



MINUTES

March 3, 2022

REGULAR MEETING OF THE CITY COUNCIL

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

Present: Mayor Barbara G. Volk and Council Members: Mayor Pro Tem Lyndsey Simpson, 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 Clerk Angela Reece, City Attorney Angela Becker, 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.*

Chelsea Walsh addressed City Council expressing thanks and appreciation to Council and her supporters and announced she has filed for NC House District 117.

Lynne Williams of Chadwick Ave. addressed City Council via zoom electronic software regarding item 5B, code of ethics term limits, and additionally Boyd Park concerns and asked for consideration of green space being dedicated as historic Boyd Park.

4. CONSIDERATION OF AGENDA

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

5. CONSENT AGENDA

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

I move City Council approve the minutes of January 26, 2022, Second Monthly Meeting and February 10, 2022 Regular Meeting as presented.

B. Approval of Handbook and Resolution Establishing A Code Of Ethics and Attendance Policy for Members of Advisory Boards, Commissions, and Committees of The City Of Hendersonville – Angela L. Reece, City Clerk

I move that City Council approve the Handbook and Resolution Establishing A Code Of Ethics and Attendance Policy for Members of Advisory Boards, Commissions, and Committees of The City Of Hendersonville as presented.

Resolution #R-22-31

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL ESTABLISHING A CODE OF ETHICS AND ATTENDANCE POLICY FOR MEMBERS OF ADVISORY BOARDS, COMMISSIONS, AND COMMITTEES OF THE CITY OF HENDERSONVILLE

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics and, pursuant to Section 160A-86, the City Council has previously adopted a Code of Ethics Resolution #10-1151 on December 4, 2010 for the Mayor and City Council; and

WHEREAS, it is appropriate that members of City advisory boards, commissions, and committees as well as Mayoral and City Council appointees to non-city bodies (hereinafter "Advisory Board Members"), also adhere to a Code of Ethic; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials

representing the citizens of the City of Hendersonville, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we do hereby adopt the following General Principles and Code of Ethics & Attendance Policy to guide Advisory Board Members in their lawful decision-making.

GENERAL PRINCIPLES AND CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for advisory board members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment.

The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.

Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.

Advisory board members must be able to act in a manner that maintains their integrity and independence yet is responsive to the interests and needs of those they represent and must always remain aware that they may, at various times, play different roles:

- As advisors, who balance the public interest and private rights in considering and recommending, among other things, ordinances, policies, and decisions.
- As decision-makers, who arrive at fair and impartial determinations.

Advisory board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

Advisory board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the Mayor and City Council and the citizens of the City of Hendersonville. Each board member must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

Section 1

Advisory board members should obey all laws applicable to their official actions. Advisory board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, advisory board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. However, in doing so, advisory board members:

- (a) shall be mindful that they were appointed by the Mayor or City Council, or by another appointing authority to a City board, commission, or committee and, therefore, if they are advising or advocating a position that is contrary to a Council policy, that they notify the Mayor and City Council of such as soon as practicable;
- (b) who serve in an advisory capacity shall be mindful that their chief responsibility is to advise the Mayor and City Council or other decision-making body rather than to advocate to the public at large, particularly when the position of advocacy is contrary to a Council policy;
- (c) shall understand that they hold a position of trust on behalf of the City and its citizens;
- (d) shall assert policy positions and opinions on matters within or related to the jurisdiction and subject matter of the body on which they serve only through the transparency of official proceedings of the body or in a capacity and manner appropriate for a member of such body. Advisory board members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.
- (e) shall faithfully attend regular and special meetings of the body.

These guidelines are especially important to Chairpersons who must recognize that they are often viewed as speaking for the body.

To declare that an advisory board member is behaving unethically because one disagrees with that official on a question of policy (and not because of the board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2

Advisory board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- For advisory board members who act in a quasi-judicial capacity, disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other board members, staff and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that individual advisory board members are not generally allowed to act on behalf of the body but may only do so if the body specifically authorizes it, and that the body must take official action as a body

Section 3

Advisory board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. Although opinions may vary about what behavior is inappropriate, the Mayor and City Council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the advisory board member's action would conclude that the action was inappropriate.

If an advisory board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the staff liaison who will confer with his or her department supervisor and/or the City Attorney who will consider the facts of the situation and the steps necessary to resolve it.

