The amount of the lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of G.S. Chapter 160A.

Section 5. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building therein declared to be hazardous to the public health, safety and welfare.

Section 6. This ordinance shall become effective upon its adoption.

The foregoing Ordinance 12-16, introduced by Council Member _____ and seconded by Council Member _____ on this the 23rd day of January, 2012 and having been submitted to a roll call vote, was _____ by the following votes: Yes: . No: . Absent: . Abstain: .

Mayor James D. O'Geary

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 42, p.***

Attachment 2



City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Regular Meeting

10 January 2012

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CAF: 12-23

Consideration of Approval of Resolution 12-07, Authorizing the Mayor to Sign and Submit an Application to the Clean Water Management Trust Fund (CWMTF) for future funding relative to improvements at the Henderson Water Reclamation Facility.

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- KSO 5: Provide Reliable, Dependable and Environmentally Compliant Infrastructure Systems.
- KSO 8: Provide Sufficient Funds for Municipal Operations and Capital Outlay Necessary to Meet the Needs of Citizens, Customers and Mandates of Regulatory Authorities.

Recommendation:

- Approval of Resolution 12-07, Authorizing the Mayor to Sign and Submit an Application to the Clean Water Management Trust Fund (CWMFT) for future funding relative to improvements at the Henderson Water Reclamation Facility.

Executive Summary

The City Council approved Resolution 11-12 on 14 February 2011, authorizing submission of an application for State Revolving Fund (SRF) for improvements to the Henderson Water Reclamation Facility. On 1 April 2011, the City received notification from the North Carolina Department of Environment and Natural Resources (NCDENR) that the City was eligible to receive a low interest loan of \$16,615,000.

During this process, it was discussed that other funds would be pursued with the Clean Water Management Trust Fund, Rural Center and other grant/loan opportunities to help with the cost of the project. The next deadline for applications with the CWMTF is 1 February 2012. Therefore it is necessary for consideration of Resolution 12-07, authorizing the submission of the above mentioned application which would potentially help offset rate increase in the future to pay for improvements at the wastewater facility.

Enclosures:

1. Resolution 12-07
2. Resolution 11-12
3. CWMTF Application

RESOLUTION 12-07

A RESOLUTION OF THE HENDERSON CITY COUNCIL APPROVING THE SUBMISSION OF AN APPLICATION TO THE CLEAN WATER MANAGEMENT TRUST FUND

WHEREAS, the Henderson City Council (Council) conducted its Annual Planning Retreat in January 2011, and during said Retreat identified eight Key Strategic Objectives (KSO) and Goals; *and*

WHEREAS, this Resolution addresses two of the Key Strategic Objectives as follows: **KSO 8:** To Provide Sufficient Funds for Municipal Operations and Capital Outlay Necessary to Meet the Needs of Citizens, Customers and Mandates of Regulatory Authorities; and **KSO 5:** To Provide Reliable, Dependable and Environmental Compliant Infrastructure Systems; *and*

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCDG 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction or replacement of wastewater collection systems; *and*

WHEREAS, the City of Henderson received a Planning Grant from the Rural Center and one project identified was the need for improvements at the Henderson Water Reclamation facility to improve efficiency and simplification of the treatment process at the existing plant; *and*

WHEREAS, the North Carolina Clean Water Management Trust Fund has authorized the making of grants to aid eligible units of government or non-profit organizations in financing the cost of improvements and/or studies that will impact the quality of affected waterways,

NOW, THEREFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL:

That the City of Henderson will arrange financing for all remaining costs of the project through other grants and/or State Revolving Funds, if approved for a State grant.

That the City of Henderson will perform the functions and obligations of the grant recipient as set forth in a grant agreement, should this project be chosen for funding.

That the governing body does hereby understand that the application of these funds does not commit to final approval of the borrowing of such funds until all grants/loans have been secured and approval is given to proceed with construction of the project.

That James D. O'Geary, Mayor, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/ or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

The foregoing Resolution 12-07, upon motion of Council Member ** and second by Council Member **, and having been submitted to a roll call vote received the following votes and was ***** on this the 23rd day of January 2012: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O'Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 42, pp. **.*



AGENDA

**Henderson City Council Work Session
Monday, 23 January 2012 Immediately Following Regular Session
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, Sr.
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

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. ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA

IV. REGULAR WORK SESSION

- a) Consideration of Approval of Ordinance 12-11, Creating an Availability Charge for any Habitable Structure in the City for Failure to Connect to Available Water and Sewer. (CAF 12-14) [Notebook Tab 9]
 - Ordinance 12-11
- b) Consideration of Ordinance 12-10, Amending City Code 16-37 Relative to Stormwater Runoff Regulations. (CAF 12-13) [See Notebook Tab 10]
 - Ordinance 12-10
- c) Consideration of CM 12-02, REEF Project Update. [See Notebook Tab 11]

d) Consideration of CM 12-03, Industry Drive Water Main Extension Update. [*See Notebook Tab 12*]

- CM 12-03

VI. ADJOURNMENT

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Work Session

17 January 2012

TO: The Honorable Mayor James D.O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: **CAF: 12-13**

Consideration of Approval Ordinance 12-10, Amending City Code 16-37 Relative to Stormwater Runoff Regulations.

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- KSO-5: Provide Reliable, Dependable Infrastructure: *To provide reliable, dependable and environmentally compliant infrastructure systems.*

Recommendation:

- Approval of Ordinance 12-10, Amending City Code 16-37 Relative to Stormwater Runoff Regulations.

Executive Summary

The Stormwater Ordinance (City Code 16-37) was originally written and approved in September 2004 to meet the Tar-Pamlico Nutrient Management Regulations. The City is roughly divided in half, the southern side of the City flowing into the Tar-Pamlico River basin and the northern half flowing into the Roanoke River Basin. All areas within the Tar-Pamlico River basin needed to meet the stormwater regulations and ordinance for the Tar-Pamlico Nutrient Management regulations. Any development within the Roanoke River Basin did not have to meet any stormwater management regulations.

Since the writing of the ordinance, some rule changes to the Tar-Pamlico Nutrient Management program have been made as well as changes to the status of the City of Henderson's Stormwater program. Since 2007, the EPA has deemed the City of Henderson as a Phase II Community (any community over the population of 10,000), which increases the amount of regulation and oversight on stormwater runoffs within the entire City limits. All areas currently meeting the

Tar-Pamlico Nutrient Management rules are exempt as stormwater management regulations just as strict were already in place.

The changes to the Stormwater Ordinance are substantial to incorporate the new verbiage on nutrient buydown, incorporating the entire City limits in lieu of just the Tar-Pamlico River Basin, addition of fees added to the ordinance, clarification of submission information for the review of the stormwater management plans and documents.

Enclosures

1. Ordinance 12-10
2. Original City Code 16.37 with Revisions

ORDINANCE 12— 10

Council Member _____ introduced the following Ordinance which was seconded by Council Member _____ and read:

AN ORDINANCE AMENDING THE STORMWATER MANAGEMENT ORDINANCE

The City Council of the City of Henderson, North Carolina doth ordain:

Section 1. That Division 3 Stormwater Management and Section 16-37 et seq. is hereby rewritten to read as follows:

“DIVISION 3. STORMWATER MANAGEMENT

This division shall be known and may be cited as the “City of Henderson Stormwater Management Ordinance”, except as referred to herein, where it shall be known as "this division".

Sec. 16-37.1. Purpose and authority.

A. *Purpose.* The purpose of this division is to establish minimum criteria to control and minimize quantitative and qualitative impacts of stormwater runoff from development within the entire City limits (regardless of watershed basin) to meet the Tar-Pamlico River Basin nutrient program in accordance with 15A NCAC 02B.0258 Tar-Pamlico River Basin Nutrient Sensitive Waters Management Strategy: Basinwide Stormwater Requirements and Phase II Stormwater Management Legislation S.L. 2006-246.

Further, prudent site planning should include special consideration or the purposes of preserving natural drainage ways, maximize infiltration, and slowing stormwater runoff from individual sites in route to streams and rivers by use of effective runoff management, structural and non-structural best management practices, drainage structures and stormwater facilities.

