



MINUTES

August 5, 2021

REGULAR MEETING OF THE CITY COUNCIL - ELECTRONIC CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk, and Council Members: Jeff Miller, Dr. Jennifer Hensley and Lyndsey Simpson

Participating Remotely: Mayor Pro Tem Jerry Smith

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Attorney Angela Becker, City Clerk Angela Reece, Communications Manager Allison Justus, 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.*

Indián Jackson of 11 Mountain Rd. addressed City Council inviting everyone to attend a BBQ on Sunday September 5th at 1:00 p.m. at Sullivan Park in the Green Meadows Community.

Crystal Cauley of 627 5th Ave. W. addressed City Council requesting consideration of two city building dedications. Ms. Cauley stated she feels it would be appropriate if the new police department could be named in honor of retired Police Chief, Donnie Parks, and the new fire station to be named after retired Fire Engineer, Terry Martin. Ms. Cauley stated both men were highlighted as a local African American leader during Black History Month.

Larry Phillips of 1102 Pinebrook Circle addressed City Council stating he has submitted a packet of information and petition to the City Clerk regarding the Boyd Park exchange stating no park should be utilized for other purposes than recreation. Mr. Phillip read excerpts from the material he submitted.

Mayor Volk recognized digital comments submitted by *Renato Flores* of 832 4th Ave. W. expressing concerns regarding noise pollution from airlines.

4. CONSIDERATION OF AGENDA

City Manager John Connet requested removal of Item M on the Consent Agenda, An Ordinance to Amend Chapter 52 of the Code of Ordinances and Item D under New Business, Special Appropriations Discussion. Manager Connet requested reordering the remaining items under New Business to hear the Code of Ethics Complaint as New Item B, and City Park Development Discussion as New Item C.

Council Member Jeff Miller moved that City Council approve the agenda as amended. A unanimous roll call vote of the Council followed. Motion carried.

5. CONSENT AGENDA

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

I move that move that City Council adopt the minutes of July 1, 2021, Regular Meeting, and July 2, 2021, Special Call Meeting as presented.

B. Henderson County Tax Adjustments – Amanda Lofton, Deputy Tax Collector

I move that City Council resolve to direct and authorize the tax releases submitted by Henderson County Tax Collector as presented and relieve the Henderson County Tax Collector and the Deputy Tax Collectors of the charges owed.

C. Budget Amendments August 2021—Adam Murr, Budget Manager

I move that City Council approve budget amendments 08052021-01, 08052021-02, and 08052021-03 as presented.

D. Revision of the Human Resource Job Descriptions — Jennifer Harrell, HR Director

I move that City Council approve the amended HR Coordinator job descriptions as presented.

E. Revision of the Personnel Policy – Clarifying a statement in reference to continuous service and retiree health insurance and updating short term disability – Jennifer Harrell, HR Director

I move City Council adopt the Resolution amending the City of Hendersonville Personnel Policy as presented

Resolution #R-21-81**RESOLUTION AMENDING THE CITY OF HENDERSONVILLE PERSONNEL POLICY**

WHEREAS, the City of Hendersonville maintains a personnel policy the purpose of which is to establish a system of personnel administration for recruiting, selecting, employing, developing, and maintaining an effective and responsible work force; and

WHEREAS, the City of Hendersonville wishes to amend that policy by adding a statement to Article VII. Section 26 – Short Term disability that during the disability period, under certain circumstances there are no contributions to the retirement system, or 401(k) or 457 plans; and

WHEREAS, the following statement will be added to the Short-Term disability provision that employees cannot receive more than 100% of their basic salary between all benefits; and:

WHEREAS, there has been some confusion concerning the City's intent to continue medical insurance for employees retiring with 30 or more years of service to the City. Staff is updating Article I. Section. 9. "Continuous service in regard to the Health Insurance for Retirees only includes full-time, regular employees." By removing the word continuous and moving the sentence to Article VII. Section 5. Leaving this contradicts what City Council adopted as a City Ordinance on June 1, 1988 and reaffirmed on September 4, 2014.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that from and after the effective date of this resolution, the Personnel Policy attached to this resolution, is hereby adopted.

This policy will become effective as of the date of adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

F. Water and Sewer Advisory Council Charter & Rules of Procedure Amendment — John Connet, City Manager and Angela Reece, City Clerk

I move that the City Council approve the revised Charter and Rules of Procedures for the Water & Sewer Advisory Council as recommended by the WSAC Council as presented.

