



MINUTES

October 7, 2021

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 Jerry Smith, Jeff Miller, Dr. Jennifer Hensley and Lyndsey Simpson

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.*

Raphael Morales 538 North Main St. addressed City Council in Spanish regarding Hispanic Heritage Month asked the City to acknowledge the month and showcase the culture.

Jerald See of 1507 Greenville Highway addressed City Council proposing an artist pavilion park similar to the Charleston Art Market.

Dean Sloan of 318 Hillview Blvd. addressed City Council regarding safety on his residential street and expressed concerns of the parking lot near his home.

Lynne Williams of 309 Chadwick Ave. addressed City Council expressing support of Hendersonville FD and Fire Station 1, asking for consideration of preserving Boyd Park and the Laura Corn Mini Golf Course.

Ron Taylor of 22 B. Breezewood St. addressed City Council regarding health of residents and expressing concerns of fluoridation of the municipal water supply.

Crystal Cauley of 627 Fifth Ave. W. Hendersonville addressed City Council via Zoom electronic software expressing thanks to city staff for going above and beyond to serve citizens, residents, and visitors. Ms. Cauley also expressed concerns that the city has not celebrated Hispanic Heritage Month on social media platforms.

Mayor Volk read digital comments submitted by the following:

Brenda Harkinson of 232 Snowy Egret Way submitted digital written comments of disapproval of the Half Moon Heights zoning variance.

Caren Casper of 3503 Wood Duck Way submitted digital written comments of disapproval of the Half Moon Heights zoning variance and expressed concerns of tree removal.

Fred Harkinson of 232 Snowy Egret Way submitted digital written comments of disapproval of the Half Moon Heights zoning variance and expressed concerns of tree removal.

Kenneth and Margaret Collins of 28 Wild Pheasant Run submitted digital written comments of disapproval of the Half Moon Heights zoning variance and expressed concerns of tree removal, flooding issues, and dangerous traffic concerns.

4. CONSIDERATION OF AGENDA

Council Member Jeff Miller 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 that City Council adopt the minutes of the August 25, 2021, Special Call Meeting, September 2, 2021, Regular Meeting, and September 22, 2021 Special Call Meeting as presented.

B. Budget Amendments – Adam Murr, Budget Manager

I move City Council approve budget amendments 10072021-01, 10072021-02, 10072021-03, and 10072021-04 as presented.

C. Utility Assessment Policy Amendment – Drew Finley, Assistant to the Utilities Director

I move that City Council amend the Utility Assessment Policy to include a timeframe provision for petitioners to gather signatures under Phase I of the Process and Procedure.

D. Special Event: Fallapalooza Trunk or Treat – Lew Holloway, Community Development Director

I move that City Council approve the approve the special event permit for Fallapalooza Trunk or Treat.

E. Resolution Authorizing the City Manager to Prepare and Execute a Contract with Interfaith Assistance Ministries for COVID-19 Related Utility Bill Assistance – Adam Murr, Budget Manager

I move City Council adopt a resolution directing the City Manager to prepare and execute a contract with Interfaith Assistance Ministries to provide \$25,000 incremental payments for utility customers who are experiencing economic/financial hardship related to the COVID-19 pandemic.

Resolution #R-21-93

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO PREPARE AND EXECUTE A CONTRACT WITH INTERFAITH ASSISTANCE MINISTRIES TO PROVIDE COVID-19 RELATED UTILITY BILL ASSISTANCE

WHEREAS, the City of Hendersonville is authorized by N.C.G.S. 160A-20.1 to contract with outside firms for services for a public purpose, and;

WHEREAS, the City has been provided Federal American Rescue Plan (ARP) funds for the purpose of responding to negative economic impacts stemming from COVID-19, and;

WHEREAS, City Council has adopted a Grant Project Ordinance (G2102) for ARP funds, allocating \$400,000 to Interfaith Assistance Ministries to deliver utility bill financial assistance for customers facing negative economic impacts stemming from COVID-19, and

WHEREAS, the City is authorized by N.C.G.S. § 160D-1311 “to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities”;

WHEREAS, the City will draft a contract providing \$25,000 incremental payments to Interfaith Assistance Ministries to meet the goal of providing COVID-19 related utility bill assistance for persons qualifying under applicable ARP and N.C.G.S. § 160D-1311 requirements, and;

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

1. City Council authorizes the City Manager to prepare and execute a contract with Interfaith Assistance Ministries to provide \$25,000 incremental payments for qualifying utility customers who are experiencing economic/financial hardship related to the COVID-19 pandemic, in consultation with the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of October 2021.

/s/Barbara G. Volk, Mayor

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

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

F. Limited Obligation Bond Approving Resolution – Adam Murr, Budget Manager

I move that the City Council adopt the RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, APPROVING A CONTRACT AND A DEED OF TRUST AND THE DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS as presented.

