

AGENDA

Henderson City Council Short Regular Meeting Monday, 23 September 2013, 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, Sr. Councilmember Sara M. Coffey Councilmember Michael C. Inscoe Councilmember D. Michael Rainey

Councilmember Brenda G. Peace—Jenkins Councilmember Garry D. Daeke Councilmember Vernon L. Brown 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
- V. ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA

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.

VI. APPROVAL OF MINUTES

a) 9 September 2013 Regular Meeting [See Notebook Tab 1]

VII. PUBLIC COMMENT 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

VIII. NEW BUSINESS

- a) Consideration of Approval of 1) Resolution 13-37-A, Acceptance of the 2013 BJA Bullet Proof Vest Partnership Grant in the Amount of \$3,923.73, and 2) Ordinance 13-61 FY14 Budget Amendment #12, Amending Fund 55: Establishing Budget for Above Mentioned Grant. (CAF 13-50-A)[See Notebook Tab 2]
 - Resolution 13-37-A
 - Ordinance 13-61
- b) Consideration of Approval of Resolution 13-62, Authorizing the Mayor and City Manager to Sign the State Archives Records Retention Schedule Amendment. (CAF 13-104)[See Notebook Tab 3]
 - Resolution 13-62
- c) Consideration of Approval of Resolution 13-09-A, Ordinance 13-08-A, Change Order for HWRF to Include Brushes for Clarifier. (CAF 13-12-A) [See Notebook Tab 4]
 - Resolution 13-09-A
 - Ordinance 13-08-A
- d) Consideration of Approval of Tax Releases and Refunds from Vance County for the Month of August 2013. (CAF 13-90) [See Notebook Tab 5]

X. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

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

XI. REPORTS

- a) Mayor/Mayor Pro-Tem
- b) City Manager
 - i. Declaration of Surplus Property (CM 13-21) [See Notebook Tab 6]
- c) City Attorney
- d) City Clerk
 - i. Calendar Update [See Notebook Tab 7]

XII. ADJOURNMENT

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³ Citizen Comment Guidelines

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

¹⁾ Citizens are requested to limit their comments to five minutes; however, the Mayor, at his discretion, may limit comments to three minutes should there appear to be a large number of people wishing to address the Council;

²⁾ Comments should be presented in a civil manner and be non-personal in nature, fact-based and issue oriented. Except for the public hearing comment period, citizens must speak for themselves during the public comment periods;

³⁾ Citizens may not yield their time to another person;

⁴⁾ Topics requiring further investigation will be referred to the appropriate city official, Council Committee or agency and may, if in order, be scheduled for a future meeting agenda;

⁵⁾ Individual personnel issues are confidential by law and will not be discussed. Complaints relative to specific individuals are to be directed to the City Manager;

⁶⁾ Comments involving matters related to an on-going police investigative matter and/or the court system will not be permitted; and

⁷⁾ Citizens should not expect specific Council action, deliberation and/or comment on subject matter brought up during the public comment section unless and until it has been scheduled as a business item on a future meeting agenda.

City Council Minutes - DRAFT Regular Meeting 9 September 2013

PRESENT

Mayor James D. O'Geary, Presiding; and Council Members Sara M. Coffey, Michael C. Inscoe, Brenda Peace-Jenkins, Garry D. Daeke, Vernon L. Brown, and George M. Daye.

ABSENT

Council Members James C. Kearney, Sr. and D. Michael Rainey

STAFF PRESENT

City Manager Ray Griffin, City Attorney John H. Zollicoffer, Jr., City Clerk Esther J. McCrackin, Assistant City Manager Frank Frazier, Finance Director Kathy Brafford, Athletic Director Steve Osborne, Fire Chief Danny Wilkerson, Assistant Fire Chief, Steve Cordell, Interim Police Chief Marcus Barrow, Human Resources Director Cathy Brown and Code Compliance Director Corey Williams

CALL TO ORDER

The 9 September 2013 Regular Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary at 6:02 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 Brenda Peace-Jenkins led those in attendance in a prayer and the Pledge of Allegiance.

Mayor O'Geary welcomed everyone.

ADJUSTMENTS TO/APPROVAL OF AGENDA

Mayor O'Geary asked if there were any adjustments to the Agenda. City Attorney John Zollicoffer, Jr., asked that a second Attorney-Client Matter be added to the Closed Session. Council Member Peace-Jenkins moved to accept the Agenda as adjusted. Motion seconded by Council Member Coffey and unanimously approved.

APPROVAL OF MINUTES

Mayor O'Geary asked for any corrections to and/or approval of the minutes. Council Member Peace-Jenkins moved the approval of the 24 August 2013 Short Regular and 24 August 2013 Work Session minutes as presented. Motion seconded by Council Member Daye and unanimously approved.

PRESENTATIONS AND RECOGNITIONS

Ms. Pat Curl, representing the American Cancer Society distributed materials and gave a brief overview of an event on October 26th which will provide free skin, oral, head and neck cancer screenings, along with various speakers. Venders will also be present. Ms. Curl said this is the third part of a study that will look at what has been learned about cancer and what has been done to prevent it. The first part of the study looked at the correlation between use of tobacco products and cancer; the second part looked at the relationship between obesity and the food consumed, and cancer. She encouraged participation and explained how to register for the event.

The Mayor thanked Ms. Curl for the information and Council Member Peace-Jenkins emphasized the importance of passing on this information to citizens.

At this time, Mayor O'Geary gave time to Mr. Stuart Litvin, Economic Development Director to do a brief presentation. Mr. Litvin distributed "rack" cards to the Council and informed the group that the cards have been and will be distributed at trade shows and events. He gave tribute to both Maria Parham Hospital and Duke Energy for assistance in creating and publishing the cards.

Mayor O'Geary then asked Mr. Terry L. Leyen to come forward. Mayor O'Geary said after eleven years of service, it is hard to say good-bye to such a great supporter of the City. Before presenting a Resolution and Clock, the Mayor said Mr. Leyen will be missed and remembered for years to come. After making the presentations, Mr. Leyen introduced his family, and said good-bye to each individual Council Member and staff member present.

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

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

NEW BUSINESS

Authorizing Bid Award for 2" Water Mains and Services Replacement to H.G. Reynolds Company, Inc.; and Revising Budget for Above Mentioned Project. (Reference: CAF 13-65; Resolution 13-28; Ordinance 13-36)

City Manager Griffin asked Engineering Director Peter Sokalski to explain this project.

Mr. Sokalski summarized the process which began in 2011 when the application process for a loan/grant from NCDENR was submitted. The application was approved in July 2012 in the amount of \$1,726,000 with 0% interest for 20 years. Council approved acceptance of this loan in August 2012. The project was bid and then re-bid with H. G. Reynolds Company, Inc. submitting the lowest bid at \$1,732,940. Mr. Sokalski then explained two options for the project. One option (Option B) allows the City to have an additional 10% increase in funds without having to go through the approval process a second time which would be contingent on the State receiving funds from the Federal government and cannot be processed until November 2013. The other option changes the project by reducing the work on various streets. Council was provided a table showing the different costs for the different options.

Council Member Inscoe asked for the age of the 2" line in the Meadow Lane/Parker Lane area. Mr. Sokalski said he was unsure of the age. City Attorney Zollicoffer, Jr. said he thought probably 1961 or 1962 as it was installed about the time he was building a house in that area.

Mr. Inscoe also asked if the additional principal amount would be covered by revenue. Mr. Griffin said he did not feel there would be any negative impact on the FY15 budget.

Mr. Griffin added approval of this item would allow the Mayor to sign agreements for Option B if it becomes available.

Council Member Inscoe asked if any necessary additional costs would be brought before Council. Mr. Griffin said yes.

There were no further questions. Mayor O'Geary then asked for the pleasure of Council.

Council Member Coffey moved the approval of Resolution 13-28, *Authorizing Bid Award for 2"* Water Mains and Services Replacement to H.G. Reynolds Company, Inc.; and Ordinance 13-36, FY 14 Budget Amendment #11, Revising Budget for Above Mentioned Project. Motion

seconded by Council Member Inscoe and APPROVED by the following vote: YES: Coffey, Inscoe, Peace-Jenkins, Daeke, Brown and Daye. NO: None. ABSTAIN: None. ABSENT: Kearney and Rainey. (See Resolution Book 3, p. 157; Ordinance Book 8, p.591)

Supporting Kerr-Tar Regional Council of Governments 205j Environmental Planning Grant Application. (CAF 13-99; Resolution 13-66)

City Manager Griffin asked Ms. Diane Cox, Executive Director of the Kerr-Tar Regional Council of Governments (COG) to explain this request.

(Clerk's Note: Council Member Inscoe asked to be excused from voting on this Resolution and the next Resolution as he is a consultant for the COG. He was excused by both the Mayor and Council.)

Ms. Cox explained the COG is asking for support to apply for a grant similar to one it received in 2012. That grant allowed the COG to determine the nature, extent and cause of water pollution problems and develop solutions for selected water quality projects. She said the 2013 205j Grant will be used to continue with projects such as developing resources for elected officials, developers and citizens regarding water quality concerns. The plan includes developing opportunities between the COG and local government staff for creating regional initiatives.

Council Member Daeke asked how many individuals were served with the existing grant. Ms. Cox said they have done six (6) seminars in the five-county area, some of which were more popular than others but she said they probably averaged 25 per session.

There were no further questions. Mayor O'Geary then asked for the pleasure of Council.

Council Member Daeke moved the approval of Resolution 13-66, Supporting Kerr-Tar Regional Council of Governments 205j Environmental Planning Grant Application. Motion seconded by Council Member Daye and APPROVED by the following vote: YES: Coffey, Peace-Jenkins, Daeke, Brown and Daye. NO: None. ABSTAIN: Inscoe. ABSENT: Kearney and Rainey. (See Resolution Book 3, p 233)

Awarding a Contract with Kerr-Tar Regional Council of Governments (COG) for the Development of a Comprehensive Recreation and Parks and Greenway Master Plan. (CAF 13-95; Resolution 13-64)

(Clerk's Note: Council Member Inscoe asked to be excused from voting on this Resolution as he is a consultant for the COG. He was excused by both the Mayor and Council.)

City Manager stated due to extenuating circumstances, Recreation and Parks Director Alan Gill is unable to attend this evening; however, Athletic Director Steve Osborne and Ms. Cox from the COG are both present and will present the pertinent material together. Mr. Griffin said funds

were approved in the FY14 Budget. He added this is a City/County project and will be approved going forward by both Council and County Commissioners.

Ms. Cox said before bringing back recommendations for a Master Plan, the COG will meet with the Recreation and Parks Director and the staff. They will perform an inventory and look at current services. They will also hold public forums and conduct surveys to determine the wishes of the public.

Mr. Osborne added how important it is to have a Master Plan in place. He said one of the first questions asked when applying for grants is to look at a master plan.

City Manager Griffin added a Master Plan for Recreation and Parks is analogies to the plan McGill set in place for the Reclamation Facility.

Council Member Daeke asked what percentage of returned surveys would be considered acceptable. Ms. Cox said they would like to see 100% but 20% would be acceptable.

Council Member Peace-Jenkins encouraged Council to stress the importance of the survey so there would be a good return.

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

Council Member Daeke moved the approval of Resolution 13-64, Awarding a Contract with Kerr-Tar Regional Council of Governments (COG) for the Development of a Comprehensive Recreation and Parks and Greenway Master Plan. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Brown, Daye and Coffey. NO: None. ABSTAIN: Inscoe. ABSENT: Kearney and Rainey. (See Resolution Book 3, p 229)

CONSENT AGENDA

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

Remanding Ordinance 13-42 to the Planning Board Providing for Limited Enforcement in the Extra-Territorial Jurisdiction Area (ETJ), Pursuant to Section 40 of the City Charter. (Reference: CAF 13-82-B) Due to the lack of staffing and funding, the City is asking the Planning Board to refine and define City enforcement within the ETJ. (Ordinance will be approved at the next Council Meeting)

Adjusting the Budget to Reflect Available Funding for Youth Services Budget, FY14 Budget Amendment #8. (Reference: CAF 13-93: Ordinance 13-51) This Amendment effectively allows the division to reorganize staffing to meet the needs as outlined in the Vance County Juvenile Crime Prevention Council's annual plan pursuant to the FY15 Budget allocations. (See Ordinance Book 9, p. 23)

Closing Out the 2012 BJA Bulletproof Vests Grant FY14 Budget Amendment #10. (Reference: CAF 13-103; Ordinance 13-58) Grant funds have been received from the NCLM to offset a portion of the City's grant match and funds from the U.S. Department of Justice have been received. This action officially closed out this project. (See Ordinance Book 9, p 37)

Accepting the 2013 BJA Grant in the Amount of \$15,586.00 and Establishing the 2013 BJA Grant Project Budget, FY14 Budget Amendment #9. (Reference: CAF 13-69-A; Resolution 13-49-A, Ordinance 13-55) Portions of this grant will be used to replace two old camera units with two new In-Car Mobile Camera Audio/Video Recorders. (See Resolution Book 3, p 199-A, Ordinance Book 9, p 31)

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

Council Member Inscoe moved the approval of the Consent Agenda as presented. Motion seconded by Council Member Coffey and APPROVED by the following vote: YES: Peace-Jenkins, Daeke, Brown, Daye, Coffey and Inscoe. NO: None. ABSTAIN: None. ABSENT: Kearney and Rainey.

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS

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

REPORTS

- a) Mayor/Mayor Pro-Tem (No Report)
- **b**) City Manager Mr. Griffin had several items (listed below); all of which show how City staff take pride and show a desire to perform at a high level.
 - i. The State Report regarding FY13 Henderson Water Reclamation Facility Operations was stellar. He asked Assistant City Manager Frank Frazier to express his pleasure to Director Tom Spain and the staff for an ingenious job of keeping that "ancient" plant functioning so well;
 - ii. Mr. Griffin thanked the Fire Department for an excellent job of keeping citizens and firefighters safe in 2013;
 - iii. The Kerr Lake Regional Water Department was recognized in the NCRWA magazine for winning the 2013 Water Taste Test. They will now compete in the National Rural Water Taste Test in February in Washington, DC.

