



## **AGENDA**

**Henderson City Council Regular Meeting**

**Monday, 11 April 2011**

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

**134 Rose Avenue**

**Henderson, North Carolina**

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### **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. 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 Behavior<sup>1</sup> and Transparency in Governance<sup>2</sup>. 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.

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<sup>1</sup> **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.

<sup>2</sup> **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) 28 March 2011 Short Regular Meeting [See Notebook Tab #1]*
- b) 28 March 2011 Work Session [See Notebook Tab #1]*

**VII. PRESENTATIONS AND RECOGNITIONS**

- a) Child Abuse Prevention Month [See Notebook Tab #2]*

**VIII. PUBLIC HEARINGS**

Citizens may only speak on public hearing items at this time. Citizens do not need to sign-up in order to speak at a public hearing. When recognized by the Mayor, come forward to the podium, *clearly* 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.<sup>3</sup>

- a) Consideration of Resolution 11-37, Delaying 2011 Elections/Due to Redistricting (CAF 11-60) [See Notebook Tab #3]*
  - Resolution 11-37

**IX. 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.<sup>3</sup>

**X. OLD BUSINESS**

- a) Consideration of Approval of Resolution 11-40, Expressing Concern About Violence And Crime In Henderson And Vance County. (CAF 11-63) [See Notebook Tab #4]*
  - Resolution 11-40
- b) Consideration of Ordinance 11-33, Approval of Open Burning Ordinance. (CAF 11-A-54) [See Notebook Tab #5]*
  - Ordinance 11-33

## **XI. NEW BUSINESS**

- a) Consideration of Resolution 11-38 and Ordinance 11-24, FY11 Budget Amendment #38, Awarding Bid Contract for City Hall Roofing Project. (CAF 11-61) [See Notebook Tab #6]
- Resolution 11-38
  - Ordinance 11-24
- b) Consideration of Resolution 11-44 and Ordinance 11-29, FY11 Budget Amendment #39, Authorizing the Mayor to Execute an Agreement with McGill Associates to Perform the Engineering Report Relative to Funding Eligibility from the Clean Water State Revolving Fund for Improvements at the Henderson Water Reclamation Facility. (CAF 11-70) [See Notebook Tab #7]
- Resolution 11-44
  - Ordinance 11-19

### **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.<sup>3</sup>

#### **<sup>3</sup> 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.

**XII. REPORTS**

- a) Mayor/Mayor Pro-Tem
- b) Council Member Rainey – Citizen Question Regarding Internet Café Business License Fees.  
*[See Notebook Tab #8]*
- c) City Manager
- d) City Attorney
- e) City Clerk
  - i. Calendar Notes and Schedule Update *[See Notebook Tab #9]*
  - ii. Various Departmental Reports *[See Notebook Tab #10]*

**XV. CLOSED SESSION**

**XVI. ADJOURNMENT**

**City Council Minutes**  
**Regular Short Meeting**  
**11 April 2011**

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**PRESENT**

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

**ABSENT**

None.

**STAFF PRESENT**

City Manager Ray Griffin, City Attorney John Zollicoffer, City Clerk Esther J. McCrackin, Assistant City Manager Frank Frazier, Finance Director Sandra Wilkerson, Engineering Director Peter Sokalski, Henderson Water Reclamation Facility Director Tom Spain and Fire Chief Danny Wilkerson.

**CALL TO ORDER**

The 11 April 2011 Regular Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary at 7:00 p.m. in the R. G. "Chick" Young, Jr. Council Chambers, Municipal Building, 134 Rose Avenue, Henderson, NC.

**ROLL CALL**

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

**INVOCATION AND PLEDGE OF ALLEGIANCE**

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

*(Clerk's Note: Council Member Daye arrived at 7:02 p.m.)*

Mayor O'Geary welcomed everyone and stated there were special guests in attendance. The Leadership Vance Class was then introduced by Rachel Hedrick from Vance Chamber of Commerce. Ms. Hedrick reminded Council that this is a five (5) month class which meets approximately two (2) times a month to learn about the City of Henderson and Vance County.