Section 4

Advisory board members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Advisory board members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

Section 5

Advisory board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to them or city employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and City Council have made it clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should take deliberate steps to make certain that any meetings held by the body are lawfully conducted and that such meetings do not stray from the purposes for which they are called.

Section 6

ATTENDANCE POLICY

Advisory board members should faithfully attend and adhere to the following attendance policy.

In order for an advisory board, commission, or committee to be effective and efficient, and to accomplish its purpose, its membership must be actively involved and attentive to the business of the body therefore the Mayor and City Council may dismiss any member who misses three consecutive meetings or one-half of the meetings held in a calendar year without good cause (such as temporary severe illness of a member or of a member of such member's family, or overriding but temporary business concerns). Such dismissal

may be considered upon or complaint by the chairperson, a member of the advisory board, staff liaison, or on the City Council’s own motion.

On January 1st of each year, a member of any advisory board appointed by the Mayor or City Council may be automatically removed from said body for failure to attend at least one half of all regular and special meetings of the body held during the immediately preceding calendar year.

Sanctions

In the event that a member of an advisory board fails to comply with the code of ethics or attendance policy the chairperson or staff liaison shall notify the City Clerk in writing, of the policy violation and to request that said member to be replaced. The City Clerk will forward the complaint to the Mayor and City Council for review. Following the review of an allegation against a member of a city advisory board, the City Council may sanction the member who was the subject of the review. Potential sanctions include removal of the member, adoption of a resolution of censure, and any other lawful sanction within the City Council’s power.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 2022.

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

C. Budget Amendments March FY22 – Adam Murr, Budget Manager

I move City Council adopt budget amendments 03032022-01 and 03032022-02 as presented.

D. March 2022 Capital Project Ordinance– Adam Murr, Budget Manager

I move City Council adopt the capital project ordinance(s) for the Water and Sewer Generator Project, #22003 and the budget(s) as presented.

Capital Project Ordinance #O-22-12

CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE WATER
AND SEWER GENERATOR PROJECT

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Water and Sewer Generator Project.

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	7002	554001	22003	Capital Outlay Equipment	\$140,000
Total Project Appropriation					\$140,000

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470100	22003	Transfer In (from 060)	\$140,000
Total Project Appropriation					\$140,000

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the grant project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund (060) and the Water and Sewer Capital Project Fund (460) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director, and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 2022.

/s/Barbara G. Volk, Mayor

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

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

E. Henderson County Tax Adjustments -Amanda Lofton, Deputy Tax Collector

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

F. Resolution Accepting Proposal from Wildlands Engineering Inc. for Professional services to support the Mud Creek Stream, Wetland, and Stormwater Planning Project – Mike Huffman, Stormwater Administrator

I move that City Council approve the Resolution Authorizing the City Manager to Enter Into a Contract with Wildlands Engineering, Inc. for Professional services to support the Mud Creek Stream, Wetland, and Stormwater Planning Project as presented.

Resolution #R-22-32

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WILDLANDS ENGINEERING, INC.

WHEREAS, Wildlands Engineering, Inc. has submitted a scope of services to provide professional engineering services to support the Mud Creek Stream, Wetland, and Stormwater Planning Project; and

WHEREAS, Wildlands Engineering, Inc. has extensive experience in developing and implementing stream, wetland, and floodplain restoration projects; and

WHEREAS, these professional engineering services will help City Staff complete a detailed analysis of several properties owned by the City for the purpose of identifying potential stream, wetland, and floodplain restoration projects; and

WHEREAS, projects identified by this planning project will help the City address water quality, stormwater, and flooding issues and apply for future funding to implement this project.

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

1. The City Manager is authorized to enter into a contract with Wildlands Engineering, Inc. to assist the City of Hendersonville with professional engineering services to complete the Mud Creek stream, wetland, and stormwater planning project.
2. The contract is exempted from the Mini-Brooks Act requirements found in NCGS § 143-64.31.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 2022.

/s/Barbara G. Volk, Mayor

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

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

G. Approval of Resolution Accepting North Carolina Land and Water Fund Grant funds for Mud Creek Stream, Wetland, and Stormwater Planning Project – Mike Huffman, Stormwater Administrator

I move that City Council approve the Resolution Authorizing the City Manager to Enter Into a Grant Agreement with the State of North Carolina Land and Water Fund for the Mud Creek Stream, Wetland and Stormwater Planning Projects as presented.