Lastly, Mr. Griffin said the relationship established by Former Police Chief Sidwell with other State and Federal agencies is to be commended. He said the recently publicized arrests of the Money Gang by *The Daily Dispatch* are a result of the Police Department

personnel continuing this partnership continued relationships by the existing staff and leadership. He thanked Interim Police Chief Barrow for an excellent job.

- c) City Attorney (No Report)
- **d**) City Clerk Ms. McCrackin reminded Council of the Crime Stoppers Banquet October 4th and also the Community Watch Forum on September 26th.

Council Member Daeke reminded those present of the upcoming Ducky Derby on 21 September and encouraged everyone to attend and to "purchase a duck." He thanked the Fire and Police Departments for their help and said it should be a fun event.

There were no other comments. Mayor O'Geary asked if Council was prepared to convene into Closed Session.

CLOSED SESSION

Council Member Daeke moved for Council to convene in closed session pursuant to G.S. §143-318.11(a)(3) for two Attorney-Client Privilege Matters. Motion seconded by Council Member Daye and unanimously approved.

Council Member Brown moved for Council to convene in open session. Motion seconded by Council Member Daye and unanimously approved.

(Clerk's Note: Council Member Peace-Jenkins left the Closed Session at approximately 7:45p.m. and did not rejoin the meeting)

WORK SESSION

Police Chief Recruitment Focus Group. (CM 13-20)

Mr. Griffin said the City will be working with the MAPS Group via a contract with the League of Municipalities to recruit and select a new Police Chief and introduced Ms. Becky Veazey, well known to Council, who will facilitate the process. Ms. Veazey began by asking her coworker, Valiria Willis to introduce herself. Council Members introduced themselves to Ms. Willis and Ms. Veazey then explained what an Assessment Center is and how the process works.

Briefly, an Assessment Center is a means of gathering relevant information, under standardized conditions, about an individual's capabilities to perform a specific job. After obtaining information from various Focus Groups pertinent to the position (Police Chief), exercises are then specifically designed to determine if the candidates have the necessary skills and abilities to perform the job. A candidate's race/gender has no influence on the assessment ratings. After providing guidelines for the process Ms. Veazey asked for questions.

There was a brief discussion regarding who had been invited to the Open Forum to be held on Tuesday, 10 September. The City Clerk was asked to contact WIZS in the morning to ask if they would air this meeting on their public notices spot.

Next, Ms. Veazey asked Council to give input on what knowledge, skills and abilities they would like to have in the next Police Chief. She was careful to say there will be no perfect candidate. After completing a list of desired traits (see Attachment A), Ms. Veazey asked Council to mark their top priorities and she then summarized the discussion by stating which traits obtained the most marks. The priorities with the most marks were:

Connect with and become a part of the community
Friendly command presence (smiles, firm hand shake)
Does not hold a grudge - can disagree and maintain relationship
Well versed in law enforcement
Work well with community— people person
Trained in dealing with low income and all nationalities — has sensitivity training

With no further discussion, Mayor O'Geary asked if Council was prepared to adjourn.

ADJOURNMENT

Council Member Inscoe moved for adjournment. Motion seconded by Council Member Daeke, and was unanimously approved. The meeting adjourned 7:50 p.m.

James D. O'Geary	
Mayor	ATTEST:
	Esther J. McCrackin
	City Clerk

City of Henderson Police Chief Recruitment Focus Group City Council

What are the knowledge, skills, abilities and characteristics needed for the next Police Chief?

- 1. Well versed in law enforcement
- 2. Work well with community— people person
- 3. Management skills: staff, individual, department
- 4. Recognizes importance of staff development develop staff skills, individual focus
- 5. Trained in dealing with low income and all nationalities has sensitivity training
- 6. Can enforce and show empathy at same time
- 7. Keeps citizens informed on important issues
- 8. Accessible open door policy
- 9. Able to manage budget and assets of a large department
- 10. Good moral character
- 11. Does not hold a grudge can disagree and maintain relationship
- 12. Good team player creates and manages collaborative partnership
- 13. Able to extrovert effectively
- 14. Good listener
- 15. Connect with and become a part of the community
- 16. Problem-solver
- 17. Friendly command presence (smiles, firm hand shake)

City Council Action Form

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



Agenda Item:

Council Meetings: 23 Sept.13 Short Reg. Meeting

17 September 2013

TO: The Honorable Mayor Pete O'Geary and Members of City Council

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

RE: CAF: 13-50-A

Consideration of Approval of 1) Resolution 13-37-A, Acceptance of the 2013 BJA Bullet Proof Vest Partnership Grant in the amount of \$3,923.73, and 2) Ordinance 13-61 FY14 Budget Amendment #12, Amending Fund 55: Establishing Budget for Above Mentioned Grant.

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO2: Reduce Crime: To Reduce Crime and Provide for a Safe Community;
- 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.

Recommendation:

- Approval of Resolution 13-37-A, Acceptance of the 2013 BJA Bullet Proof Vest Partnership Grant in the amount of \$3,923.73
- Approval of Ordinance 13-61 FY14 Budget Amendment #12, Amending Fund 55: Establishing Budget for Above Mentioned Grant.

Executive Summary

On 13 May 2013 City Council authorized the submission of an application to the US Department of Justice for the 2013 BJA Bulletproof Vest Partnership Grant via Resolution 13-37.

This grant is an annual submission that requests reimbursement to the City of Henderson for 50% of the purchase price and shipping on individual law enforcement ballistic vests purchased for Henderson Police Officers. While the department's application was for \$5,287.50 based on the estimated purchases of vests in the budget year, federal budget cuts resulted in the total award being \$3,923.73 or 37% of costs. Notice has been received of grant award; therefore, it is appropriate for Council to accept the grant by approving Resolution 13-37-A.

Enclosures:

- 1. Resolution 13-37-A
- 2. Ordinance 13-61
- 3. Resolution 13-37

RESOLUTION 13-37-A

A RESOLUTION ACCEPTING THE 2013 BJA BULLETPROOF VEST PROGRAM GRANT **FOR** THE CITY OF HENDERSON POLICE DEPARTMENT

- WHEREAS, the Henderson City Council (Council) identified eight Key Strategic Objectives (KSO) at its 2013 Strategic Planning Retreat; and
- WHEREAS, two of the Key Strategic Objectives are addressed by this request as follows: KSO 2: To Reduce Crime and Provide for a Safe Community; and KSO 8: To Provide Sufficient Funds for Municipal Operations and Capital Outlay Necessary to Meet the Needs of Citizens, Customers and Mandates of Regulatory Authorities; and
- WHEREAS, the Council authorized the submission of a grant application for 2013 BJA Bulletproof Vest Partnership funding that would reimburse the City of Henderson for 50% of the total purchase price and shipping of new law enforcement ballistic vests via Resolution 13-37 at the Council's 13 May 2013 meeting, said grant application being in the amount of \$5,287.50; and
- WHEREAS, due to federal budget cuts, the City has received notice of grant award in the amount of \$3,923.73 or 37% of costs (see Attachment A to this Resolution) said grant funds to be requested for reimbursement to the City as noted in the preceding paragraph and it is now appropriate to accept the grant.
- NOW, THEREFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT it does hereby accept the 2013 BJA Bulletproof Vest Partnership Grant in the amount of \$3,923.73, said funds to be requested in accordance with grant requirements for the purchase of law enforcement ballistic vests; and
- BE IT FURTHER RESOLVED THAT the Mayor and City Manager are authorized to sign all documents necessary to accept and execute grant with the US Department of Justice.

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The foregoing Resolution 13-37-A, motion by Council Member	was presented for consider				, and upon a cil Member
was	by the following vote:			•	
		 Jame	es D. O'Ge	ary, Mayor	
ATTEST:		Juine		ary, may or	
Esther J. McCrackin, City Clerk					
Approved as to Legal Form:					
John H. Zollicoffer, Jr., City Attorney					

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



ORDINANCE 13-61

AN AMENDMENT TO THE FY 2013 -- 2014 BUDGET BUDGET AMENDMENT #12 ESTABLISHING THE 2013 BULLETPROOF VESTS PROJECT GRANT

- **WHEREAS**, the City Council of the City of Henderson (Council), on 27 June 2013, adopted its FY 13-14 Operating Budget; *and*
- **WHEREAS**, the Council has created and uses a Grants Projects Fund for active grant projects, said fund referred to as 55: Grants Projects Fund; and
- **WHEREAS**, it is necessary to amend the various revenue and expense accounts of the annual operating and grants projects fund from time-to-time, said amendment being incorporated into this Ordinance.
- **NOW THEREFORE BE IT ORDAINED** by the City Council of The City of Henderson, that the following Budget Ordinance Amendment be approved and said Ordinance shall be effective immediately upon approval of the City Council:

						<u>Ordir</u>	nar	<u>13-6</u>	<u>1</u>	
FUNDS:	55: Grants Fund & 10:	: General Fund				FY 13-14 Bu	dge	t Amendme	nt #1	2
PROJECT:	55-208 BJA Bullet Pro	oof Vests 2013			Es	stablishing th	ne G	rant Projec	Bud	lget
			Init	ial Budget		Current				
55-207 BJA Bullet Proof	f Vests 2013 Revenues		•	1-Jul-13		Budget	Aı	nendment		Revised
	BJA Grant	55-208-458218	\$	-	\$	-	\$	3,923	\$	3,923
	Trans Fr: 10 General Fund	55-208-461010	\$	-	\$	-	\$	6,653	\$	6,65
		Total	\$	-	\$	-	\$	10,576	\$	10,570
									\$	10,576
			Init	ial Budget		Current				
55-207 BJA Bullet Proof	f Vests 2013 Expenditures		'	1-Jul-13		Budget	Aı	nendment		Revised
	Bullet Proof Vests	55-208-503605	\$	-	\$	-	\$	10,576	\$	10,576
									\$	
		Total	\$	-	\$	-	\$	10,576	\$	10,576
									\$	10,576
		Variance					\$	-		
				pproved		Current				
FUND 10: GENERAL FU				1-Jul-13		Budget		nendment		Revised
NCLM Bulle	etproof Vests Grant - Police	10-100-455072	\$	-	\$	2,500	\$	-	\$	2,500
			\$	-	\$	-	\$	-	\$	-
		Total	\$	-	\$	2,500	\$	-	\$	2,500
									\$	2,500
				pproved		Current				
FUND 10: GENERAL FU				1-Jul-13		Budget		nendment		Revised
	feiture: Grant Match Funds	10-512-509901	\$	33,100		22,665	\$	(4,153)		18,512
	lice Dept: Bulletproof Vests	10-510-503605	\$	1,300	_	2,500	\$	(2,500)		
	ns to: Fund 55 Grants Fund	10-512-561055	\$	-	\$	10,435	\$	4,153	\$	14,588
Trar	ns to: Fund 55 Grants Fund	10-660-561055	\$	-	\$	744	\$	2,500	\$	3,24
	ļ	Total	\$	34,400	\$	36,344	\$	-	\$	36,344
		17.			_		•		\$	36,344
		Variance					\$	-		
Refe	rence:	Notes:								
riore	CAF 13-50; Resolution 13-37									
	Council Meeting 13 May 2013	Grant submission autho	rizec	1						
CAT 12 EQ A will only for an	ant acceptance. Ord 13-61 and									
BA #12 will establis	th the grant project budget upon Council Meeting 23 Sept 2013									

	n of Council Member ** and second by Council roll call vote and received the following votes and 2013: YES: ***. NO: **. ABSTAIN: **.
	James D. O'Geary, Mayor
ATTEST:	
Esther J. McCrackin, City Clerk	
Reference: Minute Book 42 p. ***; CAF 13-50)-A
STATE OF NORTH CAROLINA CITY OF HENDERSON	
hereby certify the attached is a true and e	ualified City Clerk of the City of Henderson, do xact copy of Ordinance 13-55 adopted by the a 23 September 2013 (<i>Minute Book 42</i> p.**). This ***.
Witness my hand and corporate seal of the City	, this *** day of September 2013.
Esther J. McCrackin City Clerk City of Henderson, North Carolina	
Reviewed by:	Date:
Reviewed by: A. Ray Griffin, Jr., City Manage	Date:

RESOLUTION 13-37

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE BUREAU OF JUSTICE ASSISTANCE OFFICE FOR THE FY14 BULLETPROOF VEST PROGRAM GRANT AND NCLM RISK MANAGEMENT GRANT FOR THE POLICE DEPARTMENT

- **WHEREAS**, the Henderson City Council identified eight Key Strategic Objectives (KSO) at its 2013 Strategic Planning Retreat; *and*
- WHEREAS, two of the Key Strategic Objectives are addressed by this request as follows: KSO 2: To Reduce Crime and Provide for a Safe Community, and KSO 8: To Provide Sufficient Funds for Municipal Operations and Capital Outlay Necessary to Meet the Needs of Citizens, Customers and Mandates of Regulatory Authorities; and
- **WHEREAS**, the Henderson Police Department is seeking approval to apply for a grant to assist in the purchase of bullet proof vests; and
- **WHEREAS**, the grant application is seeking \$5,287.50 in federal funds from the BJA to provide for 50% reimbursement of all expenditures for the purchase of law enforcement body armor and body armor carriers; *and*
- **WHEREAS**, the Henderson Police Department is also seeking approval to submit a request for reimbursement funding from the NC League of Municipalities Risk Management Division for the purchase of Ballistic Vests for sworn officers in the 2013-2014 fiscal year for the maximum amount allowable under the NCLM grant of \$2500.
- NOW, THERFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY APPROVE the City Manager to file the grant application to the Bureau of Justice Assistance Office and NCLM Risk Management Grant as outlined above.

