



# MINUTES

December 2, 2021

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

Present: Mayor Barbara G. Volk, and Council Members: Jerry Smith, Jeff Miller, Lyndsey Simpson, and City Council Member Elect Debbie O'Neal-Roundtree

Present Remotely: Dr. Jennifer Hensley

Special Guests: Honorable Judge Emily Cowan, District Court Judge of the 29B District, Henderson County, Honorable J. Calvin Hill, Chief District Court Judge of the 28th Judicial District, Buncombe County, Honorable Jonathan C. Parce, Magistrate Henderson County, Reverend Donald McDaniel of Mt. Carmel Baptist Church, and others

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 and remotely via Zoom electronic software. Mayor Volk confirmed this remote meeting was advertised in accordance with general statutes.

### 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.*

John Goolsby of 94 Creek Walk Lane addressed City Council expressing concerns of stormwater runoff of the proposed Half Moon Heights development.

Robbie Goolsby of 94 Creek Walk Lane addressed City Council expressing thanks and appreciation to City Council for reviewing the Half Moon Heights matter and asked for consideration to table the matter until long term effects on steep slope building can be determined.

Beth Mallindine of 135 Creek Walk Lane in the Wolf Chase Community addressed City Council expressing concerns of stormwater system inadequacy in the area and said she believed her home is in danger from blocked culverts and runoff from Highway 64.

Janice Mallindine of 135 Creek Walk Lane in the Wolf Chase Community addressed City Council stating the residents in her community are opposed to any development on steep slopes above them. Ms. Mallindine recalled Tree Board recommendations and stated there was no signage posted in the area until November 19<sup>th</sup>. Ms. Mallindine asked Council to defer consideration of a vote in the Half Moon Heights development or to vote no.

Lynne Williams of 309 Chadwick Ave. addressed City Council asking for consideration of preserving Boyd Park and the Laura Corn Mini Golf Course stating she has approached the Historic Preservation Commission to request a historic designation for the park. Ms. Williams asked Council to reject development on this site.

Josh Williams of 724 Woodcock Drive addressed City Council virtually by Zoom electronic software inviting Council members to take part of a discussion about the Green Meadows Community. Mr. Williams stated they have saw some changes but are asking for more enforcement.

Ken Fitch of 1046 Patton St. addressed City Council virtually by Zoom electronic software expressing thanks and appreciation to outgoing Council Member Jeff Miller for his values and unique capacity to listen to all viewpoints when making decisions that affect everyone in the community.

Mayor Volk summarized written digital comments received from the following:

Joseph Culotta of 38 Foxtail submitted written digital comments opposing the Half Moon Heights development stating there is not second planned, and the trail ends in a parking lot. Mr. Culotta expressed concerns for flooding and traffic in the area.

Brian Scott of 447 Ballantyne Common Cir submitted written digital comments opposing the Half Moon Heights development expressing concerns for traffic in the Howard Gap and Dana Rd. area if the development is approved.

David Litogot of 68 Winter Wren Circle submitted written digital comments opposing the Half Moon Heights development asking Council to deny the request and to use the area for a park.

Sandra Litogot of 68 Winter Wren Circle submitted written digital comments opposing the Half Moon Heights development asking Council to deny the request and to preserve the green area with mature trees and to establish a park instead.

Gus Martschink of 40 Snowy Egret Way submitted written digital comments opposing the Half Moon Heights development expressing concerns of removal of 73% of mature trees and replacement with saplings.