Resolution #R-22-33

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A GRANT AGREEMENT WITH THE STATE OF NORTH CAROLINA LAND AND WATER FUND

WHEREAS, N.C.G.S Chapter 143B, Article 2. Part authorizes the North Carolina Land and Water Fund (NCLWF) to restore previously degraded lands to reestablish their ability to protect water quality and to acquire conservation easements and other interest in real property to protect and conserve surface waters and drinking water supplies; and

WHEREAS, the City of Hendersonville (City) is a qualified grant recipient as defined by N.C.G.S. §143B-135.238(a); and

WHEREAS, portions of Mud Creek are listed as impaired waters and the City proposes to address water quality issues in the Mud Creek Watershed using ecological restoration and innovative stormwater management at three sites owned by the City of Hendersonville.

WHEREAS, the NCLWF has awarded the City a grant in the amount of \$24,620 to perform the ecological restoration and innovative stormwater management on Mud Creek.

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

1. The City Manager is authorized to enter into a grant agreement with the State of North Carolina Land and Water Fund.
2. The City Manager is authorized to appropriate \$27,000 in matching funds from the City Stormwater Fund to perform the tasks associated with this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 2022.

/s/Barbara G. Volk, Mayor

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

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

H. Engineering Services to Support the Fleetwood Water Improvements Project – Adam Steurer, Utilities Engineer

I move City Council to adopt the Resolution By the City Council to select Summit Engineering Group of NC, Inc. as best qualified to provide engineering services and authorize the City Manager To Enter Into a Contract for Engineering Services to Support the Fleetwood Water Improvements Project.

Resolution #R-22-34

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR ENGINEERING SERVICES TO SUPPORT THE FLEETWOOD WATER IMPROVEMENTS PROJECT

WHEREAS, the City agreed to complete the Fleetwood Water Improvements (Project) during the acquisition of the historic Laurel Park water system as described in the Contract of Purchase and Interlocal Cooperation dated March 5, 2021; and

WHEREAS, the Project will generally replace an existing aging and undersized water pumping station that serves the Fleetwood community in Laurel Park and once completed will provide sufficient flow in the event of a fire demand; and

WHEREAS, City Staff have performed a qualifications-based selection, determined Summit Engineering Group of NC, Inc. best qualified, and received a proposal from Summit Engineering Group of NC, Inc. 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. Summit Engineering Group of NC, Inc. is best qualified to provide professional engineering services for the Project, as recommended by Staff.
2. The scope of engineering services from Summit Engineering Group of NC, Inc. is approved in the amount of \$123,000.
3. The City Manager is authorized to execute an agreement with Summit Engineering Group of NC, Inc. 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 3rd day of March 2022.

/s/Barbara G. Volk, Mayor

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

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

I. Resolution to Approve Annexation Agreement – Angela S. Beeker, City Attorney

I move that City Council adopt the Resolution by the City of Hendersonville City Council to Approve and Ratify an Annexation Agreement as presented.

Future Annexation Agreement Resolution #R-22-35

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO APPROVE AND RATIFY AN ANNEXATION AGREEMENT**

WHEREAS, Boyd L. Hyder, hereinafter “Customer” is the owner of certain real property consisting of those lots identified as Tracts B, C, D and E, and a 1.00 acre lot identified as “1.00 AC (PROPOSED FILL AREA)”, all of the foregoing lots being shown on the plat recorded in Plat Book 2003 Page 4768 of the Henderson County Registry, Customer having acquired said lots by those deeds recorded in Deed Book of Record 3180 at Page 55 and Book of Record 3419 at Page 447, both of the Henderson County Registry; and

WHEREAS, Tract E and Tract D are not within the corporate limits of the City of Hendersonville, NC, and are not contiguous to the primary corporate limits of the City of Hendersonville; and

WHEREAS, the Customer has requested sewer service to Tract E for the purpose of developing Tract E and a portion of Tract D; and

WHEREAS, it is the policy of the City of Hendersonville that real property outside of the City limits be required to irrevocably submit a petition for annexation into the corporate limits as a condition of receiving sewer service; and

WHEREAS, because Tract D and Tract E are part of that subdivision shown on that plat recorded in Plat Book 2003 at Page 4768 of the Henderson County Registry, but are not currently contiguous to the City municipal corporate boundaries, the City cannot annex Tract D and Tract E without annexing the entirety of said subdivision; and

WHEREAS, Customer has agreed to irrevocably petition the City of Hendersonville for the annexation of Tract D and Tract E if and when either of said tracts qualify for annexation by the City of Hendersonville as a contiguous annexation pursuant to N.C.G.S. § 160A-31; and

WHEREAS, the City has agreed to permit Customer to have sewer service to Tracts C and D upon the conditions stated herein;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville that the Annexation Agreement dated February 17, 2022, by and between the City of Hendersonville and Boyd L. Hyder, attached hereto, is approved, and ratified as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 2022.

