



AGENDA

Henderson City Council Regular Short Meeting

Monday, 27 February 2012, 6:00 p.m.

R. G. (Chick) Young, Jr. Council Chambers, Municipal Building

134 Rose Avenue

Henderson, North Carolina

Mayor and City Council Members

Mayor James D. O'Geary, Presiding

Councilmember James C. Kearney, Jr.

Councilmember Sara M. Coffey

Councilmember Michael C. 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) 13 February 2012 Regular Meeting [See Notebook Tab 1]*
- b) 20 February 2012 Special Called Meeting*

VII. PRESENTATIONS AND RECOGNITIONS

VIII. PUBLIC HEARING

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

IX. PUBLIC COMMENT PERIOD ON AGENDA ITEMS

Citizens may only speak on Agenda items only at this time. Citizens wishing to address the Council must sign-in on a form provided by the City Clerk prior to the beginning of the meeting. The sign-in form is located on the podium. When recognized by the Mayor, come forward to the podium, state your name, address and if you are a city resident, and identify the Agenda Item about which you wish to speak on the sign up sheet. Please review the Citizen Comment Guidelines that are provided on the last page of this Agenda.³

X. NEW BUSINESS

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

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

XI. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

Citizens may only speak on non-Agenda items only at this time. Citizens wishing to address the Council must sign-in on a form provided by the City Clerk prior to the beginning of the meeting. The sign-in form is located on the podium. When recognized by the Mayor, come forward to the podium, state your name, address and if you are a city resident. Please review the Citizen Comment Guidelines that are provided on the last page of this Agenda.³

XII. REPORTS

- a) Mayor/Mayor Pro-Tem
- b) City Manager
- c) City Attorney
- d) City Clerk
 - i. Calendar Notes and Schedule Update [See Notebook Tab 7]
 - ii. Proclamations

³ **Citizen Comment Guidelines**

The Mayor and City Council welcome and encourage citizens to attend City Council meetings and to offer comments on matters of concern to them. Citizens are requested to review the following public comment guidelines prior to addressing the City Council.

- 1) Citizens are requested to limit their comments to five minutes; however, the Mayor, at his discretion, may limit comments to three minutes should there appear to be a large number of people wishing to address the Council;
- 2) Comments should be presented in a civil manner and be non-personal in nature, fact-based and issue oriented. Except for the public hearing comment period, citizens must speak for themselves during the public comment periods;
- 3) Citizens may not yield their time to another person;
- 4) Topics requiring further investigation will be referred to the appropriate city official, Council Committee or agency and may, if in order, be scheduled for a future meeting agenda;
- 5) Individual personnel issues are confidential by law and will not be discussed. Complaints relative to specific individuals are to be directed to the City Manager;
- 6) Comments involving matters related to an on-going police investigative matter and/or the court system will not be permitted; and
- 7) Citizens should not expect specific Council action, deliberation and/or comment on subject matter brought up during the public comment section unless and until it has been scheduled as a business item on a future meeting agenda.

XIV. CLOSED SESSION

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

ADJOURNMENT

City Council Minutes--*DRAFT*

Regular Meeting

13 February 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, and George M. Daye.

ABSENT

Lonnie Davis, Jr..

STAFF PRESENT

City Manager Ray Griffin, City Attorney John Zollicoffer, City Clerk Esther J. McCrackin, Assistant City Manager Frank Frazier, Finance Director Katherine C. Brafford, Kerr Lake Regional Water Plant Manager Christy Lipscomb, Engineering Director Peter Sokalski, Code Compliance Director Corey Williams and Planning Director Erris Dunston.

CALL TO ORDER

The 13 February 2012 Regular Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary at 6:03 p.m. in the R. G. "Chick" Young, Jr. Council Chambers, Municipal Building, 134 Rose Avenue, Henderson, NC.

Mayor O'Geary welcomed citizens, staff and Council to the meeting. He said Council Member Davis was unable to attend due to health reasons, and we all look forward to his return.

ROLL CALL

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

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Peace-Jenkins led those in attendance in a prayer and the Pledge of Allegiance.

ADJUSTMENTS TO/APPROVAL OF AGENDA

Mayor O'Geary asked if there were any adjustments to the Agenda. City Clerk McCrackin asked that the Henderson-Kerr Lake Regional Water Plant be recognized during the

Awards/Presentation Section and Council Member Inscoe asked that the High Speed Rail be added to the agenda. With no objection to these additions, Mayor O'Geary asked for the pleasure of Council. Council Member Peace-Jenkins moved to accept the adjusted Agenda. Motion seconded by Council Member Daye and unanimously approved.

APPROVAL OF MINUTES

Mayor O'Geary asked for any corrections to and/or approval of the minutes. Council Member Kearney asked for one adjustment to the 23 January Work Session minutes under Industry Drive showing he was frustrated over this matter. With that change, Council Member Daeke moved the approval of the following minutes: 23 January 2012 Short Regular meeting and Work Session and the 26 January Strategic Retreat. Motion seconded by Council Member Rainey and unanimously approved.

AWARDS AND PRESENTATIONS

City Manager Griffin asked Kerr Lake Regional Water Plant Manager Christy Lipscomb to tell Council about an award her department will be receiving.

Ms. Lipscomb stated the water plant is one of twenty-three (23) in the State to be awarded the North Carolina Waterworks Operators Association (NCWOA) Optimization Award. The award will be presented in Winston-Salem February 16th. Mr. Griffin wanted Council to be able to congratulate Christy and her staff prior to reading about it in the news.

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

Closeout of the A.L. Harris Estates Grant 06-C-1609. (*Reference: CAF: 12-25; Resolution 12-13*)

City Manager Griffin thanked Gateway Community Development and the Department of Community Assistance in Raleigh for working with Planning Director Dunston to amend this grant so it can be finalized. Ms. Dunston told Council that after meeting with the State, the City is in compliance with the amended grant and with Council's approval, this grant is ready to be submitted to the State for closeout.

There was no discussion so Mayor O'Geary opened the Public Hearing by asking if anyone would like to speak in favor of this grant. No one came forward so Mayor O'Geary asked if anyone wished to speak in opposition to this grant. No one came forward and Mayor O'Geary closed the Public Hearing and asked for the pleasure of Council.

Council Member Inscoe moved the approval of Resolution 12-13, *Closeout of the A. L. Harris Estates Grant 06-C-1609*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Kearney, Coffey, Inscoe, Rainey, Daeke, Davis and Daye: NO: None. ABSTAIN: Peace-Jenkins. ABSENT: Davis. (See Resolution Book 2, p. 275) (Clerk's Note: Council Member Peace-Jenkins abstained as she is a board member of Gateway Community Development)

Receiving the Comprehensive Annual Financial Report for FY Ending 30 June 2011. (Reference: CAF 12-17; Resolution 12-04)

City Manager Griffin introduced Mr. Michael Brafford, Certified Public Accountant with Phillips, Dorsey, Thomas, Waters & Brafford, P.A. who will present the audit findings.

Mr. Brafford reviewed the fund balance, sales tax, enterprise ratios, property tax income, along with intergovernmental ratio and operating ratio, saying that overall the City is healthy. Council Member Kearney asked if restructuring the Aycock Recreation Center debt was reflected in these figures. Mr. Brafford stated no; the restructuring occurred in August 2011.

There were no further questions. Mr. Brafford thanked Council for the opportunity to serve the City for the last three years. The firm of Phillips, Dorsey, Thomas, Waters & Brafford, P.A. will no longer provide audit services due to a conflict of interest with the hiring of Finance Director Kathy Brafford.

Mayor O'Geary asked for Council's pleasure.

Council Member Kearney moved the approval of Resolution 12-04, *Receiving the Comprehensive Annual Financial Report for FY Ending 30 June 2011*. Motion seconded by Council Member Daeke and APPROVED by the following vote: YES: Coffey, Inscoe, Rainey, Peace-Jenkins, Daeke, and Daye. NO: None. ABSTAIN: None. ABSENT: Davis. (See Resolution Book 2, p 257)

Agreement Setting Forth Mayor, City Council and City Manager Roles, Responsibilities and Expectations. (Reference: CAF 12-25; Resolution 12-09)

City Manager Griffin said this amended resolution includes the changes discussed during the Retreat and will become part of Council policy.

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

Council Member Daeke moved the approval of Resolution 12-09, *Agreement Setting Forth Mayor, City Council and City Manager Roles, Responsibilities and Expectations*. Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Inscoe, Rainey, Peace-Jenkins, Daeke, Daye, Kearney and Coffey. NO: None. ABSTAIN: None. ABSENT: Davis. (See Resolution Book 2, p. 267)

Setting Date for One Day Team Building and 2013 Strategic Planning Retreat. (Reference: CAF 12-26; Resolution 12-10)

City Manager Griffin reminded Council that during the 2012 Retreat it was suggested that a one day team building session be planned following the 2012 municipal election and seating in July of new Council, along with setting the date for the 2013 Strategic Planning Retreat. The dates were set for 23 August 2012 and 31 January 2013. Mr. Griffin said the date(s) could be changed if necessary but setting them now allows for proper public notification and reservation of meeting space.

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

Council Member Rainey moved the approval of Resolution 12-10, *Setting Date for One Day Team Building and 2013 Strategic Planning Retreat*. Motion seconded by Council Member Inscoe and APPROVED by the following vote: YES: Rainey, Peace-Jenkins, Daeke, Daye, Kearney, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: Davis. (See Resolution Book 2, p. 269)

Creating an Availability Charge for any Habitable Structure in the City for Failure to Connect to Available Water and Sewer. (Reference: CAF 12-14; Ordinance 12-11)

City Manager Griffin reminded Council that this issue has been discussed at prior work sessions and asked Assistant City Manager Frazier to review the matter. Mr. Frazier stated that as a result of annexations and/or utility assessments, some water and sewer extensions were funded through revenue bonds. In the past, those property owners were allowed to delay connecting to water/sewer until their well/septic system failed. Revenues could be insufficient without an ordinance allowing the City to charge for water and/or sewer service once construction is complete and Council is now being asked to consider a \$12.12 minimum fee, beginning 1 July 2012, for property owners who have not connected.

Council Member Coffey asked if the property is sold could the new owner be forced to connect. Attorney Zollicoffer stated no, but (although he did not have the City Code with him), he thought there were code provisions requiring connections by all City property owners when water or sewer were available. Council Member Kearney commented that lenders might require connection and stated he felt the timing was positive as it allowed time to educate the public. He also mentioned that perhaps the "grandfathering" could stop with new owners. Council Member Daeke asked what incentive there was with such a low fee. Discussion then turned to whether a City Code already existed and this needs to be looked into further. It was the consensus of

Council that if there is a code, it should have been enforced earlier. City Manager Griffin mentioned this, along with prior changes to utility fees is standardizing policies and said he would look into the City Code for further clarification and bring his findings back to Council.

Council Member Kearney asked if the Public Health Department could condemn and enforce this issue. City Manager Griffin responded the Public Health Department is not an enforcement agency.

Council Member Coffey, with agreement from several other Council Members felt the \$12.12 was not enough to encourage property owners to “hook on.”

With no further discussion, Mayor O’Geary asked for the pleasure of Council.

Council Member Kearney moved the 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* with the effective date 1 July 2012. Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Daye, Kearney, Coffey, Inscoe and Rainey. NO: None. ABSTAIN: None. ABSENT: Davis. (See Ordinance Book 8, p. 373)

Ratifying the Mayor’s Endorsement on a Letter of Support Regarding the Joint City-County Fox Pond Park Project. (Reference: CAF 12-32; Resolution 12-12)

City Manager Griffin said in early January the park group realized a grant opportunity for the second phase of the Fox Pond project. The Mayor signed the letter of support to get the process started and Council is now being asked to ratify the letter supporting a joint commitment with Vance County for a local match not to exceed \$17,500 for each entity. This match can be in the form of funds and/or in-kind services and materials. Mr. Griffin said \$4,000 from each entity would be for administrative costs and felt the remainder could be offset by the hard work of the park group and City staff.

Council Member Daeke inquired about sale of timber on the property. Mr. Griffin stated after thinning minor trees and removing dead wood there was not as much timber as hoped. Council Member Kearney inquired about in-kind services. Mr. Griffin stated no overtime has been incurred but City staff and vehicles have been utilized as time allowed for debris removal. Mr. Griffin also said Mr. George Watkins has been working hard to receive donations for this project.

There was no further discussion. Mayor O’Geary then asked for the pleasure of Council.