Resolution #R-21-94

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA,
APPROVING A CONTRACT AND A DEED OF TRUST AND THE DELIVERY THEREOF AND
PROVIDING FOR CERTAIN OTHER RELATED MATTERS**

WHEREAS, the City of Hendersonville, North Carolina (the “*City*”) is a validly existing municipal corporation, existing as such under and by virtue of the Constitution, statutes, and laws of the State of North Carolina (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 determined that it is in the best interest of the City to enter into an installment financing contract (the “*Contract*”) with the Hendersonville Public Facilities Corporation, a North Carolina nonprofit corporation (the “*Corporation*”), in order to (1) finance the (a) construction, equipping and furnishing of a parking facility and (b) construction of various streetscape improvements in downtown Hendersonville (collectively, the “*Projects*”), (2) refinance an Installment Financing Contract dated as of October 11, 2018 between Pinnacle Financial Partners and the City of Hendersonville, North Carolina, the proceeds of which were used to finance (a) the construction and equipping of a public works maintenance facility, (b) the construction of public restroom facilities and (c) improvements to the Whitmire Building, a recreation center, including parking lot expansion/repaving and the replacement of interior flooring (the “*Prior Indebtedness*”) and (3) pay the costs related to the execution and delivery of the Contract;

WHEREAS, in order to secure the City’s obligations under the Contract, the City will enter into a Deed of Trust, Security Agreement and Fixture Filing (the “*Deed of Trust*”) granting a lien on the site of the parking facility (the “*Site*”) and the improvements thereon that may be necessary to effectuate the proposed financing;

WHEREAS, to assist the City in financing the Projects and refinancing the Prior Indebtedness, the Corporation will execute and deliver its Limited Obligation Bonds (City of Hendersonville, North Carolina), Series 2021 (the “*2021 Bonds*”) in an aggregate principal amount not to exceed \$17,000,000, evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the Contract) pursuant to the Contract;

WHEREAS, in connection with the sale of the 2021 Bonds by the Corporation to Robert W. Baird & Co. Incorporated (the “*Underwriter*”), the City will execute and deliver a Bond Purchase Agreement dated the date of delivery thereof (the “*Bond Purchase Agreement*”) among the City, the Corporation and the Underwriter;

WHEREAS, there have been described to the City Council the forms of the following documents (collectively, the “*Instruments*”), copies of which are available to the City Council, which the City Council proposes to approve, enter into, and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract;
- (2) the Deed of Trust;
- (3) an Indenture of Trust dated as of November 1, 2021 (the “*Indenture*”) between the Corporation and The Bank of New York Mellon Trust Company, N.A., as trustee, including the form of the 2021 Bonds; and
- (4) the Bond Purchase Agreement;

WHEREAS, to make an offering and sale of the 2021 Bonds, there will be prepared a Preliminary Official Statement with respect to the 2021 Bonds (the “*Preliminary Official Statement*”), a draft thereof having been made available to the City Council, and a final Official Statement relating to the 2021 Bonds (together with the Preliminary Official Statement, the “*Official Statement*”), which Official Statement will contain certain information regarding the City and the 2021 Bonds;

WHEREAS, it appears that each of the Instruments and the Preliminary Official Statement is in an appropriate form and is an appropriate instrument for the purposes intended;

WHEREAS, the City Council conducted a public hearing on September 2, 2021 to receive public comment on the proposed Contract; and

WHEREAS, the City has filed an application to the LGC for approval of the Contract and will receive the approval of the LGC before executing and delivering the Contract;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, AS FOLLOWS:

Section 1. Ratification of Instruments. All actions of the City, the City Manager, the Assistant City Manager, the Finance Director, the City Attorney and the City Clerk and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified, and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. Authorization of the Official Statement. The form, terms and content of the Preliminary Official Statement are in all respects authorized, approved, and confirmed, and the use of the Preliminary Official Statement and of the final Official Statement by the Underwriter in connection with the offering and sale of the 2021 Bonds is hereby in all respects authorized, approved and confirmed. The City Manager, the Assistant City Manager, the Finance Officer, the City Attorney, or the City Clerk is hereby authorized and directed, individually and collectively, to deliver on behalf of the City, the Official Statement in substantially such form, with such changes, insertions and omissions as he or she may approve.

Section 3. Authorization to Execute the Contract. The City hereby approves the financing in accordance with the terms of the Contract, which will be a valid, legal, and binding obligation of the City in accordance with its terms. The form and content of the Contract are hereby in all respects authorized, approved and confirmed, and the City Manager, the Assistant City Manager, the Finance Director, the City Attorney and the City Clerk and their respective designees (the "*Authorized Officers*") are hereby authorized, empowered and directed to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the City's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the City Council. From and after the execution and delivery of the Contract, 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 Contract as executed.

Section 4. Authorization to Execute the Deed of Trust. The city approves the form and content of the Deed of Trust, and the Deed of Trust is in all respects authorized, approved and confirmed. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Deed of Trust, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate. Execution by the Authorized Officers constitutes conclusive evidence of the City's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Deed of Trust presented to the City Council, and from and after the execution and delivery of the Deed of Trust, 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 Deed of Trust as executed.

