



# MINUTES

September 1, 2022

## REGULAR MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Lyndsey Simpson and Council Members: Dr. Jennifer Hensley, Debbie O'Neal-Roundtree, and Jerry A. Smith Jr., J.D.

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Attorney Angela Becker, City Clerk Angela Reece, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

### 1. CALL TO ORDER

Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

### 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

The City Council observed a moment of silence for prayer or reflection followed by the Pledge of Allegiance to the Flag.

### 3. PUBLIC COMMENT *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

Steven Trombly addressed City Council regarding support of additional pickleball facilities in the City of Hendersonville.

Debra Romaine addressed City Council regarding support of covered pickleball facilities in the City of Hendersonville. Ms. Romaine asked consideration of a partnership with the County.

Chrisna Doss addressed City Council regarding support of additional pickleball facilities in the City of Hendersonville to provide recreational opportunities for all ages.

Sharon Gordon addressed City Council regarding support of additional pickleball facilities in the City of Hendersonville and provided counts of participation.

Al Jones addressed City Council regarding support of additional pickleball facilities in the City of Hendersonville stating the sport is important for older participants.

Lynne Williams addressed City Council via Zoom electronic software regarding preservation of Boyd Park and additionally expressed concerns regarding The Cedars and Mastermind projects.

Mayor Volk read comments submitted electronically from the following persons.

Dennis Justice submitted digital comments regarding support of regional pickleball facilities in the City of Hendersonville.

Jeff and Robyn Hayes submitted digital comments regarding support of increasing the number of pickleball courts and facilities in the City of Hendersonville.

Kalee Wulfers submitted digital comments regarding support of additional pickleball facilities in the City of Hendersonville.

Katherine Ulrich submitted digital comments regarding support of covered pickleball facilities in the City of Hendersonville.

Patricia MacDuff submitted digital comments regarding support of additional pickleball facilities in the City of Hendersonville.

Susan Wellband submitted digital comments regarding support of covered public pickleball facilities in the City of Hendersonville.

Anita Das submitted digital comments regarding support of covered public pickleball facilities in the City of Hendersonville.

### 4. CONSIDERATION OF AGENDA

Council Member Lyndsey Simpson requested discussion be allowed following the Caregivers of Mother Earth Presentation.

***Council Member Dr. Jennifer Hensley moved that City Council approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.***

## **5. CONSENT AGENDA**

### **A. Adoption of City Council Minutes – Angela L. Reece, City Clerk**

*I move that City Council adopt the minutes of the July 27, 2022 Second Monthly Meeting and the August 4, 2022 Regular Meeting.*

### **B. Rescission of the Temporary Telecommuting Arrangements Policy – Jennifer Harrell, HR Director**

*I move City Council rescind the Temporary Telecommuting Arrangements Policy.*

### **C. Rescission of the Temporary Employee Leave and School Closure Policy – Jennifer Harrell, HR Director**

*I move City Council rescind the Temporary Employee Leave and School Closure Policy*

### **D. Annexation: Certificate of Sufficiency- 2509, 2511, 2513 Haywood Road (Cantrell, Clubb, Riley) (C22-78-ANX) – Tyler Morrow, Planner II**

*I move Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Elizabeth Cantrell, Timothy & Lisa Clubb, Robin Kay Riley and set October 6<sup>th</sup>, 2022, as the date for public hearing.*

**Resolution #R-22-99**

## **RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31**

**WHEREAS**, a petition requesting annexation of the contiguous area described herein has been received; and

**WHEREAS**, certification by the City Clerk as to the sufficiency of the petition has been made;

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Hendersonville, North Carolina that:

**Section 1.** A public hearing on the question of annexation of the contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. October 6<sup>th</sup>, 2022, or as soon thereafter as it may be heard.

**Section 2.** The area proposed for annexation is described as follows:

BEING all of that real property consisting of PINs 9559-96-0225, 9559-86-9361, and 9559-86-9317 described in the plat recorded in Book 2022 - \_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9559-96-0225, 9559-86-9361, and 9559-86-9317 being described by metes and bounds as follows:

#### PARCEL A - PIN 9559-86-9317

BEING ALL OF LOTS 12, 13, & 14 OF WANTESKA VALLEY SUBDIVISION AS SHOWN ON PLAT THEREOF RECORDED IN PLAT CABINET B SLIDE 270A (ALSO KNOWN AS PLAT BOOK 5 PAGE 12), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 14 OF PLAT CABINET B SLIDE 370, COMMON CORNER OF LOT 15 OF SAID PLAT AT THE SOUTHERN RIGHT OF WAY OF HAYWOOD ROAD (NC 191), AND BEING AT THE BOUNDARY OF THE CITY OF HENDERSONVILLE; THENCE WITH THE SOUTHERN RIGHT OF WAY OF HAYWOOD ROAD AND WITH THE BOUNDARY OF THE CITY OF HENDERSONVILLE THE FOLLOWING TWO CALLS: S37°44'33"E 50.31' TO A POINT; THENCE S39°05'37"E 25.06' TO THE NORTHEAST CORNER OF LOT 12 AND COMMON CORNER OF LOT 11; THENCE LEAVING THE RIGHT OF WAY OF HAYWOOD ROAD AND BOUNDARY OF THE CITY OF HENDERSONVILLE WITH THE COMMON LINE OF LOTS 11 & 12 S42°15'00"W 161.60' TO

THE SOUTHEAST CORNER OF LOT 12, COMMON CORNER OF LOTS 11, 12, 37, & 38, AND BEING AT THE BOUNDARY OF THE CITY OF HENDERSONVILLE; THENCE WITH THE COMMON LINES OF LOTS 12-14 & 35-37 AND WITH THE BOUNDARY OF THE CITY OF HENDERSONVILLE N40°00'00"W 75.00' TO THE SOUTHWEST CORNER OF LOT 14, COMMON CORNER OF LOTS 14, 15, 34, & 35; THENCE LEAVING THE BOUNDARY OF THE CITY OF HENDERSONVILLE AND WITH THE COMMON LINE OF LOTS 14 & 15 N42°15'00"E 164.00' TO THE POINT OF BEGINNING

BEING ALL OF THE PROPERTY DESCRIBED IN DEED BOOK 1036 PAGE 541 TO ROBIN R. CHANDLER (ROBIN R. CHANDLER NOW KNOWN AS ROBIN KAY RILEY PER CLERK OF SUPERIOR COURT OF HENDERSON COUNTY, NC: FILE #2021 R 210, DATED 4/19/21)

PARCEL B - PIN 9559-86-9361

BEING ALL OF LOTS 9, 10, & 11 OF WANTESKA VALLEY SUBDIVISION AS SHOWN ON PLAT THEREOF RECORDED IN PLAT CABINET B SLIDE 270A (ALSO KNOWN AS PLAT BOOK 5 PAGE 12), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 11 OF PLAT CABINET B SLIDE 370, COMMON CORNER OF LOT 12 OF SAID PLAT AT THE SOUTHERN RIGHT OF WAY OF HAYWOOD ROAD (NC 191), AND BEING AT THE BOUNDARY OF THE CITY OF HENDERSONVILLE; THENCE WITH THE SOUTHERN RIGHT OF WAY OF HAYWOOD ROAD AND WITH THE BOUNDARY OF THE CITY OF HENDERSONVILLE THE FOLLOWING THREE CALLS: S39°19'12"E 25.04' TO A POINT; THENCE S38°52'04"E 30.09' TO A POINT; THENCE S38°25'00"E 25.10' TO THE NORTHEAST CORNER OF LOT 9 AND COMMON CORNER OF LOT 8; THENCE LEAVING THE RIGHT OF WAY OF HAYWOOD ROAD AND BOUNDARY OF THE CITY OF HENDERSONVILLE WITH THE COMMON LINE OF LOTS 8 & 9 S42°15'00"W 160.00' TO THE SOUTHEAST CORNER OF LOT 9, COMMON CORNER OF LOTS 8, 9, 40, & 41, AND BEING AT THE BOUNDARY OF THE CITY OF HENDERSONVILLE; THENCE WITH THE COMMON LINES OF LOTS 9-11 & 38-40 AND WITH THE BOUNDARY OF THE CITY OF HENDERSONVILLE N40°00'00"W 80.00' TO THE SOUTHWEST CORNER OF LOT 11, COMMON CORNER OF LOTS 11, 12, 37, & 38; THENCE LEAVING THE BOUNDARY OF THE CITY OF HENDERSONVILLE AND WITH THE COMMON LINE OF LOTS 11 & 12 N42°15'00"E 161.60' TO THE POINT OF BEGINNING. BEING ALL OF THE PROPERTY DESCRIBED IN DEED BOOK 1688 PAGE 548 TO TIMOTHY MAX CLUBB & LISA BALLARD CLUBB.