Council Member Rainey moved the approval of Resolution 12-12, *Ratifying the Mayor’s Endorsement on a Letter of Support Regarding the Joint City-County Fox Pond Park Project.* Motion seconded by Council Member Inscoe and APPROVED by the following vote: YES: Daeke, Daye, Kearney, Coffey, Inscoe, Rainey and Peace-Jenkins. NO: None. ABSTAIN: None. ABSENT: Davis. (See Resolution Book 2, p. 273)

High Speed Rail.

Council Member Inscoe stated he met with Mr. Steve Green in Senator Burr's office about the high speed rail. It seems the rail stop(s) are no longer the decision of the Department of Transportation but will be made by the High Speed Rail Authority. Since this is out of the State's purview, Council Member Inscoe asked that letters of endorsement/support be considered to be sent to Federal representatives.

City Attorney commented it was unusual for a change like this to be determined this late in the process.

Council was in consensus that letters should be written and mailed.

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

City Clerk McCrackin advised one citizen wished to address City Council.

Ms. Almice Floyd-Gill, 280 George Floyd Road, Henderson – Ms. Floyd-Gill is a pastor who, along with pastors from three other churches, holds services at America's Best Value Hotel. The four churches have been in contact with the property owner expressing interest in purchasing the property and she asked what steps have been taken regarding the property.

City Attorney Zollicoffer stated it is in the Court system with Attorney Karlene Turrentine representing the property owner. He asked if the churches used more than the conference (banquet) room as the rented rooms were of concern. Ms. Floyd-Gill stated they use the conference room (banquet) room for conferences, workshops, education and enrichment programs, along with feeding people.

City Manager Griffin said he spoke with Ms. Floyd-Gill last week and earlier today and was pleased with their interest. He had asked Ms. Floyd-Gill for a letter from the owners expressing willingness to sell and also a letter from her laying out their plans for the property.

Discussion ensued regarding the renovation needs of the building along with the need for a plan for the entire complex. Suggestions were for Ms. Floyd-Gill to meet with Attorney Zollicoffer and Police Chief Sidwell to further discuss the plans.

WORK SESSION – General

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

City Manager Griffin stated Council previously asked for more time to review this matter and then asked City Engineer Peter Sokalski to share an overview. Mr. Sokalski stated this

amendment brings the City Code into compliance with new rules and asked what questions he could answer.

Council Member Inscoe asked several questions regarding whether this affects future permit holders, how the code will be enforced and whether this policy meets all State regulations. Mr. s and the code would be enforce

\']ppd by the Planning Department and lastly, the code is slightly above what the State requires. Mr. Sokalski explained that because Henderson sits in both the Roanoke River Basin and the Tar-Palmico River Basin, the Code meets the more stringent portion of the Tar-Palmico requirements.

Council Member Kearney inquired about civil penalty recourse. City Attorney Zollicoffer stated the court system is the recourse and suggested this be discussed in more detail.

It was the consensus of Council to carry this issue forward to the next regular meeting.

WORK SESSION – Continued Strategic Planning Retreat Discussions (from 26 January 2012 Meeting) *(Reference: Annual Strategic Planning Manual)*

City Manager Griffin stated that Community Appearance was an issue not covered during the Retreat. Issues mentioned in the Retreat survey mentioned key gateways into the City such as Ruin Creek, Raleigh Road, I-85 and US39 all needing revitalization. Council Member Daeke mentioned the graffiti problem and asked if it would be addressed more quickly. He also asked about the grass on the edge of streets which has been an ongoing problem.

Council Member Kearney asked if the Appearance Commission could work with the County to help address the gateway revitalization. City Manager Griffin felt this might be an opportunity for the County to contract with the City for work together as visitors do not know where the County ends and the City starts. Council Member Coffey asked about the trash on the streets. Assistant City Manager Frazier shared his team does pick up trash but it is an on-going problem. The discussion turned to citizen groups doing major cleanup such as Community Watch groups or church groups. Council Member Peace-Jenkins said her church did this and within 24 hours the trash was back. She asked how you stop people from throwing out their trash. Mayor O'Geary asked how can citizens be educated and mentioned the Appearance Commission does a major once a year clean up around the City. Council Member Inscoe said it is taking personal responsibility. Mr. Frazier said a charter school has inquired about adopting a street and the City is looking at establishing a policy that mirrors the Department of Transportation.

City Manager Griffin said if there were no other issues a draft amendment of all the items discussed during Retreat and at this meeting would be compiled and presented to Council by March at the latest. He also asked if bringing the graffiti ordinance back before Council would be appropriate. He also stated that graffiti on State signs can no longer be removed by City staff – the Department of Transportation has to be notified and they remove the graffiti.

CLOSED SESSION

Council Member Coffey moved for Council to convene in closed session pursuant to G.S. §143-318.11 (a)(4), Economic Development matter and §143-318.11 (a)(3), two (2) Attorney Client matters. *(Council convened in close session at 7:28 pm.)*

Council Member Coffey moved for Council to convene in open session. Motion seconded by Council Member Rainey and unanimously approved. Council re-convened in open session at 8:44 p.m.

There were two reports from the Close Session:

An Authorizing Resolution by the Henderson City Council in Support of a North Carolina Rural Center and Golden Leaf Foundation Grants' Applications for Water Line for Economic Development Prospect 12-2. (Reference: Resolution 12-16)

It was the consensus of Council to move forward with this project.

Co-Locate 911 Center at the Operations Center on Beckford Drive.

Council authorizes the City Attorney and City Manager to coordinate with Vance County an interlocal agreement for Council's consent.

REPORTS

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

ADJOURNMENT

Council Member Coffey moved for adjournment. Motion seconded by Council Member Rainey and unanimously approved. The meeting adjourned at 8:49 p.m.

James D. O'Geary
Mayor

ATTEST:

Esther J. McCrackin
City Clerk

City Council Minutes

Special Called Meeting - DRAFT

20 February 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, Jr., City Clerk Esther J. McCrackin, Finance Assistant City Manager, Frank Frazier, Director Katherine Brafford, Billing and Collections Supervisor Sharon Bennett, Accounting Supervisor Judith Woods, Jean Sams, Patricia Jackson, Fire Chief Danny Wilkerson and Human Resources Director Cathy Brown.

CALL TO ORDER

The 20 February 2012 Special Called 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 that a quorum was present.

(Clerk's Note: Council Member Daye and Davis arrived at 6:03 p.m.)

Mayor O'Geary said he was glad to see so many citizens in attendance this evening and said they are welcome at any time.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Peace-Jenkins led those in attendance in a prayer and the Pledge of allegiance.

ADJUSTMENTS TO/APPROVAL OF AGENDA

Mayor O'Geary asked if there were any adjustments to the Agenda. Council Member Rainey moved to accept the Agenda. Motion seconded by Council Member Peace-Jenkins and unanimously approved.

PUBLIC COMMENT PERIOD

(Clerk's Note: The Public Comment Period revolved around the changes in policy regarding security deposits and fees for water)

Mayor O'Geary explained that because of the number of individuals wishing to speak, their time would be strictly limited to three (3) minutes and that he would have to interrupt if they ran over their allotted time.

1. William Burnette, 150 Country Club Drive, Henderson. Mr. Burnette was clearly upset about the new policy. He said he was one day late in making his payment and was disappointed his water was cutoff without notice. Mr. Burnette said he has had service for 15 years and has never had his water cut off. He requested that the security deposit be refunded.

Mayor O'Geary thanked Mr. Burnette

2. JoAnn Allen, 159 Waterfall Road (County but has City water). Ms. Allen stated she was one day late in paying her bill. She said she understood there was a deficit and asked Council to find another way.

Mayor O'Geary and Council Member Rainey said thank you.

3. Elissa P. Yount, 216 Chavasse Avenue, Henderson. Ms. Yount stated her water had not been cutoff. She stated what the jobs of the Council, Mayor and staff are according to the adopted budget. Ms. Young felt some customers received preferential treatment and wondered why credits were being offered instead of refunds.

Mayor O'Geary thanked Ms. Yount.

4. Geraldine Champion, 747 Hillside Avenue, Henderson. Ms. Champion said she did not believe the City Manager or the Council intended to cause this epidemic in the City. However, she felt the issue needed to be revamped and a grace period included in the restructuring. She said everyone should pay their bills but disconnecting water because the customer is one or two days late was unrealistic and ridiculous.

Mayor O'Geary said thank you very much.

5. Vincent Ragland, 210 Tall Pines Drive (County but has City water). Mr. Ragland said he read that foreclosures do not go into effect until the fourth (4th) year and felt if people could be

behind four years regarding foreclosures why were citizens having their water cut off after one day. He questioned how the City had the manpower to cut off so many and reminded Council that there are usually more than one person in a house so more people have been effected than just the number of accounts. He said the policy is unfair and it needed to be changed.

6. Rosa Bullock, 1725 Graham Avenue, Apt E, Henderson. Ms. Bullock said she had talked with the Manager and Supervisor in December regarding the policy and although she paid the fees, she was later told the Water Department had made an error. She said it was a sad thing that the City could make mistakes but citizens could not be a day late. She felt if the City had listened to her then, then perhaps there would not be this problem.

Mayor O'Geary thanked Ms. Bullock.

7. Frank Terry, 925 Lehman Street, Henderson. Mr. Terry was not caught in this situation but he was disturbed that so many people had their water turned off. He said he looks up to the City officials for doing a good job. He reminded Council that they depend on the vote of citizens and Council should have mercy just as God granted mercy to all. Mr. Terry said what has happened is a disgrace to the people of Henderson.

Mayor O'Geary said thank you.

8. Mary A. Jones, 653 Charles Street, Henderson. Ms. Jones stated she has lived in her home for over 40 years and has always paid her bills. She said she's retired and knows that sometime she's going to forget and asked for mercy as the policy changes are considered.

Mayor O'Geary said thank you.

9. Lucy Jefferys, 109 S. Clark Street, Henderson. Ms. Jefferys said there are a lot of people in Henderson who cannot pay their regular monthly bill and felt a late fee and reconnect fee was wrong. She reminded Council that people can slip up. Lastly, she said she thought the policy was terrible.

Mayor O'Geary said thank you ma'am.

10. Pamela Glover, 236 W. Waycliff Road, Henderson. Ms. Glover is a former employee of the City. Since she has a background in government she felt she had a better understanding of policy but expressed how upsetting she found this policy. She had not been cut off but some of her neighbors had and she expressed concern for those living on a fixed income. She mentioned at one time the City did have a security deposit requirement and was unsure why it was removed. Ms. Glover asked for consideration in revising the policy. *(Mayor O'Geary interrupted and told Ms. Glover her time was up. The Mayor also thanked Ms. Glover for her input)*

11. Leo Kelly, Jr., 1214 Alpha Road, Henderson. Mr. Kelly was indirectly affected by a cut off. His son has had a problem with plumbing and in the process of sorting out that problem the son was cut off. Mr. Kelly had to pay the fees as his son did not have the funds and he requested a refund. He felt a calling process should be implemented.

Mayor O'Geary called time and said his comments were understood.

12. Willie Durham, 271 Lincoln St. Apartments, Henderson. Mr. Durham agreed with everything that had been said previously and stated although his water was not cut off, he felt for the ones that were cut off. He agreed that change should occur.

Mayor O'Geary said he and Council have all listened to the concerns of these citizens and said Council needs to address them. He then turned the meeting over to City Manager Griffin.

NEW BUSINESS

Consideration of Approval of Ordinance 12-20, Amending Section 15.33 of the Henderson City Code Establishing Utility Account Security Deposits and Resolution 12-15, A Resolution Amending the Implementation of Timetable for Amending the Current Practice of Turning Off Water Service for Delinquent Utility Accounts as Articulated in Resolutions 11-70 and 11-A-70.

City Manager Griffin said based on conversations with customers over the past week and conversations with Council, administration worked up several suggestions to amend and tweak these policies. Mr. Griffin said it was unfortunate and understands customer concerns regarding termination of service; especially those who have never had this happen before. About 70% of the customers were first time cut offs. About 305 have been cut off within the past 12 months. Some suggested tweaks were heard from customers and there may be others Council wishes to consider. Mr. Griffin suggested a basic change of establishing a one-time courtesy waiver of the security deposit if customer is in good standing for the last twelve (12) months. Also a one-time credit or refund of the security deposit for those cut off this past week for non-payment could be considered. This would affect about half of the customers and the other half, those who have been cut off at least once during the last twelve (12) months, will not receive a credit or refund of the security deposit.

