



AGENDA

**Henderson City Council Regular Virtual Meeting
Monday 10 August 2020, 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 Eddie Ellington, Presiding

Councilmember Marion B. Williams
Councilmember Sara M. Coffey
Councilmember William Burnette
Councilmember D. Michael Rainey

Councilmember Melissa Elliott
Councilmember Garry D. Daeke
Councilmember Fearldine A. Simmons
Councilmember Jason A. Spriggs

City Officials

E. Terrell Blackmon, City Manager
D. Rix Edwards, City Attorney
Esther J. McCrackin, City Clerk

CALL TO ORDER

ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

OPENING REMARKS

In order to provide for the highest standards of ethical behavior and Transparency in Governance as well as provide for good and open government, the City Council has approved Core Values regarding Ethical Behavior¹ and Transparency in Governance². The Mayor now inquires as to whether any Council Member knows of any conflict of interest, or appearance of conflict, with respect to matters before the City Council. If any Council Members knows of a conflict of interest, or appearance of conflict, please state so at this time.

¹ **Core Value 4: Ethical Behavior:** We value the public trust and will perform our duties and responsibilities with the highest levels of integrity, honesty, trustworthiness and professionalism.

² **Core Value 10: Transparency in Governance:** We value transparency in the governance and operations of the City.

ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA

APPROVAL OF MINUTES

13 July 2020 Regular Meeting

PUBLIC HEARING

CAF: 20-71 Amending the Zoning Ordinance to Define Restaurants with Entertainment as a Special Use Permit

Requested by: Development Services Director Corey Williams

Explanation: In recent history, restaurants merging into night clubs in the City have caused a burden to be placed on public safety services. In an effort to combat this burden, staff recommends defining Restaurants with Entertainment as an additional regulation/design standard for Permitted Uses. The Planning Board met on July 20, 2020, and unanimously approved this text amendment to go before City Council. The Downtown Development Commission reviewed the amendment on July 22, 2020 and had a few questions, but overall, they agreed with the concept of the ordinance. Ordinance 20-26 provides standards on operation, location, design, and security.

Fiscal Note: Additional funds are necessary for overtime and compensatory time when public safety is overburdened

Recommendation: Staff recommends approving this amendment.

Attachments: Ordinance 20-26
Planning Board Minutes
Consistency Regulation

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CAF: 20-73 Exchanging Vance County Tax Parcel 0106 03001 Owned by the City with a Portion of Vance County Tax Parcel 0105 01001 Owned by Kearney & Company, LLC

Requested by: Development Services Director Corey Williams

Explanation: Kearney & Company, LLC (James C. Kearney Sr., Manager) owns Parcel 0105 01001 located off of South Beckford Drive. This tract is approximately 21 plus acres and sets just north of the Elmwood Cemetery. On the southern edge of the Cemetery, there are several graves that have encroached onto the owner’s property.

On the northwestern corner of the owner’s property is a 0.39 acre tract listed as parcel 0106 03001 that is owned by the City. This tract has approximately 370 foot of road frontage but is only 75 feet deep and is triangular in shape. The tract

was originally part of the Jubilee Health Center (Jubilee Hospital) prior to the Beckford Drive road development.

Mr. Kearney is requesting to exchange approximately 0.85 acres of his 21 acre tract where the graves are located (providing the City an additional buffer) for the 0.39 acre parcel owned by the City.

Fiscal Note: The City will pay all legal costs related to the transaction and the survey costs will be split 50/50 by both parties.

Recommendation: Staff recommends the exchange of property.

Attachments: Resolution 20-47
Site Map
Detail Map

PUBLIC COMMENT PERIOD ON AGENDA ITEMS

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

NEW BUSINESS

CAF: 20-76 Affirming the City of Henderson Council's Support Regarding Implementation of a Compliant (NPDES) Municipal Separate Storm Sewer System (MS4) Stormwater Program

Requested By: City Engineer Clark Thomas

Explanation: The City of Henderson was mandated to own and operate a Municipal Separate Storm Sewer System (MS4) as of 2004. The program was promulgated by the US Congress from the EPA which assigned regulatory power to the States and the State of North Carolina mandated specific Municipalities to become Delegated Authorities.

³ Citizen Comment Guidelines for Agenda Items

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- 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.

