



AGENDA

Henderson City Council Regular Meeting

Monday, 28 March 2011, 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 Sara M. Coffey

Councilmember Michael C. Inscoc

Councilmember D. Michael Rainey

Councilmember George M. Daye

Councilmember Brenda G. Peace—Jenkins

Councilmember Garry D. Daeke

Councilmember Lonnie Davis, Jr.

Councilmember Elect James C. Kearney, Sr.

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) 14 March 2011 Regular Meeting [See Notebook Tab #1]*

VII. SWEARING IN OF COUNCIL MEMBER ELECT MR. JAMES C. KEARNEY, JR.

VIII. PUBLIC COMMENT PERIOD ON AGENDA ITEMS

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

IX. NEW BUSINESS

- a) Consideration of Approval of Tax Releases/Refunds for Dec 2010/Jan 2011/Feb 2011. (CAF 11-10) [See Notebook Tab #2] (material will be delivered under separate cover as soon as available)*
- b) Consideration of Resolution 11-36, Opposing Uranium Mining in Virginia. (CAF 11-59) [See Notebook Tab #3]*
- Resolution 11-36
- c) Consideration of a Resolution 11-32, Setting Public Notice for delay of Municipal Elections from October 2011 to May 2012. (CAF 11-55) [See Notebook Tab #4]*
- Resolution 11-32
- d) Consideration of a Resolution 11-39 Ratifying and Approving the Mayor's Signature on the Rural Center Grant Rate Study and CIP: Contract 2010-227-40101-112, Amendment No. 1. (CAF 11-62) [See Notebook Tab #5]*
- Resolution 11-39
- e) Consideration of Approval of Resolution 11-13, Award of Contract Harriet Street Water Main, and Ordinance 11-20 FY 10-11 Budget Amendment #37.(CAF 11-A-21) [See Notebook Tab #6]*
- Resolution 11-13
 - Ordinance 11-20

X. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

Citizens may only speak on non-Agenda items 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

XI. 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. Various Departmental Reports *(No reports)*

XII. ADJOURNMENT

³ Citizen Comment Guidelines

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

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

City Council Minutes
Regular Short Meeting
28 March 2011

PRESENT

Mayor James D. O'Geary, Presiding; and Council Members Sara M. Coffey, D. Michael Rainey, Brenda G. Peace—Jenkins, Garry D. Daeke, Lonnie Davis, Jr., George M. Daye and Council Member Elect James C. Kearney, Sr.

ABSENT

Council Member Michael C. Inscoe

STAFF PRESENT

City Manager Ray Griffin, City Attorney John Zollicoffer, City Clerk Esther J. McCrackin, Assistant City Manager Frank Frazier, Finance Director Sandra Wilkerson, Fire Chief, Danny Wilkerson, Police Chief Keith Sidwell, Engineering Director Peter Sokalski, Public Works Director Linda Leyen, Parks & Recreation Director Alan Gill, Henderson Water Reclamation Facility Director Tom Spain, Planning & Community Development Director Erris Dunston, Human Resources Manager Cathy Brown, Utilities Maintenance Supervisor, Andy Perkinson and Code Compliance Director Corey Williams.

CALL TO ORDER

The 28 March 2011 Short 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 everyone to this very special meeting.

ROLL CALL

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

(Clerk's Note: Mr. Daye and Mr. Davis arrived at 6:04 p.m.)

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 Coffey asked to have one item, a *Draft Resolution on Crime and Violence*, added to the agenda. With no other requests, Mayor O'Geary asked for the pleasure of Council. Council Member Rainey moved to accept the Agenda with the addition of the above item. 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 Davis moved the approval of the following minutes: 14 March 2011 Regular Meetings. Motion seconded by Council Member Coffey and unanimously approved. Mr. Kearney will fill the unexpired term of Ward 1 Ward Seat formerly held by Mrs. Mary Emma Evans, deceased.

INSTALLATION OF COUNCIL MEMBER ELECT, JAMES C. KEARNEY, SR.

Mrs. Ester Kearney held the Bible as The Honorable Judge Randolph Baskerville administered the following oath of office to her husband, Mr. James C. Kearney, Sr. Judge Baskerville stated his belief that Mr. Kearney will serve the citizens of Henderson well.

Council adjourned for ten (10) minutes to welcome Mr. Kearney and to allow his family/friends to extend their congratulations.

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OATH OF OFFICE

"I, James C. Kearney, Sr., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as a Henderson Council Member, so help me God."

(North Carolina Constitution, Article VI, Section 7)

[Redacted Signature]
James C. Kearney Sr.