/s/Barbara G. Volk, Mayor

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

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

J. Resolution to Approve Duke Power Easement – Angela S. Beeker, City Attorney

I move that City Council adopt the Resolution by the City of Hendersonville City Council to Approve and Ratify a Duke Power Easement as presented.

Resolution #R-22-36**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO APPROVE AND RATIFY A DUKE POWER EASEMENT**

WHEREAS, the City has been asked to grant an easement to Duke Power across the City's lift station property located at 429 Bearwallo Mountain Road; and

WHEREAS, the City has agreed to grant the easement as requested;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville that the Duke Power easement across 429 Bearwallo Mountain Road, Hendersonville, NC, is approved and ratified as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 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 Debbie O'Neal-Roundtree moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

6. PRESENTATIONS**A. MVP of the Year – John Connet, City Manager**

City Manager John Connet presented the MVP of the Year award to Will Hutchinson, GIS Technician II, Engineering. Mr. Hutchinson developed the City's Citizen Reporter App which aids citizens in reporting any non-emergency issues or problems with any City service.

B. Proclamation - We Are Hope Week - Mayor Barbara G. Volk

Mayor Barbara G. Volk issued a proclamation declaring the week of March 7 through 11, 2022 to be "We Are Hope Week" in the City of Hendersonville and asked all students in Henderson County Public Schools' to pledge to be and remain substance-free.

C. Proclamation - Developmental Disabilities Awareness Month - Mayor Barbara G. Volk

Mayor Barbara G. Volk issued a proclamation declaring March 2022 as "Developmental Disabilities Awareness Month" and encouraged citizens to galvanize efforts that will lead our communities and policy makers to create real system changes so people with developmental disabilities may enjoy equitable, inclusive lives.

D. Proclamation – 50th Anniversary of the National Senior Nutrition Program - Mayor Barbara G. Volk

Mayor Barbara G. Volk issued a proclamation declaring the month of March 2022 to be the "50th Anniversary of the National Senior Nutrition Program" in the City of Hendersonville and urged every resident to recognize older adults and the people who support them through nutrition services as essential contributors to the strength of our community.

E. Proclamation - Fix A Leak Week - Mayor Barbara G. Volk

Mayor Barbara G. Volk issued a proclamation declaring the week of March 14 through 20, 2022 to be "Fix A Leak Week" in the City of Hendersonville and encouraged all citizens and businesses to find and fix leaks and to use water efficiently.

F. Sidewalk Mural Connection -Jamie Carpenter, Downtown Manager, Elizabeth Queen, Artist

Downtown Manager Jamie Carpenter introduced Elizabeth Queen, collaborating artist with the sidewalk mural project, Hendo Bee Line, who presented a request to extend the sidewalk mural between the existing mural on 5th Avenue and the mural located at the HandsOn! Children's Museum. Ms. Queen presented her request to the Community Character Team, and Downtown Advisory Board who unanimously agreed to recommend support the of the project proposal. The consensus of Council was to proceed with the proposal.

G. Blue Ridge Literacy Council Update – Katrina McGuire, Executive Director

Executive Director Katrina McGuire provided an update to Council. Director McGuire expressed thanks and appreciation to Council for their support in making literacy rates higher in the area and asked for community volunteer tutors to apply.

7. PUBLIC HEARINGS**A. Rezoning/Map Amendment: Standard Rezoning– N. Harper Drive (P21-84-RZO) –
Tyler Morrow, Planner II**

Planner Tyler Morrow stated the Community Development Department is in receipt of a Zoning Map amendment application from Charles and Sheryl Osteen of AMJESS LLC (applicant & property owner). Mr. Morrow stated the applicants are requesting to rezone the subject property from R-15 Medium Density Residential to R-10 Medium Density Residential and said the subject parcels (PINs: 9569-26-2653 & 9569-26-3517) are located on N. Harper Drive and are approximately 0.68 acres. Mr. Morrow stated if rezoned, there will not be a binding site plan or list of uses or conditions placed on the site as all permitted uses within the R-10 district would be allowed on the site. Council Member Jerry Smith clarified that rezoning will not change the environmental regulations that relate to the floodway along the back side of this property. Mr. Morrow reminded everyone there is a 50ft stream buffer and 100-year flood plain protection on this parcel.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 6:34 p.m.

