

CITY OF HENDERSONVILLE  
BOARD OF MAYOR AND ALDERMEN  
MINUTES OF REGULAR MEETING  
MARCH 12, 2013

PRESENT

SCOTT SPROUSE, VICE-MAYOR  
DON AMES, ALDERMAN  
ARLENE CUNNINGHAM, ALDERMAN  
HAMILTON FROST, ALDERMAN  
PAUL R. GOODE, ALDERMAN  
ROSA LONG, ALDERMAN  
FRED QUALLS, ALDERMAN  
MARK SKIDMORE, ALDERMAN  
MATT STAMPER, ALDERMAN  
JIM WATERS, ALDERMAN  
LISA WEST, ALDERMAN  
DARRELL WOODCOCK, ALDERMAN  
JOHN BRADLEY, CITY ATTORNEY  
KAY FRANKLIN, CITY RECORDER

ABSENT

SCOTT FOSTER, MAYOR

AGENDA

Skidmore moved; seconded by Goode for acceptance of the agenda.

Sprouse stated at the sponsors' request, the reappointment of Julie White to Beautiful Hendersonville is being withdrawn.

There was a unanimous vote for acceptance of the agenda as amended.

MINUTES

West moved; seconded by Waters for approval of the February 26, 2013 minutes.

There was a unanimous vote for approval.

## CITIZENS COMMENTS

Erskine Ausbrooks, 140 Fairways Drive, addressed the Board stating the Codes Commentary is bound with the Codes and is to be used to interpret the Codes. He further stated the Commentary is significant and provides a ready reference. He urged adoption.

David Whitt, 1030 Margaret Drive, addressed the Board stating the Code Commentary should be referenced and used for an advisory purpose. He stated it is important to have the Commentary as a part of the Code adoption. He further stated the Commentary enhances the understanding of the Code and there is no downside to having it as a part of the bound Codes.

As there was no one else desiring to speak, Sprouse declared Citizens Comments closed.

## REPORTS

Finance Committee – no report.

General Committee – recommended an ordinance rezoning property located at 8 Industrial Park Drive from IR to MCD and recommended an ordinance rezoning property located at 160 Commerce Drive from IR to IG with the restriction of no street parking.

Goode reported that it had been previously announced the City would be doing the paving repair for the Hendersonville Utility District on New Shackle Island Road but now HUD will be responsible for doing the paving repair. He stated it is anticipated the paving should begin the first week of April.

Public Safety Committee – reviewed the cost for walk-through metal detectors at City Hall; reviewed the issue of jurisdiction in the fly-over area of the bypass; discussed license plate recognition software for the Police Department; reviewed grant information for a new fire engine and air packs and reviewed increasing the emergency wrecker services rates.

There was brief discussion of the license plate recognition software and its effect on citizens' rights.

Public Works Committee – no report.

Capital Projects Committee – no report.

Planning Commission – reported public hearings were held on the rezoning request for property located at 8 Industrial Park Drive and 160 Commerce Drive; reported both rezoning requests were recommended with the restriction of no on street parking for the Commerce Drive property; approved the Site Plan for Indian Lake Townhomes and reported the staff approved Site Plan for the storefront conversion for Piranha Bar & Grill.

Mayor – Sprouse announced resumes for City Judge will be accepted until March 21 with the appointment taking place at the March 26, 2013 Board meeting and reported the City is monitoring the results of the lawsuit between the City of Brentwood and The Contributor in regards to street sales of their newspaper.

#### ORDINANCES AND RESOLUTIONS

Goode moved; seconded by Qualls to group the first 12 items under Ordinances and Resolutions.

Skidmore requested second reading of Ordinance 2013-13 be removed from the above motion.

Goode and Qualls agreed with the request to remove second reading of Ordinance 2013-13 from their motion.

There was a unanimous vote for approval to group the following:

- Second reading of Ordinance 2013-4, an Ordinance amending the Hendersonville Municipal Code, Title 7, Chapter 2, Fire Code;
- Second reading of Ordinance 2013-5, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 1, Section 12, regarding the adoption of a Building Code and amendments to same;
- Second reading of Ordinance 2013-6, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 2, Section 12 regarding the adoption of a Plumbing Code and amendments to same;
- Second reading of Ordinance 2013-7, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 3, Section 12, regarding the adoption of a Gas Code and amendments to same;
- Second reading of Ordinance 2013-8, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 4, Section 12, regarding the adoption of a Housing Code and amendments to same;
- Second reading of Ordinance 2013-9, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 5, Section 12, regarding the adoption of an Energy Conservation Code and amendments to same;
- Second reading of Ordinance 2013-10, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 7, Section 12, regarding the adoption of the International Swimming Pool and Spa Code and amendments to same;
- Second reading of Ordinance 2013-11, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 9, Section 12, regarding the adoption of a Mechanical Code and amendments to same;
- Second reading of Ordinance 2013-12, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 11, Section 12, regarding the adoption of an Existing Building Code and amendments to same;

- Second reading of Ordinance 2013-14, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 13, Section 12, regarding the adoption of an Electrical Code and amendments to same;
- Second reading of Ordinance 2013-15, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 1, Section 13, regarding the adoption of a Property Maintenance Code and amendments to same.