## **ADJUSTMENTS TO/APPROVAL OF AGENDA**

Mayor O'Geary asked if there were any adjustments to the Agenda. City Attorney Zollicoffer asked that a Closed Session be added for a Client/Attorney matter under G.S. §143-318-11(3)a. Mayor O'Geary asked for the pleasure of Council. Council Member unanimously approved the Agenda with the addition of the Closed Session.

## **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 with technical corrections: 28 March 2011 Short Regular Meeting and 28 March 2011 Work Session. Motion seconded by Council Member Rainey and unanimously approved.

## **PRESENTATIONS AND RECOGNITIONS**

City Clerk McCrackin advised the Mayor of one Proclamation:

**Child Abuse Prevention Month.** Below is Mayor O'Geary's proclamation regarding Child Abuse Prevention Month.

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## **+PROCLAMATION**



**WHEREAS**, child abuse and neglect is a community problem affecting both the current and future quality of life of a community; *and*

**WHEREAS**, child maltreatment occurs when people find themselves in stressful situations without community resources, and do not know how to cope; *and*

**WHEREAS**, the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community; *and*

**WHEREAS**, child abuse and neglect can be prevented by making sure each family has the support they need to raise their children in a healthy environment; *and*

**WHEREAS**, child abuse and neglect not only cause immediate harm to children, but are also proven to increase the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and risky behavior such as smoking; *and*

**WHEREAS**, all citizens should become involved in supporting families to provide safe, nurturing environments for their children, giving them the opportunity to grow up to be caring, contributing members of the community; *and*

**WHEREAS**, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community.

**NOW, THEREFORE**, I, James D. O'Geary, Mayor of the City of Henderson, do hereby proclaim April 2011, as **CHILD ABUSE PREVENTION MONTH** and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

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James D. O'Geary, Mayor

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Henderson in the State of North Carolina this the 11<sup>th</sup> day of April 2011.

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Esther J. McCrackin City Clerk

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## **PUBLIC COMMENT PERIOD ON AGENDA ITEMS**

### **Delaying 2011 Elections/Due to Redistricting** (*Reference: CAF 11-60; Resolution 11-37*)

City Manager Griffin asked City Attorney Zollicoffer to review the purpose for the delay of elections. City Attorney Zollicoffer stated according to the 2010 Census there seems to have been a decrease in population within the City and perhaps a population shift from East to West. These changes may place the City Wards out of balance and it is impossible to review all the data before the required July deadline. Thus the proposed delay in the elections will be held in 2012 in conjunction with the County elections.

Mayor O'Geary opened the public hearing and asked if anyone would like to speak in favor of this delay. No one came forward to speak. Mayor O'Geary then asked if anyone would like to speak in opposition to this delay. No one came forward. Mayor O'Geary then closed the public hearing.

Mayor O'Geary asked for the Council's pleasure.

Council Member Peace-Jenkins moved the approval of Resolution 11-37, *Delaying 2011 Elections/Due to Redistricting*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Kearney, Coffey, Inscoe, Rainey, Peace-Jenkins, Daeke, Davis and Daye. NO: None. ABSTAIN: None. ABSENT: None. (*See Resolution Book 2, p.63*)

## **OLD BUSINESS**

### **Expressing Concern About Violence and Crime In Henderson and Vance County.** (*Reference: CAF: 11-63; Resolution 11-40*)

City Manager Griffin reminded Council that this was discussed at the previous Work Session and Council requested the Resolution be edited. The Resolution tonight has been reworded. Mr. Griffin stated the County already passed a Resolution regarding this issue, a copy of which was distributed prior to this meeting.

Council Member Daeke asked if there was a process in place to make churches, organizations and associations within the City aware of this Resolution. Mr. Griffin stated a letter would be mailed to the various groups.