Section 5. Authorization to Execute the Bond Purchase Agreement. The city approves the form and content of the Bond Purchase Agreement and the sale of the 2021 Bonds to the Underwriter as contemplated thereby, and the Bond Purchase Agreement is in all respects authorized, approved and confirmed. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Bond Purchase Agreement, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate. Execution by the Authorized Officers constitutes conclusive evidence of the City's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Bond Purchase Agreement presented to the City Council, and from and after the execution and delivery of the Bond Purchase Agreement, 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 Bond Purchase Agreement as executed.

Section 6. City Representative. The Authorized Officers, individually and collectively, are each hereby designated as the City's representative to act on behalf of the City in connection with the transactions contemplated by the Instruments and the Preliminary Official Statement, and the Authorized Officers are authorized to proceed with the financing in accordance with the Instruments and to seek opinions as a matter 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. The City's representative and/or designee or designees are in all respects authorized on behalf of the City to supply all information pertaining to the City for use in the Official Statement and the transactions contemplated by the Instruments or the Preliminary Official Statement. The City's representatives or their respective designees are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the Instruments or the Preliminary Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution and the on-going administration of the Instruments. Any and all acts of the Authorized Officers permitted by this Resolution may be done individually or collectively.

Section 7. 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 8. Repealer. All motions, orders, resolutions, and parts thereof, in conflict herewith are hereby repealed.

Section 9. 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 7th day of October 2021.

/s/Barbara G. Volk, Mayor

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

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

G. Contract Award – Garrison Lane Site Improvements – Project Wheel (R6) – Adam Steurer, Utilities Engineer

I move that the City Council approve the Resolution authorizing the City Manager to enter into a contract for the construction of the Garrison Lane site improvements with Hyatt Pipeline, LLC– Project Wheel (R6) to Hyatt Pipeline, LLC, the lowest responsive and responsible bidder, in the amount of \$522,907.50 and authorize the City Manager to approve change orders up to 10% of the contract amount.

Resolution #R-21-95

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF THE GARRISON LANE SITE IMPROVEMENTS HYATT PIPELINE, LLC – PROJECT WHEEL (R6)

WHEREAS, on September 14, 2021 at 2:00pm, sealed formal bids were opened for the Garrison Lane Site Improvements – Project Wheel (R6) by City Staff. Bids were received by five bidders; and

WHEREAS, City Staff reviewed each bid for completeness and accuracy. Hyatt Pipeline, LLC. was the lowest responsive, responsible bidder.

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

1. The bid for the construction of the Garrison Lane Site Improvements – Project Wheel (R6) is hereby awarded to Hyatt Pipeline, LLC., who is hereby determined to be the lowest responsive and responsible bidder, in the total amount of \$522,907.50.
2. The City Manager is authorized to execute a contract with Hyatt Pipeline, LLC, in accordance with the terms of this Resolution, in consultation with the City Attorney.
3. The City Manager is authorized to approve change orders which, cumulatively, do not exceed 10% of the approved contract amount of \$522,907.50, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of October 2021.

/s/Barbara G. Volk, Mayor

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

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

H. Resolution Authorizing the City Manager to Negotiate and Execute a Contract for CMT and Special Inspections – Adam Murr, Budget Manager

I move that City Council adopt a resolution directing the City Manager to negotiate and execute a contract with S&ME, Inc. for construction materials testing, site surveys, environmental engineering, geotechnical engineering, and special inspections for the Fire Station 1 and Park project as presented.

Resolution #R-21-96

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR CONSTRUCTION MATERIALS TESTING, SITE SURVEYS, ENVIRONMENTAL ENGINEERING, GEOTECHNICAL ENGINEERING, AND SPECIAL INSPECTIONS

WHEREAS, City Council has determined a Fire Station 1 and Park Project is needed in downtown Hendersonville to provide improved public safety and recreational facilities/opportunities for residents and guests, and;

WHEREAS, the City must hire an independent engineering firm to test construction materials (CMT), conduct site surveys, environmental engineering, geotechnical engineering, and special inspections for the project, and;

WHEREAS, six competitive firms responded to a publicly posted request for qualifications (RFQ) with completed and timely statements of qualifications (SOQ), and;

WHEREAS, the City made a good faith effort to solicit proposals from historically underutilized businesses, and;

WHEREAS, Staff independently reviewed and scored the firms, with S&ME, Inc. being ranked as the most responsive, responsible, and qualified firm for the project, and;

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

1. City Council finds S&ME, Inc. the most responsible, responsive, qualified firm for the project, and finds Wood Environment & Infrastructure, Solutions, Inc. the next most qualified firm.
2. The City Manager and City Attorney are authorized to negotiate and execute a contract with S&ME, Inc. for construction materials testing, site surveys, environmental engineering, geotechnical engineering, and special inspections for the fire station 1 and park project, within the amount of funds budgeted.