There were no comments.

The public hearing was closed at 6:35p.m.

Council Member Jerry Smith moved that City Council approve an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINs 9569-26-2653 & 9569-26-3517) from R-15 Medium Density Residential to R-10 Medium Density Residential. 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 Medium Intensity Neighborhood designation calls for Single Family Residential as a primary land use and the proposed map amendment aligns with the locations listed under LU 6.1. Also this rezoning is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the petition would be an extension of the adjacent R-10 zoning district; the petition allows for both parcels to become conforming lots meeting the minimum lot size for the R-10 district; and the petition creates the opportunity for compatible infill development. A unanimous vote of the Council followed. Motion carried.

REZONING Ordinance #O-22-13**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE
OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS
9569-26-2653 & 9569-26-3517 BY CHANGING THE ZONING DESIGNATION FROM R-15
MEDIUM DENSITY RESIDENTIAL TO R-10 MEDIUM DENSITY RESIDENTIAL**

IN RE: Parcel Numbers: 9569-26-2653 & 9569-26-3517 N. Harper Drive Rezoning
(File # P21-84-RZO)

WHEREAS, the City is in receipt of a Standard Rezoning application from Charles and Sheryl Osteen of AMJESS LLC (applicant & property owners).

WHEREAS, the Planning Board took up this application at its regular meeting on February 14th, 2022; voting 7 to 0 to recommend City Council adopt 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 March 3rd, 2022, and

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 9569-26-2653 & 9569-26-3517 from R-15 Medium Density Residential to R-10 Medium Density Residential.
2. Any development of the parcels shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 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 – Greenville Highway Multi-Family (P21-78-CZD) – Matthew Manley, AICP – Planning Manager

Community Development Director Lew Holloway presented the conditional zoning request and noted that this development is a by-right development and said Greenville Highway Mixed Use has a different standard which is triggered of having a building footprint greater than 50,000 square feet. Director Holloway stated this rezoning request is completely voluntary and said this project could move forward with a site plan review process and administrative review. Director Holloway clarified there is no blue line stream on this property and no floodplain. Director Holloway stated the Community Development Department is in receipt of an application for a Conditional Zoning District from Joey Burnett of The Tamara Peacock Company, and Brett Barry, of Hunting Creek Associates, LLC and said they are requesting to rezone the subject property (PIN 9568-92-1924) located at 904 Greenville Highway and Chadwick Ave, from GHMU (Greenville Highway Mixed Use) to GHMU-CZD (Greenville Highway Mixed Use - Conditional Zoning District) for the redevelopment of a 2.25-acre site consisting of 80 vertical apartment units (56 – 2bd/2ba & 24 – 1 bd/1ba) with a density of 35.6 units/acre. Director Holloway stated the Greenville Highway Mixed Use district does not have a density cap and said the site is currently vacant and features clusters of mature trees. The scale of the proposed development exceeds 50,000 Sq Ft.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

Council Member Dr. Jennifer Hensley inquired if there were any pending NCDOT projects that would encroach into the setback off of Chadwick Avenue area and Director Holloway stated no, it is city owned.

Brett Barry, developer and Tamara Peacock, architect addressed Council asking for consideration in approving the project citing recent revisions reducing density, height, and addressing parking concerns expressed by Council and the community. Ms. Peacock recalled incorporating a right of way to accommodate a turning lane from Greenville Highway as well as including additional walkable elements and parking areas in favor of more green space.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 7:05 p.m.

Sandy Williams of Chadwick Ave. addressed City Council via Zoom electronic software expressing concerns of parking and stating she is opposed to any zoning changes. Ms. Williams expressed concerns of additional busses and increased traffic potentially using adjacent neighborhood streets as cut throughs.

Lynne Williams of Chadwick Ave. addressed City Council via Zoom electronic software expressed concerns of height and density and traffic impacts in the area. Ms. Williams stated she does not feel the proposed project fits the character of the neighborhood.

There were no further comments. The public hearing was closed at 7:19 p.m.