Council Member Coffey asked that a copy be forwarded to the NAACP. Council Member Peace-Jenkins thanks Ms. Coffey for her concern and expressed her gratitude for the revised Resolution.

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

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Council Member Daeke moved the approval of Resolution 11-40, *Expressing Concern About Violence and Crime In Henderson and Vance County*. Motion seconded by Council Member Davis and APPROVED by the following vote: YES: Coffey, Inscoc, Rainey, Peace-Jenkins, Daeke, Davis, Daye and Kearney. NO: None. ABSTAIN: None. ABSENT: None. (See Resolution Book 2, p.79)

**Approval of Open Burning Ordinance.** (Reference: CAF 11-A-54; Ordinance 11-22)

City Manager Griffin stated this item was discussed at the last Work Session and asked Fire Chief Wilkerson to refresh Council on the purpose of this Ordinance. Chief Wilkerson recapped the issue by stating this Ordinance will provide a tool for the local fire department to enforce burning regulations within the City. During the Work Session the fines were changed and this Ordinance reflects those changes. Mr. Wilkerson also touched on a permit fee of \$50.00 necessary to obtain permission to burn within the City.

Council Member Daye asked about the effect of smoke on residents. Chief Wilkerson stated the firemen are trained to assist with items such as fans, oxygen and if needed, provide ambulance assistance.

Council Member Daeke agreed that there should be an Ordinance and asked if the \$50 permit fee is appropriate since the first fine is \$50. He wondered if \$25 might be more appropriate. Chief Wilkerson stated the burning permit most likely would be used by those clearing lots. Under any condition the fire department would evaluate the situation and only issue a permit if appropriate.

Council Member Kearney asked how the public would be notified and Council Member Coffey asked about how people are aware of bad ozone days. Chief Wilkerson stated media, along with the web site would be two methods, along with the Inspector notifying citizens and presentations during Fire Prevention Month in December. Council Member Inscoc asked if a notice could be mailed with the Water Bills. City Manager Griffin said yes, that could be done.

Council Member Rainey asked if the permit was unused for a particular day, perhaps because of a change in weather, would that permit be usable another day or would a citizen need to reapply. Chief Wilkerson stated they would work with each situation and most likely a new permit would not be necessary. Council Member Inscoc asked that the Department be compassionate for first offenders and Council Member Coffey asked what would happen if the fire gets out of hand. Chief Wilkerson stated they would be monitoring each situation closely— especially if the weather/wind changed, and would notify the citizen of necessary changes. He also stated being aware of a permitted fire would provide better response time if a situation did get out of hand.

As there was no further discussion, Mayor O'Geary asked for Council's pleasure.

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Council Member Inscoe moved the approval of Ordinance 11-22, *Approval of Open Burning Ordinance*. Motion seconded by Council Member Daye and APPROVED by the following vote: YES: Inscoe, Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney, and Coffey. NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 269)

## NEW BUSINESS

**Awarding Bid Contract for City Hall Roofing Project.** (Reference: CAF: 11-61; Resolution 11-38; Ordinance 11-24)

City Manager Griffin stated he is overjoyed to be able to present this issue before Council and asked City Engineer Pete Sokalski to bring Council up to speed with this issue. Mr. Sokalski stated that in accordance with Council's recommendation, a NC Main Street Energy Grant was applied for and received in the amount of \$31,570 which is fifty percent (50%) match of the total cost of the roof replacement. Council previously authorized \$56,800 in the FY2010-11 budget. After due diligence with advertising, license check, references, State and Federal debarment listings, etc. it is the recommendation that this contract be awarded to Triangle Roofing Services, Inc.

Council Member Inscoe asked how soon this project could begin. Mr. Sokalski stated the contractor felt he would begin the project 1-2 weeks after the contract is signed and verified by the City Attorney. Mr. Inscoe then asked if all the appropriate steps had been followed to verify the work performed by Triangle Roofing Services, Inc. Mr. Sokalski stated a reference check came back very strong; that they had performed work on several buildings in Durham, Raleigh and Wilmington.