PARCEL C - PIN 9559-96-0225

BEING ALL OF LOTS 6, 7, & 8 OF WANTESKA VALLEY SUBDIVISION AS SHOWN ON PLAT THEREOF RECORDED IN PLAT CABINET B SLIDE 270A (ALSO KNOWN AS PLAT BOOK 5 PAGE 12), AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 8 OF PLAT CABINET B SLIDE 370, COMMON CORNER OF LOT 9 OF SAID PLAT AT THE SOUTHERN RIGHT OF WAY OF HAYWOOD ROAD (NC 191), AND BEING AT THE BOUNDARY OF THE CITY OF HENDERSONVILLE; THENCE WITH THE SOUTHERN RIGHT OF WAY OF HAYWOOD ROAD AND WITH THE BOUNDARY OF THE CITY OF HENDERSONVILLE THE FOLLOWING TWO CALLS: S40°00'00"E 50.00' TO A POINT; THENCE S41°08'18"E 24.94' TO THE NORTHEAST CORNER OF LOT 6 AND COMMON CORNER OF LOT 5; THENCE LEAVING THE RIGHT OF WAY OF HAYWOOD ROAD AND BOUNDARY OF THE CITY OF HENDERSONVILLE WITH THE COMMON LINE OF LOTS 5 & 6 S42°15'00"W 160.50' TO THE SOUTHEAST CORNER OF LOT 6, COMMON CORNER OF LOTS 5, 6, 43, & 44, AND BEING AT THE BOUNDARY OF THE CITY OF HENDERSONVILLE; THENCE WITH THE COMMON LINES OF LOTS 6-8 & 41-43 AND WITH THE BOUNDARY OF THE CITY OF HENDERSONVILLE N40°00'00"W 75.00' TO THE SOUTHWEST CORNER OF LOT 8, COMMON CORNER OF LOTS 8, 9, 40, & 41; THENCE LEAVING THE BOUNDARY OF THE CITY OF HENDERSONVILLE AND WITH THE COMMON LINE OF LOTS 8 & 9 N42°15'00"E 160.00' TO THE POINT OF BEGINNING. BEING ALL OF THE PROPERTY DESCRIBED IN DEED BOOK 1659 PAGE 490 TO ELIZABETH A. CANTRELL.

Re: Petition for Contiguous Annexation

Petitioners: Elizabeth Cantrell, Timothy & Lisa Clubb, Robin Kay Riley (formerly known as Robin R Chandler)

File No. C22-78-ANX

**Section 3.** Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**E. Annexation: Certificate of Sufficiency- Duncan Terrace (Lee Ray Bergman LLC.) (C22-73-ANX) – Tyler Morrow, Planner II**

*I move Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Lee Ray Bergman LLC. and set October 6<sup>th</sup>, 2022, as the date for public hearing.*

**Resolution #R-22-100**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31**

**WHEREAS**, a petition requesting annexation of the contiguous area described herein has been received; and

**WHEREAS**, certification by the City Clerk as to the sufficiency of the petition has been made;

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Hendersonville, North Carolina that:

**Section 1.** A public hearing on the question of annexation of the contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. October 6<sup>th</sup>, 2022, or as soon thereafter as it may be heard.

**Section 2.** The area proposed for annexation is described as follows:

BEING all of that real property consisting of PINs 9569-95-7758, 9569-95-5941, and 9569-96-4013 described in the plat recorded in Book 2022 - \_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9569-95-7758, 9569-95-5941, and 9569-96-4013 being described by metes and bounds as follows:

Beginning on a 5/8" rebar, said rebar having North Carolina Grid Coordinates of Northing – 595484.50 and Easting – 969625.25 and being located in the Existing City of Hendersonville Boundary Line, thence from said beginning point thus established and running with the Existing City of Hendersonville Boundary Line, S 51°24'22" W 15.40' to a point, said point being located in the northern margin of Duncan Hill Road, North Carolina State Road 1525, and thence leaving the Existing City of Hendersonville Boundary Line and continuing with the margin of Duncan Hill Road, N 37°42'37" W 309.38' to a point, thence N 37°42'37" W 156.03' to a point, thence N 38°03'44" W 274.32' to a point, thence leaving the margin of Duncan Hill Road N 52°25'00" E 17.09' to a 5/8" rebar, thence N 37°17'49" W 65.17' to a 5/8" rebar, thence on a curve to the right, said curve having a radius of 287.15' and an arc length of 56.76' (chord bearing and distance, N 31°31'20" W, 56.67') to a point, thence on a curve to the right, said curve having a radius of 32.03' and an arc length of 71.49' (chord bearing and distance, N 38°05'05" E, 57.55') to a point located in the right of way of Signal Hill Road, North Carolina State Road 1508, thence continuing with the right of way of Signal Hill Road on a curve to the left, said curve having a radius of 2255.54' and an arc length of 377.58' (chord bearing and distance, S 81°40'18" E 377.14') to a point, thence S 86°28'03" E 198.13' to a 1/2" iron pipe set, thence S 86°28'03" E 125.33' to a 5/8" rebar, thence leaving the right of way of Signal Hill Road, S 39°04'23" E 72.92' to a 1/2" iron pipe, thence S 39°04'23" 308.67' to a 5/8" rebar located in the Existing City of Hendersonville Boundary Line, thence running with the Existing City of Hendersonville Boundary Line S 51°24'22" W 576.53' to the point and place of beginning. Containing 8.67 Acres and being all of that property as described in Tracts I and II of Deed Book 3841, Page 517 and all of that property as described in Deed Book 3841, Page 514 as shown on survey by Associated Land Surveyors & Planners, PC dated July 11, 2022 and bearing job number S- 21-900.

Re: Petition for Contiguous Annexation

Petitioners: Lee Ray Bergman LLC. (Leah Bergman, Manager)  
File No. C22-73-ANX

**Section 3.** Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

**F. Acknowledgement for the City of Saluda to Apply for a Water System Merger/Regionalization Feasibility Grant – Adam Steurer, Utilities Engineer**

*I move City Council to adopt the Resolution By the City Council of Acknowledgement for the City of Saluda to apply for a Merger/Regionalization Feasibility grant.*

**Resolution #R-22-101**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL OF  
ACKNOWLEDGEMENT OF THE CITY OF SALUDA TO APPLY FOR A  
MERGER/REGIONALIZATION FEASIBILITY GRANT**

**WHEREAS**, the City of Saluda is a current municipal wholesale Hendersonville water customer; and

**WHEREAS**, the North Carolina Department of Environmental Quality (NCDEQ) is accepting applications for Merger/Regionalization Feasibility (MRF) grants, which allow a utility to identify and then work with partnering utilities to investigate the challenges, benefits, and implications for both utilities to merge, in part or in whole, to regionalize, or some combination thereof; and

**WHEREAS**, the City of Saluda wishes to apply for a MRF grant to further investigate the potential merger of its water system with the Hendersonville water system to ensure long-term viability for its customers; and

**WHEREAS**, a Letter of Acknowledgement from Hendersonville as the partnering utility is required for the grant application; and

**WHEREAS**, the collaborations of the study are not binding, and the Acknowledgement Letter does not commit Hendersonville to act on the findings.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. Authorize the City Manager, John Connet, to execute and submit a Letter of Acknowledgement as the partnering utility.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

**G. Engineering Services for the Hendersonville Water Treatment Facility Master Plan—  
Adam Steurer, Utilities Engineer**

*I move City Council to adopt the Resolution By the City Council to select Hazen and Sawyer as most qualified to provide engineering services and authorize the City Manager To Enter Into a Contract for Engineering Services for the Hendersonville Water Treatment Facility Master Plan.*

**Resolution #R-22-102**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER  
INTO A CONTRACT FOR ENGINEERING SERVICES FOR THE WATER  
TREATMENT FACILITY MASTER PLAN**

**WHEREAS**, the City owns and operates a 12 million gallon per day (mgd) Water Treatment Facility; and

**WHEREAS**, the City desires to identify replacements, improvements, and expansions to the WTF within a future planning period to year 2050 to ensure the facility is reliably maintained and expanded.; and