Council Member Jerry Smith acknowledged concerns regarding the standards which were discussed and debated by the Planning board stating they were inaccurate with regards to this particular parcel. Council Member Smith and stated the developer has made a good faith effort and has changed the plan to meet some of the original concerns but stated that Council must follow what the law allows and how the City ordinance is written.

Mayor Barbara G. Volk stated Council was not aware of the situation earlier but said Council must abide by current ordinances and development guidelines with regards to the current proposal.

Council Member Lyndsey Simpson asked Director Holloway to explain what “use by right” means. Director Holloway explained since 2003 the Greenville Highway district has allowed building footprints to exceed 50,000 feet with only an administrative review process. Director Holloway clarified initial guidance provide to the applicant was incorrect and said they were not required by ordinance to gain planning board or tree board approval.

Council Member Lyndsey Simpson moved that City Council approve an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9568-92-1924) from GHMU (Greenville Highway Mixed Use) to GHMU-CZD (Greenville Highway Mixed Use – Conditional Zoning District) based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated March 2, 2022,] and presented at this meeting and subject to the following; that the development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses: Residential Dwellings, Multi-Family; that 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 High Intensity Neighborhood designation calls for Multi-Family Residential as a primary land use and the proposed site plan aligns with all applicable development guidelines listed under LU 7.4. We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the petition is located in a priority infill area which recommends redevelopment of underutilized lots, the petition promotes compatible infill development, the petition is located on a major thoroughfare, the petition provides walkable design in close proximity to goods and services, the petition proposes to place buildings and drives where existing land disturbing activities have previously occurred, the petition proposes to provide street trees along sidewalks, and the petition is proposing to provide bicycle parking facilities.

A unanimous vote of the Council followed. Motion carried.

CONDITIONAL REZONING Ordinance #O-22-14

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBER 9568-92-1924) BY CHANGING THE ZONING DESIGNATION FROM GHMU (GREENVILLE HIGHWAY MIXED USE) TO GHMU-CZD (GREENVILLE HIGHWAY MIXED USE – CONDITIONAL ZONING DISTRICT)

IN RE: Parcel Number: 9568-92-1924 – 904 Greenville Highway (Greenville Highway Multi-Family) - (File # P21-78-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant Brett Barry and Hunting Creek Associates, LLC for multi-family residential development consisting of 80 dwelling units on approximately 2.25 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on February 14, 2022; voting 5-1 to recommend City Council deny the request for an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, the Applicant modified the application to reduce the total number of multi-family residential dwelling units by 10 units to a total of 70 dwelling units on approximately 2.25 acres along with other favorable amendments, and

WHEREAS, City Council took up this modified application at its regular meeting on March 3, 2022, and

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 Number: 9568-92-1924 from GHMU (Greenville Highway Mixed Use) to GHMU-CZD (Greenville Highway Mixed Use – Conditional Zoning District).
2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan as modified and submitted by the applicant at this March 3rd, 2022 meeting and subject to the following.
 - a. Permitted uses shall include:
 - i. Residential Dwellings, Multi-Family
 - b. Conditions that shall be satisfied prior to final site plan approval include:
City-Initiated:
 - i. Driveway location shall be shifted as far from the intersection of Chadwick Ave and Greenville Highway as possible.
 - ii. ROW shall be dedicated along Chadwick Ave to include all areas from the back of the proposed sidewalk to the existing ROW/property boundary. At a minimum, the ROW dedication will provide an additional 7.5' measured from the Centerline of Chadwick Ave. Final details of width needed will be coordinated with Traffic Consultant and Public Works Director. The provision of ROW to the City will not reduce the Open Space accounted towards the proposed development.
 - iii. Open greenspace shall be used and preserved around parking areas for green infrastructure: bioswales, bioretention areas, and rain gardens to the degree feasible.
 - iv. The existing natural drainage way along the eastern boundary of the parcel must be preserved at a minimum but should be improved.
 - v. Trees along the edge of the parking lots and the drainage way along eastern boundary shall be protected in compliance with Article XV, Section 15-4 (C) of the Zoning Ordinance.
 - vi. Additional hardscaping elements to be installed at intersection of Chadwick Ave and Greenville Hwy to demonstrate compliance with Section 18-6-4.5 which states, "On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at corner of buildings."
3. This ordinance shall not be effective until the stipulated 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 3rd day of March 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

There was no unfinished business.