Council Member Coffey asked about the *Buy American Provision*. Mr. Sokalski stated that this was a standard clause and that no iron or steel was expected to be used in this project. Council Member Rainey stated he understood the necessity of awarding the bid to Triangle Roofing Services, Inc. because they were low bidder; however, he would have liked to have seen a local contractor more competitive so the City dollars could remain in within the City.

Mayor O'Geary asked for the pleasure of Council.

Council Member Inscoe moved the approval of Resolution 11-38; *Awarding Bid Contract for City Hall Roofing Project*. Motion seconded by Council Member Daeke and APPROVED by the following vote: YES: Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: None. (See Resolution Book 2, p. 75)

Council Member Daeke moved the approval of Ordinance 11-24; *Awarding Bid Contract for City Hall Roofing Project*. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Rainey, Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 251)

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**Authorizing the Mayor to Execute an Agreement with McGill Associates to Perform the Engineering Report Relative to Funding Eligibility from the Clean Water State Revolving Fund for Improvements at the Henderson Water Reclamation Facility. (Reference: CAF: 11-70; Resolution 11-44; Ordinance 11-29)**

City Manager Griffin stated the application to the State was submitted in late January and that he was pleased to advise Council that the Clean Water State Revolving Fund has accepted this first step with a \$16,615,000 loan from the State, of which \$1M is in the form of principal forgiveness. Mr. Griffin stated he has never seen such a fast turnaround and then asked Assistant City Manager Frank Frasier to update Council. Mr. Frazier stated that a new Budget Ordinance and the letter received from the North Carolina Department of Environment and Natural Resources were unavailable until after the agenda packet was mailed and told Council that these items were now in front of them. He then asked Henderson Water Reclamation Director Tom Spain to present a brief overview.

Mr. Spain stated the renovations are necessary and funding is necessary. He stated these are tight times and responding to the next step in a timely fashion would keep these funds available. He stated the City could begin updating the facility now or continue to do "Band-Aid" patches which would only add to the cost later and gave an example of valves which need to be replaced. The original company is no longer in business and if you can find them, the replacement valves are running between \$5,000 - \$8,000 each. Mr. Spain then turned the podium over to Mr. Andy Lovingood from McGill Associates.

Mr. Lovingood emphasized the need to respond to the State deadline of July 1, 2011, for the Engineering Report. He stated the next deadline would be Jun 1, 2012 which is not very far off since the plans and specification would be due at that time. He also reminded Council that the City has authority to back out of this process at any time.

Council Member Inscoe asked about the timing of a final definitive cost decision. Mr. Lovingood stated that the June 1, 2012 deadline would help define costs. Mr. Inscoe expressed concern about the planning of the FY11-12 budget and asked if the economic impact would be felt in the 12-13 budget. Mr. Griffin stated yes. He went on to state that this is a good beginning point and with routine maintenance and management there would be more dollars needed after the initial upgrade but would keep the City out of the situation it currently finds itself. Mr. Lovingood stated there is a good chance the City could find savings after this update. Council Member Kearney asked if the total cost of the first phase is \$16,615,000. Mr. Lovingood stated yes and emphasized the need to adhere to the schedule as set forth by the State. Council Member Coffey asked about the payback time of this loan. Mr. Lovingood stated 20 years and the interest rate is reset every March and he believed the current rate was 2.5%.

Council Member Coffey asked if other grants would be applied for, and Mr. Lovingood stated there are other grants that can be aggressively sought.

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Council Member Rainey stated this is something that needs to be done. The facilities equipment is antiquated and needs to be modernized and Council Member Inscoe mentioned a rate increase for years to come.

It is the recommendation that the Mayor execute the agreement with McGill Associates to compile the required Engineering Report.