The foregoing Resolution, introduced by Council Member Inscoe and seconded by Council Member Rainey on this the 13th day of May 2013 and having been submitted to a roll call vote, was approved by the following votes: Yes: Kearney, Coffey, Inscoe, Rainey, Peace-Jenkins, Brown and Daye No: None. Absent: Daeke. Abstain: None.

ATTEST:	James D. O'Geary, Mayor
Esther McCrackin, City Clerk	
Approved to Legal Form:	
John H. Zollicoffer, Jr., City Attorney	
Reference: Minute Book 42, p 812: CAF 13-50	

CAF 13-50-A: 23 September 2013 Council Meeting Page 6 of 6

City Council Action Form

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



Agenda Item: _____

Council Meeting: 23 Sept 13 Short Meeting

12 September 2013

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

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

RE: CAF: 13-104 Consideration of Approval of Resolution 13-62, Authorizing the Mayor and City Manager to Sign the State Archives Records Retention Schedule Amendment

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

• KSO 1: Implement Performance Excellence – Implement Process Improvements

Recommendation:

 Approval of Resolution 13-62, Authorizing the Mayor and City Manager to Sign the State Archives Records Retention Schedule Amendment

• Executive Summary

In May 2011, Council authorized the Mayor and City Manager to sign the North Carolina Municipal Records Retention and Disposition Schedule. According to G.S. §121-5 and G.S. §132-3, without approving this schedule, each municipality is obligated to obtain the Department of Cultural Resource's permission to destroy *any* record, no matter how insignificant.

In 2012, the Schedule was revised by the North Carolina Department of Cultural Resources and Council Approved to adopt this revised schedule on 8 October 2012 Via Resolution 12-86.

Recently the North Carolina Department of Cultural Resources amended the Schedule as follows:

- Standard 4, *BUDGET*, *FISCAL AND PAYROLL RECORDS*: <u>Item 32</u> Escheat and Unclaimed Property File, revising the disposition date based on when the report was filed.
- Standard 12: **PERSONNEL RECORDS:** Adding Item 1-A Accreditation Records; Amending Item 19 Employee Eligibility Records clarifying language to match U.S. Code regarding the retention period of employee eligibility records, *and*; Consolidating Items 36, 42 and 43 regarding leave records.

Enclosures:

1. Resolution 13-62

RESOLUTION 13-62

A RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO SIGN THE STATE ARCHIVES RECORDS RETENTION SCHEDULE AMENDMENT

- **WHEREAS**, the City Council conducted its Annual Planning Retreat in January 2013, and during said Retreat identified Strategic Objectives and Goals; *and*
- **WHEREAS**, this Resolution addresses KSO 1: *Implement Performance Excellence* Implement Process Improvements; *and*
- **WHEREAS**, according to G.S. §121-5 and G.S. §132-3 of the State of North Carolina, public records may only be destroyed with the consent of the Department of Cultural Resources; and
- **WHEREAS**, the State Archives of North Carolina recently published amendments to the 2012 Municipal Schedule.
- NOW, THERFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY RATIFY AND APPROVE the City Manager's and Mayor's signature on the Records Retention Schedule Amendment, being more fully articulated in Attachment A of this Resolution.

The foregoing Resolution 13-62, introduced by Council Member ** and seconded by Council Member ** on this the 23^{rd} day of September 2013, and having been submitted to a roll call vote, was APPROVED by the following votes: YES: . NO: . ABSTAIN: . ABSENT: .

ATTEST:	James D. O'Geary, Mayor
Esther J. McCrackin, City Clerk	<u> </u>
Approved to Legal Form:	
John H. Zollicoffer, Jr., City Attorney	_
(Reference: Minute Book 43, p.**)	

Municipal Records Retention Schedule Amendment

Amending the Municipal Records Retention and Disposition Schedule published September 10, 2012.

STANDARD 4. BUDGET, FISCAL AND PAYROLL RECORDS

Amending item 32 Escheat and Unclaimed Property File as shown on substitute page 29.

STANDARD 12. PERSONNEL RECORDS

Adding item 1-A Accreditation Records as shown on substitute page 101.

Amending item 19 Employee Eligibility Records as shown on substitute page 105.

Amending items 36 Family Medical Leave Act (FMLA) Records, 42 Leave File, and 43 Leave Without Pay File as shown on substitute pages 110-111.

APPROVAL RECOMMENDED

Chief Administrative Officer/ City Manager Chief Administrative Officer/ City Manager Chief Administrative Officer/ City Manager APPROVED APPROVED Approved Approved Susan W. Kluttz, Secretary

Department of Cultural Resources

Municipality

August 29, 2013

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DESTORY IN DEPORTS DESTORY IN Office after 1 year.* DEPOSITO DESTORY IN Office after 1 year.* DEPOSITO DESTORY IN Office after 1 year.* DESTORY IN Office after 1 year.* DESTORY IN Office annual reports after 3 years.* DESTORY IN Office annual reports after 1 year. DESTORY IN OFFICE AND UNCLAIMED PROPERTY FILE JULY 16, 2012.* EXPENDITURE REPORTS DESTORY IN Office after 5 years if report was filed after July 16, 2012.* DESTORY IN Office after 3 years.*		STANDAR	STANDARD 4: BUDGET, FISCAL AND PAYROLL RECORDS	
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ESCHEAT AND UNCLAIMED PROPERTY FILE July 16, 2012.* b) Destroy in office after 10 years if report was filed prior to July 16, 2012.* EXPENDITURE REPORTS EXPENDITURE REPORTS Destroy in office after 3 years.* FACILITY SERVICE AND MAINTENANCE AGREEMENTS See also GRANTS: FINANCIAL item 36, page 30. b) Destroy in office remaining records after 3 years.*	31.	DISTRICT INVESTMENT RECORDS	Destroy in office after 3 years.*	
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FACILITY SERVICE AND MAINTENANCE AGREEMENTS a) See also GRANTS: FINANCIAL item 36, page 30. b)	,			\$1166-60 and \$1166-73.
FACILITY SERVICE AND MAINTENANCE AGREEMENTS a) See also GRANTS: FINANCIAL item 36, page 30. b)	33.	EXPENDITURE REPORTS	Destroy in office after 3 years.*	
(q	34.	FACILITY SERVICE AND MAINTENANCE AGREEMENTS	1	
		See also GRANTS: FINANCIAL item 36, page 30.		

*See AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

TEAN #	\$	STANDARD-12. PERSONNEL RECORDS	
121	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
ij	ABOLISHED POSITION FILE	Destroy in office when administrative value ends.† Agency Policy: Destroy in office after	
1-A.	ACCREDITATION RECORDS Records concerning compliance with those standards outlined by professional accreditation programs.	Destroy in office 1 year after accreditation is obtained, renewed, or no longer valid.*	
2.	ADDRESS FILE	Destroy in office when superseded or obsolete.	
က်	ADS AND NOTICES OF OVERTIME, PROMOTION, AND TRAINING OPPORTUNITIES	Destroy in office 1 year from date record was made.	29 CFR 1627.3
4	AFFIRMATIVE ACTION FILE	a) Destroy in office all reports, analyses, and statistical data after 5 years.	29 CFR 30.8(b)(e) 29 CFR 1608.4
		b) Destroy in office affirmative action plans 5 years from date superseded.	
5.	APPRENTICESHIP PROGRAM RECORDS	Destroy in office 5 years from the date of enrollment.	29 CFR 30.8(e)
. 6	APTITUDE AND SKILLS TESTING RECORDS Records concerning aptitude and skills tests required of job applicants or of current employees to qualify for	Destroy in office applicant and employee test papers 2 years from date record was created.	29 CFR 1602.31 29 CFR 1602.40 29 CFR 1602.49
	promotion or transfer. May include civil service examinations.	 b) Destroy in office validation studies and copies of tests 2 years after no longer in use. 	
	See also EMPLOYMENT SELECTION RECORDS item 32, page 109.	 c) Destroy in office records relating to the planning and administration of tests in office after 2 years. 	

*See AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
18.	ENPLOYEE EDUCATIONAL ASSISTANCE PROGRAM RECORDS Includes records requesting tuition assistance, repayments, and other related records.	Destroy in office 3 years after completion, denial, repayment, or removal from program.*	
	Sec also PERSONNEL RECORDS (OFFICIAL COPY) Item 47, page 112.		
19.	EMPLOYEE ELIGIBILITY RECORDS Includes the United States immigration and Maturalization Services, Employment Eligibility Verification (4-9) forms.		8 USC 274a.2
20.	EMPLOYEE EXIT INTERVIEW RECORDS See also PERSONNEL RECORDS (OFFICIAL COPY) from 47, page 112.	Destroy in office after year 4 per CHY Attyle recommendation Destroy after 4 yrs.	
21.	EMPLOYEE HEALTH CRRITIFICATES includes betain reports, or includes health or physical examination reports, or certificates created in occordance with Title VII and the Americans with Disabilities Act (ADA).	a) Transfer records as applicable to PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112. b) Destroy in office all other records 2 years after resolution of all actions.	

*See AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS, page vi.

1 See signatur page 7 the agency hereby agrees that it will testablish and enjocite internal policies setting minimum retention periods for the records that a page agrees has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

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12500 40	5	STANDARD:12. PERSONNEL RECORDS	
1000	RECORD SERIES TIFLE	DISPOSITION INSTRUCTIONS	CITATION
35.	EQUAL PAY RECORDS Includes reports, studies, aggregated or summarized data, and similar documentation compiled to comply with the Equal Pay Act.	Destroy in office after 2 years.	29 CFR 1620.32
36.	FAMILY MEDICAL LEAVE ACT (FMLA) RECORDS Records concerning leave taken, premium payments, employer notice, medical evaminations considered in connection with personnel action, disputes with employees over FMLA and other related records.	Item discontinued. See LEAVE FILE, Item 42, page 111.	
37.	FRINGE BENEFITS FILE	Destroy in office when administrative value ends.† Agency Policy: Destroy in office after	
38.	GRIEVANCE FILE Includes initial complaint, investigations, actions, summary, and disposition. May include disciplinary correspondence, including small.	Destroy in office after, years.	
	See also DISCIPLINARY FILE Item 11, page 102 and PERSONNEL RECORDS (OFFICIAL COPY) Item 47, page 112.		
39.	HEALTH INSURANCE FILE Completed claim forms and other records concerning employees covered by health plans.	Destroy in office after 2 years."	
40.	INCREMENTS FILE	Destroy in office when released from all audits.	
41.	INTERNSHIP PROGRAM FILE Records concerning interns and students.	Destroy in office after 3 years.	
See AU	*See AUDITS. LITIGATION. AND OTHER OFFICIAL ACTIONS, page vi	S. Dagge vi.	

TTCBB H		STANDARD 12. PERSONNEL RECORDS	
11 Erin #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
42.	LEAVE FILE Records concerning employee leave, including Records concerning employee leave, including requests for and approvad of sick, variation, overtime, buy-back, shared, donated, military, etc. Includes premium payments, employer notice, medical employees organization considered in connection with personnel action, disputes with employees over the Family Medical Leave Act (FMLA), and other related records.	Destroy in office 2 years after return of employee or termination of employment." If $y \in \mathcal{A}^{-S}$	29 CFR 825.500(b)
43.	LEAVE WITHOUT PAY FILE	tem discontinued. See LEAVE FILE, item 42, page 111.	
44.	LONGEVITY PAY REQUESTS	Destroy in office when released from all audits.	
45.	MERIT AND SENIORITY SYSTEM RECORDS	Destroy in office employee-specific records after 3 years. Destroy in office system and plan records 1 year after no longer in effect.	29 CFR 1627.3
46.	PERSONNEL ACTION NOTICES Records used to create or change information in the personnel records of individual employees concerning such issues as hinking, termination, fransfer, pay grade, position or job title, name change and leave.	Transfer records as applicable to PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112. Destroy in office all remaining records X-years from date record was created, received, or the personnel action involved.	

see AURILS, LITRADIOS, AUY CULTER OFFICIAL ACTIONS, page 18.

See AURILS, LITRADIOS, AUY CULTER OFFICIAL ACTIONS, page 18.

Calcural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

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City Council Action Form

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



Agenda Item: _____

Council Meeting: 23 Sept 13 Short Reg Meeting

17 September 2013

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

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

RE: CAF: 13-12-A

Consideration of Approval of: 1) Resolution 13-09-A, Authorizing the Execution of Change Order #1 for the Henderson Water Reclamation Facility Project to Devere Construction Company, Inc. in the Amount of \$55,709, and 2) Ordinance 13-08-A, FY 14 Budget Amendment #13, Authorizing the Use of the Contingency Funds to the Henderson Water Reclamation Facility Project for Change Order #1.

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

• KSO 5: Provide Reliable, Dependable and Environmentally Compliant Infrastructure Systems.

Recommendation:

- Approval of: 1) Resolution 13-09-A, Authorizing the Execution of Change Order #1 for the Henderson Water Reclamation Facility Project to Devere Construction Company, Inc. in the Amount of \$55,709.
- Approval of: 2) Ordinance 13-08-A, FY 14 Budget Amendment #13, Authorizing the Use of the Contingency Funds to the Henderson Water Reclamation Facility Project for Change Order #1.

Executive Summary:

On 10 Dec 2010, the City Council approved acceptance of a State Revolving Loan, via Resolution 12-98, in the amount of \$16,615,000 for improvements to the Henderson Water Reclamation Facility providing funding for major improvements to the plant which will simplify treatment processes as well as reduce operational costs.

The Project was awarded to Devere Construction Company, Inc. of Alpena Michigan in the amount of \$15,519,000, which included alternates 6-9.

These alternates included demolition of the existing headworks, existing DAF tank and equipment, demolition of existing clarifiers 3 and 4, and demolition of the existing pure oxygen digesters. The existing contingency for this project is \$657,140, which requires Council authorization prior to utilizing.

A report prepared by McGill Associates outlines current changes or proposed modifications to the contract to date. As of 9 September 2013, we were in day 164 of the 561 calendar days to substantial completion of the contract. The largest amount of the proposed change order is adding alternate #5 to the original contract price. The cost of alternate #5 in the original bid was \$33,000 and the contractor has agreed to honor the same price at this time. HWRF Director Tom Spain is requesting these changes for the following reasons.