(Clerk's Note: Mr Griffin sent a memo to Council on 21 February saying he misspoke regarding 70% of customers mentioned in the above paragraph. In the memo, Mr. Griffin states 71.5 % of accounts were one-month cut offs and 28.5% were cut off for having bills two months in arrears. 195 accounts, or 52% of the accounts on the cut off list had not been cut off during the previous 12 month period which 180 accounts, or 48% had been cut off at least once during the previous 12 months period.)

Another option would be to establish a grace period. Due to postal regulations and the people that are contracted to mail the bills, the effected billing cycle only had one day rather than the

normal 3 days which created a problem that needs to be resolved. Mr. Griffin asked Council for guidance regarding the length of the grace period but until then it is set for two (2) days.

Council Member Rainey thanked the citizens for coming out and voicing their opinion. He said the ordinance was written to help delete the deficit and would have welcomed their comments while Council was considering this policy. He apologized to those affected and said it was done in good faith. He then expressed his desire for a grace period of ten (10) days and suggested the billing format be reviewed. He also suggested a refund for first time customers who had to pay a reconnect fee and a security deposit in the form of a check, cash or a credit. He stated *"we do not need this kind of feeling between the City and citizens."* He said Council has strived over the last 4 years to try to make a better companionship between the Council and the City and do what citizens would like Council to do and that he understood times are tough not only for individuals but also the City. He said past due accounts, not only in taxes, but also in water effect the City. Water is important but unfortunately, the City cannot give it away for free.

Council Member Daeke agreed with Council Member Rainey. In good faith the Council was trying to balance the City's budget and receive the funds owed the City for services. This was not implemented as intended and he apologized for the problems. Mr. Daeke suggested that all those with a positive history of payment should have their down payment, fees and penalties refunded and the grace period needs to be changed. He suggested adding five (5) days to the grace period and said, as he remembered, the security deposit (down payment) was established on an average of a two month bill. Mr. Daeke suggested reducing the security deposit to \$100 or \$75 for anyone coming in to start a new account and anyone with a bad history should pay the security deposit also from this day forward.

Council Member Coffey also apologized to everyone. Ms. Coffey suggested a longer grace period of at least ten (10) days. She agreed with the \$75 security deposit as that should normally cover one month's water bill. Ms. Coffey did not agree that when there are two meters at a house, they should be charged a deposit on both meters to re-establish water. She also felt there should not be a late fee if water is going to be turned off and asked that this be considered for amendment. Ms. Coffey then restated her apology saying Council did not intend for citizens to be without water because it creates health hazards and said she and the rest of Council are willing to work this out the best way possible.

Council Member Inscoe stated times are difficult for individuals and businesses. He said Council made an error but that the error is correctable. Mr. Inscoe agreed with Ms. Coffey for a ten (1) day grace period which should give people enough time to respond. He also agreed with reducing the security deposit to \$75. The important thing is to correct the error and move forward in a positive way to continue to improve the City for its citizens. Lastly, Mr. Inscoe said he regretted any hardship caused.

Council Member Kearney also was terribly sorry for the problem but stated he was glad the citizens came to express their frustrations. He said the city should not be punitive with late fees. He felt if a late fee was charged there should not be other fees "piled on." Mr. Kearney favored a onetime waiver for first time customers that got caught up in this dilemma. That instead of

crediting their account, that the fees be refunded and that there be a ten (10) day grace period between the time the bill is considered late and the cut off time. He did not feel a late fee should be charged when water will be cut off anyway. Mr. Kearney was unsure if the deposit amount should be reduced. He said the deposit amount was based on the average two month bill. However, he felt if the security deposit remains as is, the reconnection fee should be eliminated. Mr. Kearney emphasized that whatever is done should be consistent and fair to the customers.

Council Member Peace-Jenkins said many pay their bills on the last day possible. When this policy change was first discussed, she emphasized it would be important to educate and inform the citizens in the best way possible which Council thought they had done by sending out information along with the bills, putting spots on the radio, etc. but it seems like individuals just have not read. Ms. Peace-Jenkins said some citizens have been treated unfairly in the process and she apologized. Ms. Peace-Jenkins agrees with a ten (10) day grace period and felt the security deposit should also be changed. She felt if the deposit remained the same, arrangements should be made for payments – not payment in full at one time. Ms. Peace-Jenkins agreed if the water is to be cut off there should not be a late fee. She again apologized saying Council wants the best for the citizens of Henderson ---sometimes we get it wrong just as we do in life. She also stated if there are extra leaflets in the water bill that are yellow – be sure to read it --- yellow means caution and if you have questions, reach out to your Council Member for clarification.

Council Member Davis said it is nice to see all the people here to voice their opinions for something you think is unjust. He emphasized how important it is for citizens to come to City Hall to hear opinions as issues occur rather than waiting until the last minute which causes heartache and then individuals lose their ability to listen to what can be done. Mr. Davis said Council is willing to listen to your concerns if it is done on equal terms. There is much to be done and the doors are open. He appreciated everyone who came out to voice their opinion.

Council Member Daye said he was also sorry. Mr. Daye said he was affected by this new policy but nevertheless the Council will take the wrong and make it right for everyone.

Council Member Coffey inquired about the security deposit funds. City Manager Griffin explained the deposit goes into an escrow fund in the name of the account holder where it is held for twelve (12) months. At that time, if the account holder shows a good pay history, the deposit is credited to his/her account and they are not required to pay another security deposit until they are terminated for non-payment and they wish to re-establish service. If a customer has an unacceptable payment history, the security deposit can be either applied to the account to cover the balance with any remaining dollars refunded if the account is to be closed or if the customer pays the bill the security deposit would remain in place for another twelve month period. When a customer is relocating, the security deposit is used to pay the monthly balance plus the amount from the final meter reading and any excess would be returned to the customer. Ms. Coffey asked if the deposit could be refunded. Mr. Griffin stated that would require an amendment to the existing ordinance if Council so desires. The escrow account does not draw interest.

(Clerk's Note: At this point several individuals indicated a desire to speak to Council. Mayor O'Geary asked Council if they were willing to allow others to address Council.)

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One gentleman who did not identify himself asked if everyone's water had been turned back on.

City Manager Griffin responded that 98 accounts have not been turned back on because they have not yet come to City Hall. These are all accounts that have been cut off during the past twelve (12) months and it is his understanding from Billing and Collections Supervisor Sharon Bennett, that this is the norm. These accounts represent people who come in to settle their account, have moved without notifying the City, or houses that need code enforcement for living without utilities.

Council Member Kearney confirmed the security deposit ordinance became effective in November. City Manager Griffin stated this is correct. Mr. Kearney verified the implementation date was six months instead of the original 90 days and asked how many people have brought their accounts current. Mr. Griffin said even before the November 1 deadline, the customer service line began advising customers of the new policy and they continued to work with customers even when the implementation date was extended and many customers brought their accounts up to date. Even during this last week, they have offered to set up a payment plan to ease customers into the new policy restrictions.

Council Member Rainey asked if staff could implement the calling system mentioned by Mr. Burnette during the public comment period to place a courtesy call to remind accounts that have never been late that their bill is due.

Mayor O'Geary asked the City Manager for guidance on how the water department handles accounts being cut off.

City Manager Griffin said customers are notified in their bill that they only receive one notice and the date of cut off is clearly shown. Bills are due and payable upon receipt and on the bill it also clearly states the date the late penalty will be applied. Businesses are not summarily cut off. The City is aware of the impact on commerce and for the few businesses that find themselves in this situation, calls are placed. Segmenting and sorting through the 4,000 plus residential accounts for those who are elderly, those who have accounts in good standing would be time consuming. It could be done but only with software enhancements and perhaps more manpower.

Council Member Coffey expressed her desire to have a better way of notifying customers and again stated there should be a ten (10) day grace period.

(Clerk's Note: Citizen Ms. Sylvia Hayes interrupted at this point and it was Council's decision to allow her to address Council.)

Sylvia Hayes, 811 Nelson Street, Henderson. Ms. Hayes spoke on behalf of her mother saying since the change in policy they are receiving two bills a month. Since the bill says payable upon receipt, Ms. Hayes felt she was being billed twice a month.

Mayor O'Geary asked the City Manager to look into this. City Manager said he would have someone look into it and respond to Ms. Hayes. He also said the 10th was moved to the 13th for the late payment date because of the delay with the postal rate change and the account should be back on cycle for payment next month for the 10th.

Council Member Daeke made a motion that all people who were caught for the very first time will have their money refunded and that includes the penalty as well as the reconnection fee and it would be their choice as to whether the fees be credited to their bill or refunded if they so choose and said I'll let the administration figure out how to do that.

City Manager asked for clarification as to whether the motion included only people with good pay history. Mr. Daeke said yes, the 70% that were caught in the change.

Council Member Daeke continued his motion by saying he would like to see the grace period changed to 10 business days. Reduce the down payment to one month (\$75) to see if it works for those starting a new account and those who have to make the payment to re-instate service for in City customers and \$100 for out-of-City customers. He left his motion open for amendment.

Council Member Rainey questioned the \$75 security deposit. He asked if the deposit was a one-time fee. Mr. Daeke said his understanding was the deposit would be used toward that account and the customer would then have to reestablish a new account with a \$75 fee.

Council Member Coffey restated the motion saying the City would refund the deposit, the late fee, the reconnect fee for customers that were caught up in this first time being late. Mr. Daeke said that exemption should exist any time it happens to a customer the first time.

City Manager Griffin asked for clarification before finalizing the motion as it could affect customers within this billing cycle. Customers that have heretofore been good customers without being cut off in the last twelve (12) months will have their late fee of \$12, the reconnect fee of \$25 and security deposit \$75 would all be returned as either a credit or a refund, depending on the customer's request. Customers that have been cut off within the past twelve (12) months for non-payment would still pay the \$12 and the \$25 --- do not want people to feel they are being treated differently.

Council Member Coffey stated the people who should receive the deposit, reconnect and late fee refund were the people who have paid their bills on time and caught up in the one day late issue. Ms. Coffey did not think people who are late should have to pay a late fee, a reconnect fee and a security deposit. Mr. Griffin asked if this would be retroactive for people with bad payment history till last Monday as well.

Council Member Kearney said he would like to see the final decision in writing so there is not another problem. He suggested a consensus be reached regarding the policy changes and announce them to the citizens present and then allow chance to review the changes prior to voting. City Manager said this was a good suggestion; however, the system keeps working so he felt some decisions should be determined for guidance to staff for work Tuesday morning.

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After further discussion involving the grace period, Council Member Daeke reworded his motion as follows:

1. 70% of people cut off which were good customers (those that paid their bill with a positive history) should have their deposit returned or apply to their account (their choice) as well as the penalty as well as the reconnect fee.
2. The grace period should have ten business (10) days added to the due date.
3. The down payment (security deposit) should be reduced to \$75 and \$100 for those on City water outside the City limits.
4. Late fee would not be charged as the result of the cut off.

City Manager then asked Council to look at Resolution 12-15 before them and he directed them to point 5 and verified this statement is correct. He then referred them to point 6 which did not need major change but he read for public information, including the change of citizens being able to request a refund (not just a credit). Mr. Griffin then created point 7 to say: *For good customers with a good pay history they would have their late fee and disconnect fee refunded as well.* Mr. Griffin was asked to blend this comment into point 6. Mr. Griffin added a new point 7 to say: *A late fee will not be charged if an account is disconnected for non-payment.*

City Manager stated the \$12 fee is applicable if the payment is not made by the date on the bill and a \$25 fee if it is disconnected. If the \$12 applies to the account then the disconnect fee would be \$13, effectively removing the \$12 fee but it keeps the staff from having to credit \$12 and charge \$25.

City Attorney Zollicoffer confirmed there is a late fee anytime there is a reconnect fee. City Manager said there would be a late fee anyway. In essence the reconnect fee is reduced from \$25 to \$13.

Council Member Rainey asked if customers are offered draft payments and on-line payment. City Manager Griffin said drafts are available. On-line payments are being researched. Once the system is reconfigured, on-line payments will be accepted. Mr. Griffin reminded Council that debit and credit cards are accepted, in person or on the phone. Council Member Peace-Jenkins asked if drafts were acceptable. Mr. Griffin stated checking account drafts are acceptable.

Council Member Coffey asked if a security deposit needed to be charged if a customer used a bank draft. Mr. Griffin said there is no way to ensure checking account balances with drafts so he felt a security deposit was necessary.