B. *Applicability.*

1. The provisions of this division shall apply to all territory within the City limits.
2. All land development activity meeting the criteria listed below must comply with the requirements of this section:
 - a. Any activity that disturbs greater than one acre of land to establish, expand, or replace a single family or duplex residential development or recreational facility. For individual single family residential lots of record that are not presently part of a larger common plan of development or sale by the lot owner, the activity must also result in greater than ten (10) percent built-upon area.
 - b. Any activity that disturbs more than one-half (1/2) acre of land in order to establish, expand or modify a multi-family residential development or a commercial, industrial, institutional or any other non-residential facility.

C. *Exception to applicability.* The following are exceptions to this division:

1. Developers/property owners that can demonstrate that they have vested rights shall be exempt from the nutrient management and peak flow attenuation requirements.
2. Projects meeting the criteria listed in 16-37.1.B that replace or expand existing structures or improvements and that do not result in a net increase in built-upon area are not required to comply with the provisions of this division.
3. Projects meeting the criteria listed in 16-37.1.B that are located within an area that the City Council has designated as a redevelopment area will not be required to achieve nutrient reductions provided the City has a specific redevelopment strategy in place for the area that addresses the following:
 - a. The redevelopment area is a historic community center, traditional central business district, historical district, educational center or other existing developed area specifically designated by the City Council.
 - b. The City has an established strategy for reinvestment in the area as appropriate including one or more of the following:
 - 1) A "fix it first" policy that reserves public funds for repair of existing infrastructure in these areas before investing in new infrastructure of the same type in new growth areas.
 - 2) Mixed use/mixed density zoning provisions.
 - 3) Retrofits that are consistent with NC DOT definition for pedestrian scale in traditional neighborhood developments.
 - 4) Parking maximums or shared parking ratios.
 - 5) Residential density bonuses where parking maximums, pedestrian scale, or "fix it first" are considered.
 - 6) The redevelopment plan is conducive to the goals of the Tar Pamlico Nutrient Management Strategy.
4. Projects that replace or expand existing structures or improvements resulting in a net increase in built upon area shall achieve a thirty (30) percent reduction in nitrogen loading and no increase in phosphorus loading relative to the previous development. Such projects may achieve these loads through onsite or offsite measures or some combination thereof. The existing development must be considered high density having more than 24% built upon area or as allowable by the Stormwater Administrator.
5. Phased residential or commercial projects with multiple lots that propose shared stormwater facilities may be permitted as "on-site" facilities not subject to the pretreatment limitations defined in section 16-37.4.D, provided the shared facility is designed and constructed to meet the nutrient reduction and attenuation requirements for the entire project.

D. *Exemptions.* Agriculture, mining or forestry activities are not subject to this division.

E. *Interpretation.* In interpreting and applying this division, the requirements are intended to be minimum requirements, which are imposed and are to be conformed to, and are in addition to, and not in lieu of, all other legal requirements.

This division shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulation, permits, or easements, covenants, or other agreements between parties, provided, however, that where this chapter imposes greater restrictions and controls with respect to stormwater management, the provisions of this chapter shall prevail.

F. *Administration of the Stormwater Management Ordinance.* The Director of Engineering of the City, or his designee, is hereby appointed to serve as Stormwater Administrator and it shall be his or her duty to administer and enforce the provisions of this division.

G. *Variances and appeals.*

The appeal of a disapproval or approval with modifications of a plan or requests for variance shall be heard by the Board of Adjustments and accompanied by the payment of any applicable fees, shall be governed in accordance with the Zoning Ordinance, Section 802, Zoning Board of Adjustments and by the following provisions provided the appeal is made in writing and delivered to the City Clerk within fifty (50) days after the receipt of written notice of disapproval or modifications. Hearings pursuant to this section shall be conducted by the City Board of Adjustments within fifty (50) days after the date of the appeal or request for a variance.

1. Anyone requesting a variance shall file such with the Stormwater Administrator on a form provided by the Stormwater Administrator. Applications shall be filed at least fifty (50) days prior to the Board of Adjustment meeting at which it is proposed to be heard.
2. The Board of Adjustment, in considering an application for a variance, shall not consider the following as grounds for granting a variance:
 - a. The use of land or structures within the City's jurisdiction that are not in compliance with the requirements of this division.
 - b. The fact that property may be used more profitably.

(Ord. of 9-13-04(4), § 1)

Sec. 16-37.2. Definitions.

For the purpose of this division, the following terms, phrases and words, and their derivatives, shall have the meaning herein:

Applicant means a property owner or agent of a property owner who has filed an application for a stormwater permit.

Best management practices (BMPs) means a wide range of practices both structural and non-structural that have been demonstrated to effectively manage the quality and/or quantity of stormwater runoff and which are compatible with the planned land use.

Channel bank means the location of the upper edge of the active channel above which the water spreads into the overbanks on either side of the channel or the elevation of the two-year frequency storm. Where the channel bank is not well defined, the channel bank shall be considered the edge of the water line.

Design storm means the specific frequency and, if necessary, duration of the rainfall event to be used in design to meet the criteria established in the City's Tar-Pamlico River Basin. Stormwater Best Management Practices Manual and the City's storm drainage standard specifications.

Development means any of the following actions taken by a public or private individual or entity:

1. The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites, tracts, parcels or other divisions by plat or deed, or
2. Any land change, including, without limitation, clearing, tree removal, grubbing, stripping, dredging, grading, excavating, transporting and filling of land.
3. Any land disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

Drainage structures shall include swales, channels, storm sewers, curb inlets, yard inlets, culverts and other structures designed to convey stormwater.

Existing development means an individual residential/non-residential site with site plan approval by the planning department or a residential/nonresidential subdivision with preliminary subdivision approval from the planning board.

Illegal discharges mean any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, or other discharge of any substance other than stormwater into a stormwater conveyance system, the waters of the state or upon the land such that the substance is likely to reach a stormwater conveyance system or waters of the state.

Impervious surface means a surface composed of any material that impedes or prevents natural infiltration of water in to the soil. Gravel areas shall be considered impervious.

Land disturbing activity means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial

removal of vegetation, or any activity which bares soil or rock, involves the diversion or piping of any natural or manmade watercourse, or the establishment of new impervious surface. The term "land disturbing" shall also include the term "land disturbance."

Natural drainage way shall mean a channel with a defined channel bed and banks that are part of the natural topography. Construction channels such as drainage ditches shall not be considered a natural drainage way unless the constructed channel was a natural drainage way that has been relocated, widened, or otherwise improved.

Nutrient(s) means nitrogen and phosphorous, which if present in excessive amounts within a water body, can lead to large growths of algae, low dissolved oxygen concentrations, and other water quality problems.

Redevelopment means any land disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control than the previous development.

Riparian buffer means an area of trees, shrubs, or other forest vegetation, that is adjacent to surface waters. For purposes of this chapter, surface water shall be present if the feature is approximately shown on either the most recent version of the county soil survey report prepared by the Natural Resources Conservation Service or the most recent version of the 1:24,000 scale (7.5 min) quadrangle topographic maps prepared by the United States Geological Survey. Riparian buffers adjacent to features that do not appear on either of these maps shall not be subject to this chapter, except those areas determined by the Stormwater Administrator to be environmentally sensitive, shall be subject to this division.

Stormwater means flow resulting from and occurring after any form of precipitation.

Stormwater Administrator means the Director of Engineering or his designee, who has the designated authority to review and approve stormwater permits and stormwater management plans.

Stormwater Best Management Practices (BMP) Manual means the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Water Quality (DWQ), Stormwater Best Management Practices Manual, 1999, and all amendments and revisions thereto. The Stormwater BMP Manual is hereby adopted by reference as fully as though set forth. If any standard, requirement, or procedure as set forth in the manual is in conflict with any standard, requirement, or procedure as set forth in this division then the most stringent shall prevail. A copy of this manual shall be available for public review in the office of the Stormwater Administrator.

Stormwater conveyance systems or structure means any feature, natural or manmade, that collects and transports stormwater, including but not limited to roadways with collection systems, catch basins, man-made and natural channels, streams, pipe and culverts, and any other structure or system designed to transport runoff.

Vegetative buffer means an area that has a dense ground cover of herbaceous or woody species, which provided for diffusion and infiltration of runoff and filtering of pollutants.