#### **4. CONSIDERATION OF AGENDA**

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

#### **5. UNFINISHED BUSINESS** - *Items to be considered by current City Council.*

##### **A. Rezoning (Voting Continued): Conditional Zoning District – Half Moon Heights (P21-44-CZD) – Lew Holloway – Community Development Director**

Community Development Director Lew Holloway briefly reviewed the conditions agreed upon by the Planning Board and developer. Council Member Lyndsey Simpson clarified the culvert on Highway 64 is part of the NCDOT right of way. City Manager John Connet stated staff can request inspection to make sure it is open and draining properly. Council Member Simpson additionally inquired regarding installation of a traffic signal with support of City Council and Council Member Dr. Jennifer Hensley stated she had discussed the addition of a signal with NCDOT representatives during the last transportation meeting she attended. Council Member Lyndsey Simpson inquired regarding stormwater in Ballantyne Commons and City Manager Connet stated staff believes stormwater in this area drains on the other side of the ridge and is in a separate watershed which ends up in Clear Creek. Council Member Lyndsey Simpson clarified Half Moon Trail is a public road and the other streets in the development are private roads. Council Member Jerry Smith acknowledged an overwhelming number of objections to this development from the neighboring residents.

*Council Member Lyndsey Simpson 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: 9568-00-1446) from PRD-CZD (Planned Residential Development-Conditional Zoning District) to PRD-CZD (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. Residential Dwellings, Single-Family***

##### **Conditions that shall be satisfied include:**

- 1. Size the stormwater systems to retain runoff for, at a minimum, 50-year event***
- 2. To incur the cost of reevaluating the stormwater management system at Wolf Chase***
- 3. Utilize Low Impact Development practices (NR-3.2) through incorporation of pervious concrete for sidewalks and driveways (NR-3.2) and/or incorporation of pollinator habitat into a more natural/green stormwater management facility such as bioretention or constructed stormwater wetlands***
- 4. Protect the trees that have been proposed to be preserved in accordance with Section 15-4 of the Zoning Ordinance. Tree Board concurs with the developer's proposal to allow for a second row of silt fencing to take the place of the required fencing in Section 15-4. All other standards of Section 15-4 remain in place***
- 5. Recess garages or shift parking to rear of lots. Make front porch the primary architectural feature fronting the street (PH-3.1.1)***
- 6. Pedestrian Crossing at Road C does not appear to have sufficient sight distance. Extend sidewalk along Half Moon Trail south towards Ballantyne Commons and provide pedestrian crossing to Mailbox Cluster / School Bus stop***

7. *Reduce the impact of the development and preserve quality, undisturbed open space by clustering development in areas outside of 30% slope (NR-1.4, NR-2.1), thus preserving existing woodlands and avoiding grading of steep slopes in these areas (NR-2.3)*
8. *Provide ROW connection to Gypsy Ln to accommodate pedestrian connection (TC-1.4.1) and utility connections (per City Code).*
9. *Developer will work with staff to design a nature trail that has ability to connect to adjacent neighborhoods*

*Finding that the rezoning 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. *Single-Family Detached is a primary use stated in the Land Use & Development Chapter (Chapter 8 – LU-6.2).*
2. *The proposed density of the development (3.0 Units / Acre) is in line with the Land Use & Development Chapter's guidance of 2 – 8 Units / Acre. (Chapter 9 – LU-6.4).*

Mayor Barbara Volk stated she has given this much thought on this matter and feels the property would still be developed. Mayor Volk stated the developer has made accommodations as requested and said she feels housing in the area is needed at all price points and that the development is appropriate in the area.

Council Member Jerry Smith responded to the Mayor Volk's comments for needed housing referring to pricing of homes in the area and stated he believes the new homes would cost in excess of half a million to one million dollars.

Council Member Jeff Miller responded to Council Member Jerry Smith's comments discussing pre-approval loan amounts for different price points based on the market rates. Council Member Miller stated everyone has a right to develop their property but not to over develop it and acknowledged the concerns of neighbors and said in his years on City Council he has never saw a developer more willing to agree to conditions and to do everything that has been asked according to ordinance and building code and said Council cannot deny the request.

A technical correction to the motion was made to remove the words "final to site plan approval". There was no further discussion.