[Redacted Signature]
Randolph Baskerville

Randolph Baskerville, 9th District Court Judge

Witnessed by:

[Redacted Signature]
Esther J. McCrackin, City Clerk

3/28/11
Date

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PUBLIC COMMENT PERIOD ON AGENDA ITEMS

The City Clerk advised the Mayor and Council Members that no one wished to address Council on any agenda matters.

NEW BUSINESS

Tax Releases/Refunds for Dec 2010/Jan 2011/Feb 2011. (Reference: CAF: 11-10)

City Manager Griffin advised Council that the tax releases/refunds had been reviewed and are in order. A copy of the recommended of the recommended tax releases/refunds are listed below.

There was not discussion and Mayor O'Geary asked for the pleasure of Council.

Council Member Davis moved the approval of *Tax Releases/Refunds for Dec 2010/Jan 2011/Feb 2011*. Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Kearney, Coffey, Rainey, Peace-Jenkins, Daeke, Davis and Daye. NO: None. ABSTAIN. NONE. ABSENT. Inscoc.

Opposing Uranium Mining in Virginia. (Reference: CAF: 11-59; Resolution 11-36)

City Manager Griffin advised Council Members that the State of Virginia is considering removal of a moratorium regarding mining of uranium: specifically the large reserve recently identified in Pittsylvania County. If this reserve is opened to mining, it could possibly affect the Roanoke River Basin where the City's drinking water is obtained. Also, in light of the recent disaster in Japan, Mr. Griffin thought it would be prudent to join with others in expressing concern as the impacts are unknown at this time. Mr. Griffin also stated concern for the population in the other cities and towns within Henderson's water jurisdiction.

Council Member Kearney asked where they are in the process. Mr. Griffin stated it is his understanding this has been discussed for a couple of years but is unsure how far they have progressed. He did state the State has set a meeting for early April to discuss the matter further.

Council Member Davis asked if any finances have been expended. Mr. Griffin stated it was a legislative process and that Virginia Beach, the largest user of the potable water in the Basin, is opposed to the mining.

Council Member Rainey asked if this was an enlargement of an existing mine. Mr. Griffin stated that this large deposit is not currently being mined but that the State of Virginia is considering opening it to mining.

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

Council Member Rainey moved the approval of Resolution 11-36, *Opposing Uranium Mining in Virginia*. Motion seconded by Council Member Peace-Jenkins and APPROVED by the following vote: YES: Coffey, Rainey, Peace-Jenkins, Daeke, Davis, Daye and Kearney/ NO: None. ABSTAIN: None. ABSENT Inscoe, (See Resolution Book 2, p.71)

Setting Public Notice for Delay of Municipal Elections from October 2011 to May 2012.
(Reference: CAF: 11-55; Resolution 11-32)

City Manager Griffin stated this issue had been discussed at an earlier meeting and asked City Attorney Zollicoffer to provide further details. Attorney Zollicoffer summarized stating the delay is advised due to the perceived imbalance in the current ward boundaries and that it would be impossible to redefine the wards, hold the required public hearings and meet the deadlines set by the Department of Justice to hold the elections in October. If this Resolution is approved during a future meeting, it will still need to receive the Department of Justice's approval to move forward with delaying the elections to May. Public hearings must also be held.

Mayor O'Geary asked if the areas affected have been defined. Attorney Zollicoffer felt it would probably be in the eastern sections where population seems to have decreased. City Manager Griffin stated Community Development Director Erris Dunston has been working with GIS to "snap" the 2010 census into our system so the equality required by law can be reviewed. Mr. Griffin also mentioned the need for public hearings and stated in 1990 the election was delayed for the same reason. In 2000 a house by house count had recently been conducted and it was felt the wards were not out of balance, therefore the 2001 elections were not delayed. However, due to lost population it is important the figures be reviewed before the elections.

Council Member Kearney asked if it could wait until the census review was complete. Mr. Griffin replied that race, voting age and population need to be reviewed and if Ward X is found to be X% out of balance with the other wards, change would need to be implemented.

Council Member Rainey asked who has the final say. Attorney Zollicoffer stated Council; however, the Department of Justice can overrule the decision. He stated there is not enough time to get everything completed before the July 2011 filing deadline. Council Member Daeke asked what the ramifications would be if during the public hearings citizens are against delaying the election. Attorney Zollicoffer stated individuals losing the election could sue the City.

Mayor O'Geary asked for the pleasure of Council as there were no further questions.

Council Member Peace-Jenkins moved the approval of Resolution 11-32, *Setting Public Notice for Delay of Municipal Elections from October 2011 to May 2012*. Motion seconded by Council Member Rainey and APPROVED by the following vote: YES: Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney and Coffey. NO: None. ABSTAIN: None. ABSENT: Inscoe. (See Resolution Book 2, p.63)

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Ratifying and Approving the Mayor's Signature on the Rural Center Grant Rate Study and CIP: Contract 2010-227-40101-112, Amendment No. 1. (Reference: CAF: 11-62; Resolution 11-39)

City Manager Griffin advised Members that this CIP Grant is nearing completion and a short extension is necessary. This amendment extends the completion deadline from 28 March 2011 to 30 April 2011 and to expedite the process, the Mayor executed the amendment on 22 March 2011. This Resolution ratifies the Mayor's signature.