It is being recommended that the Weir Wolf Brush System be added back to the project to clean the final clarifiers. It is much safer for the staff than cleaning them with a fire hose. The cost of washing the clarifiers with a fire hose is \$30,848 per year. The initial installation of the Weir Wolf with one year of operation is \$33,000. The annual cost of the fire hose washing will remain at \$30,848 per year. The second and successive operating years for the Weir Wolf would be \$1,000. The 10 year cost of washing with fire hoses would be \$308,848 versus \$42,000 for the 10 year operating cost of the Weir Wolf, resulting in a savings over 10 years of \$266,848.

In addition to the cost for alternate #5, other costs as outlined in the letter are for unsuitable soils, telescoping valve adjustments and door closures, bringing the total amount of the current change to \$55,709.

The short video that will be shown will give Council a clear demonstration of what the device will do.

Enclosures:

- 1. Resolution 13-09-A
- 2. Ordinance 13-08-A

RESOLUTION 13-09-A

AUTHORIZING EXECUTION OF CHANGE ORDER #1 TO DEVERE CONSTRUCTION COMPANY FOR IMPROVEMENTS TO THE HENDERSON WATER RECLAMATION FACILITY PROJECT

- **WHEREAS**, the Henderson City Council (Council) conducted its Annual Planning Retreat in January 2013, and during said Retreat identified eight Key Strategic Objectives (KSO) and Goals; *and*
- **WHEREAS**, this Resolution addresses one of the Key Strategic Objectives as follows: **KSO 5:** Provide Reliable, Dependable Infrastructure To provide reliable, dependable and environmentally compliant infrastructure systems; *and*
- **WHEREAS**, the City Council has accepted loan funding for this purpose from the NC Department of Environment and Natural Resources, Infrastructure Finance Section; *and*
- **WHEREAS**, several alternates were not awarded with the original contract and staff is recommending several additions to the original project; *and*
- **WHEREAS**, there is \$657,140 remaining in the contingency fund, which could be used for these costs pending City Council approval; *and*
- WHEREAS, the City's Consulting Engineer and City staff recommend approval of Change Order #1, as outlined in the letter provided by McGill Associates, to Devere Construction Company, Inc., subject to approval of the Infrastructure Finance Section.
- NOW, THERFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY APPROVE the execution of Change Order #1 of the Henderson Water Reclamation Facility Improvement Project to Devere Construction Company, Inc. in the amount of \$55,709; said change order being more fully articulated in Attachment A to this Resolution; and
- **BE IT FURTHER RESOLVED** that the Mayor is authorized to sign all agreements and documents necessary to effect said Agreement.

The foregoing Resolution 13-09-	A, upon motion	of Counc	il Member ** and	d second by Council
Member **, and having been sub	omitted to a roll	call vote	received the follo	owing votes and was
**** on this the *** day of ****	* 2010: YES:	. NO: .	ABSTAIN: .	ABSENT: .

James I	O'C	leary. N	Mayor	

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

Reference: Minute Book 41, pp. **.



September 6, 2013

Mr. Tom Spain Water Reclamation Director City of Henderson Post Office Box 1434 Henderson, North Carolina 27536

RE: Additional Work

Henderson WRF Improvements City of Henderson, North Carolina

Dear Mr. Spain:

Construction at an existing facility often results in changes due to unexpected circumstances and site conditions. As you know, several items have been identified that require attention or are desired by City Staff. Those items include the adverse weather delays, telescoping valve adjustments, replacement of unsuitable soils below buildings and structures, additional door closures, and clarifier equipment.

As you are aware, the last several months have seen an above average amount of rainfall. As such McGill Associates has received adverse weather claims for rainfall amounts that exceed the amounts listed in the Contract. McGill has reviewed the claims for the months of June and July and can recommend two (2) additional days and five (5) additional days for the respective months.

The second item involves the adjustment of the operational distance for the telescoping valves at the RAS pump station. This revisions provides greater operation flexibility for the RAS pump station by allowing for effective operation during a greater range of flows. The total cost for this change is an increase of the Contract Price by \$4,730.40 and an increase of Contract Times by two (2) days.

The third item encountered were several locations of unexpected unsuitable soils. While the project is bid as unclassified excavation, meaning the Contractor is not paid extra to remove and dispose of the unsuitable soils, the Contractor does have a right to claim for the work to replace the unsuitable soils with select, suitable material. The unsuitable soils were found, to date, in portions of the oxidation ditch, the new administration building, and the solids handling building. The Contractor, at the direction of the Construction Materials Testing firm, replaced the unsuitable soils with stone. The costs for oxidation ditch unsuitable soils are \$2,578.25 and one day. For the administration building the cost impacts are \$856.29 and one day and the impacts for the solids handling building are \$11,543.17 and three days.

The fourth item is, upon request from City Staff, was to explore the possibility of installing additional automatic door closures in other locations within the plant. Door closures were included in areas where required by code, however City staff was interested in adding these additional closures for security reasons among others. The proposal received by the Contractor estimates the impacts for

Engineering • Planning • Finance McGill Associates, P.A. • P.O. Box 1136, Hickory, NC 28603 • 1240 19th St. Lane NW, Hickory, NC 28601 Office: 828-328-2024 • Fax: 828-328-3870 Mr. Tom Spain September 6, 2013 Page 2

adding nine (9) automatic door closures at approximately \$3,000.00 in additional costs and one day added to the Contract Times.

The last item is the addition of the Clarifier Weir & Trough Cleaning System, originally included in the project bid under Alternate Item No. 5. The Contractor has held the price from the bid at \$33,000.00 to supply and install the cleaning system as outlined in the project specifications. City Staff has expressed interest in awarding this alternate bid item at this time.

The total impacts of the changes outlined above is an increase of the Contract Price of \$55,708.11 and increase to the Contract Times of fifteen (15) days. The adverse weather days, unsuitable soils, and telescoping valves are items that we recommend that the City approve and credit towards the project contingencies at this time. The remaining items, the automatic door closure and the clarifier cleaning system, can be incorporated into the Contract upon approval by the City.

If you have any questions regarding these items, or require any additional information, please do not hesitate to contact us.

Sincerely,

McGILL ASSOCIATES, P.A.

WESLEY D. WIGHTMAN, PE Construction Services Manager

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Enclosures

cc: Mr. Frank Frazier, City of Henderson

Mr. Doug Chapman, PE, McGill Associates

P:/2012 PROJECTS\\\\12.01100 CITY OF HENDERSON - WRF Improvements\\\04_Construction Phase\\\ChangeOrders\\\TS COI Recommendation 2013-09-06.docx

ORDINANCE 13-08-A

FY 2013—2014 Budget Amendment # 13 AN AMENDMENT TO THE CIP SEWER FUND For Additional Change-orders to the Water Reclamation Facility Renovation Project

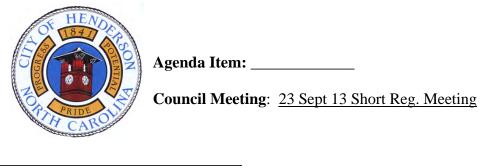
- **WHEREAS**, the City Council of the City of Henderson on 27 June 2013 adopted the FY13-14 Annual Operating Budget; *and*
- **WHEREAS**, the Council has created and uses a Capital Improvements Fund for active capital projects related to the Sewer Fund, said fund referred to as 44: CIP Sewer Fund; *and*
- **WHEREAS**, it is necessary to amend the various revenue and expense accounts of the annual operating and capital improvements budgets from time-to-time;
- **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:

State Revolving Loan			Ordinance 13-08-A						
PROJECT: Visite Reclamation Facility Renovation				•					
### Project Budger Created on 14 Apr 11 ### Project Budger Created On 14 Apr									
							ojeci		
Transfer From Cipp Reserve Nations Fund 44-4847-3650-71 \$ 70.00 \$ 779.10 \$ 5.779.15 Sizione Recording Loan 44-8847-3660-01 \$ - \$ 1.505.00 \$ - \$ 1.	· · · · · · · · · · · · · · · · · · ·						Amendment		Revised
Transfer From Cap Reserve Likities Fund		44-444-4610-71	_		\$		\$ -	\$	
State RFL Grant		44-847-3690-71		-		779,110			779,11
Supplication 44-847-4891-61 \$ \$ \$ \$ \$ \$ \$ \$ \$	State Revolving Loan	44-847-3660-01	\$	-	\$	15,615,000	\$ -	\$	15,615,00
A4-847-4580-21 \$ \$ \$ \$ \$ \$ \$ \$ \$	State RFL Grant	44-847-3660-02	\$	-	\$	1,000,000	\$ -	\$	1,000,00
Association	State CWMTF Grant	44-847-4581-61	\$	-	\$	600,000	\$ -	\$	600,00
Total \$ 70,000 \$ 18,997,470 \$. \$ 18,597,47	SRF Loan - Additional	44-847-4582-21	\$	-	99	500,000	\$ -	\$	500,00
Approved Current Revised Phase 1 Adem, Permiting and Legal Fees Adem, Permiting Administration Adem, Permiting Adminis	Transfer from Rate Stabilization Fund	44-847-4610-79	\$	-	\$	103,360	\$ -	\$	103,36
Approved Current Revised Approved Approved Approved Current Revised Approved		Total	\$	70,000	\$	18,597,470	\$ -		18,597,47
March Surper Su								\$	18,597,47
Phase 1 Advanta, Parmitria grand Logoil Fees									
Admin, Permitting and Legal Pees 44-847-46100-01 \$. \$. \$. \$. \$. \$. \$. \$. \$. \$			11	-Apr-11		Budget	Amendment		Revised
LegalAdministrator		44.047.4040.04	T &		•		•	•	
Engineering Relationary Engineering Report									2.50
Phase 2 Engineering Design 44-847-2230-03 \$ \$ \$ 775,125 \$ \$ \$ 775,125 Engineering Remitting Administration 44-847-2230-06 \$ \$ \$ 32,105 \$ \$ \$ 32,105 Engineering Remitting Administration 44-847-2230-06 \$ \$ \$ \$ 30,330 \$ \$ \$ 30,335 Engineering Geolechnical 44-847-2230-06 \$ \$ \$ \$ 30,330 \$ \$ \$ 30,335 Engineering Geolechnical 44-847-2230-06 \$ \$ \$ \$ \$ 115,810 \$ \$ \$ 115,810 Engineering Geolechnical 44-847-2230-06 \$ \$ \$ \$ \$ \$ 5,30,330 \$ \$ \$ \$ 30,335 Engineering Geolechnical 44-847-2230-06 \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	·								
Engineering Design		44-047-3103-01	Φ	00,000	Ф	66,000	5 -	Ф	66,00
Engineering Revirement (Authoritement) Figure (Proposering Revirement) Figure (Proposering Revire		44-847-2230-03	¢	_	\$	775 125	¢ -	•	775 13
Engineering Gelochenical 44-947-2230-05 \$. \$. \$. 39.380 \$. \$. \$. 39.38 Figureering Gelochenical 44-947-2230-06 \$. \$. \$. 115.810 \$. \$. \$. 115.81 Admin, Permitting and Legal Fees-design phase 44-947-2430-06 \$. \$. \$. 15.810 \$. \$. \$. \$. \$. \$. \$. \$. \$. \$			_				Ť		- ,
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Phase 3 Construction Admin & Respection 44-847-2230-10 \$ \$ \$ \$ \$ \$ \$ \$ \$						113,010			113,0
Ad-Haff-230-10 S		44-047-4010-02	Ψ	-	ψ	-	Ψ -	φ	
Capital Outlay Reserve-not yet aw arded		44 947 2220 10	•		Φ	500,000	¢	¢	500.00
Maintenance									300,00
A4-847-5104-00 \$ \$ \$ \$ \$ \$ \$ \$ \$	· · · · · · · · · · · · · · · · · · ·								27.00
Contingencies & Other	•		_						
A4-847-6700-01 \$ \$ \$ \$ \$ \$ \$ \$ \$		44 047 0104 00	Ψ		Ψ	10,010,000	Ψ 00,700	Ψ	10,074,70
A4-847-5610-70 \$. \$ 379,110 \$. \$ 379,1		44-847-6700-01	\$	-	\$	367.300	\$ -	\$	367.30
Contingency 44-847-9990-10 \$ \$ \$ 657,140 \$ (55,709) \$ 601,42 Figineering Contingency 44-847-9990-20 \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$			_	-	_			_	379,11
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Member ***,	Ordinance 13-08-A, upon motion of Council Member *** and second by Council and having been submitted to a roll call vote and received the following votes and his the 23 rd day of September 2013: YES: . NO: . ABSTAIN: . ABSENT: .
	James D. O'Geary, Mayor
ATTEST:	
Esther McCrac	ekin, City Clerk
Reference: Mi	inute Book 42, p.**; CAF 13-12-A
STATE OF N	ORTH CAROLINA - CITY OF HENDERSON
hereby certify Henderson, Ci	Crackin, the duly appointed, qualified City Clerk of the City of Henderson, do the attached is a true and exact copy of Ordinance 13-12-A adopted by the try Council in Regular Session on 2013. This Ordinance is adinance Book 8, p.***.
Witness my ha	and and corporate seal of the City, this ****.
Esther McCrac City Clerk City of Hender	ekin eson, North Carolina
Reviewed by:	Date: Katherine C. Brafford, Finance Director
Reviewed by:	Date: A. Ray Griffin, Jr., City Manager

City Council Action Form

Office of City Manager P. O. Box 1434 Henderson, NC 27536 252-430-5701



16 September 2013

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

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

RE: CAF 13-90

Consideration of Approval of Tax Releases and Refunds from Vance County for the Month of August 2013.

Ladies and Gentlemen:

Recommendation:

• Approval of tax releases and refunds from Vance County for the month of August 2013.

Executive Summary

The Vance County Tax office submitted the following tax releases and refunds to the Finance Department for the month of August 2013. These releases and refunds are found to be in order and are being recommended for approval.