Stamper moved; seconded by Skidmore for approval of the above items on second and final reading.

There was a unanimous vote for approval of the above items on second and final reading.

The caption of Ordinance 2013-13 was read on second and final reading, an Ordinance amending the Hendersonville Municipal Code, Title 12, Chapter 12, Section 12, regarding the adoption of the International Residential Code and amendments to same. Qualls moved; seconded by Skidmore.

Skidmore moved; seconded by Stamper to amend Ordinance 2013-13 by adding the Commentary to Volumes 1 and 2 of the 2012 International Residential Code.

Qualls requested to hear from Codes Director Steve Mills.

Mills explained the Commentaries are not new to ICC and are not written by the same authors as the Codes themselves. He stated the Commentaries are not written in enforceable language and are intended to be used as advisory only. He further stated adopting the Commentaries could create the potential for avoidable conflicts. He cited a letter from the ICC stating to adopt the Commentaries would be highly unusual. He explained by adopting the Commentaries, the costs to those purchasing the Code would be unnecessarily increased. He stated the Building Official still has the final decision.

Qualls stated the Commentary does not contain enforceable language and is clearly advisory only and he cannot support the amendment.

Cunningham asked for an example of the Commentary conflicting with the Code.

Mills explained conflicts would arise when ICC's official interpretation differed with the Commentaries. He further explained ICC has the official interpretation committees that render the official interpretation of the Code. He stated adopting and referencing the Commentary are two completely different things and he will continue to use the Commentary as a reference material.

Cunningham questioned if the Code would still be the controlling authority even if the Commentary is adopted.

Mills explained laws are adopted and reference materials should not be adopted. He further explained by adopting the Commentary it would appear to be an enforceable document and that it is not written to be or intended to be an enforceable document. He stated the organization that actually writes the Commentary says it should not to be adopted.

Goode stated the City's Code Official is a long term experienced employee who serves or has served on several Code Association boards and he does not recommend adoption of the Commentary. He further stated the ICC does not endorse adoption of the Commentary. He stated it makes it difficult for a builder to comply with Codes if there are different interpretations. He further stated he cannot support the amendment.

Stamper stated he feels City staff does have the best interest of the City's citizens and wonders if the Commentary is worth adopting. He questioned if this is the first time the Code and the Commentary have been bound together.

Mills stated this is not the first time they have been bound together and he can present previous volumes.

Long stated if perhaps the Commentary had been previously included, there would not be the problems some homeowners have experienced.

Goode stated the Commentaries were not adopted when the Fire Code was adopted.

Woodcock explained a problem he has experienced at his own home and just how it could have been prevented with the adoption of the Commentary.

Woodcock moved; seconded by Long to suspend the rules to allow Whitt to address the Board.

There was a unanimous vote for approval to suspend the rules.

Mills displayed several years of the bound Code with the Commentaries included.

Whitt stated there are several examples when the Commentary would address a problem including radon reduction.

Qualls called for a point of order.

Whitt stated the Commentary explains why the issue should be addressed.

Qualls stated the Code says how an issue is to be addressed and the Commentary does not provide anything enforceable that the Code does not.

Stamper stated there is a lot of disclaiming by the ICC of the authoritativeness of the Commentary and he questioned why they would be bound together.

Mills explained the Code can be purchased by itself or bound with the Commentary.

Goode questioned if there is anything that deems Whitt a codes professional or expert in the Commentary versus the City's Code Official.

Skidmore called for the question.

The following voted on the amendment to include the Commentary with the adoption of the 2012 International Residential Code.

Aye: Cunningham, Long and Skidmore.

Nay: Ames, Frost, Goode, Qualls, Sprouse, Stamper, Waters, West and Woodcock.

Sprouse declared the motion failed.

Goode called for the question on the main motion.

There was a unanimous vote for approval of Ordinance 2013-13 on second and final reading.

The caption of Ordinance 2013-18 was read on first reading, an Ordinance amending the Budget Ordinance 2012-13 by appropriating \$124,400.00 for the Otter Pointe Project. Waters moved; seconded by Cunningham.

Long noted a discrepancy in the amount in the caption and the body of the ordinance.

It was determined the correct amount to be appropriated is \$124,400.00.

There was a unanimous vote for approval for Ordinance 2013-18 on first reading.

The caption of Ordinance 2013-19 was read on first reading, an Ordinance accepting an Emergency Solutions Grant and appropriating the funds by amending Budget Ordinance 2012-13. Waters moved; seconded by Frost.

There was a unanimous vote for approval of Ordinance 2013-19 on first reading.

#### OTHER AGENDA ITEMS

Stamper moved; seconded by Waters for approval of the reappointment of Bobby Richards to serve on the Board of Parks and Recreation.

There was a unanimous vote for approval of the above appointment.

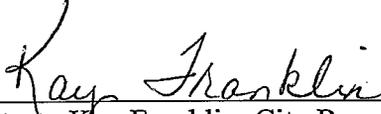
BOARD OF MAYOR AND ALDERMEN  
MINUTES OF MARCH 12, 2013  
PAGE 7

Upon motion and second and followed by a unanimous vote for approval, the meeting adjourned at 8:22 p.m.



---

Approved: Scott Sprouse, Vice-Mayor



---

Attest: Kay Franklin, City Recorder