**WHEREAS**, City Staff have performed a qualifications-based selection, determined Hazen and Sawyer as most qualified, and received a proposal from Hazen and Sawyer to provide Engineering Services to support the Plan.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. Hazen and Sawyer is most qualified to provide professional engineering services for the Plan, as recommended by Staff.
2. The scope of engineering services from Hazen and Sawyer is approved in the amount of \$379,000
3. The City Manager is authorized to execute an agreement with Hazen and Sawyer consistent with the terms of this Resolution, as approved by the City Attorney, and authorized to execute amendments to the scope within the project budget.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**H. Resolution in Support of MPO Grant Safe Streets for All (SS4A) Application for Regional Action Plan– Brent Detwiler, City Engineer**

*I move that City Council approve the Resolution in support of the French Broad River MPO and Land of Sky RPO developing an Action Plan for the region through the Safe Streets for All Program.*

**Resolution #R-22-103**

**RESOLUTION OF SUPPORT FOR A REGIONAL ACTION PLANNING GRANT APPLICATION THROUGH THE SAFE STREETS FOR ALL PROGRAM**

**WHEREAS**, the USDOT has developed a new discretionary grant program to address roadway safety through the new Safe Streets for All Program; and

**WHEREAS**, the Bipartisan Infrastructure Bill has appropriated \$5 billion for the Safe Streets for All Program through FY 2026; and

**WHEREAS**, the Safe Streets for All Program requires that entities, including local governments, that are interested in utilizing implementation funds through the Safe Streets for All Program have an adopted Action Plan; and

**WHEREAS**, an Action Plan that covers the French Broad River MPO and Land of Sky RPO region would include the City of Hendersonville; and

**WHEREAS**, the French Broad River MPO and Land of Sky RPO have observed an increase in roadway crashes and fatalities;

**NOW THEREFORE, BE IT RESOLVED** that the City of Hendersonville support the joint application from French Broad River MPO and the Land of Sky RPO to develop an Action Plan for the region through the Safe Streets for All Program.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**I. NC Commerce CDBG-NR Grant 7th Ave Revitalization Project 19-C-3128 Updated Plans/Policies – John Connet, City Manager, Mary Roderick, PhD, Regional Planner- Land of Sky**

*I move City Council adopt the Equal Opportunity and Procurement, Fair Housing, Language Access, and Section 3 plans as presented.*

**J. Special Event: Trick or Trail 5K Race - Lew Holloway, Community Development Director**

*I move that City Council approve the special event permit for the Trick or Trail 5K Race.*

**K. Purchase of Materials for the North Greenwood Forest Neighborhood Water Replacement Project – Adam Steurer, Utilities Engineer**

*I move City Council to adopt the Resolution By the City of Hendersonville to purchase materials for the North Greenwood Forest Neighborhood Water Replacement Project.*

**Resolution #R-22-104**

**RESOLUTION BY THE CITY OF HENDERSONVILLE TO PURCHASE MATERIALS  
FOR THE NORTH GREENWOOD FOREST NEIGHBORHOOD WATER  
REPLACEMENT PROJECT**

**WHEREAS**, the City Council approved the North Greenwood Forest Neighborhood Water Replacement as part of the 2023 budget, the “Project”; and;

**WHEREAS**, the Water and Sewer Department has solicited bids in an effort to hire a reputable and responsible Vendor to provide the necessary materials for the Project; and

**WHEREAS**, Core & Main LP submitted the lowest price proposal, and is a responsible bidder; and

**WHEREAS**, the Water and Sewer Department is recommending purchasing the necessary materials for the Project from Core & Main LP; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The purchase of materials for the Project is awarded to Core & Main in the amount of \$145,349.52 plus applicable sales tax.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**L. Utility Extension Agreement for the Tap Root Subdivision – Brendan Shanahan, Civil Engineer IV**

*I move City Council to adopt the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with D.R. Horton Inc., for the Tap Root Subdivision as presented and recommended by staff*

**Resolution #R-22-121**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH D.R. HORTON, INC FOR THE TAP ROOT SUBDIVISION**

**WHEREAS**, the City of Hendersonville owns, operates and maintains water and sewer systems to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water and gravity sewer services as a part of their development projects; and

**WHEREAS**, the Developer extends public water and gravity sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

**WHEREAS**, D.R. Horton, Inc., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Tap Root Subdivision.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with D.R. Horton, Inc., the “Developer” and “Owner” to provide water service to the Tap Root Subdivision is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**M. Utility Extension Agreement for the Judges Tract Roadway – Brendan Shanahan, Civil Engineer IV**

*I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Peggy C Cabe, Enno F. Camenzind, Joan C. Fleming, Paula Camenzind Carter and Robert O. Camenzind for the Judges Tract Roadway as presented and recommended by staff.*

**Resolution #R-22-105**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH PEGGY C CABE, ENNO F. CAMENZIND, JOAN C. FLEMING,  
PAULA CAMENZIND CARTER AND ROBERT O. CAMENZIND FOR THE JUDGES  
TRACT ROADWAY**

**WHEREAS**, the City of Hendersonville owns, operates and maintains water and sewer systems to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

**WHEREAS**, the Developer extends public water and sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the sewer line extension process; and

**WHEREAS**, Peggy C Cabe, Enno F. Camenzind, Joan C. Fleming, Paula Camenzind Carter and Robert O. Camenzind, the “Developers” and “Owners”, will enter into a Utility Extension Agreement with the City to provide water and sewer service to the Judges Tract Roadway.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Peggy C Cabe, Enno F. Camenzind, Joan C. Fleming, Paula Camenzind Carter and Robert O. Camenzind, the “Developers” and “Owners” to provide sewer service to the Judges Tract is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

**N. Engineering Services for the Water Distribution System Master Plan Update– Adam Steurer, Utilities Engineer**

*I move City Council to adopt the Resolution By the City Council to select Hazen and Sawyer as most qualified to provide engineering services and authorize the City Manager To Enter Into a Contract for Engineering Services for the Water Distribution System Master Plan Update.*

**Resolution #R-22-106**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR ENGINEERING SERVICES FOR THE WATER DISTRIBUTION SYSTEM MASTER PLAN UPDATE PROJECT**

**WHEREAS**, the City owns and operates a public water distribution system that serves a population of approximately 72,000 in the City and surrounding area; and

**WHEREAS**, the City's current Water Distribution System Master Plan (Master Plan) was prepared in 2017; and

**WHEREAS**, the Master Plan serves as a roadmap for the City to properly maintain and improve the water system. The Master Plan also identifies and prioritizes capital improvement projects so the distribution system can adequately serve current and future water demands; and

**WHEREAS**, City staff recommend updating the Master Plan every five years; and

**WHEREAS**, City Staff have performed a qualifications-based selection, determined Hazen and Sawyer, P.C. as most qualified, and received a proposal from Hazen and Sawyer, P.C. to provide Engineering Services to support the project.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. Hazen and Sawyer, P.C. is most qualified to provide professional engineering services for the project, as recommended by Staff.
2. The scope of engineering services from Hazen and Sawyer, P.C. is approved in the amount of \$200,000
3. The City Manager is authorized to execute an agreement with Hazen and Sawyer, P.C. consistent with the terms of this Resolution, as approved by the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

**O. DWI Stormwater Planning Grant Application Resolution – Michael Huffman, Stormwater Division Manager**

*I move the City Council adopt a resolution to apply for funding through the DWI Stormwater Planning Grant program for the Comprehensive Stormwater Master Planning Project.*

**Resolution #R-22-107**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPLY FOR FUNDING FOR THE CITY OF HENDERSONVILLE COMPREHENSIVE STORMWATER MASTER PLAN PROJECT**

**WHEREAS**, the North Carolina Department of Environmental Quality Division of Water Infrastructure has established a funding program for investment in drinking water, wastewater, and stormwater systems; and

**WHEREAS**, The City of Hendersonville has need for and intends to complete a comprehensive, city-wide stormwater master planning project described as City of Hendersonville Comprehensive Stormwater Master Plan Project ; and

**WHEREAS**, The City of Hendersonville intends to request State loan and/or grant assistance for the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. That City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
4. That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
5. That John Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.
6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**P. Comprehensive Stormwater Master Planning Services Selection – Michael Huffman,**  
*Stormwater Division Manager*

*I move the City Council adopt a Resolution directing the City Manager to negotiate a contract with WK Dickson to provide Comprehensive Stormwater Master Planning Services, based on their review as most qualified firm to perform the work and authorize the City Manager to negotiate with the next most qualified firm, based on the presented rankings, if the initial negotiations fail.*

**Resolution #R-22-108**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A FIRM TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE COMPREHENSIVE STORMWATER MASTER PLANNING PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM**