August 2013 Tax Releases					
Name	Reason	Tax Year	Amount		
Real & Personal Property					
Releases					
Ayscue, Christopher	Correct Exemption	2013	-155.00		
Equity Resource Partnership	Correct Ownership	2013	-2,522.01		
Joromi Properties LLC	Correct Ownership	2013	2,522.01		
Lake North LLC	Correct Ownership	2013	345.46		
Quest Rental & Dev	Correct Ownership	2013	-345.46		
Wright, Maggie Cooper	Correct Exemption	2013	-160.02		
Total R&P Property Releases			-315.02		
Real & Personal Property					
Refunds					
None			0.00		
Total R& P Property Refunds			0.00		
Total R&P Prop. Rel. & Ref.			-315.02		

Tax Releases & Refunds August 2013- Continued

Vehicle Releases			
Almuntasser, Abdullah	Pro-Rate	2012	21.71
Ashe, Johnny Wilson	Pro-Rate	2012	56.99
Bragg, Brandi Nicole	Pro-Rate	2012	21.10
Branch, Michelle Lyons	Correct Value	2012	1.58
Durham, Valicia Crute	Pro-Rate	2012	3.08
Eaton, Carolyn Phelind	Pro-Rate	2012	35.38
Lane, Julie Williams	Pro-Rate	2012	0.36
Riggan, Khristy Lureesa Boyd	Pro-Rate	2012	33.68
Sutton, Thomas Jerome	Pro-Rate	2012	26.76
Williams, Mary Elizabeth	Pro-Rate	2012	1.86
Wortham, Christina Crystal	Pro-Rate	2012	15.17
Cook, Dale Creed	Transfer Out	2013	2.78
Cooper, Edith Kittrell	Pro-Rate	2013	24.98
Eaton, Beatrice Delores	Correct Situs	2013	103.31
Harris, Melvin Thomas	Pro-Rate	2013	10.03
Jones, Jesse Lee	Pro-Rate	2013	7.99
Kerr Area Transportation	Charitable All O	2013	14.72
Ligon, Paul Edward Jr.	Correct Situs	2013	1.90
Lockley, Christie Lee	Pro-Rate	2013	16.46
Medlin, Bety Woolard	Pro-Rate	2013	4.60
Pendergrass, Charles A	Pro-Rate	2013	5.27
Popoca, Celia	Pro-Rate	2013	15.88
Royster, Milton Early	Correct Value	2013	19.29
Smithwick, Ruth Marie	Pro-Rate	2013	149.84
Spencer, Margaret Linsey	Pro-Rate	2013	27.70
Steed, Janice Parham	Pro-Rate	2013	40.10
Strause, Henry Mcdaniel	Pro-Rate	2013	28.96
Taylor, Joseph	Pro-Rate	2013	1.61
Terry, Bessie Veronica	Correct Situs	2013	-51.36
Walker, Tami Joy	Pro-Rate	2013	43.26
Wortham, Christina Crystal	Reg. Veh Billed In Error	2013	31.62
Wright, Eddie Leroy	Reg. Veh Billed In Error	2013	157.89
Total Vehicle Releases			874.50

Tax Releases & Refunds August 2013- Continued

Vehicle Refunds			
Archie, Nathaniel	Pro-Rate	2012	3.90
Brummit, Samuel Wilbur	Pro-Rate	2012	27.21
Covington, Elsie Hight	Pro-Rate	2012	171.74
Daye, Marjoire Anna	Pro-Rate	2012	13.08
Hargrove, Kennith Lee	Pro-Rate	2012	1.27
Hargrove, Mauricus Antwuan	Pro-Rate	2012	7.56
Harris, Marquis Quanzell	Pro-Rate	2012	2.67
Harris, Melvin Thomas	Pro-Rate	2012	8.43
Henderson, Rufus	Pro-Rate	2012	97.26
Holmes, Madison Jr.	Pro-Rate	2012	6.38
Eggleston, Thomas Allen	Pro-Rate	2013	13.02
Martinez, Jose Andres	Pro-Rate	2013	14.32
White, Carl Tudor	Pro-Rate	2013	70.03
Total Vehicle Refunds			436.87
Tot. Veh. Rel. & Ref.			
Total All Releases & Refunds			1,311.37

City Council Memo

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



Agenda Item: _____

Council Meeting: 23 Sept 13 Short Reg. Meeting

12 September 2013

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

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

RE: CM 13-21: Declaration of Surplus Property.

Ladies and Gentlemen:

Pursuant to Resolution 9-10, property identified in the attached memo dated 12 September 2013 from Fiscal Compliance Officer Edna Vaught is declared surplus and will be auctioned on GovDeals. No action is required of Council; however, it is felt appropriate to advise Council of said declaration and to offer an opportunity for questions and/or objections to the proposed sale.

Memo

To: Ray Griffin, Henderson City Manager

From: Edna Vaught, Fiscal Compliance Officer

CC: Frank Frazier, Henderson Assistant City Manager

Kathy Brafford, Finance Director

Date: 9/12/2013 (REVISED)

Re: Equipment to be Declared Surplus

Mr. Griffin,

Within this memo is a listing of equipment that is no longer in use in the various departments. In accordance with the policy as approved by the City Council, I am asking that the listed items be reviewed and sign off on as surplus. Listed items will then be advertised on the GovDeals website in order to liquidate said items. All proceeds are to be collected and appropriately placed as revenue by the Finance Director.

Thank you for your time and assistance.

Respectfully,

edma Vought

Police Department

2005 Ford Crown Vic (VIN 2FAHP71W85X125837-General Fund)

2005 Ford Crown Vic

(VIN 2FAHP71WX5X125838-General Fund)

2003 Ford Crown Victoria

(VIN 2FAHP71W93X209517-General Fund)

2007 Dodge Charger

(VIN 2B3KA43H37H709124-General Fund)

(DECALS NEED TO REMOVED BEFORE GOING ON GOV DEAL BUT HAS BEEN TURNED IN FOR SURPLUS)

Fire Department

1994 Chevrolet Suburban 1 (VIN 1GNEC16KORJ353154-General Fund)

Kerr Lake Regional Water

Lockers

(No asset number may get more for scrap because they are old)

Code Compliance

2001 Chevy Impala 1 (VIN 2G1WF55K519304554-General Fund)

Public Services

Misc. Scrap 1 2000 JCB 1 (VIN 900046396126 Street Department)

In accordance with the policy as approved by the City Council, I do hereby declare the above property surplus and available to be liquidated.

Ray Griffin, Henderson City Manager

Meetings and Events Calendar

Date	Time	Event	Location
Sept 27	10:00 AM	Henderson-Vance E911 Advisory Board Meeting	E911 Operations Center
Oct 1	3:30 PM	Henderson Zoning Board of Adjustment	City Council Chambers
Oct 7	3:30 PM	Henderson Planning Board	City Council Chambers
Oct 8	3:00 PM	Henderson Community Appearance Commission	City Council Chambers
Oct 10	12:00 PM	Henderson-Vance Park & Recreations Commission	Aycock Recreation Center
Oct 14	9:30 AM	KLRW Advisory Board Meeting	City Hall Large Conference Room
Oct 14	Cancelled	City Council Regular Meeting Cancelled	Cancelled due to NCLM Conference
Oct 17	7:00 PM	Human Relations Commission	City Council Chambers
Oct 28	6:00 PM	City Council Meeting Work Session to Follow	City Council Chambers
Nov 4	3:30 PM	Henderson Planning Board	City Council Chambers
Nov 5	3:30 PM	Henderson Zoning Board of Adjustment	City Council Chambers
Nov 11	Veterans Day	City Council Meeting Cancelled due to Veterans Day	CITY HALL CLOSED Happy Veterans Day
Nov 12	3:00 PM	Henderson Community Appearance Commission	City Council Chambers
Nov 14	12:00 PM	Henderson-Vance Park & Recreations Commission	Aycock Recreation Center
Nov 18	5:00 PM	Library Board of Trustees	Perry Memorial Library
Nov 21	7:00 PM	Human Relations Commission	City Council Chambers
Nov 25	6:00 PM	City Council Meeting Work Session to Follow	City Council Chambers
Nov 28	Thanksgiving Day	HAPPY Thenlagivins THANKSGIVING HOLIDAY	CITY HALL CLOSED
Nov 29	Thanksgiving Holiday	THANKSGIVING HOLIDAY	CITY HALL CLOSED
Dec 2	3:30 PM	Henderson Planning Board	City Council Chambers
Dec 3	3:30 PM	Henderson Zoning Board of Adjustment	City Council Chambers
Dec 9	9:30 AM	KLRW Advisory Board Meeting	City Hall Large Conference Room
Dec 9	6:00 PM	City Council Regular Meeting	City Council Chambers



AGENDA

Henderson City Council Work Session Monday, 23 September 2013 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 Vernon L. Brown 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 13-54, Amending Section 10-49 of the City Code Relating to Concealed Weapons on City Properties. (CAF 13-97) [See Notebook Tab 9]
 - Ordinance 13-54
 - b) Update on Various Projects. (CM 13-22)[See Notebook Tab 10]
 - c) Balance of Checks Returned Due to Insufficient Funds (CM 13-24) [See Notebook Tab 11]
 - d) Talent Enhancement Capacity Grant Update. (CM 13-23) [See Notebook Tab 12]
 - e) Potential Grant Funding Through the CDBG Program for Infrastructure Improvements. (CM 13-25) [See Notebook Tab 13]

V. ADJOURNMENT

City Council Action Form

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



Agenda Item:	

Council Meeting: 23 Sept 13 Work Session

18 September, 2013

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

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

RE: CAF: 13-97

Consideration of Approval of Ordinance 13-54, Amending Section 10-49 of the City

Code Relating to Concealed Weapons on City Properties

Ladies and Gentlemen:

Recommendation:

• Approval of Ordinance 13-54, Amending Section 10-49 of the City Code Relating to Concealed Weapons on City Properties.

Executive Summary

Recently the General Assembly approved House Bill 937 and now the bill has been signed into law by Governor McCrory. This bill amends various laws regarding the right to own, possess, or carry firearms. Included in this bill is GS:\\$14-415.23 which addresses statewide uniformity of the concealed carry handgun permit and this section specifically relates to regulation allowed by local units of government in this matter. House Bill 937 will become effective on October 1, 2013.

The City's current ordinance, Section 29-14, Rules and Regulations for Municipal Operated Parks, Rule #8 currently states that: No Weapons shall be permitted on the premises. From previous action as a result of House Bill 650 being passed a couple of years ago, the City Council adopted an ordinance restricting the concealed carry by permit holders, on a blanket application to all city parks. House Bill 937 does not allow such a blanket application to local parks.

In section 14-415.23 there is now revised language that allows units of local government to enact ordinances that would restrict those individuals who have qualified and received a Concealed Handgun Permit from carrying a concealed firearm at specific recreation facilities including only: An athletic field including any appurtenant facilities such as restrooms during an

organized athletic event if the field has been scheduled for use with the municipality or county office responsible for operation of the park or recreational area, a swimming pool, and a facility for athletic events including but not limited to a gymnasium. The key revisions are the limited scope of restrictions allowed by units of local governments, and the distinction that the athletic facility must be scheduled for use by the office responsible for restriction to be allowed.

Enclosures:

- 1. Ordinance 13-54
- 2. House Bill 937
- 3. Memo from Recreation/Parks Director Alan Gill to City Manager Griffin dated 8-14-13

ORDINANCE 13-54

AN ORDINANCE AMENDING SECTION 10-49 OF THE CITY CODE RELATING TO CONCEALED WEAPONS ON CITY PROPERTIES

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

Section 1. That Section 10-49 of the City Code is amended to read as follows:

"Sec. 10-49. Concealed Weapons on City Properties.

It shall be unlawful for any person to bring, carry or have any concealed weapons on posted City building and their appurtenant premises, unless the same is permitted by applicable State Law, including G.S. 14-415.23; provided, however, this prohibition shall not apply to duly certified and authorized law enforcement officers and other person duly exempted by State Law. See Section 29-14(8) relative to concealed handguns on certain recreational facilities."

Section 2. That Section 29-14(8) of the City Code is hereby amended to read as follows:

"(8) No concealed weapons shall be permitted on the premises of any posted athletic field (including any appurtenant facilities such as restrooms) specifically including the ball field area at Fox Pond Park, the North Henderson Park and the South Henderson Park, but only during those times that the Recreation Department has scheduled activities; any posted swimming pool (including any appurtenant facilities used for dressing, storage of personal items, or other uses related to the swimming pool) or a facility used for athletic events (including, but not limited to, a gymnasium) including the swimming pool and gymnasium in the Aycock Recreational Facility. Provided however, that a concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove compartment or other enclosed compartment or area within or on the motor vehicle when in such restricted areas. Provided further, that this prohibition shall not apply to duly authorized certified law enforcement officers and other persons duly exempted by State Law."

<u>Section 3.</u> The foregoing Ordinance shall be in full force and effect from and after October 1, 2013.