*The motion carried by a roll call vote of 4-1 with Council Member Jerry Smith voting against.*

Ordinance #O-21-50

**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 9680-00-1446 BY CHANGING THE ZONING DESIGNATION FROM PRD-CZD (PLANNED RESIDENTIAL DEVELOPMENT-CONDITIONAL ZONING DISTRICT) TO PRD-CZD (PLANNED RESIDENTIAL DEVELOPMENT – CONDITIONAL ZONING DISTRICT)**

IN RE: Parcel Numbers: 9568-00-1446 – 297 Rustling Pines Ln (Half Moon Heights)  
(File # P21-44-CZD)

**WHEREAS**, the city is in receipt of a Conditional Rezoning application from applicant Half Moon Holdings, LLC. for the development of 93 detached single-family homes on approximately 33.65 acres, and

**WHEREAS**, the Planning Board took up this application at its regular meeting on October 11, 2021; voting 6 to 1 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 November 4, 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: 9568-00-1446 from PRD-CZD

(Planned Residential Development-Conditional Zoning District) to PRD-CZD  
(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 based on the site plan submitted by the applicant and subject to the following.
  - a. Permitted uses shall include:
    - i. Residential Dwellings, Single-Family.
  - b. Development shall be subject to the following list of conditions:
    - i. Size the stormwater management system to retain runoff for a 50-year storm event; and
    - ii. Incur the cost of reevaluating the stormwater management system at Wolf Chase; and
    - iii. Utilize Low Impact Development practices (NR-3.2) through incorporation of pervious concrete for sidewalks and driveways (NR-3.2); and
    - iv. Protect the trees that have been proposed to be preserved in accordance with Section 15-4 of the zoning ordinance except as it relates to the specific fence construction standards established in Section 15-4. As an alternative to this construction standard the project will use two rows of silt fencing; and
    - v. Include front porches as an architectural feature fronting the street on a majority of homes in Phase I of the development, pursue this goal as feasible in Phase II and Phase III of the development (PH-3.1.1); and
    - vi. Provide a pedestrian crossing to the Mailbox Cluster / School Bus stop; and
    - vii. Construct basement sites on lots 14-20 where slopes ranging from 29% to 39% are present (NC-2.1 & NR-2.3); and
    - viii. Provide ROW connection to Gypsy Ln to accommodate pedestrian connection (TC-1.4.1) and utility connections (per City Code); and
    - ix. Developer will work with staff to design a nature trail that has the ability to connect to adjacent neighborhoods.
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 on this 2<sup>nd</sup> day of December, 2021.

/s/Barbara G. Volk, Mayor

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

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

#### **B. Continuation of Public Hearing to Consider Annexation and Sewer Service Agreement with the Town of Laurel Park**

Mayor Volk reminded everyone that the public hearing was still open.

There were no further comments. The public hearing was closed at 6:38 p.m.

Council Member Jeff Miler clarified he does not support extra territorial jurisdictions (ETJ's) and encouraged the City Council and County leaders to discuss eliminating ETJ's and create a growth ring that is acknowledged by both parties.

***Council Member Jeff Miller moved that City Council adopt 1) A Resolution of the City of Hendersonville City Council to Approve Interlocal Agreement with the Town of Laurel Park; and 2) An Ordinance of the City of Hendersonville City Council to Approve Interlocal Agreement with the Town of Laurel Park. A unanimous roll call vote followed. Motion carried.***

**A RESOLUTION OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE  
INTERLOCAL AGREEMENT WITH THE TOWN OF LAUREL PARK**

**WHEREAS**, North Carolina General Statutes Section 160A-58.23 authorizes cities to enter into agreements to designate one or more areas that are not subject to annexation by one or more of the participating cities; and

**WHEREAS**, the City of Hendersonville and the Town of Laurel Park are located in proximity to each other and, in order to enhance orderly planning in the areas adjoining the cities, have negotiated an annexation agreement; and

**WHEREAS**, North Carolina General Statutes Chapter 160A Article 20 authorizes interlocal cooperation among municipal corporations; and

**WHEREAS**, on November 22, 2021, a public hearing was held by the City of Hendersonville to consider the proposed annexation agreement;

**NOW, THEREFORE**, be it resolved by the City Council of the City of Hendersonville that the Annexation Agreement between the City of Hendersonville and the Town of Laurel Park, a copy of which is attached hereto and incorporated herein by reference, is hereby approved, and the Mayor is hereby authorized to execute such agreement. The Agreement shall be effective upon approval by the Town of Laurel Park, after a duly held public hearing, and execution by both the Mayor of Hendersonville and the Mayor of the Town of Laurel Park.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2<sup>nd</sup> day of December, 2021.