G. Resolution of Final Acceptance of Negotiated Offer — John Connet, City Manager

I move that the City Council adopt the Resolution of Final Acceptance of Negotiated Offer received from George Terry Young Jr. for Parcel Number 111082/PIN Number 9569909023 as presented.

Resolution #R-21-80**RESOLUTION OF FINAL ACCEPTANCE OF NEGOTIATED OFFER**

WHEREAS, the City of Hendersonville owns certain property described as follows: that +/- 0.12 more accurately described in the Sherriff's Deed recorded in Deed Book 1516 Page 457 of the Henderson County Registry. Being the same property as described in Deed Book 495, Page 314 of the Henderson County Registry, and being identified for property tax purposes as Parcel Number 111082/PIN Number 9569909023 ("Property"); and

WHEREAS, North Carolina General Statute Section 160A-269 permits the City to sell property by upset bid after receiving and offer to purchase; and

WHEREAS, the City has received a NEGOTIATED OFFER RECEIVED PURSUANT TO N.C.G.S. § 160A-269 ("Offer"), a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, pursuant to the Offer George Terry Young, Jr., ("Buyer"), is offering to purchase the property described above for the sum of Eight Thousand and no/100 dollars (\$8,000.00), subject to the terms and conditions contained within the Offer; and

WHEREAS, on July 1, 2021, the City Council issued a proposed acceptance of the Offer and authorized the Offer to be advertised for upset bids pursuant to N.C.G.S. § 160A-269; and

WHEREAS, the Offer was advertised in the Hendersonville Times-News on July 8, 2021, and no upset bids were received; and

WHEREAS, subject to the terms below, the City Council wishes to issue a final acceptance of the Offer.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hendersonville as follows:

The Council issues a final acceptance of the Offer pursuant to the procedures of 160A-269, and authorizes the sale to, or an authorized assignee as allowed by Offer. The City Manager, City Clerk, and the City Attorney are authorized to take all actions on behalf of the City which are consistent with the terms of the Offer, including but not limited to the signature of all necessary documentation, to effectuate the closing on the sale of the Property.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

H. Resolution Accepting Proposal from Jennings Environmental, PLLC for the Sullivan Park Stream Restoration Feasibility Study – Mike Huffman, Stormwater Administrator

I move that City Council approve the resolution accepting Jennings Environmental, PLLC proposal to conduct a feasibility study of stream restoration opportunities at Sullivan Park and Authorize the City Manager to Negotiate and Execute a Contract with the Selected Firm.

Resolution #R-21-88

RESOLUTION ACCEPTING PROPOSAL FROM JENNINGS ENVIRONMENTAL, PLLC FOR THE SULLIVAN PARK STREAM RESTORATION FEASIBILITY STUDY AND TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH THE SELECTED FIRM

WHEREAS, Jennings Environmental, PLLC has submitted a scope of services to complete a stream restoration feasibility study in Sullivan Park; and

WHEREAS, Jennings Environmental, PLLC has extensive experience in stream restoration projects; and

WHEREAS, this feasibility study will help City Staff develop a stream restoration plan and pursue grant funding to implement the project; and

WHEREAS, the restoration of the stream in Sullivan Park will provide water quality benefits, environmental education opportunities, and enhance the natural amenities in the Green Meadows community.

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 execute a contract with Jennings Environmental, PLLC in an amount not to exceed \$48,000 to assist the City of Hendersonville with a stream restoration feasibility study in Sullivan Park.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

I. Resolution Authorizing the City Manager to Enter into Contract for Engineering Services to Support the Sewer Infrastructure Streambank Restoration – Adam Steurer, Utilities Engineer

I move City Council adopt the Resolution to Authorize the City Manager to Enter into a Contract for Engineering Services to Support the Sewer Infrastructure Streambank Restoration Project.