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

Council Member Rainey moved the approval of Resolution 11-44; *Authorizing the Mayor to Execute an Agreement with McGill Associates to Perform the Engineering Report Relative to Funding Eligibility from the Clean Water State Revolving Fund for Improvements at the Henderson Water Reclamation Facility*. Motion seconded by Council Member Kearney and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey, Inscoe and Rainey. NO: None. ABSTAIN: None. ABSENT: None. (See Resolution Book 2, p. 87)

Council Member Daeke moved the approval of Ordinance 11-29, *Authorizing the Mayor to Execute an Agreement with McGill Associates to Perform the Engineering Report Relative to Funding Eligibility from the Clean Water State Revolving Fund for Improvements at the Henderson Water Reclamation Facility*. Motion seconded by Council Member Inscoe and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Davis, Daye, Kearney, Coffey, Inscoe and Rainey. NO: None. ABSTAIN: None. ABSENT: None. (See Ordinance Book 8, p. 261)

#### **PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS**

City Clerk McCrackin advised one individual had signed up to address City Council.

**Mr. Torrey Person, 101 Kearney Street.** Mr. Person felt he was being unfairly treated regarding his dogs and his jail time and requested assistance from the City. Mayor O'Geary asked City Manager Griffin to research the problem. Mr. Griffin stated he would speak with the Police Chief. City Attorney Zollicoffer suggested Mr. Person address the County as they oversee Animal Control and stated the City has no jurisdiction over the Sheriff's Department.

Council Member Coffey stated this issue had been discussed by the Public Safety Committee last year and no action had been taken; however, it is to be reviewed again in the future. Council Member Davis suggested Mr. Person follow the Attorney's advice and go before the County for these same issues.

Mayor O'Geary thanked Mr. Person for his comments.

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## REPORTS

- a) Mayor/Mayor Pro-Tem (No Report)
- b) Council Member Rainey – Citizen Question Regarding Internet Café Business License Fees

A local Internet Café owner asked Mr. Rainey to address the issue of license fees with Council. Mr. Rainey stated he had no personal views on the issue and asked for this to be discussed at a future work session. He stated he was told by the owner the State average is \$250 per machine and the City currently charges \$1,000 per machine. City Manager Griffin suggested a budget work session would be an appropriate time to review this issue.

City Attorney Zollicoffer stated a survey of cities had been conducted prior to the current Ordinance and the current fees seemed to be in line with those surveyed. He stated he would review the survey and complete another if appropriate.

Council Member Inscoe asked if businesses of this type were current in their payments. Finance Director Wilkerson stated yes.

Council Member Peace-Jenkins stated she had met with Mr. Horace Bullock from the NAACP who seemed to feel the City still misunderstood his request regarding creation of a Citizens' Police Review Board. Ms. Peace-Jenkins asked if a meeting could be set with Mr. Bullock so he could state exactly what he wants and to see if middle ground could be found.

Council Member Kearney asked about the Conditional Zoning discussed during the last meeting. City Manager Griffin stated this was brought before Council as information only. Once this issue was brought before the Planning Board and the appropriate Public Hearings were set, the issue would be brought before Council — probably not before May. As Mr. Kearney recently joined Council, City Attorney Zollicoffer shared all zoning/subdivision issues must go before the Planning Board and be recommended to Council before becoming an Ordinance.

With no further discussion Mayor O'Geary asked if Council was ready to go into Closed Session.

Council Member Rainey moved for Council to convene in Closed Session pursuant to G.S. §143-318-11(3)(a). Motion seconded by Council Member Peace-Jenkins and unanimously approved. *(Council convened in closed session at 8:07 p.m.)*

Council Member Daeke moved for Council to reconvene in Open Session. Motion seconded by Council Member Coffey and unanimously approved. *Council reconvened in open session at 9:55 p.m.)*

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c) City Manager - (No Report)

d) City Attorney (No Report)

e) City Clerk (No Report)

## **ADJOURNMENT**

Council Member Davis moved for adjournment. Motion seconded by Council Member Daye and unanimously approved. The meeting adjourned at 9:56 p.m.

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James D. O'Geary  
Mayor

***ATTEST:***

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Esther J. McCrackin  
City Clerk