/s/Barbara G. Volk, Mayor

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

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

**Ordinance #O-21-51**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE  
INTERLOCAL AGREEMENT WITH THE TOWN OF LAUREL PARK**

**WHEREAS**, North Carolina General Statutes Section 160A-58.23 authorizes cities to enter into agreements to designate one or more areas that are not subject to annexation by one or more of the participating cities; and

**WHEREAS**, the City of Hendersonville and the Town of Laurel Park are located in proximity to each other and, in order to enhance orderly planning in the areas adjoining the cities, have negotiated an annexation agreement; and

**WHEREAS**, North Carolina General Statutes Section 160A-460 authorizes municipal corporations to enter into interlocal agreements; and

**WHEREAS**, on November 22, 2021, a public hearing was held by the City of Hendersonville to consider the proposed annexation agreement;

**NOW, THEREFORE**, be it ordained by the City Council of the City of Hendersonville that the Annexation Agreement between the City of Hendersonville and the Town of Laurel Park, a copy of which is attached hereto and incorporated herein by reference, is hereby approved, and the Mayor is hereby authorized to execute such agreement. The Agreement shall be effective upon approval by the Town of Laurel Park, after a duly held public hearing, and execution by both the Mayor of Hendersonville and the Mayor of the Town of Laurel Park.

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 on this 2<sup>nd</sup> day of December, 2021.

/s/Barbara G. Volk, Mayor

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

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

**6. SPECIAL RECOGNITION**

**A. Proclamation of Appreciation and Respect for Departing Council Member Jeff Miller**

# Proclamation

## *Of Respect and Appreciation for*

### City Council Member Jeff Miller

**WHEREAS**, on this second day of December 2021 after serving the past eight years as Council Member, JEFF MILLER departs leaving behind him an impressive legacy of public service. We, the Governing Body, employees, and citizens of Hendersonville wish to acknowledge publicly the contributions made by Jeff Miller; and

**WHEREAS**, JEFF MILLER served the City of Hendersonville as Councilman (December 2013 – December 2021); and

**WHEREAS**, JEFF MILLER during his tenure on the City of Hendersonville City Council was instrumental in:

- 1 Creation of the Hendersonville Water and Sewer Advisory and Business Advisory Committees.
- 2 Implementing a water/sewer rate structure and utility extension policies to provide more equitable funding of future utility projects.
- 3 Advocating for municipal service district (MSD) property owners and equalization of tax rates between the two districts.
- 4 Implementing a Five -Party Agreement Between the City of Hendersonville, Henderson County, Wingate University, Blue Ridge Community College, and Pardee Memorial Hospital for the construction and lease of, and relative interests in a building to be situated at 747 Sixth Avenue West for a Health Sciences Facility.
- 5 Advocating for the purchase of property between Church Street and King Street to construct a downtown parking garage within a block of Main Street
- 6 Supporting the sale and redevelopment of the Grey Hosiery Mill and putting it back on the tax rolls
- 7 The purchase of property and construction of downtown public restrooms, the purchase of property for a new Police Station and reconstruction of Fire Station #1
- 8 Strong advocate for City employees, benefits, and one of their biggest supporters; and

**WHEREAS**, during his tenure on the City Council, JEFF MILLER has continued to be a staunch proponent of quality development in Hendersonville and has given voice to the concerns of the business and development interests while balancing these concerns with those of the larger Hendersonville community.

**WHEREAS**, it is with a great sense of gratitude that we now express our appreciation and acknowledge that JEFF MILLER is hereby acknowledged as having been a good, loyal, and faithful public servant of the City of Hendersonville.