Resolution #R-21-82

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ROBINSON DESIGN ENGINEERS FOR ENGINEERING SERVICES TO SUPPORT THE SEWER INFRASTRUCTURE STREAMBANK RESTORTION PROJECT

WHEREAS, the City recently successfully completed the Multi-Area Streambank Restoration Project; and

WHEREAS, City Staff have identified an additional six locations in which the integrity of existing sanitary sewer infrastructure is threatened by nearby streams; and

WHEREAS, City Staff have recommended a streambank restoration project that will protect the threatened sanitary sewer infrastructure through a combination of live plantings and bioengineering and enhancing the overall health of the stream; and

WHEREAS, City Staff have solicited a proposal to provide Engineering Services to support the project from Robinson Design Engineers.

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

2. The scope of engineering services from Robinson Design Engineers of Hendersonville, NC is approved in the amount of \$40,550.
3. The City Manager is authorized to execute an agreement with Robinson Design Engineers consistent with the terms of this Resolution, as approved by the City Attorney.
4. The agreement is exempt from the requirements of the Mini-Brooks Act.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

J. Resolution Accepting Proposal from McGill Associates, PA for the Wash Creek Stormwater Improvements Preliminary Engineering Report– Michael Huffman, Stormwater Administrator

I move City Council approve the resolution accepting McGill Associates, PA proposal for the Wash Creek Stormwater Improvements Preliminary Engineering Report.

Resolution #R-21-83

RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MCGILL ASSOCIATES, PA TO ASSIST THE CITY OF HENDERSONVILLE WITH A PRELININARY ENGINEERING REPORT FOR THE WASH CREEK SUBWATERSHED

WHEREAS, McGill Associates, PA has submitted a scope of services to complete a preliminary engineering report for stormwater projects in the Wash Creek subwatershed; and

WHEREAS, McGill Associates, PA has extensive experience in developing and implementing municipal stormwater capital improvement plans; and

WHEREAS, this preliminary engineering report will help City Staff develop a detailed capital improvement plan for the Wash Creek subwatershed; and

WHEREAS, a preliminary engineering report will provide City staff with the necessary data to develop an accurate and cost-effective capital improvement plan for the Wash Creek subwatershed.

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

5. The City Manager is authorized to enter into a contract with McGill Associates, PA to assist the City of Hendersonville with a preliminary engineering report for the Wash Creek subwatershed in the amount of \$44,200.00 and to exempt the contract from the requirements of the Mini-Brooks Act.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

K. Annexation Certificate of Sufficiency: 0 South Allen Road PIN: 9588-11-9994 (P21-40-ANX)

— Tyler Morrow, Planner II

I move City Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Peggy C. Cabe, Enno F. Camenzind, Paula Camenzind Carter, Robert O. Camenzind, Joan C. Fleming and adopt the Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to N.C. G.S. 160A-58.2 as presented.

Resolution #R-21-84

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION
PERSUANT TO N.C. G.S. 160A-58.2**

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received from Peggy C. Cabe, Enno F. Camenzind, Paula Camenzind Carter, Robert O. Camenzind, Joan C. Fleming PIN 9588-11-9994 located on S. Allen Road that is approximately 32.66 acres (P21-40-ANX); and

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

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

1. A public hearing on the question of annexation of the contiguous area described herein will be held at City Operations Center located at 305 Williams St. at 5:45 p.m. on September 2, 2021, or as soon thereafter as it may be heard.