If negotiations with S&ME, Inc. are not agreeable, the City Manager and City Attorney are authorized to negotiate with Wood Environment & Infrastructure, Solutions, Inc., and then the other qualified firms in order of score until an agreeable contract is negotiated, within the amount of funds budgeted.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of October 2021.

/s/Barbara G. Volk, Mayor

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

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

I. Amendment of the Facility Use Agreement with Hendersonville Bridge Club – Tom Wooten, Director of Public Works

I move City Council amends the facility use agreement with the Hendersonville Bridge Club as presented.

J. 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.

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

6. PRESENTATIONS

A. Proclamation - Fire Prevention Month – Barbara G. Volk, Mayor

Mayor Barbara G. Volk presented a proclamation designating the month of October 2021 as Fire Prevention Month to Justin Ward, Deputy Fire Chief.

Proclamation

Fire Prevention Month 2021

WHEREAS, the City of Hendersonville, North Carolina is committed to ensuring the safety and security of all living in and visiting Hendersonville; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,770 people in the United States in 2019, according to the National Fire Protection Association (NFPA), and fire departments in the United States responded to 339,500 home fires; and

WHEREAS, smoke alarms sense smoke well before you can, alerting you to danger in the event of fire in which you may have as little as 2 minutes to escape safely; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, Hendersonville’s residents should be sure everyone in the home understands the sounds of the alarms and knows how to respond; and

WHEREAS, Hendersonville’s residents who have planned and practiced a home fire escape plan are more prepared and are therefore more likely to survive a fire; residents should practice their home fire escape drill at least twice a year, during the day and at night; and

WHEREAS, Hendersonville’s residents will make sure their smoke and CO alarms meet the needs of all their family members, including those with sensory or physical disabilities; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half and should be installed in every sleeping room, outside each separate sleeping area, and on every level of the home; when the smoke alarm sounds, every occupant of the home should respond by going outside immediately to the designated meeting place; and

WHEREAS, Hendersonville’s first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; our residents are responsive to public education measures and can take action to increase their safety from fire, especially in their homes; and

WHEREAS, the 2021 Fire Prevention Week theme, “Learn the Sounds of Fire Safety,” effectively serves to remind us it is important to learn the different sounds of smoke and carbon monoxide alarms.

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim October 2021, as

“Fire Prevention Month”

in the City of Hendersonville and commend its observance to all citizens.

PROCLAIMED this 7th day of October 2021

/s/Barbara G. Volk, Mayor

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

B. Proclamation – American Pharmacist Month – *Barbara G. Volk, Mayor*

Mayor Barbara G. Volk presented a proclamation designating the month of October 2021 as American Pharmacists Month to Arie Lance, student at Wingate University, Hendersonville campus.

Proclamation

American Pharmacists Month 2021

WHEREAS, pharmacy is one of the oldest of the health professions devoted to maintaining the health and well-being of all people; and

WHEREAS, the Wingate University School of Pharmacy – Hendersonville NC Campus -contributes to over 300,000 licensed pharmacists in the United States who provide services to assure the rational and safe use of all medications; and

WHEREAS, the use of medication, as a cost-effective alternative to more expensive medical procedures, is becoming a major force in moderating overall health care costs; and

WHEREAS, today's powerful medications require greater attention regarding the way they are used by different patient population groups - both clinically and demographically; and

WHEREAS, it is important that all users of prescription and nonprescription medications, and/or their caregivers, be knowledgeable about and share responsibility for their own drug therapy; and

WHEREAS, pharmacists are specifically educated with a focus on and level of expertise in medication therapy that exceeds that of other health care providers, making them ideally suited to work collaboratively with other health care providers and patients to improve medication use and outcomes; and

WHEREAS, pharmacists help to fully optimize patients' access to medications and provide patient care services that ensure the best possible medication therapy management; and

WHEREAS, the State of North Carolina recognizes pharmacists for their many contributions to health care in our state and nation, and commends their ongoing service to our communities;

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim October, 2021, as

“American Pharmacists Month”

in the City of Hendersonville and commend its observance to all citizens.

PROCLAIMED this 7th day of October 2021

/s/Barbara G. Volk, Mayor

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

C. Social Media Recruitment Campaign – *Brian Pahle, Assistant City Manager and Allison Justus, Communications Manager*

Assistant City Manager Brian Pahle and Communications Manager Allison Justus presented the social media recruitment campaign information to City Council. Manager Pahle stated staff have partnered with the marketing and advertising firm, Ring of Fire, to develop materials to assist with City Council’s initiatives of attracting qualified candidates to continue to provide high quality services to the citizens. Mrs. Justus outlined the tenants of the campaign such as promoting quality benefits and salary, celebrating employees, sharing strong organizational culture, service excellence, and establishing the City of Hendersonville as a cooperative regional employer. Mrs. Justus stated the advertisements have already indicated increased traffic to the website and job advertisements. Manager Pahle stated there are additional opportunities to offer department specific recruiting and potentially a larger scale branding for the City of Hendersonville in the future. Council Member Jerry Smith praised staff for their efforts.