**WHEREAS**, the City of Hendersonville advertised a request for qualifications for a comprehensive master planning services for the City of Hendersonville and;

**WHEREAS**, WK Dickson was determined to have the highest aggregate score and was most frequently ranked as the highest firm by each reviewer; and

**WHEREAS**, firms Withers Ravenel, McGill Associates, McAdams, Blue Earth, Geosyntec, RVE, and LJB were the next highest-ranking firms in order; and

**WHEREAS**, a contract for service is still to be established;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The City Manager is authorized to negotiate and enter into contract for the stormwater master planning project with WK DICKSON on behalf of the City in consultation with the City Attorney, upon such terms and conditions as he deems appropriate, including but not limited to:
  - a. Determining the scope of work;
  - b. Breaking the scope of work into Phases if appropriate, and
  - c. Amending the contract in the future to amend the scope of work or activate future phases,

Provided, however, that the following conditions shall apply:

- a. The contract and any amendment(s) entered now or in the future shall only obligate the City to budgeted and available funds as of the date of the contract or any such amendment; and
  - b. The total of funds authorized under this Resolution shall be less than \$500,000.
2. If negotiations fail, the City Manager is directed to negotiate a contract with the next most qualified firm based on the rankings provided in the RFQ review sheet, said contract to be consistent with the terms of this Resolution;

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**Q. Amendment to Resolution R-22-84 Supporting the Application to NCDWR Water Resource Development Grant – Michael Huffman, Stormwater Division Manager**

*I move City Council approve the amendments to resolution R-22-84 supporting a grant application to the NC Division of Water Resources Water Resource Development Grant Program in the amount of \$65,000.*

AMENDMENT TO #R-22-84

**Resolution #R-22-109**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL  
IN SUPPORT OF APPLICATION FOR  
NCDWR WATER RESOURCE DEVELOPMENT GRANT**

**WHEREAS**, the North Carolina Department of Water Resources has established a grant that provides funding to municipalities for water resource development projects; and

**WHEREAS**, the City of Hendersonville, NC City Council desires to sponsor, The Sullivan Park Stream Restoration, to restore a heavily degraded stream using natural channel design practices and bioengineering methods that will allow this flashy urban stream to access the adjacent floodplain, reduce erosion rates in the channel, establish a healthy forested buffer zone, and improve water quality and aquatic habitat.; and

**WHEREAS**, the North Carolina Department of Water Resources has announced a competitive Grant to award funding for Watershed Improvement Projects; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

- 1) The Council requests the State of North Carolina to provide financial assistance to The City of Hendersonville, NC for Sullivan Park Stream Restoration in the amount of \$ 65,000 or 50 percent of the nonfederal project costs, whichever is the lesser amount;
- 2) The Council assumes full obligation for payment of the balance of project costs;
- 3) The Council will obtain all necessary State and Federal permits;
- 4) The Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.

- 5) The Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Council will assure that the project is open for use by the public on an equal basis with no restrictions;
- 8) The Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**R. Multiple Space Meter Provider Selection – Brian Pahle, Assistant City Manager**

*I move that City Council approve the Resolution by the City of Hendersonville City Council to authorize the City Manager to negotiate and execute a contract for the Multi-Space Parking Meters (MSM) and Mobile License Plate Recognition (MLPR) request for proposals.*

**Resolution #R-22-110**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH  
CAROLINA TIME/FLOWBIRD/GENETEC FOR THE MULTI-SPACE METER AND  
MOBILE LICENSE PLATE RECOGNITION INSTALLATION PROJECT**

**WHEREAS**, the City Council approved THE MULTI-SPACE METER AND MOBILE LICENSE PLATE RECOGNITION INSTALLATION PROJECT as part of the FY2023 budget, the “Project”; and;

**WHEREAS**, the City Manager’s Office has solicited proposals in an effort to hire a reputable and responsible vendor(s) to perform the Project; and

**WHEREAS**, Carolina Time/Flowbird/Genetec has submitted the most qualified proposal that best meets the needs of the City, and references indicate that they are a responsible vendor, able to complete the Project within the bid or price stated, and within the time frames requested; and

**WHEREAS**, the City Manager’s Office is recommending that the Project be awarded to Carolina Time/Flowbird/Genetec and the Agreement be approved; and

**WHEREAS**, the City Manager’s Office has requested that the City Manager be authorized to negotiate and enter into a contract with Carolina Time/Flowbird/Genetec for a not to exceed amount;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

2. The Project is awarded to Carolina Time/Flowbird/Genetec in the amount of \$553,248.20 for a 6-year cost. Additionally, Carolina Time/Flowbird/Genetec agrees to a guaranteed maximum price for additional multi-space meters of \$8,960 per meter for 1 year following the contract execution.
3. The City Manager is authorized to negotiate and enter into an agreement with Carolina Time/Flowbird/Genetec on behalf of the City in such form and with such provisions as he may deem appropriate, after consultation with the City Attorney, provided that the price may not be changed without approval from the City Council.

4. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the agreement as entered and signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**S. Resolution to Select Contractor for 2022 Brush/Leaf Grinding Project – Tom Wooten, Public Works Director**

*I move that City Council approve the resolution authorizing selection of a contractor for the 2022 Brush/Leaf Grinding Project and to direct the Director of Public Works to execute a three-year contract with the low bidder for the project.*

**Resolution #R-22-111**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A CONTRACTOR FOR THE 2022 BRUSH AND LEAF GRINDING PROJECT AND AUTHORIZE THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A THREE-YEAR CONTRACT WITH THE LOW BIDDER**

**WHEREAS**, the City posted a request for formal bids for the 2022 Brush and Leaf Grinding Project and;

**WHEREAS**, formal bids were opened on Monday, August 22, 2022, and Trace and Company was the sole bidder; and

**WHEREAS**, the formal bid process was followed, and grinding is considered a service so a single bid can be accepted and awarded; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The Brush grinding contract is awarded to Trace and Company for a three-year term in an amount not to exceed \$53,900.00 for the fall, 2022, brush and grind, and \$7.00 per cubic yard for any brush or leaf grinding during the remainder of the three-year term.
2. The Director of Public Works is authorized to execute a three-year contract for the 2022 Brush and Leaf Grinding Project with Trace and Company.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**T. Purchasing and Contracting Policy Updates – Logan Hickey, Procurement/Contracts Administrator**

*I move City Council to adopt the Resolution by the City Of Hendersonville City Council Authorizing Certain Actions With Regards to Purchasing and Contracting as presented.*

**Resolution #R-22-112**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING CERTAIN ACTIONS WITH REGARDS TO PURCHASING AND CONTRACTING**

**WHEREAS**, the Finance Director and Procurement and Contracts Administrator are requesting that certain actions be taken by City Council to streamline the purchasing and contracting processes, and

**WHEREAS**, the City Manager and City Attorney have reviewed these requests and have determined that they are workable from both a legal and a managerial standpoint;

**WHEREAS**, the these proposed actions include: 1) adopting a policy to clearly delineate purchasing and contracting authority within City government; 2) removing the informal quote range of \$2500-\$4,999 so that additional competitive quotes and purchase requisitions are no longer required

in this range of pricing; 3) designating Department Directors as deputy finance officers for the purposes of pre-auditing all contracts in an amount of less than \$5,000; 4) designating the Assistant Finance Director as a deputy finance officer for the purpose of pre-auditing all contracts, regardless of amount; 5) authorizing the City Manager to making modifications to the Purchasing Policy Manual and to implement other administrative policies regarding purchasing and contracting provided they meet or exceed policies, resolutions or actions previously adopted by City Council; and

**WHEREAS**, this change would help to lessen the administrative burden associated with purchasing and contracting; and

**WHEREAS**, it is believed that this will save the City money as a result of requesters' times being utilized for other more pressing priorities for the City as growth continues; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. That the Informal Quote Range of \$2,500-\$4,999 is eliminated, meaning that additional competitive quotes and purchase requisitions are no longer required for purchases less than \$5,000;
2. All Department Directors are hereby designated as deputy finance officers for the purposes of pre-auditing all contracts in an amount of less than \$5,000;
3. The Assistant Finance Director is hereby designated as a deputy finance officer for the purpose of pre-auditing all contracts, regardless of amount;
4. The City Manager is authorized to make modifications to the Purchasing Policy Manual and to approve and implement other administrative policies regarding purchasing and contracting provided they meet or exceed policies, resolutions or actions previously adopted by City Council. To this end, the revisions to the policy dated November 24, 2021 are hereby ratified.
5. The Contract Policy attached to this Resolution is adopted and approved in its entirety, as presented. The Contract management Policy adopted by City Council on January 10, 2014 is hereby repealed.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**U. Resolution to Accept Dogwood Health Trust Grant for Small Business Loan and Training - Jamie Carpenter, Downtown Manager**