The State came to Henderson December 16, 2019, to audit our MS4 program and last month issued a Notice of Violation (NOV) for our program. As part of the NOV, the State has identified shortfalls in our program's funding and operational processes and has requested that City Council approve a resolution stating their commitment to the MS4 program, the six over-arching themes of the program, as well as our fiduciary responsibility to the program. The immediate requests from the State are to receive an executed resolution from City Council (see attached) within 60 days of issuing the NOV and an updated Storm Water Management Plan (SWMP) within 120 days of the NOV. Staff is currently working on the SWMP.

The State has graciously granted us a 5-year window to get our program back into compliance before our next inspection. There is a tremendous amount of work that needs to be done. To meet the requirements, work needs to start immediately and a minimum of 1.5 full-time employees are necessary.

Fiscal Note: Compliance with the NOV will require the Resolution, a funding mechanism (typically a stormwater utility), staff, software, billing and administrative support to get the processes in place.

Recommendation: Approve the Resolution and begin the final steps to adopt the stormwater utility that has been previously proposed to City Council.

Attachments: Resolution 20-50
NOV-2020-PC-0275

CAF 20-75 Award Engineering Contract to CDM Smith in the amount of \$15,000 to Submit an Application to Drinking Water State Revolving Funds (DWSRF) for an Additional \$6,000,000 for the Completion of the Kerr Lake Regional Water System (KLRWS) 20 MGD Expansion

Requested By: City Engineer Clark Thomas

Explanation: CDM Smith was awarded Design Builder for the KLRWS 20 MGD expansion project by Council on July 9, 2018. They have almost completed Phase 1 of the project which includes the design, report, construction schedule and project estimate. The latest construction estimate for the entire project is \$46,000,000 which leaves a \$6,000,000 funding shortfall. Staff has been communicating with the funding source that the project may come in higher than originally estimated and the funding source told us to apply for more money this funding cycle.

The KLRWS Advisory Board met August 4, 2020, to discuss seeking an additional \$6,000,000 from DWSRF in loan funds at a 1.53% interest rate.

Fiscal Note: The annual debt service on \$6,000,000 at 1.53% is \$350,509 per year. Henderson would pay \$210,305 per year, and Oxford and Warren County would each pay \$70,102 per year. Henderson would have to raise water rates 3% to cover the cost in the first year, then they would not have to raise rates until the next capital improvement project.

Recommendation: Staff recommends awarding an Engineering Contract to CDM Smith for \$15,000 to submit an application to DWSRF for an additional \$6,000,000 to complete the Water Treatment Plant Expansion.

Attachments: Resolution 20-49

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.

CAF 20-80 Establishing a Budget for the Coronavirus Aid Relief and Economic Security Act (CARES) Funding Grant

Requested by: Finance Director Joey Fuqua

Explanation: The North Carolina General Assembly passed State Law 2020-4 CARES Act which is the Coronavirus Aid Relief and Economic Security act providing \$150,000,000 of emergency funds to be distributed to North Carolina Counties from Federal funding via the United States Department of State Treasury. The City of Henderson has been earmarked \$459,000 from Vance County's share of these funds to be used for COVID-19 related expenses including the cost of retrofitting various buildings and facilities with safety updates that reduce personal exposure to potential virus contaminations. A specific grant fund will be established and used to process expenditures to address these safety initiatives.

Fiscal Note: Appropriated funds have been targeted to complete City-wide safety improvements to combat the Coronavirus as well as to offset allowable public safety payroll expenses.

Recommendation: Staff recommends approval to establish a budget for the CARES Act funding.

Attachment: Ordinance 20-28

CAF 20-74 Authorizing an Application for U.S. Department of Justice's 2020 BJA Justice Assistance Grant

Requested by: Police Chief Marcus Barrow

Explanation: Chief of Police Marcus Barrow has requested the Council's review and approval of an application to the US Department of Justice's BJA Justice Assistance Grant Program for 2020 to fund the purchase of two (2) "Watchguard" In-Car Video Camera systems to be installed in new vehicles being purchased for the Henderson Police Department's Patrol Unit.

The grant, which does not require a cash grant match, must be divided with the Vance County Sheriff's Office as a "disparate jurisdiction" per Department of

Justice guidelines. The full amount allocated by the Department of Justice is \$17,538.00. We propose to divide this allocation with the Sheriff's Office in the same manner as past US Department of Justice BJA JAG Grants with 60% being allocated to the City of Henderson and 40% allocated to Vance County. Under this dispersion, the City of Henderson would receive \$10,553.00 and Vance County \$7,015.00.

The US Department of Justice requires that agencies receiving funds to be divided with a disparate jurisdiction must complete a Memorandum of Understanding. A copy of this Memorandum of Understanding between the City of Henderson and Vance County is included and has been forwarded to the Vance County Board of Commissioners for their action, and would be enacted, if approved.