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville do hereby proclaim that:

1. This proclamation expresses the deep appreciation on behalf of the citizens of the City of Hendersonville for the valuable service which Council Member Jeff Miller has provided the city; and
2. That this proclamation is hereby presented to JEFFREY LANE MILLER and a copy of same shall be placed within the records of the City of Hendersonville.

**PROCLAIMED** this 2<sup>nd</sup> day of December 2021

/s/Barbara G. Volk, Mayor

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

Council Member Jerry Smith presented framed City of Hendersonville memorabilia and a wooden rocking chair to fellow Council Member Jeff Miller on behalf of the entire City Council thanking him for his service to the city.

Council Member Jeff Miller congratulated Council Member Elect, Debbie O'Neal-Roundtree on her election and expressed thanks and appreciation to Mayor Volk for her leadership, to fellow Council Members for their stewardship, and to staff for their perseverance and professionalism.

**7. BRIEF RECESS**

Mayor Volk briefly recessed the meeting at 6: 47 p.m.

The meeting was recovered at 6:51p.m.

**8. ORGANIZATIONAL MEETING****A. Administration of the Oath of Office and Presentation of Certificate of Election to Mayor Barbara G. Volk by the Honorable Judge Emily Cowan, District Court Judge of the 29B District, Henderson County**

The Honorable Judge Emily Cowan, District Court Judge of the 29B District, Henderson County issued the oath of office to Mayor Barbara G. Volk.

**Oath of Office  
City of Hendersonville  
Mayor**

I, **Barbara G. Volk**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as City of Hendersonville Mayor, so help me God.

I, **Barbara G. Volk**, do solemnly swear that I will well and truly execute the duties of the office of City of Hendersonville Mayor to the best of my skill and ability, according to law, so help me God.

/s/Barbara G. Volk, Mayor

On December 2, 2021, Barbara G. Volk personally appeared before me and swore to and subscribed before me the Oath of Office of City of Hendersonville Mayor.

Attest: /s/Emily Cowan, District Court Judge, 29B Judicial District

**B. Administration of the Oath of Office and Presentation of Certificate of Election to Council Member Jerry A. Smith Jr. by the Honorable J. Calvin Hill, Chief District Court Judge of the 28th Judicial District, Buncombe County and the Honorable Jonathan C. Parce, Magistrate Henderson County**

The Honorable Chief District Court Judge J. Calvin Hill, 28<sup>th</sup> Judicial District and special guest, the Honorable Jonathan C. Parce, Magistrate Henderson County issued the oath of office to Council Member Jerry A. Smith Jr.

**Oath of Office  
City of Hendersonville  
Council Member**

I, **Jerry A. Smith Jr.**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as City of Hendersonville Council Member, so help me God.

I, **Jerry A. Smith Jr.** do solemnly swear that I will well and truly execute the duties of the office of City of Hendersonville Council Member to the best of my skill and ability, according to law, so help me God.

/s/Jerry A. Smith Jr.

On December 2, 2021, Jerry A. Smith Jr. personally appeared before me and swore to and subscribed before me the Oath of Office of City of Hendersonville Council Member.

Attest: /s/ J. Calvin Hill, Chief District Court Judge, 28th Judicial District

**C. Administration of the Oath of Office and Presentation of Certificate of Election to Council Member Debbie O'Neal Roundtree by the Honorable Mayor Barbara G. Volk**

with special guest Reverend Donald McDaniel of Mt. Carmel Baptist Church

The Honorable Mayor Barbara G. Volk and special guest, Reverend Donald McDaniel, Mt. Carmel Baptist Church issued the oath of office to Council Member Debbie O'Neal-Roundtree.

## Oath of Office City of Hendersonville Council Member

I, **Debbie O'Neal-Roundtree**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as City of Hendersonville Council Member, so help me God.

I, **Debbie O'Neal-Roundtree** do solemnly swear that I will well and truly execute the duties of the office of City of Hendersonville Council Member to the best of my skill and ability, according to law, so help me God.