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

BEGINNING AT A 1/2" IRON REBAR IN THE NORTHEAST CORNER OF THE PROPERTY AT THE SHARED CORNER OF KATHY & DANIEL MOORE, ALSO LYING IN THE CENTERLINE OF THE CREEK AND ALONG THE INTERSTATE 26 RIGHT OF WAY, THENCE S 38°34'59" E A DISTANCE OF 225.23' TO A CONCRETE MONUMENT. THENCE S 38°02'49" E A DISTANCE OF 198.23' TO A CONCRETE MONUMENT. THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 532.93', WITH A RADIUS OF 7504.42', WITH A CHORD BEARING OF S 35°32'18" E, WITH A CHORD LENGTH OF 532.82', TO A CONCRETE MONUMENT. THENCE S 33°06'12" E A DISTANCE OF 198.94' TO A CONCRETE MONUMENT. THENCE S 32°45'21" E A DISTANCE OF 890.16' TO A 1" REBAR. THENCE N 85°28'24" W A DISTANCE OF 971.55' TO A 5/8" REBAR. THENCE N 85°28'24" W A DISTANCE OF 205.52' TO A 1" OPEN TOP PIPE. THENCE N 85°28'28" W A DISTANCE OF 361.58' TO A 5/8" REBAR. THENCE N 85°28'25" W A DISTANCE OF 208.95' TO AN OPEN TOP PIPE. THENCE N 85°28'25" W A DISTANCE OF 20.45' TO A CALCULATED POINT IN SOUTH ALLEN ROAD. THENCE N 06°00'09" W A DISTANCE OF 504.16' TO A CALCULATED POINT IN SOUTH ALLEN ROAD. THENCE N 78°06'30" E A DISTANCE OF 30.17' TO A 1/2" REBAR. THENCE N 78°06'30" E A DISTANCE OF 638.79' TO A 1/2" REBAR. THENCE N 17°17'53" W A DISTANCE OF 677.33' TO A 1/2" REBAR. THENCE N 17°17'53" W A DISTANCE OF 14.22' TO A CALCULATED POINT IN THE CENTERLINE OF CREEK. THENCE FOLLOWING THE CENTERLINE OF CREEK N 56°08'52" E A DISTANCE OF 26.98' TO A CALCULATED POINT. THENCE S 80°16'33" E A DISTANCE OF 23.66' TO A CALCULATED POINT. THENCE N 69°00'41" E A DISTANCE OF 54.24' TO A CALCULATED POINT. THENCE N 04°36'51" E A DISTANCE OF 20.87' TO A CALCULATED POINT. THENCE N 36°21'19" E A DISTANCE OF 44.82' TO A CALCULATED POINT. THENCE N 48°10'05" E A DISTANCE OF 40.80' TO A CALCULATED POINT. THENCE N 18°52'18" E A DISTANCE OF 75.32' TO A CALCULATED POINT. THENCE N 23°24'08" E A DISTANCE OF 61.14' TO A CALCULATED POINT AND RETURNING TO THE POINT OF BEGINNING OF THE DESCRIBED PROPERTY CONTAINING 32.66 ACRES, MORE OR LESS.

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 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

L. Annexation Certificate of Sufficiency: 0 Monroe Drive and 2115 N. Stoney View Court (P21-43-ANX – Tyler Morrow, Planner II

I move City Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Larry and Mary Maitland and adopt the Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to N.C. G.S. 160A-58.2 as presented.

Resolution #R-21-85

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION
PERSUANT TO N.C. G.S. 160A-58.2**

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received from Larry and Mary Maitland for PINs 9569-46-0920 and 9569-46-1849 located on Monroe Drive and N. Stoney View Court that is approximately 0.53 acres (P21-43-ANX); and

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

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

1. A public hearing on the question of annexation of the contiguous area described herein will be held at City Operations Center located at 305 Williams St. at 5:45 p.m. on September 2, 2021, or as soon thereafter as it may be heard.

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

LOT 1 AND LOT 2 OF PLAT SLIDE 2021-13355 AS RECORDED IN THE HENDERSON COUNTY REGISTER OF DEEDS CONTAINING 0.53 ACRES (23,257 SQUARE FEET). ALSO DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 8, PLAT BOOK 5, PAGE 9 OF SAID HENDERSON COUNTY REGISTER OF DEEDS; THENCE N85°25'19"W ALONG THE NORTH LINE OF SAID LOT 8, ALONG THE EXISTING CITY LIMITS OF HENDERSONVILLE A DISTANCE OF 116.77 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE EAST, SAID POINT BEING ON THE RIGHT OF WAY LINE OF U.S. HIGHWAY 25; THENCE NORTHERLY ALONG SAID RIGHT OF WAY LINE, ALONG SAID EXISTING CITY LIMITS AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 914.93 FEET AND HAVING A CHORD BEARING OF N05°33'16"E AND CHORD DISTANCE OF 38.95 FOR AN ARC DISTANCE OF 38.95 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N55° 53'41"E ALONG SAID EXISTING CITY LIMITS A DISTANCE OF 86.44 FEET;

THENCE N87°59'49"E ALONG SAID EXISTING CITY LIMITS A DISTANCE OF 56.23 FEET;

THENCE CONTINUE N87°59'49"E ALONG SAID RIGHT OF WAY LINE, ALONG THE PROPOSED NEW HENDERSONVILLE CITY LIMITS A DISTANCE OF 40.40 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF MONROE DRIVE;