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

Council Member Daeke moved the approval of Resolution 11-39, *Ratifying and Approving the Mayor's Signature on the Rural Center Grant Rate Study and CIP: Contract 2010-227-40101-112, Amendment No. 1*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey and Rainey. NO: None. ABSTAIN: None. ABSENT: Inscoe. (See Resolution Book 2, p.77)

Award of Contract Harriet Street Water Main and Ordinance 11-20 FY 10-11 Budget Amendment #37. (Reference: CAF: 11-11-A-21; Resolution 11-13; Ordinance 11-20)

City Manager Griffin asked Engineering Director Peter Sokalski to address Council on this issue.

Mr. Sokalski reminded Council that previously informal bids had been opened for this project (2 bids were submitted). At the request of Council formal bids were requested and in requesting formal bids, the parameters of the project were adjusted. Mr. Sokalski stated the quantities were reduced to meet the requirements of the formal bid and that the contingency dollars were removed. Thus, if the project exceeds projections, Council will be brought back into the process. Therefore, comparing the initial bids to the formal bids is not straight forward. However, H. G. Reynolds came in as the lowest bidder on both sets of bids. H. G. Reynolds submitted the lowest formal bid by removing flexibility dollars with the curb/gutter amounts.

Council Member Coffey asked for confirmation that the \$10,000 savings is driven by the project changes. Mr. Sokalski stated yes and used line item #14 as an example stating the amount of asphalt per sq. yard was reduced from 690 to 650. He also stated that the cost of pipe has increased approximately \$6.00 per foot since the informal bids were submitted. Ms. Coffey stated if the curb & gutter went over 250 linear foot, it would be the City's problem but if it stayed below the 250 linear foot it would be H. G. Reynolds responsibility. Mr. Sokalski stated that was correct.

Council Member Kearney asked about the rate changes. Mr. Griffin stated there is a capital reserve fund for that purpose and that rates would not increase for this appropriation.

With no further discussion, Mayor O'Geary asked for Council's pleasure.

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Council Member Daeke moved the approval of Resolution 11-13, *Award of Contract Harriet Street Water Main and Ordinance 11-20 FY10-11 Budget Amendment*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Daeke, Davis, Daye, Kearney, Coffey, Rainey and Peace-Jenkins. NO: None. ABSTAIN: None. ABSENT: Inscoe (See Resolution Book 2, p.25; Ordinance Book 8, p. 243)

Draft Resolution on Crime and Violence.

Council Member Coffey put together this draft resolution to denounce violence in the City. Ms. Coffey felt the leaders of the City should come together to give the citizens confidence in their leaders as a body. She has spoken to the County leaders, Mr. Jerry Ayscue and Eddie Wright, along with NAACP representative Horace Bullock, all of whom agree.

Council Member Daeke asked about paragraph #1 under "NOW, THEREFORE." He felt it should be re-worded as it sounded like home invasions resulted from the specific violent incident on South Raleigh Road. Council Member Kearney felt it was inappropriate to single out one event and suggested making the resolution generic. Council Member Davis agreed stating it should cover all violence. Council Member Coffey agreed. City Manager Griffin stated he understood that the consensus of Council was to rework the resolution.

It was the consensus of Council to move this revised resolution forward.

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

City Clerk McCrackin advised no one wished to address Council on non-agenda items.

REPORTS

- a) Mayor/Mayor Pro-Tem (No Report)
- b) City Manager - Mr. Griffin reminded everyone it is budget time and stated he already has the budget blues. He reported that Sandra Wilkerson, Frank Frasier and he will be working on the budget throughout April but once again it will not be a happy year due to the recession.
- c) City Attorney (No Report)
- d) City Clerk (No Report)

Mayor O'Geary again welcomed Mr. Kearney to Council. Mr. Kearney in turn stated he was pleased to be a Council Member and was glad he did his "homework" as the Mayor ran a very brisk meeting.

At this time, Council Member Coffey shared a birthday cake for the Mayor who celebrated his birthday last week. Cake was enjoyed by all after the meeting adjourned.

ADJOURNMENT

Council Member Rainey moved for adjournment. Motion seconded by Council Member Davis and unanimously approved. The meeting adjourned at 6:52 p.m.

James D. O'Geary
Mayor

ATTEST:

Esther J. McCrackin
City Clerk