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October 26, 2012

Home In Henderson

Gentlemen:

My attention, as City Attorney, has been directed to an article appearing on your website entitled "Anonymous Reader: What the Henderson Dispatch Won't Report" dated October 24, 2012. I am personally familiar with the allegations made in this article and the same are blatantly untrue insofar as the City of Henderson is concerned, as are the allegations relative to the City in any corresponding Court records. All actions of the City were legal, strictly followed statutory procedures, and were all performed in open sessions following duly advertised public hearings. There are three ordinances of the City of Henderson that are relevant to these allegations and I shall discuss them in chronological order.

- (1) "Ordinance 10-24: An Ordinance Amending the City Charter to Provide that the Mayor and City Council Members Shall Serve Staggered Four Year Terms of Office" which was unanimously passed by the City Council on May 10, 2010. This action came after considerable public sentiment over the years that councilpersons' terms should be staggered so that there would be some continuity of leadership within the City. This action is specifically authorized by N.C.G.S. §160A-102; your attention is further called to N.C.G.S. §160A-101(4) and (8) and Section 4 of the City Charter. This proposal was discussed at the January 2010 Strategic Planning Retreat, and a copy of the minutes of that meeting are on public record. They were further discussed at the March 18, 2010 work session meeting of the City Council which was open to the general public, as disclosed by the public record minutes of that session. During the April 12, 2010 open meeting of the City Council, Resolution 10-32 was passed entitled "A Resolution of Intent Pursuant to N.C.G.S. §160A-102 Amending the City Charter to Provide that the Mayor and Council Members Shall Serve Staggered Four Year Terms of Office" (and setting a public hearing thereon); that is further set forth in the public record minutes of the Henderson City Council meeting held on April 12, 2010. There were several articles in *The Daily Dispatch* concerning these staggered terms together with an official Notice of Public Hearing (to be held on May 10, 2010 on the issue of the above staggered terms) which was published in *The Daily Dispatch* on April 27, 2010. The Public Hearing was held on May 10, 2010 at the open City Council Meeting (as disclosed by the minutes of that meeting). Following the public hearing, Ordinance 10-24 was adopted.

Copies of all relevant documents concerning changing to staggered terms were forwarded to the Department of Justice Voting Rights Division as a submission under Section 5 by letter dated August 11, 2010. The Department of Justice precleared this submission by letter dated October 12, 2010.

- (2) Postponement of the 2011 Municipal Elections (for approximately 7 months) pursuant to the authority set forth in §160A-23.1 (by reason of anticipated population changes) pending receipt of the 2010 block-by-block census information in usable form needed to modify the boundary lines of the City Wards and Districts to bring them into compliance with the "One Person - One Vote" doctrine. In short, every ten years, the City is required to re-balance its wards and districts so that each has approximately the same population. This matter was discussed in an open meeting of the City Council on February 28, 2011, as indicated by the public minutes of the same. On March 28, 2011, the City Council in open session passed Resolution 11-32 calling for an advertised public hearing to be held on April 11, 2011 on the question of delaying the 2011 municipal elections pursuant to the statutes (all as set forth in the City Council minutes of the public March 28, 2011 meeting). The official Notice of Public Hearing was published in *The Daily Dispatch* on March 31st and again on April 7th, 2011. The public hearing was held on April 11, 2011 at the open meeting of the Henderson City Council (as set forth in the minutes), following which Resolution 11-37 entitled "A Resolution to Delay the 2011 Municipal Elections Pursuant to N.C.G.S. §160A-23.1" was passed.

The actions and copies of all relevant documents concerning this action were forwarded to the Department of Justice Voting Rights Division as a submission under Section 5 by letter dated April 15, 2011. The Department of Justice precleared this submission by return letter dated June 14, 2011.

- (3) Ordinance 11-47 entitled "An Ordinance Amending the City Charter to Provide for Redistricting of the City Electoral Districts in Accordance with the 2010 Census" (after the census results were obtained by the City on a block-by-block basis in a form which could be utilized for redistricting purposes, since the City Ward boundaries and the official census districts boundaries did not coincide and had to be reconciled). This Ordinance was passed on September 26, 2011, and was authorized by N.C.G.S. §160A-23.1 providing for redistricting following the U.S. Census information, and N.C.G.S. §160A-101(6) and (d) granting the City Council authority to amend the City Charter relative to the electoral districts, and N.C.G.S. §160A-102 providing the procedure for amending the City Charter in implementing redistricting. This matter was discussed in open session at the February 28, 2011 regular meeting of the City Council (as set forth in the minutes of the same) and also at the March 28, 2011 regular meeting of the City Council (as set forth in the minutes of the same) as well as on April 11, 2011 at the regular open meeting of the City Council (as set forth in the minutes of said regular City Council Meeting) and further at the July 25, 2011 open work session of the City Council meeting (as set forth in the minutes of the same). On August 8, 2011, at an open City Council meeting, the City Council adopted Resolution 11-74 (a Resolution of Intent Pursuant to the North Carolina General Statutes Amending the City Charter to Provide

for Redistricting in Accordance with the 2010 Census, and setting a public hearing on the same) (as set forth in the public minutes of said August 8, 2011 meeting). The official notice of the public hearing on this Resolution concerning the proposed redistricting was published in *The Daily Dispatch* on August 30, 2011. The public hearing on the proposed redistricting was held at the open City Council meeting on September 12, 2011 (as set forth in the public minutes of the same) at which time maps showing the proposed redistricting and the changes being made were again presented to the Council and to the general public. On September 26, 2011, Ordinance 11-47 providing for said redistricting was adopted in an open meeting of the City Council (as set forth in the public minutes of said meeting). There were also various articles appearing in *The Daily Dispatch* and in "Home in Henderson" itself concerning the proposed redistricting before the Ordinance was passed.

The actions and copies of all relevant documents concerning this third action were forwarded to the Department of Justice Voting Rights Division as a submission under Section 5 on or about September 29, 2011. The Justice Department precleared the City's redistricting plan by letter dated November 29, 2011.

Pursuant to the postponement statute (§160A-23.1), the delayed municipal elections were held in the Spring of 2012. The allegation that voters were "disenfranchised" by reason of the delay has no basis whatsoever.

All of the actions of the City Council were taken in good faith and as authorized by the North Carolina General Statutes and in strict accordance with the procedures set forth therein, and all required actions were taken in open public meetings. In my opinion, the actions taken by Alan Pitts, Deryl Von Williams and the other parties thereto are frivolous and have cost the taxpayers of the City of Henderson considerable expenses which in equity said parties should be ordered to pay in reimbursement to the City and its taxpayers. The City will continue to defend its legitimate and appropriate actions in Court as the steps taken by the Plaintiffs leaves no other choice.

Sincerely,

A handwritten signature in blue ink, appearing to read "John H. Zollicoffer, Jr.", with a stylized flourish at the end.

John H. Zollicoffer, Jr., City Attorney
City of Henderson, North Carolina

JHZ,JR./ka

cc: The Henderson Daily Dispatch