THENCE S76°07'17"E ALONG SAID SOUTH RIGHT OF WAY LINE, ALONG SAID NEW CITY LIMITS FOR A DISTANCE OF 103.14 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY LINE OF NORTH STONEY VIEW COURT;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, ALONG SAID WESTERLY RIGHT OF WAY LINE, ALONG SAID NEW CITY LIMITS, HAVING A RADIUS OF 592.70 AND A CHORD BEARING OF S09°18'12"W AND A CHORD DISTANCE OF 87.67 FEET FOR AN ARC DISTANCE OF 87.75 TO A POINT ON A NON-TANGENT LINE, SAID POINT BEING ON THE NORTH LINE OF LOT 2 OF SAID PLAT BOOK 5, PAGE 9;

THENCE N85°25'19"W ALONG THE NORTH LINE OF SAID LOT 2, ALONG SAID NEW CITY LIMITS A DISTANCE OF 141.93 FEET TO THE POINT OF BEGINNING.

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 5th day of August 2021.

/s/Barbara G. Volk, Mayor
Attorney

Attest: /s/Angela L. Reece, City Clerk Approved as to form: /s/Angela S. Becker, City

M. REMOVED ~~An Ordinance to Amend Chapter 52 of the Code of Ordinances for the City of Hendersonville to Add a New Section 52-97, Policy and Procedures for the Extension of Water and Sewer Utilities – Drew Finley, Lead for North Carolina Fellow~~

N. Renewal of Licensing Agreement with ESRI for ArcGIS Software– Brent Detwiler, City Engineer

I move that City Council approve the Resolution by the City of Hendersonville City Council Approving the Renewal of the Licensing Agreement with ESRI for the ArcGIS Software.

Resolution #R-21-86

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING
THE RENEWAL OF THE LICENSING AGREEMENT WITH ESRI FOR THE
ARCGIS SOFTWARE**

WHEREAS, the City maintains GIS data as part of its website and uses ArcGIS software, developed by ESRI to maintain it; and

WHEREAS, it is time to renew the licensing agreement with ESRI for a three (3) year term; and

WHEREAS, the proposed licensing agreement is in the nature of a lease, rather than a purchase.

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

1. The proposed licensing agreement with ESRI for the ArcGIS Software is hereby approved. To the extent that this transaction might be considered a purchase, City Council declares that standardization and compatibility is the overriding consideration in the approval of this agreement, making it exempt under the provisions of NCGS § 143-129(e)(6).
2. The City Engineer is authorized to execute the licensing agreement in an amount not to exceed \$89,568.75.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

Council Member Jeff Miller moved that City Council approve the consent agenda as amended. A unanimous roll call vote of the Council followed. Motion carried.

6. PRESENTATIONS

A. Quarterly MVP Recipients – John Connet, City Manager

City Manager John Connet City Manager John Connet presented the Quarterly MVPs recognizing Kasey Sudderberg, Wastewater Treatment Plant, Chris Hearn, Fire Department, and Michael Ostrander, Fire Department for going above and beyond their normal job duties to assist citizens by exemplifying excellent customer service.

7. PUBLIC HEARINGS

A. Street Closure Order: 1804 Meadowbrook Terrace PIN 9569-44-6625 (Kirby Family) (P20-40-SC) – Tyler Morrow, Planner II

Community Development Director Lew Holloway stated the city has received an application from Carla and Clifford Kirby to close a portion of unimproved right-of-way lying within PIN 9569-44-6625. There were no questions by City Council.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 6:06 p.m.

There were no public comments.

The public hearing was closed at 6:07 p.m.

Council Member Jeff Miller moved that City Council adopt an ordinance permanently closing a portion of an unimproved right-of-way lying within property described in a deed recorded in the Henderson County Registry in Deed Book 1447 at page 582, having PIN of 9569-44-6625. A unanimous roll call vote of the Council followed. Motion carried.