City Manager Griffin asked Council to look at Ordinance 12-20 saying point 4 is new to the existing ordinance. He explained the security deposit is set up as an ordinance where the fees and implementation policy are resolutions. So one motion would be to approve Resolution 12-

15 as amended by Council, approve Ordinance 12-20 as stands and lastly authorizing the City Attorney to draft an amendment to the annual fee schedule ordinance showing these changes.

Council Member Daeke introduced Resolution 12-15 as amended, Ordinance 12-20 as recommended and ask attorney to amend the fee schedule for the security deposit from \$150 to \$75 for the in-city residents; from \$200 to \$100 for those receiving water outside the City as well as changing the cut off fee to \$13.

This motion had already been seconded by Council Member Rainey and Coffey.

Mayor O'Geary then asked for roll to be called and the motion passed unanimously.

ADJOURNMENT

Council Member Rainey moved for adjournment. Motion seconded by Council Member Daeke and unanimously approved. The meeting adjourned at 7:33 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: 27 Feb 12 Short Reg. Meeting

21 February 2012

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

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

RE: **CAF: 12-33**

Consideration of Approval of Ordinance 12-19, Amending Sections of Zoning Codes for the City of Henderson to Provide for Bed & Breakfast.

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- **KSO 3-2:** Revise and Align Land Use and Sign Ordinance and Implement Conditional Use Zoning.

Recommendation:

- Approve Ordinance 12-19, Amending Sections of Zoning Codes for the City of Henderson to Provide for Bed & Breakfast.

Executive Summary:

This Ordinance amends the Zoning Ordinance for the City of Henderson to define "Bed and Breakfast or Tourist Home" as a private, single family, detached residence with short-term lodging not exceeding 10 consecutive days. It also adds language relative to the following: section 672B of the Zoning Ordinance: Private Residential Structure, Owner Occupancy, Room & Guest Limits, Premises Occupied, Floor Plan, Room Subdivision, Meals, Fire Safety, Guest Stay and Registry, Parking, Location, Signage, and Lighting. This ordinance amendment was recommended unanimously by the City of Henderson Planning Board on 6 February 2012.

Enclosures:

1. Ordinance 12-19
2. Planning Board Meeting Minutes 6 Feb 2012.

ORDINANCE 12-19

After receiving the recommendation of the Planning Board and after a duly advertised public hearing thereon, Council Member _____ introduced the following Ordinance which was seconded by Council Member _____ and read:

A ZONING ORDINANCE PROVIDING FOR BED & BREAKFASTS

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

Section 1. That the Zoning Code of the City of Henderson is amended as follows:

A. That Section 1002.91 is amended to read as follows:

“91. *Tourist Home or Bed & Breakfast.* A private single family detached residence in which short-term (not exceeding 10 consecutive days) lodging is offered to the traveling public for compensation to not more than eight guests (see also definition of “Rooming House” for distinction therefrom).”

B. That Section 1002.80 re Rooming House is amended to insert the words “a bed & breakfast or” immediately before the words “a tourist home”.

C. That a new section be added designated as “Section 1002.7a” and reading as follows:

“7a. *Bed & Breakfast.* See Tourist Home.”

D. That Section 310A, 2.11 be amended to read “2.11 Tourist Home or Bed & Breakfast” and that the same be permitted with a Special Use Permit in B1, OI, OIA, R11, R8, R6, RA, R15M, and R8M zoning districts.”

E. That Section 510, 2.11 be amended to read “2.11 Tourist Home or Bed & Breakfast” and requiring “2 parking spaces for the owner, plus 1 space per bedroom to be rented”.

F. That a new section be added designated as Section 672B and reading as follows:
“672B. *Tourist Home or Bed & Breakfast.*

672B.1 Private Residential Structure. The business must be located in a residential structure originally designed and used primarily as a private single family resident.

672B.2. Owner Occupancy. The owners (with at least a 25% ownership interest in the premises) of the residence must permanently reside there.

672B.3. Rooms & Guests Limits. No more than six rooms shall be rented out to guests and no such room shall be occupied for sleeping purposes by more than two guests (plus children under eighteen years of age). The total number of guests (excluding children under eighteen years of age) shall not exceed ten at one time.

672B.4. Premises Occupied. The quarters to be occupied by the owner and by all guests shall be in the principal residential structure. Separate structures, accessory buildings and garages are not permitted to be used as living units or sleeping rooms for bed and breakfast guests. No separate exterior doorways for individual guest rooms shall be permitted, unless the separate doorway was part of the original architecture of the house or was in existence prior to the adoption date of this provision.

672B.5. Floor Plan. There shall be submitted with each application, for approval by the Board of Adjustment, a floor plan of the entire structure, designating the use and floor area of each room and showing ingress and egress from each room. Plans for any enlargement to the exterior of the structure shall be submitted and specifically approved by the Board of Adjustment, after a public hearing, whether the enlargement is at the time of the original application or at any time thereafter in the future.

672B.6. Room Subdivision. No existing rooms shall be subdivided into individual sleeping rooms containing less than 120 square feet.

672B.7. Meals. There shall be only one kitchen facility on the premises. No food shall be sold to the general public. Overnight guests can only be served breakfast, together with afternoon or evening hors d'oeuvres and beverages on the premises; no other meals shall be provided on premises. No food preparation will be allowed in any guest's room.

672B.8. Fire & Safety. All safety and fire codes shall be met. Additionally, each guest room shall be equipped with a smoke detector and access to a fire extinguisher.

672B.9. Guest Stay & Registry. Guests are limited to a length of stay of no more than ten (10) consecutive days. The resident owner shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.

672B.10. Parking. Parking shall not be in the front yard or within side or back yard setbacks other than that which can be accommodated in a driveway no wider than 20 feet (part of which must be left open sufficient to allow any vehicles using interior parking spaces to pass). Guest parking area(s) in or adjacent to residential use districts shall be screened by appropriate vegetation, fencing or walls so that guests' vehicles are not visible from the street or from adjacent residential

properties. The applicant shall submit a site plan which shall indicate where the parking is to be located and the manner in which it is to be screened. No guest parking shall be permitted within any street right of way.

672B.11. Location. The business must abut, and guests must have direct access to, a major, minor, or collector street.

672B. 12. Signage. The only sign permitted shall be one freestanding sign per public street frontage (with writing being permitted on each side). The sign(s) shall not exceed three feet in height and fifteen square feet in sign area when located within ten feet of the street right-of-way. When located more than ten feet from the right-of-way, the sign(2) shall not exceed five feet in height and fifteen square feet in sign area. Any sign lighting shall be located within four feet of the sign and no higher than the sign itself; any such lighting shall be directed towards the sign.

672B.13. Lighting. Other than the sign lighting, there shall be permitted one pole light (not to exceed 30 feet in height) at the guest parking area, provided that the light from the same is directed away from and shielded from adjacent properties. No other lighting is permitted other than that attached to the principal dwelling unit and any garage, together with any ground lighting needed for walkways.”

- G. That Section 1002.80 be amended by adding the following sentence at the end of the definition of “Rooming House”:

“A rooming house shall be a residential structure designed and used primarily as a private residence and the owner or manager shall permanently reside therein; no more than six rooms shall be rented out and no such room shall be occupied for sleeping purposes by more than two persons (plus children under eighteen years of age).”

- H. That the parking requirements for Sections 510, 2.13 and 510, 2.14 be deleted and the following inserted in lieu of the same:

“2.13. Rooming House _____ 2 spaces, plus 1 space per rented bedroom.”

Section 2. The foregoing Ordinance shall be in full force and effect from and after the date of its passage.

The foregoing Ordinance 12-19, 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 4**, 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 12-19, A Zoning Ordinance Providing For Bed & Breakfasts*, adopted by the Henderson, City Council in Regular Session on ** ** 20** (*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 *** 20**.

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



City of Henderson

Planning and Community Development Department

Post Office Box 1434 / 134 Rose Avenue / Henderson, NC 27536-1434

Phone: (252) 430-5723 FAX: (252) 492-7935

RECOMMENDATIONS FROM THE February 6, 2012 PLANNING BOARD MEETING

Public Hearing (PB 02-12): Proposed Text Amendment regarding Bed and Breakfast Facilities

Item was introduced by Zoning Administrator Sherry Moss. Moss reviewed items regarding the Bed and Breakfast facilities. City Attorney Zollicoffer stated the application wanted to raise the number of rooms from 8 to 10 and have 25 people in there. He added when you get to 9 people in our ordinance, you will have a motel or hotel and not a bed and breakfast. City Attorney Zollicoffer stated that he looked at several with Moss. Moss gathered a tremendous amount of information on Bed and Breakfast. Out of 11 cities/towns, 8 of them required 6 or less rooms and City Attorney Zollicoffer lowered ours to 6 rooms also and added the reason that it is supposed to be a residence. It is supposed to maintain its residential character. It's primarily in a residential district. If for some reason they cease to be used as a bed and breakfast, they're built to be a residence and they ought to be reverted back to residential use. City Attorney Zollicoffer reviewed and discussed the ordinance with the board. Board Member Mike Inscoe asked do the meals of the bed and breakfast fall under the jurisdiction of the Health Department. City Attorney Zollicoffer stated some of them do but he added in the ordinance that they comply with all safety and fire codes. The public hearing was opened. There was no one present to speak for or against item. The public hearing was closed.

Motioned by Board Member Phil Walters to approve proposed text amendment regarding bed and breakfast facilities; Second by Board Member Ricky Easter, following an unanimous vote of 7-0.

AYES: D. Michael Rainey, Horace Bullock, Mike Inscoe, Jimmie Ayscue, Arthur Henderson, Phil Walters, and Ricky Easter; **NOES:** None; **ABSENT:** None

Public Hearing (PB 03-12): Recommendation to rezone properties from R8 (Moderate to High Density Residential) Zoning District to B2 (Highway Commercial) Zoning District located at 1202 & 1204 W. Andrews Avenue, 1.43+/- acres, (Vance County Tax Map 0107, Block 09, Lots 003 & 004), CITY

Item was introduced by Zoning Administrator Sherry Moss. Moss reviewed items of the rezoning packet. She stated the two existing commercial businesses are currently zoned R8 (Moderate to High Residential) Zoning District. The request is to rezone them to B2 (Highway Commercial). The adjoining property behind the Cruizers (Anna Quick Shop) is B2 (Highway Commercial) and the businesses across the street is Highway Commercial. The public hearing was opened. No one was present to speak for or against the request to rezone. The public hearing was closed.

Motioned by Board Member Mike Inscoe to approve proposed text amendment regarding bed and breakfast facilities; Second by Board Member Jimmie Ayscue, following an unanimous vote of 5-0, CITY.

AYES: CITY - D. Michael Rainey, Horace Bullock, Mike Inscoe, Jimmie Ayscue, Arthur Henderson; **NOES:** None; **ABSENT:** None

City Council Action Form

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Short Reg. Meeting

21 February 2012

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

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

RE: **CAF: 12-27**

Consideration of Approval of Ordinance 12-17, Amending the Zoning Map to Rezone .68+/- Acres Located at 1202 West Andrews Avenue and .78+/- Acres Located at 1204 West Andrews Avenue from R8 (Moderate to High Density Residential) to B2 (Highway Commercial).

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- **KSO 3:** Enhanced Economic Development: To Create New Jobs and Investment, Expand the Tax Base and Increase the Per Capita Income.

Recommendation:

- Approval of Ordinance 12-17, Amending the Zoning Map to Rezone .68+/- acres located at 1202 West Andrews Avenue and .78+/- acres located at 1204 West Andrews Avenue from R8 (Moderate to High Density Residential) to B2 (Highway Commercial).

Executive Summary:

The rezoning of approximately .68 acres located at 1202 West Andrews Avenue and approximately .78 acres located at 1204 West Andrews Avenue was discussed and recommended unanimously by the City of Henderson Planning Board on 6 February 2012. These parcels are adjacent to the southbound on and off ramp of Interstate Highway 85.

This rezoning is an actual map correction to the existing zoning map. These two parcels are currently being used for commercial purposes and have been for many years. It is in accordance to the City of Henderson Comprehensive Land Use Plan.