*I move to adopt the resolution by the City of Hendersonville City Council Accepting A Grant From The Dogwood Health Trust For The Purpose Of Development And Growth Of Downtown Hendersonville, as presented.*

**Resolution #R-22-113**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL  
ACCEPTING A GRANT FROM THE DOGWOOD HEALTH TRUST  
FOR THE PURPOSE OF DEVELOPMENT AND GROWTH  
OF DOWNTOWN HENDERSONVILLE**

**WHEREAS**, the Dogwood Health Trust (the "Trust") has established a grant that provides funding to municipalities for the development of and businesses within Investment Areas as defined by 12 CFR § 1805.201(b)(3)(ii) ("Investment Areas"); and

**WHEREAS**, the City of Hendersonville has within its municipal border areas designated as Investment Areas; and

**WHEREAS**, the City of Hendersonville, in particular its Downtown Development division applied for a grant from the Trust to establish a small business loan program for low-income entrepreneurs who are unable to access traditional financial services due to a lack of creditworthiness, small business education and technical assistance, and the development of a community investment fund (collectively "Allowable Purposes"); and

**WHEREAS**, the City's has been awarded \$400,000.00 by the Trust to be used for the Allowable Purposes; and

**WHEREAS**, the City of Hendersonville desires to accept the grant funds, and authorize the execution of the grant funding agreement;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The City hereby accepts the grant from the Trust to be used for the Allowable Purposes; and
2. The City Manager is authorized to execute the Grant Agreement, with such changes as he deems appropriate, provide they are consistent with the terms of this Resolution;
3. City Staff are authorized and directed to proceed with the development of the programs for the Allowable Purposes and to bring them back to City Council for final approval in accordance with any procedures required by applicable law.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

*Council Member Lyndsey Simpson moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.*

## **6. PRESENTATIONS**

### **A. Caregivers of Mother Earth Presentation - Elle Travis**

Elle Travis, Chief Pollinator of Caregivers of Mother Earth, presented information on the nonprofit to City Council. Ms. Travis asked Council to consider becoming the cornerstone city of Caregiver of Mother Earth (COME) to promote connecting children and nature, their food, and encouraging creation of more pollinator and vegetable gardens. Ms. Travis asked Council to task the Environmental Sustainability Board with championing the program. Ms. Travis stated if approved, the cost would be \$250.00 per year which is based on population and said the COME would ask that signage be placed along side the current Bee City and Tree City signs. Ms. Travis also discussed leadership and educational commitments and discussed the inaugural class of children who will be celebrated later this month. Council Member Lyndsey Simpson asked Council to consider the request and said she believes the Environmental Sustainability Board would be eager to assist with implementation of this new program.

*Council Member Lyndsey Simpson moved that City Council approve the City of Hendersonville becoming the inaugural Cornerstone City of Caregivers of Mother Earth. A unanimous vote of the Council followed. Motion carried.*

### **B. Proclamation - Literacy Awareness - Mayor Barbara G. Volk**

Mayor Barbara G. Volk presented a proclamation for literacy awareness to Katrina McGuire, Executive Director of Blue Ridge Literacy Council.

### **C. Proclamation - Childhood Cancer Awareness - Mayor Barbara G. Volk**

Mayor Barbara G. Volk presented a proclamation for childhood cancer awareness to Amy Meinch and her family on behalf of her daughter. Amy expressed thanks and appreciation to the City for issuing the proclamation and encouraged everyone to educate themselves on childhood cancer and to display a golden ribbon during the month of September in support of the fight against it.

### **D. Analysis of Impediments to Fair Housing – John Connet, City Manager, Mary Roderick, PhD, Regional Planner- Land of Sky**

Mary Roderick PhD, Regional Planner with Land of Sky prepared and presented updated documents to Council for readoption to comply with federal housing requirements. Dr. Roderick summarized impediments to inadequate housing supply as well as discussed the Analysis of Impediments (AI) findings and mortgage denial rates with Council and explained how it relates to diversity. Dr. Roderick

discussed options to increase housing supply such as possible zoning updates and minimum lot size changes.

**E. Discussion of Council Initiatives to Improve Housing Affordability – Jerry A. Smith Jr., J.D., Council Member**

Council Member Jerry A. Smith Jr., J.D. discussed ways to incentivize developers to incorporate affordable housing into their plans and requested Council direct the City Attorney to examine ordinances or other creative avenues and provide recommendations to accomplish this goal. Council Member Smith acknowledged the comprehensive planning process but said he feels ordinances would have more benefits in the long run. Council Member Dr. Jennifer Hensley stated she participated in the Duke Leadership Forum, Western Division, over the last eight months regarding adequate housing and said their goal was also increasing access to affordable housing. Dr. Hensley stated the nonpartisan group was comprised of members from a diverse group of individuals throughout the western part of the state whose goal was to increase affordable housing through building authentic relationships based on trust and understanding through frank, civil, and constructive discourse, and to significantly deepen the understanding of a specific issue and the underlying values and concerns of others without diminishing one's own or another person's point of view. Dr. Hensley additionally cited the Bowen Study statistics regarding housing and discussed the group's proposed action items as listed below:

- Develop and implement a broad-based PR strategy to increase public buy-in to addressing housing supply and affordability issues in WNC
- Generate funding for infrastructure or other capital needed to support increasing the housing supply, including issuing state or local bonds or getting permission to use the occupancy tax
- Increase multifamily, higher density, mixed use, or form-based zoning that will make it easier for developers to build housing, especially housing affordable to working households;
- Regional coordination for planning around Housing and Economic Development (i.e. corridor planning, comprehensive plans for housing);
- Increase regional capacity to attract state and federal funding for infrastructure and housing;
- Encourage local governments to subsidize Section 8 rents;•Consider regulation of short-term rentals

*City Council Members unanimously agreed to direct the City Attorney and any necessary collaborators to examine ordinances and other tools or avenues, including incentive based inclusionary zoning and mandating affordable housing and provide recommendations to Council for consideration.*

## **7. PUBLIC HEARINGS**

**A. Public Hearing: Main Street Pressure Washing - Jamie Carpenter, Downtown Manager**

Downtown Manager Jamie Carpenter advised that pursuant to N.C.G.S. § 160A-536 a public hearing is necessary to award a five-year contract to the lowest bidder in the amount of \$9900 per year to WNC Pressure Washing to clean the streets following the Apple Festival each year.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:57 p.m.

There were no comments.

The public hearing was closed at 6:58 p.m.

*Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt an adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Execute Agreement with WNC Pressure Washing for Annual Main Street Pressure Washing for the Main Street Municipal Service District as presented.. A unanimous vote of the Council followed. Motion carried.*

**Resolution #R-22-114**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH  
WNC PRESSURE WASHING FOR ANNUAL MAIN STREET PRESSURE WASHING**

**WHEREAS**, the City Council approved Main Street Pressure Washing as part of the 2023 budget, the "Project"; and;

**WHEREAS**, the Community Development Department Downtown Division has solicited proposals in an effort to hire a reputable and responsible Contractor to perform the Project; and

**WHEREAS**, WNC Pressure Washing submitted proposal with references that indicate that they are a responsible Contractor able to complete the Project within the bid or price stated, and within the time frames requested, and other proposers did not receive as good of a reference as WNC and therefore WNC is best suited to achieve the needs of the service district; and

**WHEREAS**, the Community Development Department, Downtown Division is recommending that the Project be awarded to WNC Pressure Washing and the Agreement be approved; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The Project is awarded to WNC Pressure Washing in the amount of \$9,900 each year for a term of five years.
2. The City Manager is authorized to enter into an Agreement with WNC Pressure Washing containing such terms as he may deem appropriate, after consultation with the City Attorney, provided that the price may not be changed without approval from the City Council.
3. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1st day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**B. Rezoning: Conditional Zoning District – Cottages at Mastermind (P22-55-CZD) –**  
*Matthew Manley, AICP, Planning Manager*

Community Development Planning Manager, Matt Manley stated the City received is in receipt of an application for a Conditional Zoning District from Tom Martinson & Elam Hall of DHI Communities, applicant and John and Betty Hammond, property owners. Mr. Manley stated the applicant is requesting to rezone the subject property, PINs 9579-48-2415 and 9579-48-6832 located off Francis Road/Mastermind Lane, from C-2 Secondary Business and R-40 Low Density Residential to PRD-CZD, Planned Residential Development Conditional Zoning District for the construction of 98 two-family units and 1 single-family home on approximately 12.76 acres. Mr. Manley stated the proposal includes the addition of 49 – 2-unit “casitas”, 1 – 1-unit casita, a clubhouse/mailroom and 3 garage structures and said the proposal would include a recombining of the subject properties to create a single parcel. The proposed density of the projects equates to 7.8 units/acres. Mr. Manley stated there no other uses are proposed to be permitted by the rezoning.