Ordinance #O-21-39

**ORDER TO PERMANENTLY CLOSE, AN UNOPENED,
UNIMPROVED PORTION OF AN UNIMPROVED RIGHT-OF-WAY LYING WITHIN PIN: 9569-
44-6625**

(Petition From Carla and Clifford Kirby)

NORTH CAROLINA
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

WHEREAS, North Carolina General Statute Section §160A-299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing such streets or alleyways; and

WHEREAS, Carla S. and Clifford E. Kirby, owners, have petitioned the City of Hendersonville City Council to close a portion of unimproved right-of-way lying within property described in a deed recorded in the Henderson County Registry in Deed Book 1447 at page 582, having PIN of 9569-44-6625

WHEREAS, on July 1st, 2021, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting August 5th, 2021, as the date of a public hearing regarding such closure; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing in the Hendersonville Times-News (a newspaper of general and regular circulation in Hendersonville and Henderson County) and a copy thereof has been sent by certified mail to all owners of property adjoining the street as shown on the county tax records; and

WHEREAS, notice of the closings and of the public hearing has been posted in at least two places along the streets; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the fifth day of August 2021.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby make the following findings of fact:

1. The closing of the street portion hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the streets or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order:

All of that certain parcel of land situated in the Henderson County, North Carolina and more particularly described as shown on that survey labeled as "A PROPOSED ROAD CLOSURE SURVEY FOR CARLA & CLIFF KIRBY" prepared by KEE Mapping & Survey: Job #2104037 Dated 05/06/2021 (the "KEE Plat"), and further described as follows:

BEGINNING at a point shown as an IPC designated as the originating point of C4 on the KEE Plat; thence with C4 on the KEE Plat with a chord bearing of South 09 deg 28 min 15 sec East (Chord Length 21.31

feet and Arc Length 22.48 feet) and a Radius of 20.00 feet to an unmarked point; thence South 41 deg 40 min 04 sec East, 119.74 feet to an IPC; thence South 55 deg 44 min 56 sec West, 20.17 feet to a set 5/8" Rebar; thence North 41 deg 40 min 04 sec West, 101.32 feet to an unmarked point; thence along the Curve designated as C5 on the KEE Plat with a Chord Bearing of North 84 deg 31 min 02 sec West (Chord Length 27.20 feet and Arc Length 29.91 feet) and a Radius of 20.00 feet to an IPC; thence along the Curve designated as C2 with a Chord Bearing of North 32 deg 44 min 42 sec East (Chord Length 51.76 feet and Arc Length 51.84 feet) and a Radius of 262.00 feet to the point of BEGINNING.

And for a further description, the property described herein is labeled on the KEE Plat as follows:

UNOPENED ROAD
REFERENCE PC B; PG 804
PORTION OF PIN 9569-44-6625
0.06 ACRES (2,827 SQ FT)

2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/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 - NONE

9. NEW BUSINESS

A. Resolution to Select Contractor for 2021 Resurfacing Project – *Tom Wooten, Public Works Director*

Public Works Director Tom Wooten stated the City received and opened formal bids on Friday July 30, 2021 for the 2021 resurfacing project. Tarheel Paving was the low bidder out of six companies, submitting a bid in the amount of \$420,060.19. Staff is requesting to contract with the low bidder this project.

Council Member Dr. Jennifer Hensley moved that City Council approve the resolution to Select a Contractor for the 2021 Street Resurfacing Project and Direct the Director of Public Works to Execute a Contract with the Low Bidder. A unanimous roll call vote of the Council followed. Motion carried.

Resolution #R-21-87

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A CONTRACTOR FOR THE 2021 STREET RESURFACING PROJECT AND DIRECT THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A CONTRACT WITH THE LOW BIDDER

WHEREAS, the City posted a request for formal bids for the 2021 Street Resurfacing Project; and

WHEREAS, formal bids were opened on Friday, July 30, 2021, and Tarheel Paving submitted the lowest, responsive bid, and was determined by staff to be the lowest responsible bidder; and

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

1. Tarheel Paving is the declared to be the lowest responsible bidder for 2021 Street Resurfacing Project, and the contract is awarded to Tarheel Paving in the amount of \$420,060.19.
2. The Public Works Director is authorized to execute the contract for the 2021 Street Resurfacing Project with Tarheel Paving Company in an amount not to exceed \$420,060.19.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of August 2021.

/s/Barbara G. Volk, Mayor

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

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

B. Code of Ethics Complaint – John Connet, City Manager

City Manager John Connet stated Ms. Dosia K. Phillips has filed a Code of Ethics complaint against Council Member Jerry Smith. The complaint alleges that Council Member Smith violated the Code of Ethics when he voted to approve the property exchange with Henderson County Public Schools due to the fact that he works for the school system.