Enclosures:

1. Ordinance 12-17
2. Minutes from the 6 February 2012 Planning Board Meeting.
3. GIS Map of Area

ORDINANCE 12-17

After receiving the recommendation of the Planning Board and after a duly advertised public hearing on the same, Council Member _____ introduced the following Ordinance which was seconded by Council Member _____ and read:

AN ORDINANCE REZONING A 0.68 +/- TRACT LOCATED AT 1202 WEST ANDREWS AVENUE AND A 0.78 +/- TRACT LOCATED AT 1204 WEST ANDREWS AVENUE FROM R8 (MODERATE TO HIGH DENSITY RESIDENTIAL DISTRICT) TO B2 (HIGHWAY COMMERCIAL DISTRICT).

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

Section 1: That the official zoning map of the City of Henderson (incorporated by reference in City Code) is hereby amended by rezoning 0.68 acres, more or less, at 1202 West Andrews Avenue and 0.78 acres, more or less, at 1204 West Andrews Avenue (being Vance County Tax Map 0107, Block 09, Lots 003 & 004) from R8 to B2.

Section 2. The foregoing Ordinance shall be in full force and effect from and after the date of its passage.

The foregoing Ordinance 12-17, 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 4**, 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 12-1, An Ordinance Providing For The Zoning Of Solar Farms, Wind Turbines And Other Tall Utilities*, adopted by the Henderson, City Council in Regular Session on ** ** 20** (*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 *** 20**.

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



City of Henderson

Planning and Community Development Department

Post Office Box 1434 / 134 Rose Avenue / Henderson, NC 27536-1434

Phone: (252) 430-5723 FAX: (252) 492-7935

RECOMMENDATIONS FROM THE February 6, 2012 PLANNING BOARD MEETING

Public Hearing (PB 02-12): Proposed Text Amendment regarding Bed and Breakfast Facilities

Item was introduced by Zoning Administrator Sherry Moss. Moss reviewed items regarding the Bed and Breakfast facilities. City Attorney Zollicoffer stated the application wanted to raise the number of rooms from 8 to 10 and have 25 people in there. He added when you get to 9 people in our ordinance, you will have a motel or hotel and not a bed and breakfast. City Attorney Zollicoffer stated that he looked at several with Moss. Moss gathered a tremendous amount of information on Bed and Breakfast. Out of 11 cities/towns, 8 of them required 6 or less rooms and City Attorney Zollicoffer lowered ours to 6 rooms also and added the reason that it is supposed to be a residence. It is supposed to maintain its residential character. It's primarily in a residential district. If for some reason they cease to be used as a bed and breakfast, they're built to be a residence and they ought to be reverted back to residential use. City Attorney Zollicoffer reviewed and discussed the ordinance with the board. Board Member Mike Inscoe asked do the meals of the bed and breakfast fall under the jurisdiction of the Health Department. City Attorney Zollicoffer stated some of them do but he added in the ordinance that they comply with all safety and fire codes. The public hearing was opened. There was no one present to speak for or against item. The public hearing was closed.

Motioned by Board Member Phil Walters to approve proposed text amendment regarding bed and breakfast facilities; Second by Board Member Ricky Easter, following an unanimous vote of 7-0.

AYES: D. Michael Rainey, Horace Bullock, Mike Inscoe, Jimmie Ayscue, Arthur Henderson, Phil Walters, and Ricky Easter; **NOES:** None; **ABSENT:** None

Public Hearing (PB 03-12): Recommendation to rezone properties from R8 (Moderate to High Density Residential) Zoning District to B2 (Highway Commercial) Zoning District located at 1202 & 1204 W. Andrews Avenue, 1.43+/- acres, (Vance County Tax Map 0107, Block 09, Lots 003 & 004), CITY

Item was introduced by Zoning Administrator Sherry Moss. Moss reviewed items of the rezoning packet. She stated the two existing commercial businesses are currently zoned R8 (Moderate to High Residential) Zoning District. The request is to rezone them to B2 (Highway Commercial). The adjoining property behind the Cruizers (Anna Quick Shop) is B2 (Highway Commercial) and the businesses across the street is Highway Commercial. The

public hearing was opened. No one was present to speak for or against the request to rezone. The public hearing was closed.

Motioned by Board Member Mike Inscoe to approve proposed text amendment regarding bed and breakfast facilities; Second by Board Member Jimmie Ayscue, following an unanimous vote of 5-0, CITY.

AYES: CITY - D. Michael Rainey, Horace Bullock, Mike Inscoe, Jimmie Ayscue, Arthur Henderson; **NOES:** None; **ABSENT:** None



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2/2/2012

City Council Action Form

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Short Reg. Meeting

20 February 2012

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

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

RE: CAF: 12-35

Consideration of Approval of Resolution 12-17, Declaring the City Council's Intent to Reimburse the City of Henderson for Certain Expenditures in conjunction with improvements at the Henderson Water Reclamation Facility.

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 12-17, Declaring the City Council's Intent to Reimburse the City of Henderson for Certain Expenditures in conjunction with improvements at the Henderson Water Reclamation Facility.

Executive Summary

The City Council approved Resolution 11-111 on 12 December 2011, awarding a contract to McGill Associates for Engineering Services relative to improvements for the Henderson Water Reclamation Facility. The funding for this project is to come from the State Revolving Loan Fund; however, it was discussed that there may be a need to provide some short term financing for the design fees until such time as the SRF loan proceeds are available and the design fees restored from the loan proceeds. The need for the short term financing is dependent on cash flow within the sewer fund and payments needed for the other ongoing projects.

Passage of Resolution 12-17 will allow funds pulled from the Fund Balance or contingency funds to be restored to its original account after the loan proceeds become available.

Enclosures:

1. Resolution 12-17

RESOLUTION 12-17

A RESOLUTION DECLARING THE INTENT TO REIMBURSE THE CITY OF HENDERSON FOR CERTAIN EXPENDITURES IN CONNECTION WITH CERTAIN IMPROVEMENTS TO THE HENDERSON WATER RECLAMATION FACILITY

WHEREAS, the Henderson City Council (Council) conducted its Annual Planning Retreat in January 2012, 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 City intends to use State Revolving Loan Funds to pay for expenditures in connection with the design, construction and installation of certain improvements to the Henderson Water Reclamation Facility improvements, however short term financing may be necessary to pay for the design component of the project; *and*

WHEREAS, the there is a desire to adopt a resolution, as provided under federal tax law, to facilitate the City's using financing proceeds to restore the City's funds when the City makes capital expenditures prior to closing on a bond issue or other financing.

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

1. The project is for improvements to the Henderson Water Reclamation Facility, *and*
2. The project is to be financed. The currently expected type of financing is an installment financing contract as allowed for under N.C.G.S 160A-20. The currently expected maximum amount of bonds or other obligations to be issued or contracted for the project is \$16,947,300, not including any available grants.
3. Funds that have been advanced, or may be advanced from the general fund for project costs are intended to be reimbursed from the financing proceeds.

The foregoing Resolution 12-17, upon motion of Council Member _____ and seconded by Council Member _____, and having been submitted to a roll call vote received the following votes and was _____ 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, pp

City Council Action Form

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Short Reg. Meeting

16 February 2012

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

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

RE: **CAF: 12-36**

Consideration of Approval of Resolution 12-18, Authorizing the Mayor to Sign and Submit an Application to the State Revolving Fund Grant/Loan for Future Funding Relative to Improvements at the Sandy Creek Pump Station of the Sanitary Sewer Collection System.

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 12-18, Authorizing the Mayor to Sign and Submit an Application to the State Revolving Fund Grant/Loan for Future Funding Relative to Improvements at the Sandy Creek Pump Station of the Sanitary Sewer Collection System.

Executive Summary

The City received a notice from the Infrastructure Finance Section (IFS), (formerly the Construction Grants and Loan Section), informing us that interested parties may apply for the next round of funding through the Clean Water State Revolving Fund (CWSRF) and applications are due by 1 March 2012. Highlights of this rounding and schedule are as follows:

- Principal forgiveness for a portion of the loan (50% of loan, up to \$1 million forgiven maximums) is available for certain smaller local government units. Total amount available for principal forgiveness is approximately \$4 million.
- Standard interest rate is one-half of the Bond Buyer's 20-Bond index rate.

- Green projects (e.g., stormwater BMPs, stream restoration, energy efficiency projects, etc.) receive a special 0% interest rate. Total funding available at this special rate is approximately \$6 million; limited to \$2 million per project.
- Total funding available will be a minimum of \$100 million for this round.

The funding schedule for successful applicants for the upcoming round is shown below.

<u>Milestone</u>	<u>Deadline</u>
Application Deadline	1 March 2012
Notice of Intent to Fund Letters sent	2 April 2012
Engineering Report Submittal	2 July 2012
Engineering Report Approval	3 December 2012
Plans and Specifications Submittal	3 June 2013
Plans and Specifications/Permit Approval	3 September 2013
Advertise Project, Receive Bids, Submit Bid Information and Receive IFS' Authority to Award	2 December 2013
Execute Construction Contract(s)	2 January 2014

The recommended improvement at this time is the Sandy Creek Pump Station Project.

A previous Preliminary Engineering Report identified that there are issues with the existing pumps being that they are not currently pumping the rated capacity. In addition the City has experienced overflows at this station and/or manholes near this station so additional corrective action is necessary since it appears that a sufficient amount of infiltration/inflow has not been eliminated to effectively prevent future overflows.

It is important to note that applying for these funds does not commit the city to proceed with the project at this time, but does allow the city to be eligible for funding in the future.

Enclosures:

1. Resolution 12-18
2. Cost Estimates

RESOLUTION 12-18

A RESOLUTION OF THE HENDERSON CITY COUNCIL APPROVING THE SUBMISSION OF AN APPLICATION FOR STATE REVOLVING FUND (SRF) GRANT/LOAN FUNDING

WHEREAS, the Henderson City Council identified eight Key Strategic Objectives (KSO) at its 2012 Strategic Planning Retreat, *and*

WHEREAS, two of the Key Strategic Objectives are addressed by this Resolution as follows:
KSO 5: To Provide Reliable, Dependable and Environmental Compliant Infrastructure Systems 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 Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 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 performed an analysis on the Sandy Creek Pump Station that identified the need for the repair and replacement of various components within the Station to improve the performance of the Pump Station to its appropriate capacity and help mitigate the potential for sewer bypasses in the Sand Creek Basin, *and*

WHEREAS, the City of Henderson intends to request state loan and/or grant assistance for the project, *and*

WHEREAS, funding that is available is at a favorable rate of 0% interest and the City may qualify for up to 50% principle forgiveness, *and*

WHEREAS, the estimated project cost is approximately \$1.6 million with the final cost estimate to be determined upon completion of a revised preliminary engineering report.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Henderson, North Carolina That:

- 1) The City of Henderson, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
- 2) The **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest any debt service associated with the Project.

- 3) The governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Henderson to make scheduled repayment of the loan, to withhold from the City of Henderson any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan portion of the project financing.
- 4) The **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.
- 5) James D. O'Geary, Mayor, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application, being more fully articulated in **Attachment A**, 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.
- 6) 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.
- 7) 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 12-18, upon motion of Council Member _____ and seconded by Council Member _____, and having been submitted to a roll call vote received the following votes and was _____ 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, pp

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

Agency Use Only

In an effort to streamline the application process, North Carolina funding agencies created this common application form for applicants to utilize when requesting water/wastewater grant/loan funds. Additional material required by each funding agency can be found in the appendices.

Guidelines:

- Fully complete each section of this application form
 - Be sure to include all additional information requested by involved funders (found in appendices)
- Please refer to appendices for the number of copies required by each agency.
 - If a project is requesting CWMTF and Rural Center funds, the fully executed common application form should be sent to both CWMTF and the Rural Center. In addition to the common application form, each agency should receive its additional requested material only. See individual agency guidelines for other material needed for each application.