The foregoing Ordinance 13-54, upon motion of	Council m	nember _		and
seconded by Council Member				
vote and received the following votes and was AF				
day of, 2013: YES: . NO:	. ABST	AIN: .	ABSENT: .	
	James D.	O'Geary.	Mayor	
ATTEST:		,		
Esther J. McCrackin, City Clerk				
Approved to Legal Form:				
John H. Zollicoffer, Jr., City Attorney				
Joini II. Zoincoitei, Ji., City Attorney				
Reference: Minute Book 4**, p. **.				
STATE OF NORTH CAROLINA				
CITY OF HENDERSON				
I, Esther J. McCrackin, the duly appointed, qualif	ried City C	lerk of th	ne City of Hender	son, do
hereby certify the foregoing Ordinance is a true	•		-	
Ordinance Relating To Concealed Weapons On Circumstance Relating To				
Council in Regular Session on ** ** 20** (See recorded in Ordinance Book # 8, pp. **.	Minute Bo	ok 4*, p.	**.). This Ordin	nance is
recorded in Oramance Book # 6, pp.				
Witness my hand and corporate seal of the City, thi	s ** day of	*** 20*	*.	
Esther J. McCrackin				
City Clerk				
City of Henderson, North Carolina				

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013

SESSION LAW 2013-369 HOUSE BILL 937

AN ACT TO AMEND STATE FIREARMS LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-269 is amended by adding a new subsection to read:

"(a2) This prohibition does not apply to a person who has a concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25, provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by State government. A person may unlock the vehicle to enter or exit the vehicle, provided the handgun remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

SECTION 2. G.S. 14-269.2 is amended by adding the following new subsections to read:

- "(i) The provisions of this section shall not apply to an employee of an institution of higher education as defined in G.S. 116-143.1 or a nonpublic post-secondary educational institution who resides on the campus of the institution at which the person is employed when all of the following criteria are met:
 - (1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.
 - (2) The institution is either:
 - a. An institution of higher education as defined by G.S. 116-143.1.
 - <u>A nonpublic post-secondary educational institution that has not specifically prohibited the possession of a handgun pursuant to this subsection.</u>
 - (3) The weapon is a handgun.
 - (4) The handgun is possessed in one of the following manners as appropriate:
 - If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the institution at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.



- b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.
- (j) The provisions of this section shall not apply to an employee of a public or nonpublic school who resides on the campus of the school at which the person is employed when all of the following criteria are met:
 - (1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.
 - (2) The school is either:
 - <u>A public school which provides residential housing for enrolled students.</u>
 - A nonpublic school which provides residential housing for enrolled students and has not specifically prohibited the possession of a handgun pursuant to this subsection.
 - (3) The weapon is a handgun.
 - (4) The handgun is possessed in one of the following manners as appropriate:
 - a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the school at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.
 - b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

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(k) The provisions of this section shall not apply to a person who has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, who has a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

SECTION 3. G.S. 14-269.3(b) reads as rewritten:

- "(b) This section shall not apply to any of the following:
 - (1) A person exempted from the provisions of G.S. 14-269; G.S. 14-269.
 - (2) The owner or lessee of the premises or business establishment; establishment.
 - (3) A person participating in the event, if he the person is carrying a gun, rifle, or pistol with the permission of the owner, lessee, or person or organization sponsoring the event; and event.
 - (4) A person registered or hired as a security guard by the owner, lessee, or person or organization sponsoring the event.
 - (5) A person carrying a handgun if the person has a valid concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subdivision shall not be construed to permit a person to carry a handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

SECTION 4. G.S. 14-316 reads as rewritten:

"§ 14-316. Permitting young children to use dangerous firearms.

- (a) It shall be unlawful for any parent, guardian, or person standing in loce parentis; person to knowingly permit his a child under the age of 12 years to have the access to, or possession, custody or use in any manner whatever, of any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, except when such unless the person has the permission of the child's parent or guardian, and the child is under the supervision of the parent, guardian or person standing in loce parentis. It shall be unlawful for any other person to knowingly furnish such child any weapon enumerated herein an adult. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.
- (b) Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of subsection (a) of this section except in the following counties: Anson, Caldwell, Caswell, Chowan, Cleveland, Cumberland, Durham, Forsyth, Gaston, Harnett, Haywood, Mecklenburg, Stanly, Stokes, Surry, Union, Vance."

SECTION 5. G.S. 15A-1340.16A reads as rewritten:

- "§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony and the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony.
 - (a), (b) Repealed by Session Laws 2003-378, s. 2, effective August 1, 2003.
- (c) If a person is convicted of a Class A, B1, B2, C, D, or E-felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased—by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1), as follows:

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- (1) If the felony is a Class A, B1, B2, C, D, or E felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 72 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 72 months, as specified in G.S. 15A-1340.17(e) and (e1).
- (2) If the felony is a Class F or G felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 36 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 36 months, as specified in G.S. 15A-1340.17(d).
- (3) If the felony is a Class H or I felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 12 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 12 months, as specified in G.S. 15A-1340.17(d).
- (d) An indictment or information for the Class A, B1, B2, C, D, or E felony shall allege in that indictment or information the facts set out in subsection (c) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and the defendant actually possessed the firearm or deadly weapon about the defendant's person. One pleading is sufficient for all Class A, B1, B2, C, D, or E felonies that are tried at a single trial.
- (e) The State shall prove the issues set out in subsection (c) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (c) of this section, then a jury shall be impaneled to determine the issues.
- (f) Subsection (c) of this section does not apply if the evidence of the use, display, or threatened use or display of the firearm or deadly weapon is needed to prove an element of the felony or if the person is not sentenced to an active term of imprisonment."

SECTION 6. G.S. 14-415.23 reads as rewritten:

"§ 14-415.23. Statewide uniformity.

- (a) It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings and their appurtenant premises.
- (b) A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.
- (c) For purposes of this section, the term "recreational facilities" includes only the following: a playground, an athletic field, a swimming pool, and an athletic facility:
 - (1) An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.

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- (2) A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.
- (3) A facility used for athletic events, including, but not limited to, a gymnasium.
- (d) For the purposes of this section, the term "recreational facilities" does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for such use, open areas or fields where athletic events may occur unless the area qualifies as an "athletic field" pursuant to subdivision (1) of subsection (c) of this section, and any other area that is not specifically described in subsection (c) of this section."

SECTION 7. G.S. 122C-54(d1) reads as rewritten:

- After a judicial determination that an individual shall be involuntarily committed for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter, the clerk of superior court in the county where the judicial determination was made shall, as soon as practicable, cause a report of the commitment to be transmitted to the National Instant Criminal Background Check System (NICS). Reporting of an individual involuntarily committed to outpatient mental health treatment under this subsection shall only be reported if the individual is found to be a danger to self or others. The clerk shall also cause to be transmitted to NICS a record where an individual is found not guilty by reason of insanity or found mentally incompetent to proceed to criminal trial. The clerk, upon receipt of documentation that an affected individual has received a relief from disabilities pursuant to G.S. 122C-54.1 or any applicable federal law, shall cause the individual's record in NICS to be updated. Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the following judicial determinations or findings, the clerk of superior court in the county where the determination or finding was made shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS):
 - (1) A determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and a danger to self or others.
 - (2) A determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in a danger to self or others.
 - (3) A determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and a danger to self or others.
 - (4) A finding that an individual is not guilty by reason of insanity.
 - (5) A finding that an individual is mentally incompetent to proceed to criminal trial.
 - (6) A finding that an individual lacks the capacity to manage the individual's own affairs due to marked subnormal intelligence or mental illness, incompetency, condition, or disease.
 - (7) A determination to grant a petition to an individual for the removal of disabilities pursuant to G.S. 122C-54.1 or any applicable federal law.

The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under this subsection begins upon receipt by the clerk of a copy of the judicial determination or finding."

SECTION 8. The last two sentences of G.S. 122C-54(d1) are recodified as G.S. 122C-54(d2) and read as rewritten:

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"(d2) The record of involuntary commitment for inpatient or outpatient mental health treatment or for substance abuse treatment required by subsection (d1) of this section shall be accessible only by an entity having proper access to NICS and shall remain otherwise confidential as provided by this Article. The elerk shall effect the transmissions to NICS required by the subsection according to protocols which shall be established by the Administrative Office of the Courts. The Administrative Office of the Courts shall adopt rules to require clerks of court to transmit information to the NICS as required by subsection (d1) of this section in a uniform manner."

SECTION 9. G.S. 122C-54.1 reads as rewritten:

"§ 122C-54.1. Restoration process to remove mental commitment bar.

- (a) Any individual over the age of 18 may petition for the removal of the mental commitment bar to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's involuntary commitment for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter and no longer posses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14 404, and G.S. 14 415.12 disabilities pursuant to 18 U.S.C. § 922(d)(4) and (g)(4), G.S. 14-415.3, and G.S. 14-415.12 arising out of a determination or finding required to be transmitted to the National Instant Criminal Background Check System by subdivisions (1) through (6) of subsection (d1) of G.S. 122C-54. The individual may file the petition with a district court judge upon the expiration of any current inpatient or outpatient commitment. No individual who has been found not guilty by reason of insanity may petition a court for restoration under this section.
- (b) The petition must be filed in the district court of the county where the respondent was the subject of the most recent judicial determination or findingthat either inpatient or outpatient treatment was appropriate or in the district court of the county of the petitioner's residence. An individual disqualified from firearms possession due to a comparable out of State mental commitment shall make application in the county of residence. The clerk of court upon receipt of the petition shall schedule a hearing using the regularly scheduled commitment court time and provide notice of the hearing to the petitioner and the district attorney attorney who represented the State in the underlying case, or that attorney's successor. Copies of the petition must be served on the director of the relevant inpatient and or outpatient treatment facility, in State or out of State, facility and the district attorney in the petitioner's current county of residence.
- The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner no longer suffers from the condition that resulted in commitment and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14 404, and G.S. 14 415.12 will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The district attorney shall present any and all relevant information to the contrary. For these purposes, the district attorney may access and use any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The applicant must sign a release for the district attorney to receive any mental health records of the applicant. This hearing shall be closed to the public, unless the court finds that the public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in camera inspection of any mental health records. The court may allow the use of the record but shall restrict it from public disclosure, unless it finds that the public interest would be better served by making the record public. The district court shall enter an order that the petitioner does or does not continue to suffer from the condition that resulted in commitment and does or does not continue to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12-is or is not

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likely to act in a manner dangerous to public safety and that the granting of the relief would or would not be contrary to the public interest. The court shall include in its order the specific findings of fact on which it bases its decision. In making its determination, the court shall consider the circumstances regarding the firearm disabilities from which relief is sought, the petitioner's mental health and criminal history records, the petitioner's reputation, developed at a minimum through character witness statements, testimony, or other character evidence, and any changes in the petitioner's condition or circumstances since the original determination or finding relevant to the relief sought. The decision of the district court may be appealed to the superior court for a hearing de novo. After a denial by the superior court, the applicant must wait a minimum of one year before reapplying. Attorneys designated by the Attorney General shall be available to represent the State, or assist in the representation of the State, in a restoration proceeding when requested to do so by a district attorney and approved by the Attorney General. An attorney so designated shall have all the powers of the district attorney under this section.

(d) Upon a judicial determination to grant a petition under this section, the clerk of superior court in the county where the petition was granted shall forward the order to the National Instant Criminal Background Check System (NICS) for updating of the respondent's record."

SECTION 10. G.S. 14-415.3 is amended by adding a new subsection to read:

"(c) The provisions of this section shall not apply to a person whose rights have been restored pursuant to G.S. 122C-54.1."

SECTION 11. G.S. 14-415.12(c) reads as rewritten:

"(c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1."

SECTION 12. G.S. 14-415.17 reads as rewritten:

"§ 14-415.17. Permit; sheriff to retain and make available to law enforcement agencies a list of permittees; confidentiality of list and permit application information; availability to law enforcement agencies.

- (a) The permit shall be in a certificate form, as prescribed by the Administrative Office of the Courts, that is approximately the size of a North Carolina drivers license. It shall bear the signature, name, address, date of birth, and the drivers license identification number used in applying for the permit.
- (b) The sheriff shall maintain a listing, including the identifying information, of those persons who are issued a permit. The permit information shall be available upon request to all State and local law enforcement agencies. Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to the State Bureau of Investigation. The State Bureau of Investigation shall make this information available to law enforcement officers and clerks of court on a statewide system.
- (c) Except as provided otherwise by this subsection, the list of permit holders and the information collected by the sheriff to process an application for a permit are confidential and are not a public record under G.S. 132-1. The sheriff shall make the list of permit holders and the permit information available upon request to all State and local law enforcement agencies. The State Bureau of Investigation shall make the list of permit holders and the information collected by the sheriff to process an application for a permit available to law enforcement officers and clerks of court on a statewide system."

SECTION 13. G.S. 14-406 reads as rewritten:

"§ 14-406. Dealer to keep record of-sales; confidentiality of records.

(a) Every dealer in pistols and other weapons mentioned in this Article shall keep an accurate record of all sales thereof, including the name, place of residence, date of sale, etc., of

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each person, firm, or corporation to whom or which such sales are made, which record shall be open to the inspection of any duly constituted State, county or police officer, within this State made. The records maintained by a dealer pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the dealer shall make the records available upon request to all State and local law enforcement agencies.

(b) Repealed by Session Laws 2011-56, s. 3, effective April 28, 2011."

SECTION 14. G.S. 14-269.4 reads as rewritten:

"§ 14-269.4. Weapons on certain State property and in courthouses.

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to any of the following:

(6) A person with a permit issued in accordance with Article 54B of this Chapter or Chapter, with a permit considered valid under G.S. 14-415.24G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25, who has a firearm in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

SECTION 15. G.S. 14-277.2 is amended by adding a new subsection to read:

"(d) The provisions of this section shall not apply to concealed carry of a handgun at a parade or funeral procession by a person with a valid permit issued in accordance with Article 54B of this Chapter, with a permit considered valid under G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subsection shall not be construed to permit a person to carry a concealed handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

SECTION 16. G.S. 14-415.21 reads as rewritten:

"§ 14-415.21. Violations of this Article punishable as an infraction.

- (a) A person who has been issued a valid permit who is found to be carrying a concealed handgun without the permit in the person's possession or who fails to disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine the person may surrender the permit.
- (a1) A person who has been issued a valid permit who is found to be carrying a concealed handgun in violation of subdivision (c)(8) or subsection (c2) of G.S. 14-415.11 shall be guilty of a Class 1 misdemeanor.
- (b) A person who violates the provisions of this Article other than as set forth in subsection (a) or (a1) of this section is guilty of a Class 2 misdemeanor."

SECTION 17.1. G.S. 14-403 reads as rewritten:

"§ 14-403. Permit issued by sheriff; form of permit; expiration of permit.