Mayor Barbara Volk stated all City Council Members have received a copy of the written complaint and invited Ms. Phillips to speak.

Ms. Phillips addressed City Council responding to the matter inquiring why she was not contacted about the matter prior to the response being published in the agenda. Ms. Phillips discussed her complaint with the City Council.

Mayor Volk stated the Council has also received the full written response from Mayor Pro-Tem Smith, as well as a copy of a letter from Dr. John Bryant, Superintendent of the Henderson County Schools.

Mayor Pro-Tem Jerry Smith addressed City Council regarding the complaint stating he has received no personal gain or benefit in this matter.

There were no questions of Mr. Smith.

Council Member Jeff Miller moved to excuse Mayor Pro-Tem Jerry Smith from the Council's deliberations and vote in this matter pursuant to N.C. G.S. 160A-75A as it involves his own official conduct. A unanimous roll call vote of the Council followed. Motion carried.

Mayor Barbara Volk clarified Mayor Pro-Tem Smith will no longer participate in any deliberation or vote in this matter and said he did not violate the City Council's Code of Ethics based on the information that Council received and reviewed.

Council Member Dr. Jennifer Hensley moved that the Council finds that by voting on Resolution # R-21-55 that Mayor Pro-Tem Jerry Smith did not violate City Council's Code of Ethics nor applicable law. A roll call vote of Council Members, Hensley, Miller, Simpson, and Mayor Volk followed. Motion carried.

C. City Park Development Discussion – John Connet, City Manager

City Manager John Connet recalled prior discussions, timeline of projects, and presented options for consideration by Council regarding their preferences for the following:

1: Location tennis courts:

City Council Members agreed with the City Manager's suggestion to relocate the tennis courts to Patton Park. Council Members clarified the city may move forward with demolition and planning. Council Member Dr. Jennifer Hensley clarified the recently purchased tennis court lighting can be relocated to the new courts.

2. Location of put-put:

After much discussion, City Council Members directed staff to move forward with planning and design at Edwards Park and to present a concept at a future meeting to make a final decision. Council Member Dr. Jennifer Hensley requested additional locations such as Jackson Park and the Depot be considered. Council Member Jerry Smith requested that no plans alter the existing Boy Scout huts. Council Member Jeff Miller clarified there is an agreement between Boy Scouts and the school system to maintain the buildings and not the grounds. City Manager Connet stated he believes Edwards Park is the first park in the city and referenced notations found in the City Council minutes of 1919.

3: Location of splash pad.

City Council Members agreed with the City Manager's Suggestion to relocate the splash pad to Dogwood Park.

4: Dogwood Park

City Manager John Connet advised the city cannot begin on the Dogwood Park until the parking deck is competed and said this will delay implementation of proposed amenities. Council Member Lyndsey Simpson stated she anticipates funding for the splash pad will be completed in next 9 months and feels this is a priority depending on the parking garage timeline. City Council Member Dr. Jennifer Hensley expressed reservations for committing the Dogwood lot to a park rather than developing for a hotel. City Council Members conceded the splash pad is a priority and directed staff to move forward with planning and design at Dogwood Park and to present a concept at a future meeting to make a final decision based on the timeline of the parking deck construction completion.

5: Future workshop meetings to discuss all parks:

City Manager John Connet clarified the city has designated the property behind school administration offices as green space and has agreed not to develop it. Manager Connet stated staff feels it important to hold workshops over the next year to discuss parks and connections to the Ecusta Trail and Oklawaha Greenway as well as development and redevelopment of all city parks. City Council Members agreed.

D. REMOVED Special Appropriations Discussion — *John Connet, City Manager, Adam Murr
Budget Manager*

10. CITY COUNCIL COMMENTS

There were no comments.

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

The City Manager had no comments.

12. BOARDS/COMMISSIONS/COMMITTEE APPOINTMENTS

A. Appoint City Representative to Asheville Regional Housing Consortium — *John Connet, City Manager*

City Council Member Jeff Miller moved that City Council appoint Tyler Henry to the Asheville Regional Housing Consortium. A unanimous roll call vote of the Council followed. Motion carried.

13. ADJOURN

There being no further business, the meeting was adjourned at 6:54 p.m. upon unanimous assent of the Council.


Barbara G. Volk, Mayor

ATTEST:


Angela L. Reece, City Clerk