D. Recognition of Water and Sewer Crews – *Jeff Miller, City Council Member*

City Manager Connet stated this recognition will be postponed until next month due to hazardous weather tonight. Council Member Jeff Miller expressed thanks and appreciation to the crews for all they do.

7. PUBLIC HEARINGS

A. Conditional Zoning District – Providence Walk (P21-31-CZD) – *Matthew Manley, AICP – Planning Manager*

Planning Manager Matt Manley addressed City Council stating the city is in receipt of a conditional rezoning application from High Country Engineering, Michael Goforth on behalf of First Victory Construction, Inc., and Travis Fowler for the development of 93 detached single-family residential homes which sit on a 20.22 Acre tract and encompass 5 parcels. Mr. Manley stated the properties are all located in both the city limits and the ETJ and said the largest parcel of the property is currently vacant and was former agriculture land that has been unmaintained. Mr. Manley stated the three smaller parcels are currently occupied by single-family homes and said the final parcel will remain undeveloped as it is primarily in the floodplain/floodway. Mr. Manley stated the applicants are requesting to rezone the subject property to PRD (Planned Residential Development) Conditional Zoning District with a density of 4.6 Units / Acre. Mr. Manley recalled holding two neighborhood compatibility meetings and discussed participant concerns of tree removal and traffic.

Council Member Jerry Smith stated he supports a greenway in lieu of automotive connection which emergency vehicles can access. He requested clarification regarding the setbacks as depicted on the site plan provided to City Council and Mr. Manley clarified the plan is drawn to indicate proposed setbacks and not the existing zoning setbacks. Council Member Smith stated it is not clear if the Planning Board was aware of this and Mr. Manley stated the developer recommended condition was not specifically in the planning boards motion and the developer was not present at the planning board meeting.

Council Members Lyndsey Simpson and Jeff Miller clarified NCDOT would have to acquire additional right of way if outdoor building were allowed according to current code.

Council Member Dr. Jennifer Hensley clarified the deceleration lane is marked as open space and will require NCDOT approval and additional space.

The property developer, Travis Fowler of First Victory, LLC. clarified there is a 20-foot unopened right-of-way on one side of the proposed project area and another underneath the Duke Energy transmission line portion stating this is the justification of the recommendation for a reduced 20 ft setback.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 6:35p.m.

Ron Taylor of 22 B. Breezewood St. addressed City Council encouraging a site visit to a Flat Rock development by Carey Lyndsey recommending this project to be modeled after the design.

Lynne Williams 309 Chadwick Ave. addressed City Council inquiring regarding a blue line stream and stating she thought it had to have a 15 ft buffer and expressed flooding concerns if the stream were to be piped. Ms. Williams also requested considerations of the addition of a vegetative buffer along the Oklawaha Greenway. Planning Manager Matt Manly clarified that the blue line stream had been piped by the previous owner.

Lynn Clark 343 Yon Hill Rd. addressed City Council expressed concerns of the size of the development and traffic impact in the community. Ms. Clark also expressed concerns of multiple proposed developments and pressure points in the area of Duncan Hill and Signal Hill. Ms. Clark expressed concerns of the development jargon used stating she doesn't understand and is unable to intelligently discuss or expressed concerns of how this development fits in with community character. Ms. Clark clarified she is opposed to a piecemeal approach to development and said there is a need for a coordinated effort and involvement of NCDOT to alleviate safety issues.

Ken Fitch 1046 Patton St. addressed City Council expressing concerns of road construction in the center of the proposed development. Mr. Fitch also expressed concerns of traffic and interactions between neighboring communities stating there are inconsistencies and points of disagreements.

Jeff Doody of 156 Yon Hill Rd. stated he agrees with previous comments posed and expressed concerns of traffic. Stated drainage is a problem and the road is degrading on Yon Hill Rd. Asked them to look at infrastructure and the road. Stated the proposed roads are narrow and driveways are one car. Not opposed to development but questioned growth.

Toni Marie of 101 Frog Creek Place, Etowah addressed City Council inquiring the size of the setbacks between the homes and Mr. Manley Matt clarified it is 6 feet on each side.

The public hearing was closed at 7:02p.m.

Council Member Jerry Smith stated he does not feel the Planning Board was provided with accurate information for this project specific to the drawing depicting the setbacks. Council Member Smith acknowledged Ms. Clark's comments regarding traffic connections through the neighborhood and said preserving the neighborhood and installing a greenway to connect the neighborhoods rather than a road that could be used as a cut through. Council Member Smith stated the correct terminology may need to indicate it is a walkway for walking and emergency vehicles only due to constraints surrounding an official greenway spur. Council Member Smith further clarified that North Main Street is a NCDOT street and the City Attorney clarified the city can improve it the roadway without taking it over. Council Member Jerry Smith acknowledged North Main Street is a problem and agreed this project will create much more traffic and said if we do not address the traffic aspect of the area it will continue to get worse and said if City Council approves this project as is presented, he believes the Council will assume ownership of traffic issues.