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corporation in any county a license or permit to purchase or receive any weapon mentioned in this Article from any person, firm, or corporation offering to sell or dispose of the weapon. The license or permit shall expire five years from the date of issuance. The license or permit shall be in the following form: North Carolina, County. , Sheriff of said County, do hereby certify that I have conducted a criminal background check of the applicant, __ whose place of residence is (or) in Township, County, North Carolina, and have received no information to indicate that it would be a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The applicant has further satisfied me as to his, her (or) their good moral character. Therefore, a license or permit is issued to to purchase one pistol from any person, firm or corporation authorized to dispose of the same. This license-or-permit expires five years from its date of issuance. This day of Sheriff." SECTION 17.2.(a) G.S. 14-404 reads as rewritten:

The sheriffs of any and all counties of this State shall issue to any person, firm, or

"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;

- Upon application, the sheriff shall issue the license or permit to a resident of that county, unless the purpose of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident, when the sheriff has done all of the following:
 - Verified, before the issuance of a permit, by a criminal history background investigation that it is not a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The sheriff shall determine the criminal and background history of any applicant by accessing computerized criminal history records as maintained by the State Bureau of Investigation and the Federal Bureau of Investigation, by conducting a national criminal history records check, by conducting a check through the National Instant Criminal Background Check System (NICS), and by conducting a criminal history check through the Administrative Office of the Courts.
 - Fully satisfied himself or herself by affidavits, oral evidence, or otherwise, (2) as to the good moral character of the applicant.
 - Fully satisfied himself or herself that the applicant desires the possession of the weapon mentioned for (i) the protection of the home, business, person, family or property, (ii) target shooting, (iii) collecting, or (iv) hunting.
- If the sheriff is not fully satisfied, the sheriff may, for good cause shown, decline to issue the license or permit and shall provide to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal. The statement shall cite the specific facts upon which the sheriff concluded that the applicant was not qualified for the issuance of a permit and list, by statute number, the applicable law upon which the denial is based. An appeal from the refusal shall lie by way of petition to the chief judge of the district court for the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal, and shall be final.
- (b1) The sheriff shall keep a list of all permit denials, with the specific reasons for the denials noted. The list shall not include any information that would identify the applicant whose application was denied. The list, as described in this subsection, shall be a public record,

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and the sheriff shall make the list available upon request to any member of the public. The list shall be organized by the quarters of the year, showing the number of denials and the reasons in each three-month period, and the list shall only be released for past, completed quarters.

- (c) A permit may not be issued to the following persons:
 - One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and (i) who is later pardoned, or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4, may obtain a permit, if the purchase or receipt of a pistol permitted in this Article does not violate a condition of the pardon or restoration of firearms rights.
 - (2) One who is a fugitive from justice.
 - (3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).
 - (4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.
 - (5) One who is an alien illegally or unlawfully in the United States.
 - (6) One who has been discharged from the Armed Forces of the United States under dishonorable conditions.
 - (7) One who, having been a citizen of the United States, has renounced his or her citizenship.
 - (8) One who is subject to a court order that:
 - Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;
 - b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.
- (c1) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the judicial findings, court orders, or other factual matters, relevant to any of the disqualifying conditions specified in subsection (c) of this section, the clerk of superior court shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS). The record shall include a reference to the relevant statutory provision of G.S. 14-404 that precludes the issuance of a permit. The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under this subsection begins upon receipt by the clerk of a copy of the judicial determination or finding.
- (d) Nothing in this Article shall apply to officers authorized by law to carry firearms if the officers identify themselves to the vendor or donor as being officers authorized by law to carry firearms and provide any of the following:
 - A letter signed by the officer's supervisor or superior officer stating that the officer is authorized by law to carry a firearm.
 - (2) A current photographic identification card issued by the officer's employer.

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- (3) A current photographic identification card issued by a State agency that identifies the individual as a law enforcement officer certified by the State of North Carolina.
- (4) A current identification card issued by the officer's employer and another form of current photographic identification.
- (e) The sheriff shall charge for the sheriff's services upon issuing the license or permit a fee of five dollars (\$5.00). There shall be no limit as to the number or frequency of permit applications and no other costs or fees other than provided in this subsection shall be charged for the permit, including, but not limited to, any costs for investigation, processing, or medical background checks by the sheriff or others providing records to the sheriff.
- (f) Each applicant for a license or permit shall be informed by the sheriff within 30-14 days of the date of the application whether the license or permit will be granted or denied and, if granted, the license or permit shall be immediately issued to the applicant.
- (g) An applicant shall not be ineligible to receive a permit under subdivision (c)(4) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1.
- (h) The sheriff shall revoke any permit upon the occurrence of any event or condition subsequent to the issuance of the permit, or the applicant's subsequent inability to meet a requirement under this Article, which would have resulted in a denial of the application submitted to obtain the permit if the event, condition, or the applicant's current inability to meet a statutory requirement had existed at the time of the application and prior to the issuance of the permit. The following procedures apply to a revocation:
 - (1) The sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.
 - (2) Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.
 - (3) The sheriff shall insure that the list of permits which have been revoked is immediately updated so that any potential transferor calling to check the validity of the permit will be informed of the revocation.
 - (4) A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides.
 - (5) Any person who willfully fails to surrender a permit upon notice of revocation shall be guilty of a Class 2 misdemeanor."

SECTION 17.2.(b) The Administrative Office of the Courts shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2013, on the progress towards implementation of the requirement in G.S. 14-404(c1), as enacted by subsection (a) of this section, and with any recommendation for legislation relating to that requirement.

SECTION 17.2.(c) G.S. 14-404(c1), as enacted by subsection (a) of this section, becomes effective July 1, 2014. The remainder of G.S. 14-404, as enacted by subsection (a) of this section, becomes effective October 1, 2013. The remainder of this section is effective when it becomes law

SECTION 17.3. In order to ensure the validity of existing and unexpired permits, no later than January 31, 2014, the sheriff shall determine whether any of these permits are

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subject to revocation pursuant to the standard set forth in G.S. 14-404(h). If a permit is subject to revocation, the sheriff shall immediately initiate the procedures set forth in G.S. 14-404(h)(1)-(3). No later than March 31, 2014, each sheriff shall submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety with the results of the review required by this section. The North Carolina Sheriffs' Association may compile the reports and submit a single report with the information from each county in lieu of each county submitting individual reports.

SECTION 17.4. G.S. 14-405 reads as rewritten:

"\\$ 14-405. Record of permits kept by sheriff; confidentiality of permit information.

- (a) The sheriff shall keep a book, to be provided by the board of commissioners of each county, in which he shall keep a record of all licenses or permits issued under this article, including the name, date, place of residence, age, former place of residence, etc., of each such person, firm, or corporation to whom or which a license or permit is issued. The record shall include the date that a permit was revoked, the date that the permittee received notice of the revocation, whether the permit was surrendered, and the reason for the revocation.
- (b) The records maintained by the sheriff pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the sheriff shall make the records available upon request to any federal, State, and local law enforcement agencies and shall also make the records available to the court if the records are required to be released pursuant to a court order. Any application to a court for release of the list of permit holders and permit application information shall be by a petition to the chief judge of the district court for the district in which the person seeking the information resides."

SECTION 18. G.S. 14-315(b1)(1) reads as rewritten:

- "(b1) Defense. It shall be a defense to a violation of this section if all of the following conditions are met:
 - (1) The person shows that the minor produced an apparently valid permit to receive the weapon, if such a permit would be required under G.S. 14-402 or G.S. 14-409.1-for transfer of the weapon to an adult."

SECTION 19. G.S. 20-187.2(a) reads as rewritten:

Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law-enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, upon securing a permit as required by G.S. 14 402 et seq. or 14 409.1 et seq., upon determining that the person receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law, or without such permit provided the weapon shall have if the weapon has been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law-enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law-enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law-enforcement officers, the head of the department."

SECTION 20. G.S. 14-415.18 reads as rewritten:

"§ 14-415.18. Revocation or suspension of permit.

(a) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides may revoke a permit subsequent to a hearing for any of the following reasons:

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- Fraud or intentional and material misrepresentation in the obtaining of a permit.
- (2) Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property. It shall not be considered misuse of a permit to provide a duplicate of the permit to a vender for record-keeping purposes.
- (3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff.
- (4) The violation of any of the terms of this Article.
- (5) The applicant is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the applicant from initially receiving a permit.

A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

(a1) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes."

SECTION 21. G.S. 14-269(b) is amended by adding the following new subdivisions to read:

- "(4d) Any person who is a North Carolina district court judge, North Carolina superior court judge, or a North Carolina magistrate and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on the person of the judge or magistrate;
- (4e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful

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controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds;"

SECTION 22. G.S. 14-415.27 reads as rewritten:

"§ 14-415.27. Expanded permit scope for district attorneys, assistant district attorneys, and investigators employed by office of the district attorney certain persons.

Notwithstanding G.S. 14-415.11(c), any person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and of the following persons who has a concealed handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal law-law:

- A district attorney.
- (2) An assistant district attorney.
- (3) An investigator employed by the office of a district attorney.
- (4) A North Carolina district or superior court judge.
- (5) A magistrate.
- (6) A person who is elected and serving as a clerk of court.
- (7) A person who is elected and serving as a register of deeds."

SECTION 23. G.S. 113-291.1(c) reads as rewritten:

- "(c) It is a Class 1 misdemeanor for any person taking wildlife to have in his the person's possession any:
 - (1) Firearm equipped with a silencer or any device designed to silence, muffle, or minimize the report of the firearm. The firearm is considered equipped with the silencer or device whether it is attached to the firearm or separate but reasonably accessible for attachment during the taking of the wildlife.
 - (2) Weapon of mass death and destruction as defined in G.S. 14 288.8. G.S. 14-288.8. other than a suppressor or other device designed to muffle or minimize the report of a firearm that is lawfully possessed by a person in compliance with 26 U.S.C. Chapter 53 §§ 5801-5871.

The Wildlife Resources Commission may prohibit individuals training dogs or taking particular species from carrying axes, saws, tree-climbing equipment, and other implements that may facilitate the unlawful taking of wildlife, except tree-climbing equipment may be carried and used by persons lawfully taking raccoons and opossums during open season."

SECTION 24. G.S. 14-415.10 reads as rewritten:

"§ 14-415.10. Definitions.

The following definitions apply to this Article:

- (4a) Qualified retired law enforcement officer. An individual who meets the definition of "qualified retired law enforcement officer" contained in section 926C of Title 18 of the United States Code all of the following qualifications:
 - a. Retired in good standing from service with a public agency located in the United States as a law enforcement officer, other than for reasons of mental instability.
 - Prior to retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the

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- incarceration of, any person for any violation of law, and had statutory powers of arrest.
- e. Prior to retirement, was regularly employed as a law enforcement officer for a total of 15 years or more, or retired after completing probationary periods of service due to a service connected disability, as determined by the agency.
- d. Has a vested right to benefits under the retirement plan of the agency.

SECTION 25. G.S. 14-269(b) reads as rewritten:

- "(b) This prohibition shall not apply to the following persons:
 - (4b) Any person who <u>is a qualified retired law enforcement officer as defined in G.S. 14-415.10 and meets all-any one</u> of the following conditions:
 - a. Is a qualified retired law enforcement officer as defined in G.S. 14 415.10.
 - b-a. Is the holder of a concealed handgun permit in accordance with Article 54B of this Chapter.
 - Is exempt from obtaining a permit pursuant to G.S. 14-415.25.
 - Is certified by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to G.S. 14-415.26;

SECTION 26. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 3D. "Armed Habitual Felon.

"§ 14-7.35. Definitions.

The following definitions apply in this Article:

- (1) "Convicted." The person has been adjudged guilty of or has entered a plea of guilty or no contest to the firearm-related felony.
- (2) "Firearm-related felony." Any felony committed by a person in which the person used or displayed a firearm while committing the felony.
- (3) "Status offender." A person who is an armed habitual felon as described in G.S. 14-7.36.

"§ 14-7.36. Armed habitual felon.

Any person who has been convicted of or pled guilty to one or more prior firearm-related felony offenses in any federal court or state court in the United States, or combination thereof, is guilty of the status offense of armed habitual felon and may be charged with that status offense pursuant to this Article.

This Article does not apply to a second firearm-related felony unless it is committed after the conviction of a firearm-related felony in which evidence of the person's use, display, or threatened use or display of a firearm was needed to prove an element of the felony or was needed to establish the requirement for an enhanced or aggravated sentence. For purposes of this Article, firearm-related felonies committed before the person is 18 years of age shall not constitute more than one firearm-related felony. Any firearm-related felony to which a pardon has been extended shall not, for the purposes of this Article, constitute a firearm-related felony.

"§ 14-7.37. Punishment.

When any person is charged with a firearm-related felony and is also charged with being a status offender, the person must, upon conviction, be sentenced and punished as a status offender as provided by this Article.

"§ 14-7.38. Charge of status offense as an armed habitual felon.

House Bill 937-Ratified

Session Law 2013-369

- (a) The district attorney, in the district attorney's discretion, may charge a person as a status offender pursuant to this Article. To sustain a conviction of a person as a status offender, the person must be charged separately for the principal firearm-related felony and for the status offense of armed habitual felon. The indictment charging the defendant as a status offender shall be separate from the indictment charging the person with the principal firearm-related felony.
- (b) An indictment that charges a person with being a status offender must set forth all of the following information regarding the prior firearm-related felony:
 - (1) The date the offense was committed.
 - (2) The name of the state or other sovereign against whom the offense was committed.
 - (3) The dates that the plea of guilty was entered into or conviction returned in the offense.
 - (4) The identity of the court in which the plea or conviction took place.
- (c) No defendant charged with being a status offender in a bill of indictment shall be required to go to trial on the charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period.

§ 14-7.39. Evidence of prior convictions of firearm-related felonies.

In all cases in which a person is charged under the provisions of this Article with being a status offender, the record of prior conviction of the firearm-related felony shall be admissible in evidence, but only for the purpose of proving that the person has been convicted of a former firearm-related felony. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court and shall be prima facie evidence of the facts set out therein.