Vested rights, based upon new development projects that have received approval from the City for a site-specific or phased development plan by September 14, 2004, shall be exempt from the stormwater management requirements of this chapter. Any plats associated with such development must be recorded within a maximum of five (5) years from the date of development approval. All new development projects that have not received such approval by September 14, 2004 or recorded any plats associated with such development within five (5) years of the development's approval, shall be subject to the requirements of this chapter. Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities shall be considered exempt if a state permit was issued prior to September 1, 2004.

(Ord. of 9-13-04(4), § 1)

Sec. 16-37.3. Protecting riparian buffers.

A. *Riparian buffers within Tar-Pamlico River Basin.* As required by 15A NCAC 02B.0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers), a 50-foot wide riparian buffer shall be maintained directly adjacent to all perennial and intermittent streams, including lakes, ponds, and other bodies of water, excluding wetlands. Where obvious conflicts exist between actual field conditions and USGS and county soil survey maps, appeals may be made to the DWQ. The City will not approve any development plans that include land area within the fifty (50) feet of the banks of a protected surface water feature except where one of the following apply:

1. The development plans does not propose to impact the riparian buffer or,
2. The property owner has received approval from DWQ. Approval by the DWQ may be in the form of the following:
 - a. An on-site determination by the DWQ in writing that the feature in question is not a protected surface water feature.
 - b. A permit for the proposed construction activity.
 - c. An authorization certificate and approval on a mitigation plan for a use designated as allowable with mitigation.
 - d. A variance from DWQ and/or the Environmental Management Commission.

B. *Riparian buffers within Roanoke River Basin.* A 30-foot wide riparian buffer shall be maintained directly adjacent to all perennial and intermittent streams, including lakes, ponds, and other bodies of water, excluding wetlands. Where obvious conflicts exist between actual field conditions and USGS and county soil survey maps, appeals may be made to the Stormwater Administrator.

1. No development shall take place within the riparian buffer without City permission.

2. The Table of Uses in 15A NCAC 02B.0259 (6) shall be utilized as a guide for determining the exempt, allowable, allowable with mitigation or prohibited activity within the buffer.
3. Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.
 - a. Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters the riparian buffer.
 - b. Periodic corrective action to restore diffuse flow shall be taken as necessary to impede the formation of erosion gullies.

C. *Delineation of buffers.*

1. For streams: The buffer shall begin from the top of bank or the rooted herbaceous vegetation and extend landward the total distance as stated in Sections 16-37.3.A and B, measured horizontally on a line perpendicular to the stream on both sides of the stream.
2. For lakes, ponds, and reservoirs: The buffer shall extend out landward the total distance from the normal water mark of the surface water or rooted herbaceous vegetation, measured horizontally on a line perpendicular to the surface water.

D. The buffers must be shown on all development plans, preliminary plats and final plats that contain land area within the protected surface waters.
(Ord. of 9-13-04(4), § 1)

Sec. 16-37.4. Development standards.

A. A minimum of 85% average annual removal for Total Suspended Solids (TSS) through the use of any combination of structural or non-structural BMPs.

B. *Nutrient reduction requirements.*

1. Nitrogen and Phosphorus export standards: All development that meets the requirements of this division must limit nitrogen export to 4.0 pounds per acre per year (lbs/ac/yr) and phosphorus export to 0.4 pounds per acre per year (lbs/ac/yr) through some combination of the following:
 - a. Construction of allowable onsite or offsite stormwater management facilities. Use of offsite facilities is subject to sections 16-37.4.C and D.
 - b. Participation in an approved “regional” or “jurisdictional-wide” facility or strategy.
 - c. Dedication of “open space” and/or “conservation” easements. Easements may be onsite or offsite subject to the sections 16-37.4.C, D and E of this division. Offsite land conservation offsets that drain to the same classified

water as the development and meet the criteria specified in 16-37.4.D may be approved by the Stormwater Administrator.

- d. Pay a one-time offset payment using the latest nitrogen and phosphorus offset payment calculations and fee as specified in the Nutrient Offset Payments Rule (15A NCAC 02B.0240, latest revisions). Use of offset payment option is subject to the following and provisions in section 16-37.4.D.
2. Calculation of nitrogen and phosphorus export and removal efficiencies.
 - a. The nitrogen and phosphorus export from all development meeting the criteria listed in section 16-37.1.B must be calculated in lb/ac/yr. The export values for various types of land use, BMP removal efficiencies and the methodologies to be used in calculating the nitrogen and phosphorus export from the development are specified in the Stormwater BMP Manual.
 3. Allowable BMP practices.
 - a. All stormwater management facilities must be designed in accordance with this division and the Stormwater BMP Manual.
 - b. Allowable BMPs for nutrient reduction for use within the City are listed in the Stormwater BMP Manual.
 - c. Specific use of any particular device or strategy is subject to the approval by the Stormwater Administrator.
- C. Peak runoff control.
1. *No net increase in peak stormwater runoff.*
 - a. Development shall not result in an increase in peak stormwater runoff leaving the site from the pre-development conditions for the one-year 24 hour storm event.
 - b. Runoff volume drawdown time shall be a minimum of 24 hours, but no more than 120 hours depending on the type of BMP used.
 2. Calculation methods shall be in accordance with the standards specified in the Stormwater BMP Manual.
 3. *Exceptions to the peak flow requirements.* Peak flow control is not required for developments that met items a and b or item c of the following:
 - a. The overall impervious surface area is less than fifteen (15) percent of the total site and the remaining pervious portions of the site are utilized to the maximum extent practical to convey and control the stormwater runoff, and
 - b. The increase in peak flow between the pre-development and post-development conditions does not exceed ten (10) percent, or
 - c. The Director of Engineering makes a determination that stormwater detention at this particular location will increase flooding, accelerate

erosion or negatively impact existing drainage problems in the area. In such cases, an alternate method of peak attenuation management may be required.

D. *Offsite partial offset option.*

In accordance with the Environmental Management Commission, and its amended Nutrient Offset Payment Rule (15A NCAC 02B.0240), developers of residential, commercial, and industrial projects may partially offset their nitrogen and phosphorus loads under the following conditions:

1. Except where the project is participating in an approved regional or jurisdiction-wide strategy, as defined in section 16-37-4.E, in order for a project to use the offsite partial offset option or the offset payment option, the development plans must first reduce the nitrogen export to the following limits onsite:
 - a. Single-family or duplex residential meeting the criteria of section 16-37.1.B. must limit nitrogen export to no more than six (6.0) lb/ac/yr.
 - b. All other development meeting the criteria of section 16-37.1.B must limit the nitrogen export to no more than ten (10.0) lb/ac/yr.
2. If the computed nitrogen export is greater than 4.0 lb/ac/yr but less than 6.0 (or 10.0) lb/ac/yr, then the balance of the nitrogen reduction, to 4.0 lb/ac/yr and phosphorus reduction to 0.4 lb/ac/yr may be achieved through one or both of the following options:
 - a. Payment to a one-time offset payment to the North Carolina Ecosystem Enhancement Program (EEP) or to the City using the applicable nutrient calculations and fees.
 - 1) If this option is utilized within the Tar-Pamlico River Basin, the payment will be directed to the EEP's Riparian Buffer Restoration Fund. The applicable process for payment to this fund and the EEP must be followed.
 - 2) If this option is utilized within the Roanoke River Basin, the payment will be directed to the City Stormwater Fund and shall be utilized for Stormwater CIP projects within the Roanoke River Basin.
 - b. Provide treatment of an offsite-developed area through construction or an approved BMP or conversion of an existing developed area to protected wooded pervious area. To qualify, the off-site area or facility must meet the following conditions:
 - 1) The offset area and/or facility must drain to the same classified surface water as the development, as defined in the schedule of Classifications, 15A NCAC 02B.0316 and listed in Table A and B of this division, or be a part of a jurisdiction-wide facility or approach approved by DWQ as defined in section 16-37.4.E.
 - 2) The offsite facility may be used to address only the nutrient requirements, except where the development proposal provides

supporting calculations, approved by the Stormwater Administrator, that demonstrate that meeting some or all attenuation requirements offsite will not result in degradation of the classified surface waters to which the development site discharges.