The developer’s engineer, Warren Suggs with Civil Design Concepts addressed City Council regarding the project plans and discussed conditions stating they are opposed to plantings near the stormwater retention pond as this may affect the performance as well as discussed the traffic impact analysis stating they are agreeable to conducting it while school is in session.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 7:23 p.m.

Steven Tromley addressed City Council expressing concerns of recreational activities being added into developments to reduce the burden on taxpayers.

Ken Fitch addressed City Council remotely via Zoom online software expressing concerns of imminent domain to accommodate the project.

Jim McKinley addressed City Council expressing concerns about approving zoning changes before information is received on the effect on traffic in the area.

Lynne Williams addressed City Council remotely via Zoom online software expressing concerns regarding the loss of trees and asked Council to follow the recommendations of the Tree Board.

The public hearing was closed at 7:33 p.m.

Mayor Volk advised consideration may want to be given to recreational structures for families with young children. After much discussion Council and the developer agreed to the following additional conditions:

- i. Within the requirements of the Americans with Disabilities Act and per safety regulations, lighting shall be downward facing and fully shielded. Sidewalks away from the parking areas will use pedestrian-scale lighting as approved by City staff.
- ii. A southbound left-hand turn lane on Francis Rd will be constructed according to NCDOT standards at the access point to the development.
- iii. A Transportation Impact Analysis will not be required.

*Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9579-48-2415 & 9579-48-6832) from R-40 (Low Density Residential) and C-2 (Secondary Business) to PRD (Planned Residential Development – Conditional Zoning District) based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated July 29, 2022,] and presented at this meeting and subject to the following: The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses*

1. *Two-Family Residential*
2. *Single-Family Residential*

*2. Permitted uses and applicable conditions presented on the site plan shall be amended to include:*

1. *Within the requirements of the Americans with Disabilities Act and per safety regulations, lighting shall be downward facing and fully shielded. Sidewalks away from the parking areas will use pedestrian height lighting as negotiated with city staff.*
2. *A left-hand turn lane on Francis Rd. according to NCDOT standards.*
3. *A traffic impact analysis (TIA) will not be required.*

*The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the subject property is located in an area designated as a ‘development opportunity’ and ‘priority growth area’ according to the City’s 2030 Comprehensive Plan. Furthermore, the Regional Activity Center Future Land Use designation recommends densities exceeding those proposed for this development. Furthermore, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because the development of two-family residential dwellings will provide a needed housing type and the development would provide housing in close proximity to shopping and employment opportunities. The motion carried by a vote of 4-1 with Council Member Dr. Jennifer Hensley voting against.*

**Ordinance #O-22-52**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCELS POSSESSING PIN NUMBERS 9579-48-2415 & 9579-48-6832 BY CHANGING THE ZONING DESIGNATION FROM R-40 (LOW DENSITY RESIDENTIAL) AND C-2 (SECONDARY BUSINESS) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT – CONDITIONAL ZONING DISTRICT)**

IN RE:            Parcel Number:            9579-48-2415 & 9579-48-6832  
                      Addresses:                    102 Francis Rd & 228 Mastermind Ln  
                      Cottages at Mastermind        (File # P22-55-CZD)

**WHEREAS**, the City is in receipt of a Conditional Rezoning application from applicant, Elam Hall of DHIC, LLC. and property owners, The Hammond Family Trust & John Hammond Trustee for the development of 99 residential units on approximately 12.8 acres; and

**WHEREAS**, the Planning Board took up this application at its regular meeting on August 8, 2022; voting 10-0 to recommend City Council approve an ordinance amending the official zoning map of the City of Hendersonville; and

**WHEREAS**, City Council took up this application at its regular meeting on September 1, 2022.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9579-48-2415 & 9579-48-6832, changing the zoning designation from R-40 (Low Density Residential) and C-2 (Secondary Business) to PRD (Planned Residential Development – Conditional Zoning District)
2. Development of the parcel pursuant to this Ordinance is subject to the following.
  - b. Development shall comply with the site plan submitted by the applicant dated September 1, 2022, including the conditions listed therein including modifications approved by City Council which shall be added to the site plan. The updated site shall be submitted to the City at or the applicant's execution of this Ordinance.
  - c. Permitted uses shall include:
    - i. Two-family residential
    - ii. Single-family residential
  - d. Additional conditions that shall be satisfied prior to final site plan approval include:
    - i. Within the requirements of the Americans with Disabilities Act and per safety regulations, lighting shall be downward facing and fully shielded. Sidewalks away from the parking areas will use pedestrian-scale lighting as approved by City staff.
    - ii. A southbound left-hand turn lane on Francis Rd will be constructed according to NCDOT standards at the access point to the development.
    - iii. A Transportation Impact Analysis will not be required.
3. Except where modified by the terms of this Ordinance, development of the parcel(s) shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina.
4. Except where explicit relief is granted by the terms of this Ordinance, the development of the parcel(s) shall occur in accordance with all applicable standards within local ordinances and policies.
5. This ordinance shall not be effective until the list of use(s) and conditions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

## **8. UNFINISHED BUSINESS**

### **A. Pickleball Court Discussion – Tom Wooten, Public Works Director and Mark Stierwalt, Public Works Superintendent**

Public Works Director Mark Stierwalt addressed City Council and recalled prior discussions and presented additional options for consideration.

***Council Member Jerry A. Smith Jr., J.D. moved that City Council direct staff to move forward with the development of pickleball courts in the following manner: six dedicated pickleball courts and two dedicated tennis courts in the location of the old racquet ball courts and tennis courts. A unanimous vote of the Council followed. Motion carried.***

Mayor Volk recessed the meeting at 8:25 p.m. for a short break and reconvened at 8:30 p.m.

**9. NEW BUSINESS****A. Resolution to Select Contractor for 2022 Resurfacing Project – Tom Wooten, Public Works Director**

Public Works Director Tom Wooten stated the city received bids from four companies and said Tarheel Paving & Asphalt Co. was the low bidder. Director Wooten stated that staff recommends awarding the bid to the low bidder in the amount of \$336,027.17. Director Wooten advised since the bid came in low there were extra funds available to utilize for paving additional roads and advised staff will put out a second bid using an informal bid process, for the paving of additional roads to utilize the remaining funds budgeted for this year.

*Council Member Dr. Jennifer Hensley moved that City Council approve the Resolution by the City of Hendersonville City Council to Select a Contractor for the 2022 Street Resurfacing Project, Authorize the Director of Public Works to Execute a Contract, and to Bid and Award Additional Street Projects Within Budgeted Funds Available, as presented. A unanimous vote of the Council followed. Motion carried*

**Resolution #R-22-115****RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A CONTRACTOR FOR THE 2022 STREET RESURFACING PROJECT, AUTHORIZE THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A CONTRACT, AND TO BID AND AWARD ADDITIONAL STREET PROJECTS WITHIN BUDGETED FUNDS AVAILABLE**

**WHEREAS**, the City posted a request for formal bids for the 2022 Street Resurfacing Project and;

**WHEREAS**, formal bids were opened on Wednesday, August 17, 2022, and Tarheel Paving & Asphalt Co. was the low bidder; and

**WHEREAS**, the bid from Tarheel Paving & Asphalt Co. is substantially lower than budgeted funds available for the 2022 Street Resurfacing Project, which would allow the acceleration of some of the resurfacing projects scheduled for next year to be accelerated to this current fiscal year; and

**WHEREAS**, Staff will put out an informal bid to utilize the remainder of funds budgeted for the 2022 Street Resurfacing Project, and is requesting authorization to be able to award a contract to the low bidder up to the amount of funds budgeted without bringing it back to the City Council in order to accommodate the repaving of the additional streets in a timely manner, taking into account the upcoming winter months;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The 2022 Street Resurfacing Project is awarded to Tarheel Paving and Asphalt Co.
2. The Director of Public Works is authorized to execute a contract for the 2022 Street Resurfacing Project with Tarheel Paving & Asphalt Company in the amount of \$336,027.17; and
3. The Director of Public Works is authorized to award a bid to the low bidder from bids received through the informal bid process to bid out additional street resurfacing for this fiscal year, up to the amount of funds budgeted, and to award and enter into a contract for this additional resurfacing on behalf of the City of Hendersonville in consultation with the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**B. An Ordinance to Amend Chapter 22 of the Code of Ordinances to Prohibit Outdoor Burning of Certain Materials in the City's Municipal Services Districts – D. James Miller, Fire Chief**

Fire Chief D. James Miller addressed City Council regarding proposed amendments to the City's open burn ordinance to allow downtown businesses and restaurants to use alcohol, natural gas, propane, and kerosene to be utilized for fire. Chief Miller clarified this prohibits burning wood.