City Attorney Angela Beeker addressed City Council stating the issue of connectivity is one of public policy and further clarified it is a subdivision issue and not a zoning issue. Attorney Beeker advised Council will need to address this in a different context possibly through an amendment to the subdivision ordinance to allow different types of connectivity which would be a separate hearing.

Community Development Director gave a brief history of patterns of development over time and recalled there being an extensive section on connectivity of subdivisions.

Council Member Lyndsey Simpson stated she does not support the project with the road due to traffic concerns.

After much discussion City Attorney Angela Beeker advised Council not to take a vote at this meeting in order to allow staff to study it more.

Council Member Dr. Jennifer Hensley commented she met with Chuck McGrady regarding the NCDOT road project and expressed the speakers for their comments and said the city is trying to address safety concerns.

Council Member Jeff Miller clarified the City Council does not go out and survey roads or do traffic counts and inquired if the Council will continue to accept NCDOT traffic studies and expressed concerns of accurate decision making and timing of the counts. Council Member Miller encouraged everyone to attend the neighborhood compatibility meetings to express their concerns at the onset to aid in decision making.

Council Member Jerry Smith clarified workforce housing looks like this project with regards to density.

City Manager John Connet stated the city may need to hire a traffic engineer or consultant to be able to review traffic impact analysis and said he believes the city will transition into the road business in the future due to growth.

Council Member Dr. Jennifer Hensley discussed NCDOT projects and the Balfour highway project and said she hopes people understand the need for road connectivity within the city.

After much discussion the consensus of City Council was to postpone a vote on this project to the November 4, 2021 meeting to allow staff additional time to recommend alternate options to allow the connection to Strick Garden Lane.

Mayor Volk briefly recessed the meeting at 8:07p.m.

Mayor Volk reconvened the meeting at 8:18 p.m. with all members in attendance.

B. Conditional Rezoning: Waterleaf at Flat Rock PIN 9588-11-8740 (P21-34-CZD) – Tyler Morrow, Planner II

Community Development Planner Tyler Morrow stated the city is in receipt of a conditional rezoning application from Graycliff Capital Development LLC., Peggy C. Cabe, Enno F. Camenzind, Paula Camenzind Carter, Robert O. Camenzind, and Joan C. Fleming for the development of a 263-unit multi-family development consisting of 15 total buildings. Mr. Morrow stated the property is currently vacant and appears to have been used for agricultural uses in the past. Mr. Morrow stated the applicant is requesting to rezone the subject property from Henderson County Office Institutional to City of Hendersonville Planned Residential Development Conditional Zoning District.

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.

There was much discussion regarding the size of trees to be removed and preserved. City Manager John Connet clarified the Tree Board is going above and beyond ordinance requirements and said this will require further conversation with a certified arborist for clarification.

Developer Seth Peterson with Greycliff Capital addressed City Council discussing the need for workforce housing in the area and said that rent would for the proposed development would be in the mid-range and stated most of their tenants are in \$900 to \$1600 range. Warren Sugg of Civil Design Concepts addressed City Council discussing project aspects and plantings. Mr. Sugg stated the design will include additional trees and shrubs.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 8:49 p.m.

June Miller 17 Eagle Ridge Lane, Flat Rock addressed City Council expressing concerns of the size of the buildings and the amount of traffic it will bring to South Allen Rd. Ms. Miller expressed concern of the traffic impact analysis being conducted in July when the community college and schools were not in session.

Project Engineer Jeff Weller addressed City Council via Zoom electronic software stating traffic counts were conducted in May when school was in session and clarified NCDOT collects data and averages it based on various formulas.

Lynne Williams 309 Chadwick Ave. addressed City Council expressing concerns of density and removal of trees.

Susan Frady of 330 Hart Rd. address City Council expressing support of this project stating she believes the developer has met all city needs. Ms. Frady stated she currently works for workforce housing and recommends approval of the project as it is additional stock in the workforce housing.

The public hearing was closed at 9:08 p.m.

Council Member Dr. Jennifer Hensley stated she supports the project to support workforce housing rentals in the area.

City Council Member 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 PIN 9588-11-8740 (previously portion of PIN 9588-11-9994) from Henderson County Office Institutional Zoning District to City of Hendersonville Planned Residential Development Conditional Zoning District based on the site plan submitted by the applicant and subject to the following:

Permitted uses shall include:

- 1) Multi-family residential dwellings*

Conditions that shall be satisfied prior to final site plan approval include:

City-Initiated:

- 1) The developer shall construct the rear access that connects to Upward Crossing Drive to City Street standards and allow it to be used as an ingress and egress for residents.*
- 2) To require the developer to plant trees 1 ½ inch caliper size.*
- 3) To preserve as many trees as possible on the site; and to plant the number of trees as specified by the City's Zoning Ordinance (No tree credits may be utilized).*
- 4) The developer work with city staff to comply with the five Outdoor Lighting Basics from the International Dark Sky Association.*
- 5) Work with NCDOT and city staff for a deceleration lane.*

finding that the amended zoning is consistent with the Comprehensive Plan's Future Land Use map, and that the rezoning is reasonable and in the public interest for the following reasons:

- 1. Multi-family is a secondary use stated in the Land Use & Development Chapter (Chapter 8 – LU-9.3)*
- 2. The development is in a priority growth area as described in the Land Use and development Chapter (Chapter 8 Section 8.3).*
- 3. The development provides a type of housing that is underrepresented within the city. Outlined in the graphic in Chapter 8 Section 8.2*

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-21-46

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBER 9588-11-8740 BY CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY OFFICE INSTITUTIONAL TO CITY OF HENDERSONVILLE PLANNED RESIDENTIAL DEVELOPMENT CONDITIONAL ZONING DISTRICT

IN RE: Parcel Number: 9588-11-8740– Waterleaf at Flat Rock
(File # P21-34-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from Graycliff Capital Development LLC (applicant) and Peggy C. Cabe, Enno F. Camenzind, Paula Camenzind Carter, Robert O. Camenzind, Joan C. Fleming (Property Owners) for the development of a 263-unit multi-family development on approximately 15.5 acres., and

WHEREAS, the Planning Board took up this application at its regular meeting on September 13th, 2021; voting unanimously 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 October 7th, 2021, 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 9588-11-8740 from Henderson County Office Institutional to City of Hendersonville Planned Residential Development 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 subject to the following:
Permitted Uses shall include:
 - 1) Multi-family residential dwellingsConditions that shall be satisfied prior to final site plan approval include:
 - 1) The developer shall construct the rear access that connects to Upward Crossing Drive to City Street standards and allow it to be an ingress and egress for residents.
 - 2) To require the developer to plant trees 2 ½ inch caliper size trees rather than 1 ½ inch caliper size trees.
 - 3) To preserve as many trees as possible on the site; and to plant the number of trees as specified by the City's Zoning Ordinance (No tree credits may be utilized).
 - 4) The developer work with city staff to comply with the five Outdoor Lighting Basics from the International Dark Sky Association and
 - 5) Work with NCDOT and city staff for a deceleration lane.
3. This ordinance shall not be effective until the stipulated list of conditions 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 7th day of October 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

A. Proposal to Compensate Rural Fire Departments for Automatic Aid – John Connet, City Manager

City Manager John Connet recalled prior discussions regarding compensation for automatic aid and summarized a modification to include a provision to compensate four rural fire departments to compensate for lost revenue due to annexation over a five-year period. There was no additional discussion by City Council.

City Council Member Dr. Jennifer Hensley moved that City Council direct staff to amend Automatic Aid Contracts with Blue Ridge, Mountain Home, Valley Hill, and Dana Fire Departments to compensate them for the loss of annexed property for a period of five years. A unanimous vote of the Council followed. Motion carried.

9. NEW BUSINESS

A. An Ordinance to Amend Chapter 10 – Animals of the Code of Ordinances for the City of Hendersonville to remove Section 10-7 Animals at Special Events – Lew Holloway, Community Development Director

Community Development Director Lew Holloway stated the city Code of Ordinances currently prohibits animals at special events, whereas versions of the ordinance prior to early 2020 permitted special event organizers to allow animals. Director Holloway stated there is much confusion over which

events permit animals and which do not and said this has been an issue for residents and visitors alike. Director Holloway added this has presented the Police Department with enforcement challenges and the limited ability to question the validity of service animal designations or to prohibit service animals at events. Director Holloway stated the Animal Advisory Committee discussed this at their September 16th, 2021 meeting and voted unanimously to recommend deletion of Section 10-7.

Council Member Jerry Smith stated enforcement is very difficult at festivals as some visitors come from all over the country and many are not aware of the prohibition.

Council Member Jeff Miller moved that City Council adopt an ordinance to amend Chapter 10 of the Code of Ordinances for the City of Hendersonville to remove Section 10-7, Animals at Special Events. A unanimous vote of the Council followed. Motion carried.

Ordinance #O-21-47

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CHAPTER 10 OF THE CODE OF ORDINANCES TO REMOVE SECTION 10.7 ANIMALS AT SPECIAL EVENTS

WHEREAS, Code of Ordinances currently prohibits animals at all special events; and

WHEREAS, Previous versions of the Code of Ordinances allowed special event organizers to allow animals, and this is very confusing for residents and visitors; and

WHEREAS, under the American with Disabilities Act (ADA) individuals can bring service animals into special events and most establishments; and

WHEREAS, Law enforcement is limited in their ability to question the validity of service animal designation and prohibit service animals in special events; and

WHEREAS, this causes great confusion and frustration for all parties; and

WHEREAS, the Animal Advisory Committee discussed this matter at their September 16, 2021 meeting and unanimously recommended the deletion of Section 10.7 Animals at special events from the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Section 10-7 of the Code of Ordinances for the City of Hendersonville be amended as follows:

~~Sec. 10-7. —Animals at special events.~~

~~(a)It shall be unlawful for any person to allow or permit any animal owned, kept, or harbored by, or under the control of, such person to be present within the boundaries of any special event permitted pursuant to section 46-84, below, during the hours of operation of such special event.~~

~~(b)The following animals are exempted from the prohibition contained in subsection (a):~~

~~(1)Service dogs;~~

~~(2)Animals under the control of on-duty law enforcement personnel;~~

~~(3)Animals explicitly authorized by the terms of a street vendor permit issued pursuant to section 14-284, below.~~

~~(4)Dogs exempted under subsections (b) (1), (2), and (3) must be properly restrained and under the full control of their handler at all times.~~

~~(c)The special events committee, as established in section 46-85, may require the suspension of the exemption for domesticated dogs contained in subsection (b) item (4) above under either of two conditions.~~

~~(1)The health, safety and welfare of the community or the dogs or both will be compromised should dogs be allowed, or~~

~~(2)The event organizer requests that dogs be excluded from the event.~~

Secs. 10-~~7~~**8**—10-40. - Reserved.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of October 2021.

/s/Barbara G. Volk, Mayor

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

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

10. BOARD/COMMISSION/COMMITTEE APPOINTMENTS

A. Downtown Advisory Board- Appointment to a vacant seat

City Council Member Lyndsey Simpson moved that City Council appoint Shaqwala Wilkes to fill an unexpired term as a Stakeholder of the 7th Avenue MSD on the Downtown Advisory Board ending June 30, 2022. A unanimous vote of the Council followed. Motion carried.

B. Historic Preservation Commission - Appointment to vacant seats

Council Member Dr. Jennifer Hensley moved that City Council appoint Chris Dannals to fill an unexpired term on the Historic Preservation Commission ending December 31, 2023. A unanimous vote of the Council followed. Motion carried.

Council Member Jerry Smith moved that City Council appoint Crystal Cauley to fill an unexpired term on the Historic Preservation Commission ending December 31, 2022. A unanimous vote of the Council followed. Motion carried.

Council Member Jerry Smith moved that City Council appoint James Welter to fill an unexpired term on the Historic Preservation Commission ending December 31, 2021. A unanimous vote of the Council followed. Motion carried.

C. Tree Board - Appointment to a vacant At-Large

City Council Member Jeff Miller moved that City Council appoint Landon Justus to fill an unexpired term on the Tree Board ending December 31, 2021. A unanimous vote of the Council followed. Motion carried.

11. CITY COUNCIL COMMENTS

Council Member Jerry Smith asked staff to provide City Council with information on the economic cost of tree caliper, types, age, and canopy. City Manager John Connet clarified staff could work with a local arborist to assist with reviewing the approved tree list.

Council Member Jerry Smith stated he spoke with the City Manager and inquired if the Planning Board meetings could be recorded and said it would be helpful for City Council to have that technology available. Council Members Hensley and Simpson both supported the idea. Assistant City Manager Brian Pahle stated the meeting can be recorded and reminded everyone that management would need to prioritize staff time and said additional positions would be requested.

Council Member Jeff Miller requested larger signage postings on development projects and clarified City Council has expanded notice to 400 feet for conditional zoning. Community Development Director Lew Holloway stated staff are working to increase the size of signage as well as working to implement a page on the City's website to include project information. City Council Members Simpson and Hensley agreed with having digital information available for the public.

There was general discussion regarding community development project notification to the public and Director Holloway stated due to volume and complexity of work staff may approach Council to request alterations to the review timelines.

City Council Member Jerry Smith advised he has requested workforce housing to be added to the LGCCA agenda and invited Council to comment.

12. CITY MANAGER REPORT – John F. Connet, City Manager

City Manager John Connet provided a brief overview of the one-time hiring bonus pay plan and said staff has recommended the bonus to be \$4,500 which is spread out in three payments over one year and is dependent upon positive performance evaluations. Manager Connet stated the plan would continue to be revised or rescinded and said it is not permanent.

City Council Member Jeff Miller moved to authorize the City Manager to implement the one-time hiring bonus plan. A unanimous vote of the Council followed. Motion carried.

A. Contingencies Report – Alex Norwood, Analyst

The contingencies report was provided to City Council.

B. Cash & Investment Report – *John Buchanan, Finance Director*

The cash and investment report was provided to City Council.

12. CLOSED SESSION

A. Closed Session – *John Connet, City Manager*

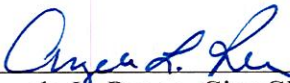
At 9:41 p.m. City Council Member Jerry Smith moved that City Council closed session pursuant to NCGS § 143-318.11(a) (1) and (4) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within 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.

Council Member Jeff Miller moved that City Council return to Open Session at 9:55 p.m. A unanimous vote of the Council followed. Motion carried.

13. ADJOURN

There being no further business, the meeting was adjourned at 9:57 p.m. upon unanimous assent of the Council.

ATTEST:


Angela L. Reece, City Clerk


Barbara G. Volk, Mayor