Descriptive Project Title: Sandy Creek Pump Station Improvements

Indicate the status of this application:

- ☒ NEW APPLICATION
☐ REVISION
☐ RESUBMITTAL

• Former project title: _____

Select organization(s) involved in this request (check all that apply)

- ☐ ARC Appalachian Regional Commission
Date submitted _____
- ☐ CWMTF Clean Water Management Trust Fund
Date submitted _____
- ☒ DENR-CW NC Dept. of Environment and Natural Resources (Clean Water)
Date submitted _____
- ☐ DENR-DW NC Dept. of Environment and Natural Resources (Drinking Water)
Date submitted _____
- ☐ DOC NC Dept. of Commerce
Date submitted _____
- ☐ CDBG (DCA)
 ☐ CDBG-ED (CFC)
 ☐ IDF (CFC)
- ☐ NCREDC NC Rural Economic Development Center
Date submitted _____

GENERAL INFORMATION

Page 1 of 5

Version 09/10

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

Legal Name of Applicant / Unit: City of Henderson County: Vance
 Name of Chief Elected Official: James D. O'Geary Title: Mayor
 Name of Authorized Representative (if different from above): Frank Frazier
 Mailing Address: Post Office Box 1434 Street Address: 134 Rose Avenue
 City: Henderson State: NC Zip: 27536
 Primary Telephone(s): 252-431-6000 Fax: 252-492-7935
 Email: ffrazier@ci.henderson.nc.us Federal Tax ID #: 56-0980138

Type of Applicant (check those that apply):

- ☒ Municipality ☐ Water / Sewer District ☐ Joint Agency Pursuant to G.S. 160A-20
☐ County ☐ Metro Water / Sewer District ☐ Joint Agency Pursuant to G.S. 63-56
☐ Non Profit Water Corporation ☐ Water / Sewer Authority ☐ Sanitary District
☐ Other (be specific): _____

Application Prepared by:

Name: Ellen McKinnon Title: Grants Coordinator
 Primary Telephone: 828-232-6116 Fax: 828-253-5612
 Email: ellen@martin-mcgill.com
 Name of Engineering Firm: McGill Associates, P.A.
 Name of Engineer: Joel Whitford, P.E.
 Mailing Address (if other than above): Post Office Box 1136
 City: Hickory State: NC Zip: 28603
 Primary Telephone: 828-328-2024 Fax: 828-328-3870
 Email: joel.whitford@mcgillengineers.com Federal Tax ID #: 56-1396980

PROJECT TYPE

Check all that apply:

- DRINKING WATER**
 Drinking Water Source ☐
 Drinking Water Treatment ☐
 Drinking Water Transmission/Distribution ☐
 Drinking Water Storage ☐
 Other: explain in project description (Including green projects) ☐

- WASTEWATER**
 Wastewater Treatment ☐
 Wastewater Collection ☒
 Water Reclamation or Land Application facilities ☐
 Sewer System Rehab ☐
 Other: explain in project description (Including green projects) ☐

Projected Construction START Date: January 2014 County(s) Served: Vance

of NEW customers (connections) TO BE SERVED by project

	Water	Wastewater
Residential	0	0
Business	0	0
Total(s)	0	0

of customers (connections) CURRENTLY served

	Water	Wastewater
Residential	7938	6403
Business	3230	2602
Total(s)	11,168	9005

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

PROJECT STATISTICS

Applicants must fill out this section completely as project statistics are used to score the application. For assistance with completing this section please visit the Rural Center [website](#).

Poverty Rate:	28.26%	Median Household Income (2000 census):	\$23,745	Ability To Pay:	5
		Median Household Income (updated):	\$28,589		
Population:	16,204			County Tier #:	1

Please provide a description of the project specifically addressing the details of each major activity (i.e. who, what, where, why and how). Indicate if this will be a phased construction project.

Rationale: (1 paragraph max)

- Problems and/or compliance issues that project will alleviate
- Local, regional and/or state need for project
- Critical circumstances or emergency situations that compel project to be funded

Benefits: (1 paragraph max)

- Results and accomplishments to be derived from project
- Other non-quantifiable benefits (e.g. partnership, improved standard of living, etc.)

Performance Measurement:

- Outputs (i.e. 1,000 LF of 8-inch PVC pipe)
- Outcomes (i.e. fully functioning line)
- Number of jobs created (see agency guidelines)

(Detail all quantifiable measures, including leveraged private investment resulting from the project.)

Project Description

The City of Henderson operates and maintains a sewer collection system with raw wastewater flow from residential, commercial and industrial users. The Sandy Creek Basin collects wastewater from the southeast section of the City at the Sandy Creek Pump Station with a combination of gravity sewers and intermediate pump stations. The Sandy Creek Pump Station, which is the largest lift station in the system conveys wastewater through a series of force mains to the Nutbush Creek Basin. Raw wastewater ultimately flows through a 42-inch gravity interceptor sewer to the Water Reclamation Facility. The proposed project includes the upgrade and rehabilitation of the two aged and inefficient pumps with larger impellers, new motors and variable frequency drives. The mechanical screen protecting the pumps will be replaced with a new mechanical screen. The emergency generator will be replaced to allow continued operation during a power outage. Finally, a new emergency connection and standby pump will be added outside the pump station.

Rationale: The City has an ongoing infiltration & inflow (I/I) reduction program to target and reduce I/I on a continual basis. The City is currently working to reduce I/I and sanitary sewer overflows specifically in the Sandy Creek basin. The program includes millions in improvements to significantly reduce I/I. In the meantime, the Sandy Creek Pump Station is overloaded during wet weather due to I/I and an emergency connection is needed to reduce the potential for overflows. The pump station also includes equipment that has exceeded its useful life.

Benefits: New pumps and equipment will replace aged pumps and controls that require frequent maintenance and repairs. The new pump station components will provide a more reliable pumping system to allow the continued pumping of raw wastewater from the Sandy Creek basin to the outfall that flows to the Water Reclamation Facility. The project will increase the operational effectiveness and reliability of the pumping and screening systems to insure the pump station remains in operation

Performance Measurement: Outcomes will include an upgraded pump station with new pumps, motors, starters controls, screen and emergency generator. The result will be a properly functioning and reliable pump station.

North Carolina Water/Wastewater Common Application Form

For use by ARC, CWMTF, DENR, DOC, and Rural Center applicants.

CERTIFICATION BY CHIEF ELECTED OFFICIAL/AUTHORIZED REPRESENTATIVE

The attached statements and exhibits are hereby made part of this application and the undersigned representative of the applicant certifies that the information in this application and the attached statements and exhibits is true, correct, and complete to the best of his/her knowledge and belief. He/She further certifies that:

- 1 as Authorized Representative, he/she has been authorized to file this application by formal action of the governing body;
- 2 that the governing body agrees that if a grant and/or loan is awarded, the applicant will provide proper and timely submittal of all documentation requested by the Grantor Agency;
- 3 that the governing body agrees to provide for proper maintenance and operation of the approved project after its completion;
- 4 that the applicant has substantially complied with or will comply with all federal, state and local laws, rules and regulations and ordinances as applicable to this project; and
- 5 that the applicant will adopt and place into effect on or before the completion of the project a schedule of fees and charges which will provide for the adequate and proper operation, maintenance, administration and repayment of all principle and interest on loans of the project.
6. that the applicant has followed proper accounting and fiscal reporting procedures, as evidenced by the applicant's most recent audit report, and that the applicant is in substantial compliance with provision of the general fiscal control laws of the State.
7. that the (Town or County), North Carolina is organized and chartered under the laws of North Carolina. All officials and employees are aware of, and in full compliance with NCGS 14-234, "Director of public trust contracting for his own benefit, participation in business transaction involving public funds; exemptions." (For units of local governments only.)

SIGNATURE OF CHIEF ELECTED OFFICIAL/AUTHORIZED REPRESENTATIVE

TYPED NAME

TYPED TITLE

DATE

Please note: ORIGINAL signatures are required for each agency application.

City Council Action Form

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Reg Short Meeting

22 February 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 Adjustment 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 River 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 known 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 determined 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 said 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

Meetings and Events Calendar

<i>Date</i>	<i>Time</i>	<i>Event</i>	<i>Location</i>
Mar 5 th	3:30 PM	<i>Henderson Planning Board</i>	City Council Chambers
Mar 6 th	3:30 PM	<i>Henderson Zoning Board of Adjustment</i>	City Council Chambers
Mar 7 th	8:00 AM	<i>Clean Up Henderson</i>	City Operations Center
Mar 12 th	5:00 PM	<i>Library Board of Trustees</i>	H. Leslie Perry Memorial Library
Mar 12 th	6:00 PM	<i>Regular City Council Meeting</i>	City Council Chambers
Mar 13 th	3:00 PM	<i>Henderson Appearance Committee</i>	City Council Chambers
Mar 15 th	7:00 PM	<i>Human Relations Commission</i>	City Council Chambers
Mar 26 th	6:00 PM	<i>City Council Meeting & Work Session</i>	City Council Chambers
Mar 30 th	10:00 AM	<i>Henderson-Vance 911 Advisory Board</i>	Emergency Operations Center
Apr 2 nd	3:30 PM	<i>Henderson Planning Board</i>	City Council Chambers
Apr 3 rd	3:30 PM	<i>Henderson Zoning Board of Adjustment</i>	City Council Chambers
Apr 4 th	8:00 AM	<i>Clean up Henderson</i>	City Operations Center
Apr 6 th		<i>City Hall Closed for Good Friday</i>	
Apr 9 th	6:00 PM	<i>Regular City Council Meeting</i>	City Council Chambers
Apr 10 th	3:00 PM	<i>Henderson Appearance Committee</i>	City Council Chambers
Apr 19 th	7:00 PM	<i>Human Relations Commission</i>	City Council Chambers
Apr 23 rd	6:00 PM	<i>City Council Meeting & Work Session</i>	City Council Chambers
May 1 st	3:30 PM	<i>Henderson Zoning Board of Adjustment</i>	City Council Chambers
May 2 nd	8:00 AM	<i>Clean up Henderson</i>	City Operations Center
May 7 th	3:30 PM	<i>Henderson Planning Board</i>	City Council Chambers
May 8 th	3:00 PM	<i>Henderson Appearance Committee</i>	City Council Chambers
May 14 th	5:00 PM	<i>Library Board of Trustees</i>	H. Leslie Perry Memorial Library
May 14 th	6:00 PM	<i>Regular City Council Meeting</i>	City Council Chambers
May 17 th	7:00 PM	<i>Human Relations Commission</i>	City Council Chambers

Last Updated: 2/24/2012 2:56 PM



PROCLAMATION 12-01

A PROCLAMATION of the Mayor and City Council of the
City of Henderson, North Carolina, honoring
Charlie Rose

Whereas, Charlie Rose was born in Henderson, North Carolina; and

Whereas, Charlie Rose graduated from Duke University with a B. A. in History and a J.D. from the School of Law; and

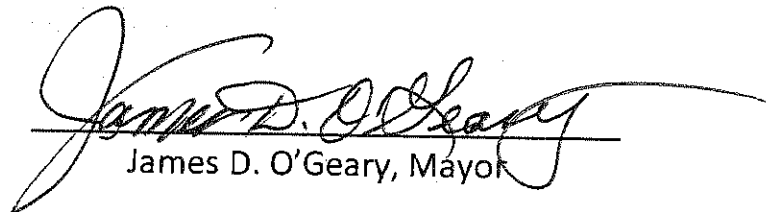
Whereas, Emmy award winning journalist Charlie Rose has been praised as one of American's premier interviewers; and

Whereas, Mr. Rose is the executive editor and anchor of CHARLIE ROSE, a nightly one-hour interview program aired on PBS; and

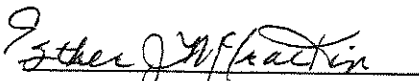
Whereas, Charlie Rose currently contributes to the CBS News program, 60 MINUTES and recently joined CBS THIS MORNING as co-anchor; and

Whereas, he has been the recipient of numerous awards from both the scientific and journalism communities, many honorary degrees and the Legion d'honneur.

NOW THEREFORE, by virtue of the authority vested in me as Mayor and on behalf of Henderson's City Council and its citizens, we recognize Charlie Rose for the work he has done in promoting goodwill throughout the world.


James D. O'Geary, Mayor

Attest:


Esther J. McCrackin, City Clerk

A Proclamation Celebrating 100 Years of Girl Scouting

WHEREAS, March 12, 2012, marks the 100th anniversary of Girl Scouts of the USA, which began in 1912 when Juliette "Daisy" Gordon Low gathered 18 girls in Savannah, Georgia, to provide them the opportunity to develop physically, mentally, and spiritually; and,

WHEREAS, for 100 years, Girl Scouting has helped build millions of girls and women of courage, confidence, and character who act to make the world a better place; and,

WHEREAS, the award-winning Girl Scout Leadership Program helps girls discover themselves and their values, connect with others, and take action to make the world a better place; and,

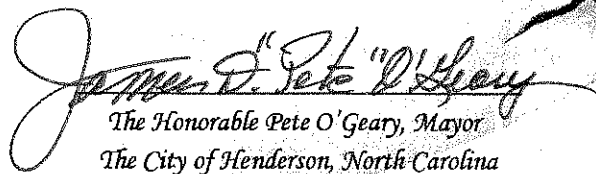
WHEREAS, the Girl Scout Gold Award, the highest honor in Girl Scouting, requires girls to make a measurable and sustainable difference in their community and honors leadership in the Girl Scout tradition; and,

WHEREAS, core programs around Science, Technology, Engineering, and Math (STEM), environmental stewardship, healthy living, financial literacy, and global citizenship help girls develop a solid foundation in leadership; and,

WHEREAS, through the dedication, time, and talent of thousands of volunteers of different backgrounds, abilities, and areas of expertise, the Girl Scout Program is brought to more than 70,000 girls in grades K-12 across the state of North Carolina; and,

NOW, THEREFORE, I, the Mayor of the City of Henderson, do hereby applaud Girl Scouts for 100 years of leadership and community service to our state and our county, and proudly proclaim March 11-17, 2012, as "Girl Scout Week in Henderson, North Carolina."