- 3) The off-site stormwater management and/or BMP facility may serve multiple projects provided the facility is appropriately sized and has a tracking system approved by the Stormwater Administrator to allocate nutrient removal and flow attenuation to the participating development sites.
- 4) The development owner and the owner of the offsite facility, if different from the development owner, must provide a recorded enforceable agreement stating that offsite facilities are dedicated to achieving the specified nutrient and flow reductions for the life of the development. The responsibility for maintaining these reductions as well as the provisions of any easements and operation and maintenance agreements required in accordance with this division shall run with the land and be binding upon subsequent owners of both the development and the offsite facility.
- 5) Operation and maintenance plans and easements must be provided for all onsite and offsite facilities in accordance with the provisions of this division.

Table A:
Roanoke Rive Basin Classified Surface Waters

TABLE INSET:

Receiving Stream Name	Stream Segment	Water Quality Classification
Nutbush Creek	From source to Crooked Run	C
UT to Crooked Run	From source to Crooked Run	
Crooked Run	From source to Nutbush Creek Arm of John B. Kerr Reservoir	B
Indian Creek	From source to Carolina Power & Light Company Power Line	C

Table B:
Tar-Pamlico River Basin Classified Surface Waters

TABLE INSET:

Receiving Stream Name	Stream Segment	Water Quality Classification
Ruin Creek	From dam to Tabbs Creek	C; NSW
Red Bud Creek	From source to Ruin Creek	C; NSW
UT to Ruin Creek	From source to Ruin Creek	
Joes Branch	From source to Ruin Creek	C; NSW

Sandy Creek	From source to dam at Southerlands Pond	C; NSW; +
Martin Creek	From source to Sandy Creek	C; NSW; +

E. Regional and jurisdictional-wide facilities and strategies. This option will be utilized and undertaken by the City on a project-by-project basis and will be incorporated into the City’s comprehensive stormwater management program as they are developed and approved by DWQ.

1. *Regional facilities:*

- a. Regional facility within the context of this section means a stormwater management facility or approach that provides a portion of the nutrient and/or flow control requirements for multiple developments in a specified area within the City’s jurisdiction. Examples of regional facilities may include, but are not limited to, wet detention ponds or constructed wetlands.
- b. Regional facilities may be publicly or privately owned and operated, but must be approved by DWQ if the facility is proposed to serve more than one classified stormwater basin.

2. *Jurisdiction-wide approach.*

- a. Jurisdiction-wide approach within the context of this section means a nutrient reducing management measure or strategy implemented under the authority of the City and approved by the DWQ to offset nutrient and/or flow increases throughout the jurisdiction of the Henderson City limits. Examples of nutrient reducing measures may include, but are not limited to, conventional stormwater facilities, constructed wetlands, or land conservation.
- b. Land conservation offsets are an available option provided the following criteria are met:
 - 1) The conserved land must achieve the net nutrient reductions not achieved by the development that conservation is credited with offsetting.
 - 2) Proposals must quantify the reductions including identification of any actions to be taken to achieve nutrient reductions. Examples include:
 - (a) Removal of existing impervious area,
 - (b) Reforestation of managed open space such as agricultural land, cleared or vacant lots,
 - (c) Restoration of the buffering functions of land adjacent to existing or new development, e.g. converting pipe or ditch flow to dispersed sheet flow through forested land.
 - 3) The conserved land should be no further from estuary than the development and within the same jurisdiction except where there is an interlocal agreement that provides for development and offsetting conservation in different jurisdictions. The agreement

- shall provide assurance of enforceability between jurisdictions, as well as cross-jurisdictional tracking and monitoring procedures.
- 4) There must be adequate protection to ensure that the conserved lands will not be credited to other developments.
 - 5) Lands whose nutrient removal functions are established and protected through other regulatory programs, such as wetlands and riparian buffers, would not be eligible for conservation credit.
 - 6) Conserved land may be used to offset flow attenuation requirements if adequate measures are provided to ensure diffuse flow and no hydrologic degradation of the conserved features or surface waters.
 - 7) Conserved land must be secured in a recorded permanent conservation easement or equivalent legal mechanism with provisions to prohibit both farming and unapproved logging practices.
- c. Stormwater management facilities must provide the following information to gain DWQ approval as a regional or jurisdiction-wide system:
- 1) Land uses in the contributing area.
 - 2) Type of facility.
 - 3) Expected nitrogen and phosphorus removal efficiency and peak shaving capacity.
 - 4) Worst-case percent impervious of the contributing area at build out.
 - 5) Assumptions for on-lot treatment and attenuation.
 - 6) Calculations of nitrogen and phosphorous reduction needed and demonstration that facility meets needs.
 - 7) Process for tracking expenditure of treatment and attenuation capacity.
 - 8) Easement, restricting land use to protect stormwater management facility and containing adequate access for maintenance where such an instrument would be appropriate.
 - 9) An agreement that demonstrates that (a) developer, (b) a local government, or (c) a private for-profit or non-profit company will operate and maintain the facilities.
 - 10) Maintenance guarantees in conformance with the provisions of this division if the facility is not owned or operated by the City.

Sec. 16-37. 5. Permits.

A. *Stormwater permit.* A Stormwater Permit (permit) is required for all development and redevelopment projects unless exempt pursuant to this division. A permit may only be issued subsequent to a properly submitted and reviewed stormwater permit application in accordance with this division.

1. *Effect of permit.* The permit shall govern the design, installation and construction of stormwater management and control practices on the site, including structural

BMPs and elements of site design for stormwater management other than structural BMPs. The permit will sunset upon the final acceptance of the BMP system in accordance to this division.

2. *Permit application.* The stormwater permit application shall be made by, or on behalf of the owner(s) or developer(s) of the site for which the permit is sought. The application shall be filed with the City on a form supplied by the City and shall be accompanied with all information as required in the City's stormwater program.
3. A stormwater permit shall not be issued until the following conditions are met:
 - a. Approval of the stormwater management plan and associated calculations by the Stormwater Administrator. The stormwater management plan shall be in accordance with section 16.37-6 of this division.
 - b. Submission and approval of any required easements on a map to be recorded.
 - c. Submission and approval of any required operation and maintenance agreement, or other legal instrument established to ensure long-term maintenance of any structural BMPs.
 - d. Payment of all fees, including a non-refundable permit review fee.
 - e. An approved erosion and sedimentation control plan and permit (if required) from the appropriate authority or approving jurisdiction.
 - f. To provide reasonable assurance that BMPs are completed per permit specifications, a cash bond, letter of credit or other acceptable financial surety shall be required from the applicant to be held by the City until all constructed BMPs have received final approval by the City. The amount of the surety shall be based upon contractor estimates for the construction of the entire BMP system (costs from previous or other projects with similar BMPs within the last 3 years will be acceptable).
4. *Permit Issuance.* When the project has been reviewed and approved by the Stormwater Administrator in accordance to this division, the Zoning Ordinance, the City Code and all state and federal regulations, the Stormwater Administrator shall issue a permit to the owner/developer. A copy of the permit must be kept onsite during construction.

B. *Post-construction Stormwater permit.* This permit is required for all projects that required a stormwater permit.

1. *Effect of permit.* The permit shall replace the Stormwater permit upon final acceptance of the stormwater system for the project. No lapse of permit coverage is allowed. The permit must be maintained for the life of the development or unless significant modifications in the development are made that changes the intent of the permit. Significant changes may include, but are not limited to, increase in the amount of impervious coverage or updates/modifications to the stormwater conveyance system. The developer/owner shall notify the City of the

proposed changes and the Stormwater Administrator shall determine if such changes warrant an amendment to the approved permit or issuance of a new permit entirely.

2. The Post-construction stormwater permit shall not be issued until the following conditions are met:
 - a. Submission of all requirements and good standing of the Stormwater permit. If the Stormwater permit was revoked for any reason, a post-construction stormwater permit will not be issued until the condition is repaired/met and the stormwater permit reissued or reinstated.
 - b. Final Inspection/walkthrough. Upon notification from the contractor and/or developer, a final inspection and walkthrough of the BMP system must be made and accepted by the Stormwater Administrator.
 - c. An Asbuilt Survey of the BMP per section 16-37.6 of this division.
 - d. A Certificate of Completion per section 16-37.6 of this division.
 - e. Payment of funds as required by the Operation and Maintenance Agreement for each BMP into the escrow account.
 - f. All easements must be recorded and a copy of the recorded easement map submitted to the Stormwater Administrator.
 - g. All agreements must place covenants on the land and be recorded and a copy of the recorded agreement(s) submitted to the Stormwater Administrator.
3. *Permit Issuance.* When the project has been reviewed and approved by the Stormwater Administrator in accordance to this division, the Zoning Ordinance, the City Code and all state and federal regulations, the Stormwater Administrator shall issue a permit to the owner/developer.