*Council Member Debbie O'Neal-Roundtree moved that City Council adopt the "Ordinance to Prohibit Outdoor Burning of Certain Materials in the City's Municipal Services Districts" as presented. A unanimous vote of the Council followed. Motion carried*

**Ordinance #O-22-53**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CHAPTER 22 ARTICLE I, SECTION 22-7 OF THE CODE OF ORDINANCES TO PROHIBIT OUTDOOR BURNING OF CERTAIN MATERIALS THE CITY'S MUNICIPAL SERVICES DISTRICTS.**

**WHEREAS**, that pursuant to N.C.G.S. 160A Art. 14, the City maintains a fire department and provides fire protection services for the City of Hendersonville; and

**WHEREAS**, the City has two specially designated municipal services districts, namely the Main Street Municipal Services District, and the Seventh Avenue Municipal Services District; and

**WHEREAS**, that due to the density of development, high concentration of pedestrian and vehicle traffic, average age of construction, and building materials used in the municipal services districts, special consideration regarding fire protection is warranted; and

**WHEREAS**, the City wishes to prohibit outdoor burning of certain materials and or fuels in the municipal services districts in order to reduce the risk of fire in those areas; and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

**SECTION 1.** This Ordinance shall be known as "An Ordinance to Prohibit Outdoor Burning of Certain Materials in the City's Municipal Services Districts."

**SECTION 2.** Chapter 22, Article I of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

**Sec. 22-7. Outdoor burning prohibited in the municipal services districts.**

- (a) Outdoor burning means the combustion of material or fuel of any type, outside of a building.
- (b) Outdoor burning is prohibited in the Main Street Municipal Services District and the Seventh Avenue Municipal Services District, unless specifically permitted by this Section.
- (c) This section does not apply to:
  - (1) The use of propane, alcohol, natural gas, or kerosene as the sole fuel source in a device manufactured for such purpose, used in the manner in which the device was designed, and manufactured to meet a nationally recognized fire safety standard.
  - (2) The use of common and customary devices emitting less than 1,000 BTU per hour, such as a candle, match, lighter, or cigarette.

**SECTION 3.** It is the intention of the City Council, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

**C. 2022 Installment Financing Contract (IFC) Approving Resolution – Adam Murr, Budget Manager**

Budget Murr Adam Murr presented a resolution to authorize the approval, execution, and delivery of various documents in connection to the issuance, including an installment financing agreement, deed of trust, an indenture of trust, and a bond agreement. Mr. Murr clarified the installment financing is not to exceed \$18,815,000 and will fund the following projects:

1. Fire Station 1 and Edwards Park Project (#19019)
2. Fire Ladder Project (#19021)
3. Fire Engine Project (#19022)

***Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt the Resolution approving an Installment Financing Contract And Delivery Thereof And Providing For Certain Other Related Matters As Presented. A unanimous vote of the Council followed. Motion carried***

**Resolution #R-22-116**

**RESOLUTION OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA,  
APPROVING AN INSTALLMENT FINANCING CONTRACT AND DELIVERY THEREOF  
AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS**

**WHEREAS**, the City of Hendersonville, North Carolina (the “City”) is a municipal corporation of the State of North Carolina (the “State”), validly existing under the Constitution, statutes and laws of the State;

**WHEREAS**, the City has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

**WHEREAS**, the City Council of the City (the “City Council”) has previously held a public hearing and approved a resolution on August 4, 2022 regarding an installment financing in an amount of approximately \$18,500,000 to pay the costs of (1)(a) constructing and improving fire and emergency services facilities, including (i) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site and (ii) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the “Fire Facilities Projects”), (b) relocating the Laura-Corn mini-golf course to Edwards Park, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the “Parks and Recreation Project” and collectively with the Fire Facilities Projects, the “Projects”) and (c) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the “Vehicles” and together with the Projects, the “2022 Projects”);

**WHEREAS**, the City has since received the bids and selected the contractor for the Projects and has received proposals from lenders for the installment financing for the 2022 Projects;

**WHEREAS**, based on the bids for the Projects and total expected costs of the 2022 Projects and the proposals received from lenders, the City Council has determined that it is in the best interest of the City to receive an advance of funds in an aggregate principal amount of not more than \$18,815,000 under an installment financing contract (the “Contract”) with Truist Commercial Equity, Inc. (the “Lender”) in order to pay (1) the costs of the 2022 Projects and (2) the costs related to execution and delivery of the Contract;

**WHEREAS**, the obligation of the City to make Installment Payments under the Contract is a limited obligation of the City payable solely from currently budgeted appropriations of the City and does not constitute a pledge of the faith and credit of the City within the meaning of any constitutional debt limitation;

**WHEREAS**, in order to provide security for the City's obligations under the Contract, the City will grant to the Lender a security interest under a deed of trust, security agreement and fixture filing (the "*Deed of Trust*") in all or a portion of the City's fee simple interest in the sites of Fire Station 1, together with all improvements and fixtures located thereon (collectively, the "*Mortgaged Property*");

**WHEREAS**, the City has submitted an application to the Local Government Commission of North Carolina (the "*LGC*") to consider and approve the Contract as described above and expects to be on the LGC's agenda at its September 22, 2022 meeting;

**WHEREAS**, there has been made available to the City Council the form of the Contract and the Deed of Trust, which the City proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing;

**WHEREAS**, in order to provide for the proceeds of the advance to be deposited and disbursed to pay for the 2022 Projects as set forth under the Contract, the City will enter into a custody agreement (the "*Custody Agreement*") with the Lender and/or its affiliate, Truist Bank, and in order to prevent unauthorized or fraudulent wire transfers through cyber fraud and other means, the City will acknowledge, accept and execute a statement of the Lender's standard wire transfer agreement (the "*Wire Transfer Agreement*"), each of which will be in the form made available to the City Council or a substantially similar form as may be required by the Lender; and

**WHEREAS**, it appears that each of the Contract, the Deed of Trust, the Custody Agreement and the Wire Transfer Agreement (collectively, the "*Instruments*") is in appropriate form and is an appropriate instrument for the purposes intended;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina, as follows:

Section 1. ***Approval, Authorization and Execution of Instruments.*** The City Council hereby approves the financing of the 2022 Projects in accordance with the terms of the Instruments, which will be valid, legal and binding obligations of the City in accordance with their respective terms. The City Council hereby approves the amount to be advanced by the Lender to the City pursuant to the Contract in an aggregate principal amount not to exceed \$18,815,000 at an interest rate not to exceed 2.99% per annum, such amount to be repaid by the City to the Lender as provided in the Contract. The term of the Contract will not exceed April 1, 2043. The form, terms and content of the Instruments are in all respects authorized, approved and confirmed, and the Mayor, the City Manager, the Assistant City Manager and the Finance Director, and their respective designees (the "*Authorized Officers*") are authorized, empowered and directed to execute and deliver the Instruments for and on behalf of the City, including necessary counterparts, in substantially the forms presented to the City Council, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions, and that from and after the execution and delivery of the Instruments, each of the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Instruments as executed. The Contract is subject to the approval of the LGC.

Section 2. ***Further Actions.*** Each of the Authorized Officers are hereby designated as the City's representatives to act on behalf of the City in connection with the transactions contemplated by the Instruments, and each of the Authorized Officers are authorized and directed to proceed with the financing of the 2022 Projects in accordance with the terms of the Instruments and to seek opinions on matters of law from the City Attorney, which the City Attorney is authorized to furnish on behalf of the City, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. Each of the Authorized Officers are hereby authorized to designate one or more employees of the City to take all actions which each of the Authorized Officers are authorized to perform under this Resolution, and each of the Authorized Officers, including their designees, are in all respects authorized on behalf of the City to supply all information pertaining to the transactions contemplated by the Instruments. Each of the Authorized Officers and the City Clerk are authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Instruments or as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution. Any and all acts of the Authorized Officers may be done individually or collectively.