Approved this 22ND day of FEBRUARY, 2012.


The Honorable Pete O'Geary, Mayor
The City of Henderson, North Carolina



PROCLAMATION 12-02

A PROCLAMATION of the Mayor and City Council of the
City of Henderson, North Carolina, honoring
Leo Kelly, Jr.

Whereas, Leo Kelly Jr., was born in Henderson to the late Leo and Lucy Shearin Kelly; and

Whereas, Mr. Kelly graduated from Henderson Institute in 1964; and

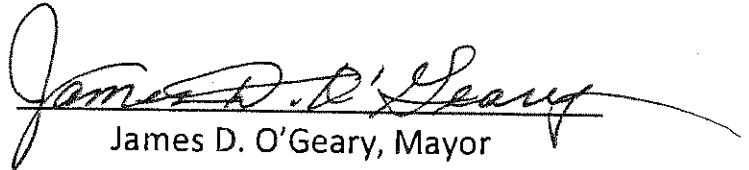
Whereas, Leo Kelly Jr., married Alice Wright and together raised two sons; and

Whereas, the University of Texas at Austin, recognized Leo Kelly Jr., with the NISOD Excellence Award; and

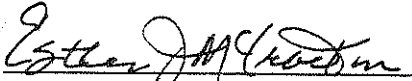
Whereas, Vance-Granville Community College awarded Mr. Kelly the Excellence in Leadership Award in 2007; and

Whereas, Mr. Kelly retired as Dean of Adult Basic Education in 2008 where he was honored with the establishment of the Leo Kelly Fund; a scholarship awarded each year to a student enrolled in the Basic Education program at Vance-Granville Community College in 2008.

NOW THEREFORE, by virtue of the authority vested in me as Mayor and on behalf of Henderson's City Council and its citizens, we recognize Leo Kelly, Jr., for the work he has done in promoting education with this community.


James D. O'Geary, Mayor

Attest:


Esther J. Mcrackin, City Clerk



PROCLAMATION 12-03

A PROCLAMATION of the Mayor and City Council of the
City of Henderson, North Carolina, honoring
Harold Gene Thompson, Jr.

Whereas, Harold Gene Thompson Jr., graduated from North Carolina A&T University in 1995 with a B.S. in Animal Science and in 1997 with a M.S. in Agricultural Education; *and*

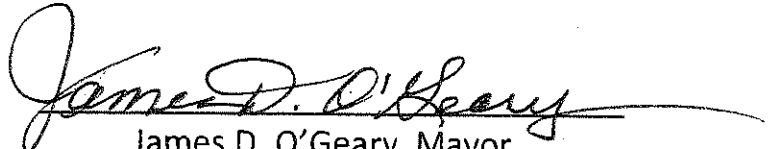
Whereas, Mr. Thompson received a Masters in School Administration from Fayetteville State University in 2003, and a Doctorate in Education from Virginia State University in 2009; *and*

Whereas, Harold Gene Thomson Jr., worked for the Vance County School System from 1996 to 2001 as a Biotechnology teacher and returned in 2003 where he continues to serve the students of Vance County; *and*

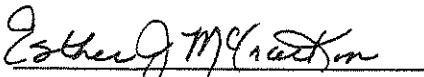
Whereas, Harold Gene Thompson Jr., has received numerous awards and honors, including Henderson Middle School Teacher of the Year; *and*

Whereas, Mr. Thompson serves on the Senior Usher Board, teaches Sunday School and is a van driver for Shiloh Baptist Church in Henderson.

NOW THEREFORE, by virtue of the authority vested in me as Mayor and on behalf of Henderson's City Council and its citizens, we recognize Harold Gene Thompson, Jr. for his contribution to the students and citizens of Henderson.


James D. O'Geary, Mayor

Attest:


Esther J. McCrackin, City Clerk



PROCLAMATION 12-04

A PROCLAMATION of the Mayor and City Council of the
City of Henderson, North Carolina, honoring
Vernon L. Brown

Whereas, Vernon L. Brown was born at Jubilee Hospital in Vance County to Lawrence and Verah Brown; and

Whereas, Vernon L. Brown attended the first kindergarten in Vance County for black students and was in the first mandated integration class as an 8th grader; and

Whereas, Mr. Brown graduated from Vance Senior High School in 1973 and received a degree in Behavioral Science from Shaw University; and

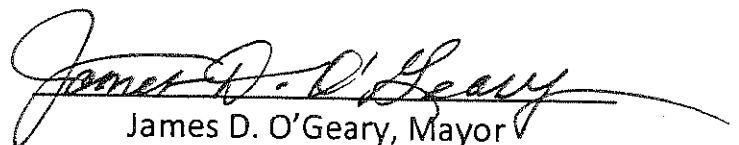
Whereas, in 1981, after accepting a position as Social Worker in Vance County, Mr. Brown is the only individual to have worked in every area of Social Work: Children Protective Services, Foster Care, Adult Services, Jobs Program and Work First; and

Whereas, Vernon L. Brown became the Families First Coordinator in 2008, reaching out to over 50 churches in this first time social services outreach to the faith community; and

Whereas, Mr. Brown has served over 25 years as a high school and college basketball official and served as president of the CIAA/Triangle Basketball Officials Association; and

Whereas, Vernon L. Brown is retired, and he and his wife, Joe Ann Scott Brown have two children and two grandchildren.

NOW THEREFORE, by virtue of the authority vested in me as Mayor and on behalf of Henderson's City Council and its citizens, we recognize Vernon L. Brown for his contribution to this community.


James D. O'Geary, Mayor

Attest:


Esther J. McCrackin, City Clerk



PROCLAMATION 12-05

A PROCLAMATION of the Mayor and City Council of the
City of Henderson, North Carolina, honoring
Delthine Watson

Whereas, Delthine Watson was born and educated in Warren County; and

Whereas, Ms. Watson graduated from what is now the University of North Carolina at Pembroke with a Social Work degree; and

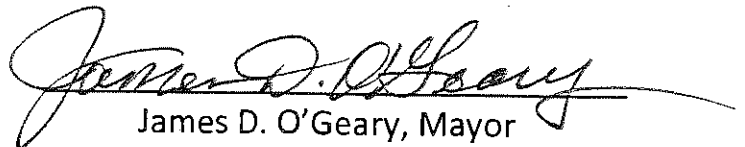
Whereas, Ms. Watson received a Master's degree in Agency Counseling from North Carolina Central University and currently serves as a Social Worker for Vance County Department of Social Services; and

Whereas, with more than 25 years of experience in as a social worker and community volunteer, Ms. Watson has sheltered many homeless in her own home, mentored many young ladies from Vance and surrounding counties; and

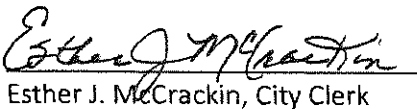
Whereas, Delthine Watson volunteers for the National Black Theater Festival in Winston-Salem; and

Whereas, Delthine Watson is a member of Spring Street Baptist Church, sings in the Gospel Ensemble and Mass Choir, and is a board member of Youth Christian Center.

NOW THEREFORE, by virtue of the authority vested in me as Mayor and on behalf of Henderson's City Council and its citizens, we recognize Delthine Watson., for her willingness to give back to the community in so many ways.


James D. O'Geary, Mayor

Attest:


Esther J. McCrackin, City Clerk



AGENDA

Henderson City Council Work Session
Monday, 27 February 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. Inscoe
Councilmember D. Michael Rainey

Councilmember Brenda G. Peace—Jenkins
Councilmember Garry D. Daeke
Councilmember Lonnie Davis, Jr.
Councilmember George M. Daye

City Officials

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

I. CALL TO ORDER

II. ROLL CALL

III. ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA

IV. REGULAR WORK SESSION

- a)** Consideration of Approval of Ordinance 12-22, FY 12 Budget Amendment #33, Authorizing Funds to Various Street Repair Projects. (CAF 12-28) [See Notebook Tab 9]
 - Ordinance 12-22
- b)** Consideration of Approval of Ordinance 12-18, FY 12 Budget Amendment #34, Creating Contingency Budget for Construction of the US Hwy #1 Sewer Project. (CAF 12-31) [See Notebook Tab 10]
 - Ordinance 12-18

c) Water and Sewer Availability Fee Discussion (*CM 12-04*) [*See Notebook Tab 11*]

- CM 12-04

d) Discussion on Security Deposits between 1 November 2011 and 20 February 2012 (No Attachment)

VI. ADJOURNMENT

City Council Action Form

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Work Session

21 February 2012

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

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

RE: **CAF: 12-28**
Consideration of Budget Ordinance 12-22, FY 12 Budget Amendment #33, Authorizing Funds to Various Street Repair Projects.

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 5 – Provide Reliable, Dependable and Environmentally Compliant Infrastructure Systems.

Recommendation:

- Approval of Budget Ordinance 12-22, FY 12, Budget Amendment #33, Authorizing Funds to Various Street Repair Projects.

Executive Summary

There are existing storm drain pipes that need to be replaced and stabilized on Birch Circle, Hillside Avenue and Cameron Drive that will require outside contract work. Birch Circle involves the installation of approximately 200 linear feet of 36" pipe and storm drain structures. The road shoulder needs to be restored and the remaining drainage areas properly stabilized. The estimated cost to perform this work is \$45,000. Further delay in performing this work can lead to deterioration of the pavement surfaces.

Hillside Drive involves the replacement of approximately 30 linear feet of 36" corrugated metal storm drain pipe with reinforced concrete pipe. As a result of deterioration of the pipe, sinkholes have appeared in the pavement which could lead to collapse in the pipe structure and street. The estimated cost to repair this project is \$30,000, which includes the pipe replacement as well as two curb inlets, replacement of curb and a headwall.

Cameron Drive ditch stabilization involves the re-grading and stabilization of approximately 370 linear feet of ditch line to keep the shoulder from eroding into the pavement area. The estimated cost to perform this work is \$12,000.

The staff intends to receive informal bids for performing this work from qualified contractors. Funding for this work would come from Powell Bill reserves, of which there is approximately \$299,017 in reserves at this time.

Enclosures:

1. Ordinance 12-22
2. Location Maps

ORDINANCE 12-22

Council Member ** introduced the following Ordinance that was seconded by Council Member ** and read:

FY 2011-2012 AN AMENDMENT TO THE CIP POWELL BILL VARIOUS STREET REPAIR PROJECTS BUDGET AMENDMENT #33

WHEREAS, the City Council of the City of Henderson on June 23, 1993 adopted the CIP Powell Bill Budget; and

WHEREAS, it is necessary to amend the various revenue and expense accounts of the CIP Powell Bill Fund as different projects open and close.

NOW THEREFORE BE IT ORDAINED by the City Council of The City of Henderson, that the following Ordinance be approved and said Ordinance shall be effective immediately upon approval of the City Council:

FUNDUS: 11: Powell Bill Fd & 42: CIP-Powell Bill Fd			Ordinance 12--xx FY 11-12 Budget Amendment # 33			
11: POWELL FILL FUND REVENUES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Fund Balance Appropriated	11-110-491000	\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
			\$ -	\$ -	\$ -	\$ -
	Total		\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
						\$ 87,000.00
11: POWELL BILL FUND EXPENDITURES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Transfer to CIP-Powell Bill	11-690-509724	\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
					\$ -	
					\$ -	
			\$ -	\$ -	\$ -	\$ -
	Total		\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
						\$ 87,000.00
	Variance				\$ -	
42: CIP-POWELL BILL FUND REVENUES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Transfer from Powell Bill	42-422-461111	\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
			\$ -	\$ -	\$ -	\$ -
	Total		\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
						\$ 87,000.00
42: CIP-POWELL BILL FUND EXPENDITURES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Construction	42-575-510400	\$ -	\$ -	\$ 86,500.00	\$ 86,500.00
	Legal/Admin	42-575-510200	\$ -	\$ -	\$ 500.00	\$ 500.00
			\$ -	\$ -	\$ -	\$ -
	Total		\$ -	\$ -	\$ 87,000.00	\$ 87,000.00
						\$ 87,000.00
	Variance				\$ -	
Reference:			Notes:			
CAF 12-28, Ord 12-xx at 27 Feb 12 Meeting			To budget funds for various street repair projects involving storm drain and ditch failures. The streets included are: Birch Circle, Hillside Avenue and Cameron Drive. \$45,000 is being budgeted for the repairs to Birch Circle, \$30,000 for the repairs to Hillside Avenue, and \$12,000 for the repairs to Cameron Drive. Funding for this work is coming from Powell Bill reserves, of which there is approximately \$299,017.			