The grant application must be approved by the City Council prior to the application being submitted to the US Department of Justice and a time for public comment must be provided. The grant application is due for electronic submission to the US Department of Justice on or before 19 August 2020. The anticipated notification date if the grant is accepted is 30 September 2020. The grant terms would be the same as the Federal Budget Year for 2020-2022: October 1, 2020 to September 30, 2020.

Fiscal Note: The Police Department will receive \$10,553.00 for two Watchguard In-Car video Cameras at no cost to the City.

Recommendation: Staff recommends approval to apply for this grant.

Attachments: Resolution 20-48
Memorandum of Understanding for BJA JAG 2020 Grant between the City of Henderson and Vance County Sheriff's Department

CAF: 20-79 Award a Construction Contract to S.T. Wooten in the Amount of \$246.420 for the Henderson 2020 Pavement Overlay Project

Requested By: City Engineer Clark Thomas

Explanation: On March 9, 2020, City staff brought forward a list of streets in excess of current funding with the hope of trimming the project down to a viable project. City Council stated that they wanted a list that was more equitable with respect to money and linear feet for each ward. Council also took the opportunity to identify roads in their ward that they thought were worthy of review. Staff took these discussions to heart and reworked the list and brought an updated list back to the City Council that was equitable and within the budget that was provided from the Powell bill.

The revised list was brought back to Council on the May 11, 2020, and it was approved as presented. City staff put together a set of bid documents to include the approved list of streets and also provided an alternate list of streets in the event additional funds were left over and we were able to do more streets while meeting the intent of Council's request of equitable distribution.

The Project was bid August 6, 2020, and five bids were received (please see the attached Certified Bid Tab). The apparent low bid is S. T. Wooten in the amount of \$246,420. Staff will work with the contractor to reduce the project scope and remove streets to bring the project cost into budget. It is the intent of Staff to complete this work before the end of December 2020.

Fiscal Note: The Henderson 2020 Pavement Overlay Project was a CIP project funded from the Powell Bill funds received from NCDOT every year. The CIP has a total project budget of \$400,000 and the engineering and construction administration will be handled by Henderson's Engineering Department. These funds have already been set aside and budgeted for so no additional requests from General Fund will be required to complete this project.

Recommendation: Staff recommends awarding the 2020 Pavement Overlay Project to S. T. Wooten for \$246,420

Attachments: Resolution 20-53
Bid Tabulation

CAF 20-78 Ratifying the Acceptance of North Carolina Volkswagen Settlement On-Road Program Grant Award from the NCDEQ

Requested by: Assistant City Manager Paylor Spruill

Explanation: The NC Volkswagen Settlement Program is a result of a cash settlement from the Volkswagen AG international vehicle manufacturer for violations of the Clean Air Act prior to 2016. North Carolina's portion of the settlement is administered through the Division of Air Quality of the North Carolina Department of Environmental Quality (NCDEQ).

The Division of Air Quality made a request for proposals from municipalities for diesel engine upgrade replacements in medium and large trucks of gross vehicle weight exceeding 14,000 lbs. The City responded to this request in September 2019 by making application for reimbursement of expenses to repower its 2007 Sterling truck which is fitted with a knuckle boom hydraulic lifting arm and is operated by our Public Works Department. The estimated expense to repower the vehicle with a similar engine of recent manufacture is \$37,000 not including transportation cost to deliver and retrieve the vehicle from the installing vendor.

Fiscal Note: The City has pledged a match to the grant of \$5,550 leaving \$31,450 as reimbursement by NCDEQ.

Recommendation: To accept this grant award.

Attachments: Resolution 20-52
NCDEQ Grant Award Letter

CAF: 20-70 Tax Releases and Refunds for the Month of June 2020

Requested By: Finance Director Joey Fuqua

Explanation: The Vance County Tax office submitted the following tax releases and refunds to the Finance Department for the month of June 2020. These records are found to be in order and are being recommended for approval.