"§ 14-7.40. Verdict and judgment.

- (a) When an indictment charges a person with a firearm-related felony as provided by this Article and an indictment also charges that the person is a status offender, the defendant shall be tried for the principal firearm-related felony as provided by law. The indictment that the person is a status offender shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal firearm-related felony with which the defendant is charged.
- (b) If the jury finds the defendant guilty of the principal firearm-related felony, and it is found as provided in this section that (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, the bill of indictment charging the defendant as a status offender may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of status offender were a principal charge.
- (c) If the jury finds that the defendant is a status offender, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not a status offender, the trial judge shall pronounce judgment on the principal firearm-related felony offense as provided by law.

"§ 14-7.41. Sentencing of armed habitual felon.

- (a) A person who is convicted of a firearm-related felony and is also convicted of the status offense must, upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a Class C felon (except where the felon has been sentenced as a Class A, B1, or B2 felon). However, in no case shall the person receive a minimum term of imprisonment of less than 120 months. The court may not suspend the sentence and may not place the person sentenced on probation.
- (b) In determining the prior record level, any conviction used to establish a person's status as an armed habitual felon shall not be used. Sentences imposed under this Article shall

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run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

- (c) A conviction as a status offender under this Article shall not constitute commission of a felony for the purpose of either Article 2A or Article 2B of Chapter 14 of the General Statutes.
- (d) A sentence imposed under this Article may not be enhanced pursuant to G.S. 15A-1340.16A."

SECTION 27. Article 86 Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1382.2. Sentencing court to include in judgment whether firearm was used.

When a person is found guilty of a felony offense, the presiding judge shall determine whether the defendant used or displayed a firearm while committing the felony. If the judge determines that the defendant used or displayed a firearm while committing the felony, the sentencing court shall include that fact when entering the judgment that imposes the sentence for the felony conviction."

SECTION 28. Sections 1 through 6, 14 through 16, 18, 21, 23, 25, and 26 of this act become effective October 1, 2013, and apply to offenses committed on or after that date. Section 17.3 and this section are effective when they become law. Section 27 of this act becomes effective October 1, 2013, and applies to any judgment entered for a felony conviction on or after that date. Except as otherwise provided in this act, the remainder of this act becomes effective October 1, 2013. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

- s/ Louis M. Pate, Jr. Deputy President Pro Tempore of the Senate
- s/ Thom Tillis Speaker of the House of Representatives
- Pat McCrory Governor

Approved 4:25 p.m. this 29th day of July, 2013

House Bill 937-Ratified

Session Law 2013-369





The following rules and regulations shall apply to all municipally operated parks (including Jackson Park, Chestnut Street Park, Pinkston Street Park, Owen Davis Park, Jaycee Park, Cooper Park, North Henderson Park, South Henderson Park, Aycock Recreation Complex, old Aycock School Recreation Area (including gymnasium), old Zeb Vance School Recreation Area, E.M. Rollins Park, King Daughters Park I, King Daughters Park II, and Fox Pond Park, David St. Neighborhood Park and King's Kids Park and the adjacent public areas and parking lots:

- There shall be no alcoholic beverages or controlled substances allowed in the park.
- (2) No gambling for any money or personal property shall be permitted.
- There shall be no production or emission of noises or amplified speech, music or other sounds that would interfere with the reasonably anticipated use of any properties located within five hundred feet (500) thereof without written permission of the recreation and parks director (or his duly designated official); no profanity shall be allowed.
- (4) Exhibitionism and/or indecent exposure is prohibited.
- There shall be no littering of the premises (with all trash being disposed of in sanitary receptacles). There shall be no vandalism (including not only destruction of any property but the writing of graffiti or unauthorized painting or marking).
- (6)
 There shall be no basketball playing permitted during regular church services or any revivals or special events at any church located within five (500) hundred feet thereof.
- (7)

 All parks will be closed from dusk to dawn each day (provided, however, that the hours of any park may be extended beyond dusk to allow for completion of recreation department sponsored programs and activities).
- (8)

 No weapons shall be permitted on the premises of any posted recreational facilities of the city.

(9)

There shall be no mini-bikes, mopeds, motorbikes, motorcycles, ATV's, 3-wheelers, 4-wheelers, snowmobiles, jet ski's, jeeps, dune buggys, automobiles, trucks, or any other type of motor vehicles allowed or operated in any park operated, leased, or owned by the City of Henderson without the written permission of the recreation and parks director; provided that this section shall not apply to any registered motor vehicle operated legally upon designated park roadways and parking areas; nor shall it apply to any city owned vehicles, law enforcement or other emergency vehicle when being operated within the official duties of their respective governmental driver.

(10)

All employees of the Henderson-Vance recreation and parks department and all law enforcement officers shall be specifically empowered to enforce all provisions of this section and other ordinances and rules and regulations relating to the municipally operated parks and their use, and shall in furtherance of such powers have the additional power to remove or cause to be removed and excluded from any of said parks, adjacent public areas and parking lots, any person violating any of such ordinances, provisions, rules or regulations. The recreation and parks director shall have the authority to exclude any such person up to an indefinite period if in his sole judgment he deems the same to be in the best interest of the operation of said facilities for use by the public (provided, however, that any such person so excluded can (within three (3) days of said exclusion) request a hearing before the recreation and parks director in which event the director shall hear the evidence presented and shall make a new determination either affirming, reversing or modifying his prior decision).

(11)

Any unauthorized use of any portion of said premises (including not only the parks but also any adjacent public areas, and the parking lots) shall constitute a trespass and the same shall be and constitute a misdemeanor (without otherwise limiting the enforceability of any other portions of this section or the rules and regulations adopted relative to the use of the facilities).

(8-26-85, § 1; 3-24-86; Ord. of 2-23-98, § 4(b)—(d); Ord. of 4-26-99, §§ 1—4; Ord. of 5-12-08(3), § 1; Ord. No. 11-59, §§ 3—5, 11-14-11; Ord. No. 12-03, § 1, 1-9-12)



Henderson - Vance County Recreation & Parks Department P.O. Box 1556 307 Carey Chapel Rd. Henderson, NC 27536



Alan Gill, Recreation & Parks Director

To: Ray Griffin, City Manager

From: Alan Gill, Recreation/Parks Director

Date: August 14, 2013

Subject: House Bill 937

Recently the General Assembly approved House Bill 937 and now the bill has been signed into law by Governor McCrory. This bill amends various laws regarding the right to own, possess, or carry firearms. Included in this bill is \$14-415.23 which addresses statewide uniformity of the concealed carry handgun permit and this section specifically relates to regulation allowed by local units of government in this matter. House Bill 937 will become effective on October 1, 2013.

I understand that this bill and this specific section deals with those individuals who have gone through the permit process and have been issued a Concealed Handgun Permit by the Sheriff of their county, and not the general public.

The City's current ordinance, Section 29-14, Rules and Regulations for Municipal Operated Parks, Rule #8 currently states that: No Weapons shall be permitted on the premises.

From previous action as a result of House Bill 650 being passed a couple of years ago, the City Council adopted an ordinance restricting the concealed carry by permit holders, on a blanket application to all city parks. House Bill 937 does not allow such a blanket application to local parks.

In section 14-415.23 there is now revised language that allows units of local government to enact ordinances that would restrict those individuals who have qualified and received a Concealed Handgun Permit from carrying a concealed firearm at specific recreation facilities including only: An athletic field including any appurtenant facilities such as restrooms during an organized athletic event if the field has been scheduled for use with the municipality or county office responsible for operation of the park or recreational area, a swimming pool, and a facility for athletic events including but not limited to a gymnasium. The key revisions are the limited scope of restrictions allowed by units of local governments, and the distinction that the athletic facility must be scheduled for use by the office responsible for restriction to be allowed.

We have parks that are on school property including Aycock Recreation Complex and Rollins Park, and currently the law does not allow weapons on school property although the bill does allow firearms in a locked container/compartment of a vehicle.

We have parks such as Chesnutt St. Park, Jackson Park, King Kids Park, King Daughters I and II, Owen-Davis Park, and David St. Park that do not have athletic facilities, so restriction of Concealed Carry Permits at these facilities is not permitted by the new law, where currently city ordinance includes these facilities.

My reading and understanding of this bill from various sources is that the only facilities we have available that would be subject to local restriction is the ballfield area at Fox Pond Park (but no other areas in the park), North Henderson Park, and South Henderson Park, and that restriction to concealed carry by permit holders would only be during those times that the department has scheduled activities, but not at any other time. In addition, a concealed handgun permittee is still allowed to secure the handgun in a locked vehicle within an enclosed compartment within the motor vehicle at these facilities.

My recommendation is that City take action needed to comply with House Bill 937 as written, and revise and amend ordinances as needed.

City Council Memo

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



Agenda Item: _____

Council Meeting: 23 Sept 13 Work Session

18 September 2013

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

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

RE: CM: 13-22

Subject: Update on Various Projects

Ladies and Gentlemen

The purpose of this memo is to provide a brief update on the following projects:

- **1. Beckford Drive/ US 158 Business Water Main Projects** Design is near completion and application for grant/loan funding through DWSRF is set to be submitted by McGill Associates by the 30 September 2013 deadline.
- **2.** Sandy Creek Pump Station Improvement Project Design is nearing completion based on comments from the city and state review. This project is to be bid in November.
- **3.** Elmwood Cemetery Outfall McGill addressing comments received from state relative to submittal of PER and Sandy Creek.
- **4. Beckford Drive Widening Project** Appraisal proposals received and are under review. Will receive appraisal within three weeks of signed contract.
- **5.** Chavasse Avenue Widening Project Four easements were needed. Two have been signed, one is in the process of being mailed, and the last one is under review by the owners.



Office of the City Manager 134 Rose Avenue, P. O. Box 1434, Henderson, NC 27536

Phone 252.430.5701: Fax 252.492.7935: E-mail rgriffin@ci.henderson.nc.us www.ci.henderson.nc.us

17 September 2013

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

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

RE: CM 13-24: Balance of Checks Returned due to Insufficient Funds

Finance Department records currently reflect a total of eight (8) checks outstanding in the General Fund which have been returned due to insufficient funds in the customers' account. These represent checks rendered to the Recreation department for gym memberships, participant fees for various sports, all-star registration fees and tickets for the Henderson Rec Players.

These eight checks range in date from July 26, 2011 through June 18, 2013. They total \$344.00. There is also a \$25.00 returned check fee on the books for each of these checks, representing an additional \$200.00. In all, we have a total of \$544.00 in receivables for these eight checks and their associated fees.

Letters have been sent to each of these eight citizens notifying them of the returned check and the fee that they owe the City. Copies of these letters are given to the Recreation Department staff and these citizens are not supposed to be allowed to participate in any additional programs or events until these debts are settled.

An itemized list by citizen and amount is attached.

Returned checks for payment of water and sewer fees are posted back to each customer's account; therefore, we have no outstanding receivables for returned checks for either of these funds.

Enclosure:

1. Returned Check List

		Amount of	Returned		Paid by	
Date	Customer Name	Returned Check	Check Fee	Total Owed	Customer	Date
7/26/2011	Ricks, Felicia S.	17.00	25.00	42.00		
3/20/2012	Overby, Michelle J.	40.00	25.00	65.00		
6/13/2012	Allen, Willie A.	30.00	25.00	55.00		
7/10/2012	Perry, Sherell M.	17.00	25.00	42.00		
8/31/2012	Scott, Angela J.	70.00	25.00	95.00		
3/2/2013	Scott's Barber Shop	80.00	25.00	105.00		
5/17/2013	Orr, Harry L.	70.00	25.00	95.00		
6/18/2013	Jones, Sharita A.	20.00	25.00	45.00		
	Totals	344.00	200.00	544.00	-	

City Council Memo

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



Agenda	Item:	

Council Meeting: 23 Sept 13 Work Session

18 September 2013

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

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

RE: CM: 13-23

Subject: Talent Enhancement Capacity Grant

Ladies and Gentlemen

Memorandum:

City of Henderson was awarded a Talent Enhancement Capacity Building Community Development Block Grant April 11, 2013 by the North Carolina Department of Commerce. This grants purpose is to provide staff training in preparing grant applications and grant administration. The grant is for \$50,000. The required training is through East Carolina University. Thus far, there has been one training class, which Planning Director Dunston has attended. These training classes are scheduled once a month until April 2014. To date the grant is in compliance and all required documents have been submitted to the state. Once the training is completed, it is expected that the City will submit a grant application for an infrastructure project.

City Council Memo

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



Agenda Iter	n:

Council Meeting: 23 Sept 13 Work Session

18 September 2013

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

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

RE: CM: 13-25

Subject: Potential Grant Funding Through the CDBG Program for Infrastructure

Improvements.

Ladies and Gentlemen

The City Staff has received notice of possible funding for infrastructure improvements through the Community Development Block Grant Program. At this time a specific date for submittal of applications has not been established. In conjunction with the grant application, the City must hold a Public Hearing to consider potential projects for which funding may be applied.

The funding consists of 90% grant with a 10% local match. Possible improvements to be considered at this time are as follows:

- Newton Dairy Road Pump Station Elimination Project- \$358,100 Engineering has been completed and now in the process of permitting and right of way. This project will eliminate a below ground pump station which is over 30 years old.
- Birch and Bobbitt Street Sewer Extension Project \$267,460 Involved the extension of gravity sewer to the Harris Street Pump Station. The area is plagued with septic tank failures and could potentially add 28 to 30 new customers to the City's sewer system.
- Water Main Distribution Replacement Project (Railroad Street & and Thomas Lane) \$249,000 This project involves the replacement of existing 2" water mains to a larger main that would help provide better pressure as well as water quality.

Based on a \$1,000,000,000 estimated project cost, this would involve a 10% local match or approximately \$100,000 to be allocated from water and sewer funds.

Staff is working to identify any existing CDBG projects that have been previously discussed that may need to be applied for in conjunction with some or all of the above mentioned projects to formulate a future grant application.