The foregoing Ordinance 12-22, upon motion of Council Member ** and second by Council Member **, and having been submitted to a roll call vote and received the following votes and was ***** on this the ** day of *****: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O'Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

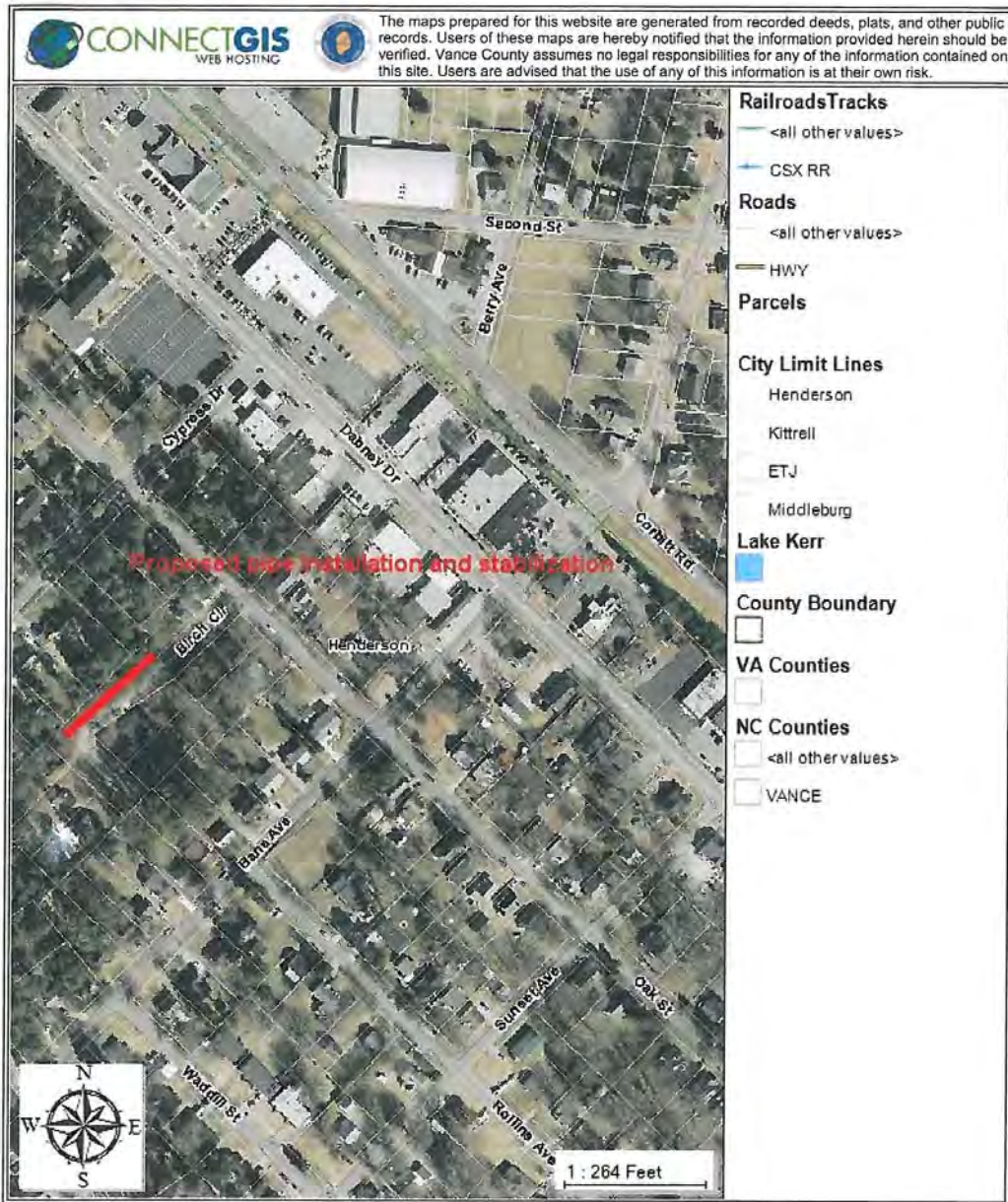
*Reference: Minute Book **1, p. ***.*

**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 attached is a true and exact copy of Ordinance 12-** adopted by the Henderson, City Council in Regular Session on ****, (*Minute Book ***, p.***). This Ordinance is recorded in Ordinance Book 8, p. ***.

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

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







City Council Action Form

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Work Session

30 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—31

Consideration of Approval of Ordinance 12-18, FY 12 Budget Amendment #34, Creating Contingency Budget for Construction of the US Hwy #1 Sewer Project.

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 5: Provide Reliable, Dependable and Environmentally Compliant Infrastructure System.
- 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 Ordinance 12-18, FY 12 Budget Amendment #34, Creating Contingency Funds for Construction Budget of the US Hwy #1 Sewer Project.

Executive Summary

When original funding for the UV Replacement Project from the Clean Water Management Trust Fund fell through, there were remaining Rural Center Funds that were allowed to be transferred for funding the replacement of various Sanitary Sewer Mains and the installation of a new Sanitary Sewer Main under US # 1 Bypass. This was approved by Resolution 09-91. This project is virtually 100% complete with punch-list items being completed. When the UV portion of the budget was separated from the UV/Sewer Rehab project, the final amounts needed for each line item were undetermined at that time. To bring the line items in line with the actual construction, there needs to be an additional \$17,627.72 added to the construction budget along with reallocating contingency funds to construction in order to process the remaining pay requests to the contractor. \$9,627.72 of the total is the amount needed to cover the original contract amount of \$353,847 and \$8,000 to cover additional paving expenses incurred as a result of replacing a water main on Lamb Street that was deteriorated beyond repair. Only Council may appropriate from the operating funds' contingency accounts.

Enclosures:

1. Ordinance 12-18
2. Resolution 09-91

ORDINANCE 12—18

Council Member ** introduced the following Ordinance that was seconded by Council Member *** and read:

FY 2011—2012 Budget Amendment # 34 AN AMENDMENT TO THE WATER AND SEWER FUNDS

WHEREAS, the City Council of the City of Henderson on 13 June 2011 adopted the FY11-12 Annual Operating and Capital Budget; *and*

WHEREAS, it is necessary to amend the CIP budgets from time-to-time in order to keep them in balance; *and*

WHEREAS, it is necessary to adjust the water and sewer funds' CIP budgets to provide for construction services as they relate to water and sewer projects, said amendment being more fully articulated in **Attachment A** to this Ordinance; *and*

WHEREAS, it is necessary to utilize the existing contingency funds to complete payments to the contractor for the construction work performed; *and*

WHEREAS, it is necessary to appropriate additional fund balance from the Sewer Fund to cover additional construction costs; *and*

WHEREAS, funding for this project came from the North Carolina Rural Center, the Clean Water Management Trust Fund, and transfers from the Sewer Fund.

NOW THEREFORE BE IT ORDAINED by the City Council of The City of Henderson, that the following Ordinance be approved, and said Ordinance shall be effective immediately upon approval of the City Council:

FUND: 44: CIP-Sewer Fund & 31: Sewer Fund			Ordinance 12--18			
			FY 11-12 Budget Amendment # 34			
44: CIP - SEWER FUND REVENUES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Transfer from Sewer Fund	44-444-461031	\$ -	\$ -	\$ 17,628.00	\$ 17,628.00
			\$ -	\$ -	\$ -	\$ -
		Total	\$ -	\$ -	\$ 17,628.00	\$ 17,628.00
						\$ 17,628.00
44: CIP - SEWER FUND EXPENDITURES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
Sanit Sewer Rehab Prj	Administration	44-840-504513	\$ -	\$ 1,880.00	\$ (1,880.00)	\$ -
	Contingency	44-840-509900		\$ 67,689.00	\$ (67,689.00)	\$ -
	Legal Admin	44-840-510200		\$ 5,800.00	\$ (3,671.00)	\$ 2,129.00
	Engineering Report (UV)	44-840-510298		\$ 2,500.00	\$ (2,227.00)	\$ 273.00
	Engineering	44-840-510301		\$ 42,970.00	\$ (10,157.00)	\$ 32,813.00
	Construction	44-840-510400		\$ 741,033.00	\$ 103,252.00	\$ 844,285.00
			\$ -	\$ -	\$ -	\$ -
		Total	\$ -	\$ 861,872.00	\$ 17,628.00	\$ 879,500.00
						\$ 879,500.00
		Variance			\$ -	
31: Sewer Fund			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Fund Balance Appropriated	31-310-491000	\$ -	\$ -	\$ 17,628.00	\$ 17,628.00
			\$ -	\$ -	\$ -	\$ -
		Total	\$ -	\$ -	\$ 17,628.00	\$ 17,628.00
						\$ 17,628.00
31: SEWER FUND EXPENDITURES			Approved 1-Jul-11	Current Budget	Amendment	Revised
Department	Line Item	Code				
	Transfer to CIP - Sewer	31-822-509708	\$ -	\$ -	\$ 17,628.00	\$ 17,628.00
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
		Total	\$ -	\$ -	\$ 17,628.00	\$ 17,628.00
						\$ 17,628.00
		Variance			\$ -	
Reference:		Notes:				
CAF 12-31, Ord 12-18 at 27 Feb 12 Meeting		To appropriate an additional \$17,628 from Sewer Fund Balance and to re-allocate funds within the project budget to cover the construction costs associated with the US Hwy #1 Sewer Project. If there are funds remaining from other projects within the CIP - Sewer Fund, those funds will be transferred back to the Sewer Fund to replace all or part of this additional appropriation.				

The foregoing Ordinance 12-18, upon motion of Council Member *** and second by Council Member ***, and having been submitted to a roll call vote and received the following votes and was **** on this the ** day of ----- 2012: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O'Geary, Mayor

ATTEST:

Esther McCrackin, City Clerk

Reference: Minute Book 42, p.**; CAF 12-18;

STATE OF NORTH CAROLINA - CITY OF HENDERSON

I, Esther McCrackin, the duly appointed, qualified City Clerk of the City of Henderson, do hereby certify the attached is a true and exact copy of Ordinance 12-18 adopted by the Henderson, City Council in Regular Session on _____ 2012. This Ordinance is recorded in *Ordinance Book 8*, p.***.

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

Esther McCrackin
City Clerk
City of Henderson, North Carolina

**Attachment A
Ordinance 12-18
FY 11-12 Budget Ordinance Amendment #34**

The US #1 Sewer Main construction and replacement of various other sewer mains in the Sandy Creek Basin is nearing 100% completion and it is now necessary to re-allocate the remaining funds within the various line items of the budget, including contingency, and appropriate additional funds to make remaining payments to the contractor.

Reviewed by: _____ Date: _____
Katherine C. Brafford, Finance Director

Reviewed by: _____ Date: _____
Judith Woods, Accounting Supervisor

Reviewed by: _____ Date: _____
A. Ray Griffin, Jr., City Manager

City Council Memo

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



Agenda Item: _____

Council Meeting: 27 Feb 12 Work Session

23 February 2012

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

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

RE: CM: 12-04
Water and Sewer Availability Fee Discussion

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- KSO 5: Provide reliable and dependable infrastructure.
- KSO 8: Provide 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.

Executive Summary

Ordinance 12-11 was approved by the City Council during the meeting held on 13 February 2012, creating an availability charge for any habitable structure in the City for failure to connect to available water and sewer. This Ordinance will not go into effect until 1 July 2012.

Several members of Council have expressed concerns about the new Ordinance and a desire to talk about it at work session.

Enclosure:

1. Ordinance 12-11