/s/ Debbie O'Neal-Roundtree

On December 2, 2021, Debbie O'Neal-Roundtree personally appeared before me and swore to and subscribed before me the Oath of Office of City of Hendersonville Council Member.

Attest: /s/ Mayor Barbara G. Volk, City of Hendersonville

### D. Remarks by Mayor Barbara G. Volk and Council Members Jerry Smith, Debbie O'Neal-Roundtree, and Others

Mayor Barbara G. Volk stated she appreciates the opportunity to guide the group another four years and expressed thanks and appreciation to her supporters.

Council Member Jerry Smith expressed thanks and appreciation to his wife Ann, his family, and supporters. Council Member Smith stated the city is a unique cultural collection of small-town traits and is known to many and said he takes seriously his pledge to retain the small-town lifestyle that most moved here to enjoy while recognizing that responsible growth is necessary.

Reverend Donald McDaniel addressed City Council and Council Member Debbie O'Neal-Roundtree stating this shouldn't be looked at as a job, but as a time to serve people. Reverend McDaniel encouraged Council to do their duty as a council as they would under God and said their choices and decisions may not be popular to all but in doing the right thing God will bless whatever the decision.

Council Member Debbie O'Neal-Roundtree expressed thanks and appreciation to her supporters and family for believing in her and her vision for the good will of all people of Hendersonville.

### E. Election of Mayor Pro Tempore and Administration of the Oath of Office by the Honorable Barbara G. Volk.

Mayor Barbara G. Volk asked for nominations for Mayor Pro Tempore. Council Member Dr. Jennifer Hensley nominated Council Member Lyndsey Simpson. Council Member Lyndsey Simpson and Council Member Debbie O'Neal-Roundtree nominated Council Member Jerry Smith. Mayor Volk called for a vote in the order in which the nominations were received.

*Council Member Dr. Jennifer Hensley moved that City Council appoint City Council Member Lyndsey Simpson to serve the City's Mayor Pro Tempore. The motion carried by a roll call vote of 4-0 with Council Member Jerry Smith voting against.*

The Honorable Mayor Barbara G. Volk issued the oath of office of Mayor Pro Tempore to Council Member Lyndsey Simpson and clarified this position is for two years.

## Oath of Office City of Hendersonville Mayor Pro Tempore

I, **Lyndsey Simpson**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as City of Hendersonville Mayor Pro Tempore, so help me God.

I, **Lyndsey Simpson**, do solemnly swear that I will well and truly execute the duties of the office of City of Hendersonville Mayor Pro Tempore to the best of my skill and ability, according to law, so help me God.

/s/ Lyndsey Simpson

On December 2, 2021, Council Member Lyndsey Simpson personally appeared before me and swore to and subscribed before me the Oath of Office of City of Hendersonville Mayor Pro Tempore.

Attest: /s/ Mayor Barbara G. Volk, City of Hendersonville

#### F. 2022 City Council Schedule of Meetings – Angela L. Reece, City Clerk

**Council Member Dr. Jennifer Hensley moved that City Council approve the 2022 regular schedule of meetings as presented and direct the City Clerk to publish this notice in accordance with NC General Statutes. A unanimous roll call vote followed. Motion carried.**

#### **NOTICE OF CITY COUNCIL REGULAR MEETINGS**

**Regular Meetings** of the City of Hendersonville City Council are held on the **first Thursday** of each month beginning at **5:45 p.m.** in the Assembly Room of the Operation Center located at 305 Williams Street, Hendersonville NC unless otherwise noticed. The following regular meetings have been scheduled for 2022:

<b>January 6, 2022</b>	<b>July 7, 2022</b>
<b>*February 10, 2022</b>	<b>August 4, 2022</b>
<b>March 3, 2022</b>	<b>September 1, 2022</b>
<b>April 7, 2022</b>	<b>October 6, 2022</b>
<b>May 5, 2022</b>	<b>November 3, 2022</b>
<b>June 2, 2022</b>	<b>December 1, 2022</b>