Section 3. ***Related Actions.*** All acts and doings of officers, employees and agents of the City, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in

furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.

Section 4. **Repealer.** All motions, orders, resolutions, ordinances and parts thereof, in conflict herewith are hereby repealed.

Section 5. **Severability.** If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 6. **Effective Date.** This Resolution is effective on the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**D. DWI Stormwater Construction Grant Application Resolution – Michael Huffman,**  
*Stormwater Division Manager*

Stormwater Division Manager Mike Huffman stated staff have been working with Wildlands Engineering to develop a floodplain restoration plan for three city owned parcels on the southside of Hendersonville. Mr. Huffman stated preliminary restoration activities include stream, wetland, and floodplain restoration, potential property acquisitions, and stormwater improvement projects with the goal of improving water quality and reducing flooding around the southside of Hendersonville. Mr. Huffman stated in order to fund the implementation of projects identified through this planning effort city staff are planning to apply to the newly created NCDEQ Division of Water Infrastructure Stormwater Construction Grant program. City Manager John Connet commended Mr. Huffman for looking for creative ways to address stormwater and water quality management.

*Council Member Lyndsey Simpson moved that City Council adopt the Resolution to apply for funding through the DWI Stormwater Construction Grant program for the Lower Mud Creek Floodplain Restoration Project. A unanimous vote of the Council followed. Motion carried.*

**Resolution #R-22-117**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPLY FOR FUNDING FOR THE LOWER MUD CREEK FLOODPLAIN RESTORATION PROJECT**

**WHEREAS,** the North Carolina Department of Environmental Quality Division of Water Infrastructure has established a funding program for investment in drinking water, wastewater, and stormwater systems; and

**WHEREAS,** The City of Hendersonville has need for and intends to complete stream, wetland, and stormwater improvements projects to control stormwater quality and quantity described as Lower Mud Creek Floodplain Restoration Project; and

**WHEREAS,** The City of Hendersonville intends to request State loan and/or grant assistance for the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. That City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all

principal and interest on the debt.

4. That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
5. That John Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.
6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**E. Name that Creek Campaign for Brooklyn Creek – Michael Huffman, Stormwater Division Manager**

Stormwater Division Manager Mike Huffman stated in July 2022, RiverLink staff worked with Hendersonville stormwater staff and residents to select the name ‘Brooklyn Creek’ for an unnamed stream that flows through Sullivan Park and into Mud Creek. He said RiverLink staff distributed fliers around neighborhoods adjacent to the stream asking for proposed names and said local residents submitted two names; Brooklyn Creek and Cold Springs Creek. Mr. Huffman stated the winning name was Brooklyn Creek with 66.7% of the vote. Mr. Huffman recalled the early history of the area and said in the early 20th century the unnamed stream was a destination for play and relaxation for residents of the historic African American community known as Brooklyn. He said before being displaced by Urban Renewal in the 1970’s and relocated to Green Meadows, there was a thriving connected community along the stream and said by naming the stream Brooklyn Creek, the history of a displaced community and their connection to the waterway can be honored and shared. Mr. Huffman stated RiverLink is submitting an application to the U.S Geological Survey to officially name the stream “Brooklyn Creek”.

*Council Member Dr. Jennifer Hensley moved that City Council adopt the resolution approving RiverLink’s application to U.S. Geological Survey To Name A Creek “Brooklyn Creek”. A unanimous vote of the Council followed. Motion carried.*

**Resolution #R-22-118**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING  
RIVERLINK’S APPLICATION TO THE U.S. GEOLOGICAL SURVEY TO NAME A  
CREEK “BROOKLYN CREEK”**

**WHEREAS**, the City of Hendersonville City Council believe that a transparent, well-researched and community driven process was performed by RiverLink in efforts to name this creek; and

**WHEREAS**, the City of Hendersonville recognizes that a local government official must support the application to name a geographical feature submitted to United States Geologic Survey (USGS) in order for the community’s efforts to be successful;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The City of Hendersonville approves of RiverLink's application to the USGS for the naming of a creek that flows through Sullivan Park "Brooklyn Creek".

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**F. Resolution to Apply for Funding for the Dana Area Water Improvements Project –**  
*Brent Detwiler, City Engineer*

City Engineer Brent Detwiler stated the North Carolina Department of Environmental Quality Division of Water Infrastructure is accepting American Rescue Plan Act (ARPA) grant and State Revolving Fund (SRF) loan applications by September 30, 2022 for water and wastewater projects and said staff is recommending applying to fund the Dana Area Water Improvements Project. Mr. Detwiler stated the proposed project extends water services to a disadvantaged area with potentially contaminated wells and said the cost of connection fees, system development fees, and abandonment of wells will be covered under project costs for any residences who voluntarily connect to the water line.

*Council Member Lyndsey Simpson moved that City Council adopt the Resolution by the City Council to apply for funding for the Dana Area Water Improvements Project. A unanimous vote of the Council followed. Motion carried.*

**Resolution #R-22-119**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPLY FOR FUNDING FOR THE DANA AREA WATER IMPROVEMENTS PROJECT**

**WHEREAS**, the North Carolina Department of Environmental Quality Division of Water Infrastructure has established a funding program for investment in drinking water, wastewater, and stormwater systems; and

**WHEREAS**, The City of Hendersonville has need for and intends to construct a water line extension project described as Dana Area Water Improvements; and

**WHEREAS**, The City of Hendersonville intends to request State loan and/or grant assistance for the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. That City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
4. That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
5. That John Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project

described above.

6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**G. Resolution to Apply for Funding for the Barker Heights Sanitary Sewer Project – Brent Detwiler, City Engineer**

City Engineer Brent Detwiler stated this is an additional opportunity to apply for grant funding through the North Carolina Department of Environmental Quality Division of Water Infrastructure is accepting American Rescue Plan Act (ARPA) grant and State Revolving Fund (SRF) and said staff is recommending applying to fund the Barker Heights Sanitary Sewer Project. Mr. Detwiler stated the proposed project extends sewer to a disadvantaged area with known failing septic systems and said the cost of connection fees, system development fees, and abandonment of the septic systems will be covered under project costs for any residences who voluntarily connect to the sewer system.

*Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt the Resolution by the City Council to apply for funding for the Barker Heights Sanitary Sewer Project. A unanimous vote of the Council followed. Motion carried.*

**Resolution #R-22-120**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPLY FOR FUNDING FOR THE BARKER HEIGHTS SANITARY SEWER PROJECT**

**WHEREAS**, the North Carolina Department of Environmental Quality Division of Water Infrastructure has established a funding program for investment in drinking water, wastewater, and stormwater systems; and

**WHEREAS**, The City of Hendersonville has need for and intends to construct a sanitary sewer extension project described as Barker Heights Sanitary Sewer; and

**WHEREAS**, The City of Hendersonville intends to request State loan and/or grant assistance for the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. That City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
4. That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all

sums then due and payable to the State as a repayment of the loan.

5. That John Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.
6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina this 1<sup>st</sup> day of September 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

## **10. CITY COUNCIL COMMENTS**

Council Member Lyndsey Simpson invited everyone to attend the Kiwanis Annual Pancake Breakfast at First Baptist Church from 7am to 10 am on September 2<sup>nd</sup>. Council Member Simpson additionally proposed moving the splash pad location to Toms Park next to the Whitmire Center. Council agreed to have staff research this request.

## **11. CITY MANAGER REPORT** – John F. Connet, City Manager

There was no report.

## **12. CLOSED SESSION**

A. Closed Session – John Connet, City Manager

*At 8:26 p.m. Council Member Lyndsey Simpson moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (3) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes and to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body. A unanimous vote of the Council followed. Motion carried.*

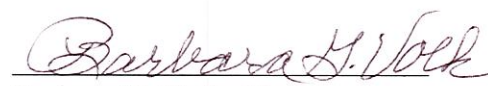
*At 9:45 p.m. Council Member Debbie O'Neal-Roundtree moved that City Council return to open session. A unanimous vote of the Council followed. Motion carried.*

## **13. ADJOURN**

There being no further business, the meeting was adjourned at 9:45 p.m. upon unanimous assent of the Council.

ATTEST:

  
Angela L. Reece, City Clerk

  
Barbara G. Volk, Mayor