Fiscal Note:

June 2020 Tax Releases & Refunds

Name	Reason	Tax Year	Amount
Real & Personal Property Releases			
Hendricks, Pamela	Personal Property Billed In Error	2020	\$ 201.45
Real & Personal Property Releases - Total			\$ 201.45
Real & Personal Property Refunds			
			\$ -
Real & Personal Property Refunds - Total			\$ -
Audit Discoveries			
Miscellaneous	Gap Bill Discovery	2020	\$ 2,104.74
Miscellaneous	Real & Personal Discoveries	2020	\$ 3,305.52
Audit Discoveries - Total			\$ 5,410.26
Total Refunds, Releases, & Discoveries			\$ 5,611.71

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REPORTS

- a) Mayor/Mayor Pro-Tem (No Report)
- b) City Manager (No Report)
- c) City Attorney (No Report)
- d) City Clerk
 - i. Meeting and Events Calendar
 - ii. E-911 Monthly Report
 - iii. Fire Department Monthly Report
 - iv. Public Services Monthly Report
 - v. Recreation and Parks Monthly Report

WORK SESSION

CAF 20-72 City Communications Tower in Support of Improved Signal Clarity for Emergency Responders

Requested By: Assistant City Manager Paylor Spruill

Explanation: After the attack of 9/11 (2001) on the World Trade Center in New York and the parallel attacks on the Pentagon and Washington, DC (the latter resulting in the Somerset County, PA passenger plane crash site), it was found that the inability to communicate directly among public safety organizations at the local, state and federal levels of these three very different sites, was a serious handicap to rendering effective emergency aid and major evidence of the need for law enforcement, firefighters and other first responders to have on-demand/real-time direct exchange of voice and data. This became known as interoperable communications.

North Carolina responded to this need by forming the North Carolina Department of Public Safety which encapsulates:

- Adult Correction
- Juvenile Justice
- NC National Guard
- Law Enforcement
- State Highway Patrol
 - Alcohol Law Enforcement
 - State Capitol Police
 - Homeland Security
 - State Bureau of Investigation
 - Missing Persons Center
 - Office of Recovery & Resiliency
 - Emergency Management

Within Emergency Management is the Voice Interoperability Plan for Emergency Responders (VIPER). The VIPER system employs standardized technology and operating procedures to achieve interoperability and is the local connection of Vance County Emergency Operations, including 911 services to the State and Federal communications systems.

Our Police and Fire Departments are, therefore, dependent on this standardization for their effectiveness and their own safety as they deploy personnel and equipment to meet our citizen's needs. We have found a problem with the VIPER system as it pertains to our local communications. This network is dependent on a series of statewide communication gateways that are connected via a digital microwave system of towers. The gateways employ enhancements that allow radios to communicate even if they are on different frequencies or have the same frequency band but different protocols. These systems can also link emergency responders that use older legacy radio systems with responders using a newer technology or radios from a different vendor. In effect, the gateways establish a patch between otherwise incompatible communication systems.

The Counties of North Carolina are grouped into regions for purposes of access to these communication gateways. Vance County is grouped with Warren, Halifax, Northampton and Nash Counties and is served by a microwave tower at Brinkleyville in Halifax County. This is 30 miles by direct line from our downtown and is our closest existing gateway. It is known that long distances or awkward terrain have adverse impacts on coverage in the higher frequency radio communication bands. Our Police and Fire Departments suffer from this situation. They experience areas within our City limits that have poor or no radio communication, especially when in our larger buildings. This condition puts our first responders and citizens at heightened risk which can even be life threatening.

To remedy the problem, we need a much closer gateway. Our local Emergency Operations had a microwave propagation study done for our area and found that to achieve high probability of service within our buildings and along difficult terrain, we need a tower located in our downtown area (It may also be possible to achieve the same result with a tower in our more general metro area but employing one or more mobile communication repeaters. This is being explored.).

As would be expected, the cost of implementing a microwave tower with VIPER system has significant expense. Preliminary costs are expected to be roughly ~\$2 million. Our local Emergency Operations contacted *1018 Consulting* for reference to one or more tower companies that would be willing to partner with the City/County to minimize upfront cost for this project. We received interest from Milestone Communications of Reston, VA. Their proposal is attached. They have offered to participate in this work session.

There is a Federal Interoperable Emergency Communications Grant Program (IECGP) administered by the U.S. Department of Homeland Security through their Cybersecurity and Infrastructure Security Agency. We are exploring its application in this arrangement.

Fiscal Note: Significant. This will require a capital improvement program and/or possible recurring yearly expenses

Recommendation: To provide consent for City Administration to open negotiations with the County and Milestone Communications to provide a local VIPER gateway. The resulting proposed arrangement will be returned for Council's consideration.

Attachments: Milestone Communications 16 July 2020 Proposal
SAFECOM Guidance on Commercial Communications Grants, fiscal year 2020

CLOSED SESSION

- a)* Pursuant to G.S. §143-318.11 (a)(3) regarding an Attorney/Client Matter

ADJOURNMENT