C. *Permit review fees.* The City Council shall establish permit review fees and may amend and update the fees and policies from time to time. Fees will be set based on effective schedule of fees and approved by the City Council.

D. Conveyance of the property containing the BMP system shall not terminate the original developer's obligations under this division and shall remain in effect with the future property owner.

(Ord. of 9-13-04(4), § 1)

Sec. 16-37.6. Submission requirements.

A. *Stormwater management and plans.*

Stormwater shall be conveyed from developments in an adequately designed drainage system of natural drainage ways, grass swales, storm sewers, culverts, inlets and channels. Drainage systems shall be designed, constructed, and maintained to encourage natural infiltration, control

velocity, control flooding, and extend the time of concentration of stormwater runoff. The Stormwater Administrator shall determine adequacy of the stormwater drainage system.

A stormwater management plan shall be prepared by the applicant for all land disturbing activities subject to this chapter. Stormwater management plans shall:

1. Document through accepted engineering practices the impacts of the proposed development. At a minimum, documented impacts of the proposed development shall include:
 - a. Effects on existing upstream and/or downstream drainage systems and property;
 - b. Ability of the natural drainage way to handle additional stormwater runoff; and
 - c. Site specific criteria supporting the analysis of any impacts notes in 1.a. and 1.b. above.
2. Demonstrate through accepted engineering practices that stormwater runoff is adequately conveyed through the development in a drainage system designed to meet the criteria described in the storm drainage standard details.
3. Demonstrate through accepted engineering practices that stormwater facilities required to control the impacts of the development are designed to meet the criteria described in the city's stormwater management program.
4. Demonstrate that the nitrogen and phosphorous loading from the new development does not exceed the limits set forth in this division.
5. Stormwater management plans shall be prepared by, and bear the seal and signature of, a licensed professional engineer, registered landscape architect, or registered architect.
6. Include drawings, maps, and supporting calculations, specifications, and summaries as outlined in the city stormwater program for nutrient control and below:
 - a. The type and design of each proposed stormwater facility. This includes grading, elevations, and other information sufficient for construction of each stormwater facility. Plans and profiles (if required) for each proposed stormwater facility must be included as well with any specific detail and notes required for construction.
 - b. The location, extent, type of use, and impervious areas of the development site conditions . This includes the following, but not limited to:
 - 1) Watershed information (information for specific classified stream per this division).

- 2) Specific river basin where the project is located (Tar-Pamlico or Roanoke River Basins).
 - 3) Pre-development impervious areas
 - 4) Post-development impervious areas⁵⁾ If the development will utilize the offsite option, clear demonstration that the proposed facility drains to the same stream as the proposed development site.
 - 6) Flood zone (if applicable).
 - 7) Buffer zone areas (if required per this division)
 - 8) Drainage map for development.
- c. Calculations shall be sealed by the design professional and include, but not limited to, the following:
- 1) Stormwater narrative. This includes a detailed description of the existing site conditions, the proposed site conditions and the stormwater facility required to meet this division.
 - 2) Design calculations for each stormwater facility. This includes any design forms required by DWQ to be utilized in the Stormwater BMP Manual.
 - 3) Pre vs. post-development runoff calculations for 1 yr-24 hour storm for design and an analysis of the 10 yr-24 hour, 25 yr-24 hour and 100 yr-24 hour storms.
 - 4) Drainage calculations for storm sewer and drainage ditches with hydraulic grade lines/capacity, etc. to ensure adequate capacity of proposed and existing downstream infrastructure.
 - 5) Hydrology/hydrographs for BMPs.
 - 6) Nutrient management calculations.
 - 7) Buoyancy calculations (if required).
 - 8) USGS 7.5-minute quadrangle with the project location depicted on the map.
 - 9) NCRS Soils Survey map. The soils survey map must be from the latest, printed map from NRCS for the county. The computer version can be used for determination of soil type, but cannot be used for buffer determination.
 - 10) Drainage map for the development with subdrainage information to each facility.
 - 11) Operation and maintenance plan for each facility.

B. *Certification of completion.*

1. A licensed professional shall certify that the constructed BMP is in substantial compliance with the approved construction document prior to issuance of Post-construction Stormwater Permit.
2. For new construction, the certification will be required prior to issuance of a certificate of occupancy in addition to the Post-construction Stormwater Permit.

3. Asbuilt survey required. Prior to release of a certificate of stormwater compliance, as built surveys shall be required as follows:
 - a. The survey shall include the entire legal lot of record showing all impervious surfaces, building footprints, required buffers and any encroachments therein. Such survey shall include an information block totaling the percent of impervious coverage, the amount of impervious coverage on the site in square feet, building footprints, required buffers and any encroachments therein, and all constructed BMP's. Such survey shall include topography at two-foot contours.
 - b. The survey shall compare acreages of the various land covers as constructed to those permitted. If substantially different, the survey shall provide calculations demonstrating compliance with nutrient export requirements of section 16-37.5. If this is not the case, the owner shall amend the permit and make on-site or off-site adjustments accordingly to achieve the required export.
 - c. Stormwater conveyances. Any development that results in the construction or alternation of stormwater conveyance shall submit an as-built survey showing the location, extent, dimension and type of each conveyance.
 - d. Submission of the survey shall be in NAVD 1988 and NAD 1983 State Plane Coordinates, North Carolina Datum with the following:
 - 1) One (1) hard copy (mylar or velum) with a signed certificate stating compliance and substantial completion of the stormwater facility to the approved stormwater management plans.
 - 2) One (1) electronic form of the survey in either .dxf or .dwg format.

C. *Operation and maintenance agreements.* A written agreement shall be submitted by the applicant, approved by the Stormwater Administrator, and recorded in the office of the register of deeds of the county prior to the issuance of a post-construction stormwater permit. Such agreement shall:

1. Be legally binding on all current and future parties in interest for all properties served by the BMP as covenants running with the land.
2. Identify the maintenance and monitoring requirements required to ensure the proper function of the BMP. Maintenance activities must meet or exceed the actions and frequencies identified by practice in the Stormwater BMP Manual. Such operations shall be specific to each BMP for the development. The operation and maintenance plan submitted under the stormwater management plan can be attached and utilized for this agreement.
3. A requirement that the owner of the permitted BMP submit an annual maintenance inspection report to the Stormwater Administrator by end of September of each year prepared and sealed by a qualified professional licensed in the state. Such report shall not be required for the first partial year if the initial certificate of stormwater compliance was issued for the BMP within six (6) months of the required deadline for submittal. Subsequent repairs and alternations to the BMP requiring a stormwater

permit and certificate of compliance shall not alter the submittal requirements for an annual maintenance inspection report.

4. A requirement for the establishment and maintenance of an escrow account that can be used solely for the routine maintenance, repair, restoration, reconstruction, removal, and/or replacement of a required BMP. In the case of multiple BMPs covered by an escrow account, the specifics for each BMP covered by the account shall be included. The escrowed amount shall be 100% of the total cost to construct each BMP. The agreement shall include the following:
 - a. The amount of the escrow fund.
 - b. A statement that if the City issues a NOV ordering the correction, repair, replacement, or maintenance of the system or structure and the owner fails to take all necessary actions to remove the violation or initiate an appeal within the time prescribed, the City or its contractor may have full access to the property to complete any action necessary to correct the violation.
 - c. A statement that the City may, upon order of other official action of the City Council seize all or part of the escrowed funds to pay for all costs associated with the correction of the violation including administrative costs borne by the City.
 - d. A written commitment that the owner(s) (and his successors in title) will refund the escrow to the original amount prior to utilization by a lump sum or by specified time payments.
5. Records of installation and maintenance. The operation and maintenance agreement shall stipulate that parties responsible for the operation and maintenance of a stormwater management facility shall make and keep records of the installation and of all maintenance and repairs, and shall retain the records indefinitely. Whenever the party(ies) responsible for the operation and maintenance of a facility cease to exist, such records shall be transferred to the City. As long as records are maintained privately, they shall be made available to the City or its agents during inspection of the facility and at other reasonable times upon request.
6. A legal description or reference to the easement for each stormwater facility utilized by the development.