9. NEW BUSINESS**A. Presentation of North Carolina Governor's Highway Safety Program (GHSP) grant application for Hendersonville Police Department – Blair Myhand, Chief of Police**

Police Chief Blair Myhand presented information regarding the North Carolina Governor's Highway Safety Program grant application. Chief Myhand clarified funding would be utilized for driver education and crash mapping to address areas which have major contributing factors. Chief Myhand clarified the grant is for three years and is renewable annually with the GHSP match of 85%, 75%, 50%, and 0% thereafter with a local match of 15%, 25%, 50%, and 100% in subsequent years. Council Member Dr. Jennifer Hensley said she feels there is no better use of public funds than to use them to impact citizens health and safety.

Council Member Lyndsey Simpson moved that City Council adopt a resolution to approve application as presented and to direct staff to prepare a resolution for signature. A unanimous vote followed. Motion carried.

Resolution #R-22-37**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM GRANT FOR THE HENDERSONVILLE POLICE DEPARTMENT OFFER OF \$218,086.00**

WHEREAS, the city is in receipt of a grant award from the North Carolina Governor's Highway Safety Program in the amount of \$218,086.00, and;

WHEREAS, the City Manager is the authorizing official for the grant, and,

WHEREAS, the grant will assist the city in funding two (2) Police Officer positions including salaries and benefits, two (2) police vehicles with accompanying equipment, and uniforms and equipment to outfit two (2) Police Officers and,

WHEREAS, City of Hendersonville Police Officers will partner with the North Carolina Governor's Highway Safety Program to reduce the number and severity of motor vehicle crashes, increase occupant seatbelt usage, and reduce the number of impaired drivers, and,

WHEREAS, the City of Hendersonville intends to act and perform duties in accordance with the award grant.

NOW, THEREFORE, BE IT RESOLVED BY THE HENDERSONVILLE CITY COUNCIL:

1. That the City of Hendersonville does hereby accept the North Carolina Governor's Highway Safety Program Grant offer of \$218,086.00.
2. That the project referenced above is in the best interest of the Governing Body and the general public; and
3. That Police Lieutenant Kenneth Hipps is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ 218,086.00 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
4. That the Governing Body has formally appropriated the cash contribution of \$38,486.00 as required by the project contract; and
5. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
6. That certified copies of this resolution be included as part of the contract referenced above; and
7. That this resolution shall take effect immediately upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 3rd day of March 2022.

/s/Barbara G. Volk, Mayor

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

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

B. 7th Avenue Visioning Project Update - Jamie Carpenter, Downtown Manager

Downtown Manager Jamie Carpenter discussed the 7th Avenue visioning project explaining the importance of having a cohesive vision for the district. Ms. Carpenter discussed the outline for public participation process which would involve many stakeholders to allow a more unified vision and to identify additional ways to market and promote the district. Ms. Carpenter discussed the timeline of events and visioning process.

Lyndsey Simpson recommended ensuring staff reaches out to residents in the district in multiple ways to gather input from them. City Manager John Connet suggested inviting an older resident of the Green Meadows Community to sit on the selection committee to generate community support. Council Members agreed with this suggestion.

10. CITY COUNCIL COMMENTS

Council Member Jerry Smith expressed his support for the Ukraine peoples as well as Sudan, and Taiwanese people stating he feels blessed to live in a country where people respect differences. Council Member Smith expressed support to the Russian people who are trying to establish and keep a democratically chosen government.

Mayor Volk acknowledged a group of supporters who recently assembled in support of the Ukraine people.

11. CITY MANAGER REPORT – John F. Connet, City Manager**A. March 2022 Contingences Report – Alex Norwood, Budget Analyst**

City Manager John Connet presented the contingences report to Council making them aware of the use of the funds necessary to clean up any overages and to prepare for rest of the year. Manager Connet recalled a condemnation of a parcel of property in conjunction with the construction of the police department stating the court case ended today with the jury ruling in City's favor today and agreed to \$136,000 deposit.

12. CLOSED SESSION**A. Closed Session – John Connet, City Manager**

At 7:59 p.m. Council Member Jerry Smith moved that City Council enter into closed session pursuant to NCGS § 143-318.11 (a) (1) and (4) 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 discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. A unanimous vote of the Council followed. Motion carried.

At 8:13 p.m. Council Member Lyndsey Simpson 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 8:15 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Angela L. Reece, City Clerk