D. *Easement Map.*

1. An easement shall be placed to encompass each entire stormwater facility, allowing access and room for maintenance of each facility. The easement shall further provide access to the nearest convenient public right-of-way and must be accessible by maintenance equipment.
2. The easement map shall be generated by a professionally licensed surveyor, signed by the owner, approved by the City and recorded in the county's Register of Deeds office. A copy of the recorded easement map shall be provided to the Stormwater Administrator for the City's files.

(Ord. of 9-13-04(4), § 1)

Sec. 16-37.7. Inspections and enforcement.

A. *Authority to enter.* Agents and officials of the city shall have the right to enter property at all reasonable times to inspect sites subject to the requirements of this division to determine whether the development, BMPs, discharges and/or other activities on the property conform to the standards and requirements as set out herein. No person shall obstruct, delay, hamper, or in any way interfere with a City or County agent or official while in the process of carrying out their duties under this division.

B. *Inspection of stormwater facilities.* Inspection programs may be established on any reasonable basis, including but not limited to: routine inspection, random inspection; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or an NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment packages.

C. *Remedies.* The provisions of this division may be enforced by one, all or a combination of the remedies authorized and prescribed herein including civil penalties, criminal penalties, injunctive relief, stop work orders, permit revocation, restoration and abatement.

D. *Notice of violation/warning citation.*

1. Upon determination that a violation of this division has occurred, the City shall issue a Notice of Violation (NOV) to the owner of the property on which the violation has occurred and/or to the alleged violator if such is believed to be different than the owner. A NOV shall be construed to be a warning citation and shall either:
 - a. Be served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person; or
 - b. Posted in the United States mail service by first class mail addressed to the last know address of the violator as contained in the records of the city or obtained from the violator at the time of issuance of permit. The violator shall be deemed to have been served upon the mailing or delivery of said notice. The NOV shall indicate the nature of the violation, order of any action necessary to correct the violation, state a deadline for compliance, and shall contain an order to immediately cease the violation. The NOV shall state that it may be appealed in a manner set out by this division and it shall state that failure to correct the violation shall subject the violator to

any and all penalties prescribed herein. In establishing the deadline for compliance, the city shall take into consideration the quantity and complexity of the work, the public health and environmental consequences of delay, and the effectiveness and timelessness of previous corrective actions taken by the violator but in no case should the deadline for compliance exceed sixty (60) calendar days.

2. A written appeal from a NOV must be taken within ten (10) days from the date of said notice to the Board of Adjustment. The Board of Adjustment in considering appeals of notices of violations shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of the ordinance, or both. A violator who fails to file an appeal within the time period prescribed above is deemed to have forfeited his appeal rights for the violation, the NOV, civil citations, and civil penalties, and civil penalties assessed for the violation.
3. Where the Stormwater Administrator determines that the period of time stated in the NOV is not sufficient for abatement based upon the work required or consent agreement, the Stormwater Administrator may amend the NOV to provide for additional time which should not exceed sixty (60) calendar days from the date of the initial notice. The Board of Adjustment shall have the authority to extend this deadline for those cases where such time extension is proven to this board to be required due to the complexity and/or severity of the violation. Such extension shall be granted as a result of an appeal of the deadline established by the Stormwater Administrator. Violations which are an imminent threat to public health, safety, and/or welfare shall not be granted an extension.

E. *Civil penalties in general.*

1. Civil penalties are governed by Section 1-6 (b) of the Henderson City Code.
2. Upon failure of the violator to obey the NOV, a civil notice may be issued by the Stormwater Administrator and shall be either:
 - a. Served directly on the violator, his duly designated agent, or registered agent if a corporation, in person; or
 - b. Posted in the United States mail serve by first class mail addressed to the last know address of the violator as contained in the records of the city or obtained from the violator at the time of the issuance of the NOV. The violator shall be deemed to have been served upon the mailing or delivery of said notice.
3. If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and

shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one which is identical to or reasonably similar to a previous violation for which the City has issued a NOV or civil penalty notice.

4. At the discretion of the city manager, civil penalties for first time offenders may be waived provided that the offender demonstrates a good faith effort to correct the violation in a timely manner.

F. *Civil penalty amounts.* Any person who violates any provision of this division, any order issued pursuant to this division, or any condition of an approved permit may be subject to civil penalties as set out below:

TABLE INSET:

(1) Work without a permit:	\$5,000.00 per day
(2) Failure to correct a violation after notice:	\$5,000.00 per day
(3) Failure to obey a stop work order:	\$5,000.00 per day
(4) Submitting false information and/or certifications:	\$3,000.00
(5) Failure to follow an approved permit:	\$3,000.00.
(6) Failure to maintain required BMPs:	\$2,500.00
(7) Failure to file required maintenance inspection report:	\$2,500.00
(8) Failure to submit required certifications:	\$2,500.00
(9) Failure to submit required as-built plans:	\$2,000.00.
(10) Illegal connection/discharge:	(refer to Section 16-37.8)
(11) Any other action or failure to act that constitutes a violation of this division	\$2,000.00.

G. *Criminal penalties.* Any person who violates any provision of this division, any order issued pursuant to this division, or any condition of an approved permit shall be guilty of a misdemeanor punishable by fines and/or imprisonment as determined by the court for City Code violations.

H. *Injunctive relief.* Whenever the city has reasonable cause to believe that any person is violating or threatening to violate any provision of this division, any order issued pursuant to this division, or any condition of an approved permit, the city may initiate a civil action in local superior court to restrain the actions of such person that would constitute a violation. Upon finding that such violation has occurred or is threatened to occur, the court may issue any order of abatement or action necessary to insure compliance with this division. The institution of an

action for injunctive relief shall not relieve any party to the proceeding from any civil or criminal penalty prescribed herein.

I. *Stop work order.* Whenever the city has reasonable cause to believe that any person is violating or threatening to violate any provision of this division, any order issued pursuant to this division, or any condition of an approved permit, the city may initiate a civil action in county superior court to restrain the actions of such person that would constitute a violation. Upon finding that such violation has occurred or is threatened to occur, the court may issue any order of abatement or action necessary to insure compliance with this division. The institution of an action for injunctive relief shall not relieve any party to the proceeding from any civil or criminal penalty prescribed herein.

J. *Revocation of permits.* Any permit issued pursuant to this division may be revoked by the Stormwater Administrator at any time for one (1) or more of the following reasons:

1. Failure to comply with an approved permit.
2. The discovery of false, incomplete, or erroneous information submitted as part of the permit application.
3. Failure to allow reasonable and timely access to the property for any and all inspections deemed by the city to be necessary to insure compliance with this division.
4. The discovery that a permit was mistakenly issued.

K. *Restoration.* Any person who violates any provision of this division, any order issued pursuant to this division, or any approved stormwater permit shall be, in addition to all other remedies, subject to site restoration. The Stormwater Administrator shall take into consideration the nature and extent of the violation, the impact upon the land, public health and safety and any other factors he deems necessary in determining whether or not restoration shall be required. If the Stormwater Administrator determines that restoration is required, the violator shall restore all land, water, and vegetation affected by the violation to its condition prior to the violation except that whenever the prior condition is unknown or disputed the Stormwater Administrator shall determine the extent of the restoration required. Whenever trees are removed in violation of this division, new trees or other landscaping shall be planted in the disturbed area. All replacement trees shall be native woodland species suited to the growing conditions of the planting area. In setting the time limits for restoration, the Stormwater Administrator shall take into account the quantity of work required, planting seasons, and the consequences of delay.

L. *Abatement.* Whenever a violation of this division for which a NOV has been sent remain uncorrected after the appeal rights of the violator have been forfeited or exhausted and such violation has been determine by the Stormwater Administrator to be dangerous or prejudicial to the public health, the city shall have the authority to remove, abate, or remedy the violation. The expense of this action including administrative costs shall be billed to the person in violation of

this division, and if not paid, shall be a lien upon the land or premises where the violation occurred and shall be collected as unpaid taxes.

M. *Continuing violations.* Each day of violation shall constitute a separate and distinct violation subject to any and all remedies set forth herein.

N. The listing of the foregoing remedies does not preclude the City from pursuing any and all rights and remedies available to it by law.

(Ord. of 9-13-04(4), § 1)

Sec. 16-37.8. Illegal discharge detection and elimination.

A. *Purposes.* This section is adopted for the purpose of:

1. Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
2. Promoting activities directed toward the maintenance and improvement of surface and ground water quality;
3. Satisfying the requirements imposed upon the City under 15A NCAC 02B.0258 Tar-Pamlico River Basin--Nutrient Sensitive Waters Management Strategy: Basinwide Stormwater Requirement.
4. Establishing administration and enforcement procedures through which these purposes can be fulfilled.

The provisions of this regulation are supplemental to regulations administered by federal and state governments.

B. *Scope and exclusions.* This division shall apply within the city limits, with the following exclusions:

Federal, state and local governments, including their agencies, unless intergovernmental agreements have been established giving the city enforcement authority.

C. *Objectives.* The objective of this section is:

1. Regulate the discharge of substances which may contaminate or cause pollution of stormwater, stormwater conveyances, or waters of the state;
2. Regulate connections to the stormwater conveyance system;
3. Provide for the proper handling of spills; and

4. Provide for the enforcement of same.

D. *Discharges covered and exempted.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the water of the state, or upon the land in such proximity to the same (such that the substance is likely to reach a stormwater conveyance or the water of the state), any fluid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

1. Filter backwash and draining associated with swimming pools;
2. Filter backwash and draining associated with raw water intake screening and filtering devices;
3. Condensate from residential or commercial air conditioning;
4. Residential vehicle washing;
5. Flushing and hydrostatic testing water associated with utility distribution systems;
6. Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state or local government on scene coordinator;
7. Uncontaminated ground water (including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities);
8. Collected infiltrated stormwater from foundation or footing drains;
9. Collected ground water and infiltrated stormwater from basement or crawl space pumps;
10. Irrigation water;
11. Street wash water;
12. Flows from fire fighting;
13. Discharges for the pumping or draining of natural watercourse or waterbodies;
14. Flushing and cleaning of stormwater conveyances with unmodified potable water;
15. Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and

16. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by DEM, and provided that any such discharges to the municipal separate storm sewer system shall also be authorized by the city.

E. *Discharges prohibited.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, pollutants, waters, or other substance containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. Examples of illegal discharges include, but shall not be limited to:

1. Dumping of oil, anti-freeze, paint or cleaning fluids;
2. Commercial car wash washwater;
3. Industrial discharges;
4. Contaminated fountain drains;
5. Cooling waters, unless no chemicals added and has valid NPDES permit;
6. Wash waters from commercial and industrial activities;
7. Chlorinated backwash and drainage associated with swimming pools;
8. Domestic wastewater;
9. Septic system effluent;
10. Washing machine discharges; and
11. Sanitary sewer discharges;

F. *Illegal connections.*

1. Connections to a stormwater conveyance or stormwater conveyance system which allows the discharge of non-stormwater, other than the exclusions described in section D. above, are unlawful. Prohibited connections include, but are not limited to: floor drains, wastewater from washing machines or sanitary sewer, wash water from commercial vehicle washing or steam cleaning, and waste water from septic system.
2. Where such connection exist in violation of existing ordinances and said connection was made prior to the adoption of this ordinance or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one (1) year following application of this regulation; provided that, this grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which possess immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
3. Where it is determined that said connection:
 - a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate

injury and harm to real or personal property, natural resources, wildlife, or habitat; or

- b. Was made in violation of any applicable regulation ordinance; The City Manager or his designee shall designate the time within which the connection shall be removed. in setting the time limit for compliance, the city shall take into consideration:
 - 1) The quantity and complexity of the work.
 - 2) The consequences of delay.
 - 3) The potential harm to the environment, to the public health and to public and private property, and
 - 4) The cost of remedying the damage.

Permits are issued by the engineering department for connection to or modifications of storm sewers located in city owned rights-of-way.

G. *Spills.* Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting condition.

Persons associated with the spill or leak shall immediately notify the city fire chief or his designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage or any other liability which may be incurred as a result of sad spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

H. *Removal abatement and prevention required.*

1. The City shall review each change of use, or other permits for land disturbing activity (where a stormwater permit application is not routinely required) for uses and/or activities known or suspected to have potential discharges prohibited by this division. In the event such uses and/or activities occur, the applicant shall be required to obtain a stormwater permit from the Stormwater Administrator. Such permit shall include any and all conditions necessary to prevent illegal discharges.
2. The City may adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S.
3. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of

prohibited materials or other wastes in to the stormwater collection system or watercourses through the use of structural and/or non-structural BMPs.

4. Any person responsible for a property or premise, which is, or may be, the source of illegal discharge, may be required by the City to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the stormwater collection system or watercourses. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. of 9-13-04(4), § 1)

Sec. 16-37.9. Civil penalties for illegal discharges and connections.

A. *Illegal discharges.* Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this chapter shall be subject to civil penalties as follows:

1. For the first time offenders, if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said person can be assessed a civil penalty not to exceed one hundred dollars (\$100.00) per violation or per day for any continuing violations, and
2. If the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, including but not limited to process waste water or if said person cannot provide clean and convincing evidence of the volume and nature of the substance discharge said person can be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.

B. For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed ten thousand dollars (\$10,000.00) per violation or per day for any continuing violation.

C. In determining the amount of the penalty, the City Manager or his designee shall consider:

1. The degree and extent of harm to the environment, the public health, and public and private property;
2. The cost of remedying the damage;
3. The duration of the violation;

4. Whether the violation was willful;
5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
6. The costs of enforcement to the public; and
7. The amount of money saved by the violator through his, her or its noncompliance.

D. *Illegal connections.* Any person found with an illegal connection in violation of this division and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an illicit connection in violation of this division, may be subject to civil penalties as follows:

1. First time offenders can be subject to a civil penalty not to exceed five hundred dollars (\$500.00) per day of continuing violation.
2. Repeat violators shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) per day of continuing violation.
3. In determining the amount of the penalty, the City Manager or his designee shall consider:
 - a. The degree and extent of harm to the environment, the public health, and public and private property;
 - b. The cost of remedying the damage;
 - c. The duration of the violation;
 - d. Whether the violation was willful;
 - e. The prior record of the person responsible for the violation in complying or failing to comply with this division;
 - f. The costs of enforcement to the public; and
 - g. The amount of money saved by the violator through his, her or its noncompliance.

E. *Procedures for assessing penalties pursuant to illegal connections.* Said penalties may be assessed by the City manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested (addressed to the alleged violator's last known address), or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violations with particularity and specify the measures

needed to come into compliance. The notice shall designate the time within which such measures must be completed. In setting the time limit for compliance the City shall take into consideration:

1. The quantity and complexity of the work;
2. The consequences of delay;
3. The potential harm to the environment, the public health and public and private property; and
4. The cost of remedying the damage.

The notice shall warn that failure to correct the violation within the specified time period can result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty may be assessed from the date of receipt of NOV and each day of continuing violation thereafter shall constitute a separate violations under this section.

F. *Other violations.* Any person found in violation of other provision of this division not specifically enumerated elsewhere, may be subject to a civil penalty not to exceed one hundred dollars (\$100.00) per violation or per day for any continuing violation.

G. *Payment/collection procedures.* Penalties can be assessed by the City Manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested (mailed to the last known address), or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The City Manager or his designee shall therein make written demand for payment upon the person in violation. If the payment is not received or equitable settlement reached within thirty (30) days after demand for the payment is made, the matter may be referred to the City attorney for institution of a civil action in the name of the City, in the appropriate division of the general court of justice in the county for recovering the penalty.

H. *Injunctive relief.*

1. Whenever the City Manager has a reasonable cause to believe that any person is violating or threatening to violate this division rule, regulation, order duly adopted or issued pursuant to this chapter or making a connection to a stormwater conveyance or stormwater conveyance system other than in accordance with the terms, conditions, and provisions of approval, the City may, either before or after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the City for injunctive relief to restrain and abate the violations or threatened violation.

2. The institution of an action for injunctive relief shall not relieve any party to such proceedings from any further civil or criminal penalty prescribed for violations of this Code.

I. *Criminal penalties.* Any person who knowingly or willfully violated any provision of this, rule, regulation, order duly adopted or issued pursuant to this chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not longer than thirty (30) days. Each violation shall be a separate offense.

(Ord. of 9-13-04(4), § 1)”

Section 2: That a new fee shall be added to the Schedule of Fees (set forth in a Technical Ordinance of the City) reading as follows:

“Stormwater Management Permit Review Fee \$400.00”

Section 3. The foregoing Ordinance shall be in full force and effect from and after the date of its passage.

The foregoing Ordinance 12-10, upon motion of Council member _____ and seconded by Council Member _____, and having been submitted to a roll call vote and received the following votes and was **APPROVED/DISAPPROVED** on this the ____ day of _____, 2012: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O’Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 42, p. **.*

**STATE OF NORTH CAROLINA
CITY OF HENDERSON**

I, Esther J. McCrackin, the duly appointed, qualified City Clerk of the City of Henderson, do hereby certify the foregoing Ordinance is a true and exact copy of *Ordinance 12—10*, An

Ordinance Amending The Stormwater Management Ordinance, adopted by the Henderson, City Council in Regular Session on ** ** 2011 (*See Minute Book 4**, p. **). This Ordinance is recorded in *Ordinance Book # 8*, pp. **.

Witness my hand and corporate seal of the City, this ** day of *** 2012.

Esther J. McCrackin
City Clerk
City of Henderson, North Carolina

City Council Memo

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Work Session

18 January 2011

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CM: 12-02
REEF Project Update

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- KSO 3-5: Redevelop Downtown

Executive Summary

The HVDDC (Henderson-Vance Downtown Development Commission) is continuing to move forward on the plans for the REEF (Recreational, Educational, Economic and Family) Center located in the former R. J. Reynolds tobacco warehouse on Zene Street. This project began in March of 2009. The plans include the anchor tenant being the Henderson Collegiate Charter School from whom the HVDDC has received a letter of intent. The other proposed tenants are a medical facility and some retail businesses. The REEF project is looking to prepare a 10-block redevelopment master plan surrounding the project center. This plan will define an economic redevelopment zone for this entire neighborhood.

It is envisioned that this area can become a major addition to the Historic Downtown Business District, and the City of Henderson, with mixed uses combining: affordable residential ownership, commercial and retail businesses, that will revitalize and enhance the central City. It is also envisioned that with a public private partnership similar to the HOPE VI project, with local citizens, local developers the HVDDC and the City, will make this area inviting to additional re-development and expansion of the Downtown. The 10-block master plan will incorporate affordable home ownership, expanded retail and human services, in an area needing revitalization.

The HVDDC also is requesting that:

1. The REEF project be included as an objective in the City's Strategic Plan update for 2012.
2. The 10-block area in the master plan be designated as a Redevelopment Zone.
3. The City grants the Redevelopment Commission authority to work in this designated area.
4. The City budget \$50,000 in the FY 2013 budget to the project to be used for matching grant funds to redevelop the warehouse and pay for the Master Plan.
5. The project area becomes a focus area for future code and law enforcement.
6. The City grant permission for use of the vacant lot on the corner of Williams and Montgomery Street to be used as the joint athletic field for the charter school and community teams (terms, conditions and considerations to be determined).
7. The future plans for this area be incorporated in the Comprehensive Transportation Plan to reconfigure the transportation patterns surrounding the warehouse project.

This project will be funded through various sources. To date the REEF Project has been awarded the following grant funds:

NC Community Development Initiative	\$25,000
Rural Center (City of Henderson)	\$25,000
Self Help	\$25,000
NC Institute of Minority Economic Development	\$25,000
Golden Leaf Foundation Predevelopment funds	\$25,000
Golden Leaf Foundation, County Defined	\$699,995
NC Main Street Solution Grant (City of Henderson)	<u>\$299,004</u>
Total	<u>\$1,123,999</u>

The total cost for this warehouse renovation is projected to be approximately \$3.8 million. According to the DDC consultant for the project these initial renovation dollars can be leveraged to over \$10 million in value added to the tax base in the form of supporting retail and service businesses as well as housing improvements in the surrounding community. Any loans or repayable funds received the DDC will assume responsibility.

Given the significant scope of the project and DDC's readiness to move forward, it is appropriate for it to begin discussion of its broader plans and goals with the City Council and the neighborhood in which the project is located.

Enclosure:

1. DDC Consultant Report
2. Area Map

Development Plan for the REEF Project

The Henderson-Vance Downtown Development Commission (HVDDC) is working to develop the REEF project for the economic development, revitalization and stabilization of a 10-block area surrounding the project. The goals for the project are to have this 10-block area certified as an “Economic Redevelopment Zone”, which will allow the HVDDC to apply for grants to complete a master plan for the area.

To date we are working with several tenants to move into the REEF building, these include a not for profit Charter School, an Urgent Care & Medical facility, and two retail businesses.

It is envisioned that this area can become a major addition to the Historic Downtown Business District, and the City of Henderson, with mixed uses combining: affordable residential ownership, commercial and retail businesses, that will revitalize and enhance the central City. We anticipate this will **increase the tax base by over \$10,000,000 long term**. It is also envisioned that with a public private partnership similar to the HOPE VI project, local citizens, local developers the Henderson Vance Downtown Development Commission (HVDDC) and the City, will make this area inviting to additional re-development and the expansion of Downtown. The plan will incorporate affordable home ownership, expanded retail and human services, in an area currently in need of revitalization. An additional hope is that redeveloping this area into a walkable district within downtown, it could push out crime and make this area a safe place to live and work and play.

In order to accomplish the completion of this project the HVDDC is asking that the City put this project in the City’s budget for \$50,000 for 2012-2013 fiscal year (this will allow us to get matching dollars that can be used for master planning and technical assistance).

The HVDDC also is requesting that the REEF project be included in the City’s strategic plan and that the 10 block area be designated as an **Economic Redevelopment Zone** immediately (this will qualify the HVDDC for additional funding)

The HVDDC is asking that the REEF project be a focal point for the Redevelopment Commission, we intend to have discussions with them to partner with us to accomplish these goals.

Finally, we are requesting the City be prepared to look at properties within the 10-block area that are eligible for condemnation and/or deserted by their owners. The HVDDC would like the City to be aggressive in order to help us redevelop the area at a more rapid rate.

Our resources for the preliminary budget for construction tenants are as follows:

Source	Use	Amount
Exterior rehab	Golden Leaf Foundation/ Initiative/Main Street Funds	1,050,000
Interior rehab & site	NC Initiative Capital/ Bank	1,500,000
“ “	USDA	
Tenant up fit	Private funding and Bank Financing (Tenants are responsible for funds)	500,000
Site Improvements	Banks & Rural Development (In the form of grants and loans)	500,000
Master planning	City/ NC Initiative/CRA funds* \$25,000 City \$25,000 NC Initiative \$100,000 CRA Funds	150,000
Project Management/Tech. Assist.	City/ NC Initiative/CRA funds* \$25,000 City \$25,000 NC Initiative \$80,000 CRA Funds	130,000
Total		3,830,000

- CRA Funds are community reinvestment funds through various banks in the form of grants and loans

Timeline	
Exterior and interior up fit	June 2012 – June 2013
Site work and acquisition(parking)	June 2012 – August 2013
Green space acquisition and site work	January 2012 – June 2013
Master planning	June 2012 – December 2012

Phase I –financing and fund development, bidding, public awareness

Phase II - tenant preleasing, exterior and interior upfit

Phase III - master planning, additional site acquisitions

Phase IV- lease up and operation, further building design fundraising and expansion

We sincerely appreciate your assistance in helping us move this project forward.

HVDDC

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 23 Jan 12 Work Session

19 January 2012

TO: The Honorable Mayor James D.O'Geary and Members of City Council

FR: A Ray Griffin, Jr., City Manager

RE: CM: 12-03

Re: Industry Drive Water Main Extension Update

Ladies and Gentlemen:

The NC Rural Center has extended the deadline to 21 March 2012 for submission of a full application and Performance Agreement(s) with the Property Owners on Industry Drive. This is the last extension the City will get and if not received by March 21st, the funds will be de-obligated.

The City can re-apply for the funding once all of the grant requirements are in place and ready to move forward with the project.

*Reference: CAF 11-04; Resolution 11-03
CM 11-03; CM 11-05; CM 11-15; CM 11-A-15*