**Second Monthly Meetings** will be held in a workshop format to give the City Council an opportunity to receive and discuss information. Meetings are held on the **fourth Wednesday** of each month beginning at **4:00 p.m.** in the Assembly Room of the Operation Center located at 305 Williams Street, Hendersonville NC unless otherwise noticed. The following workshop meetings have been scheduled for 2022:

January 26, 2022	July 27, 2022
February 23, 2022	August 24, 2022
March 23, 2022	September 28, 2022
April 27, 2022	October 26, 2022
May 25, 2022	November 23, 2022
June 22, 2022	December 28, 2022

/s/ Angela L. Reece, City Clerk

The City of Hendersonville is committed to providing accessible facilities, programs, and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.

#### G. Appointment of Council Representatives to Boards

Mayor Barbara G. Volk asked for nominations for each seat and provided voting instructions to Council.

##### **1. Firemen's Relief Fund - (2) Seats**

1. Jerry Smith
2. Jennifer Hensley

Council Member Lyndsey Simpson nominated Council Member **Jerry Smith** and Council Member **Dr. Jennifer Hensley**.

##### **2. French Broad River Metropolitan Planning Organization Technical Advisory Committee (MPO - TAC)**

Council Member Jerry Smith nominated Council Member **Dr. Jennifer Hensley**.

**3. Henderson County -French Broad River Metropolitan Planning Organization Technical Advisory Committee (MPO - TAC)**

Council Member Jerry Smith nominated Council Member **Dr. Jennifer Hensley**.

**4. Henderson Co. Public Schools Facility Committee (2)**

Council Member Lyndsey Simpson nominated Council Member **Jerry Smith** and Council Member **Debbie O'Neal-Roundtree**.

**5. Land of Sky Regional Council (2) and alternate**

Current Members:

1. Mayor Barbara Volk
2. Lyndsey Simpson
3. City Manager John Connet occupies the third seat as 2<sup>nd</sup> Alternate, and this term is un-expiring.

Council Member Dr. Jennifer Hensley nominated **Mayor Barbara G. Volk**, Council Member **Lyndsey Simpson**, and City Manager **John Connet as 2<sup>nd</sup> Alternate**.

**6. Mills River Partnership (1)**

Council Member Dr. Jennifer Hensley nominated Council Member **Lyndsey Simpson**.

**7. LGCCA (2)**

Council Member Jerry Smith nominated **Mayor Barbara G. Volk** and Council Member **Debbie O'Neal-Roundtree**.

**8. Business Advisory Committee (1)**

Current Member:

1. Jennifer Hensley

Council Member Lyndsey Simpson nominated Council Member **Dr. Jennifer Hensley**.

**9. Diversity & Inclusion Advisory Committee (2)**

Mayor Volk advised the members are specified by Charter which are the Mayor and Mayor Pro-Tem.

**10. Downtown Advisory Board (1)**

Council Member Lyndsey Simpson nominated Council Member **Debbie O'Neal-Roundtree**.

**11. Environmental Sustainability Board (1)**

Council Member Dr. Jennifer Hensley nominated Council Member **Lyndsey Simpson**.

**12. WSAC (2)**

Council Member Lyndsey Simpson nominated Council Member **Jerry Smith**, and City Manager **John Connet as Alternate**.

All nominations were voted on as one.

*City Council moved to appoint nominated individuals to seats as presented. A unanimous roll call vote followed. Motion carried.*

### **13. Tree Board (1) NEW**

Mayor Volk advised City Council that Council Member Debbie O’Neal-Roundtree has asked to remain affiliated with the Tree Board and suggested City Council concede to allow Council Member O’Neal-Roundtree to remain a non-voting liaison to this board.

*The consensus of City Council by roll call was to allow Council Member Debbie O’Neal-Roundtree to be a non-voting liaison to the Tree Board.*

### **9. CONSENT AGENDA**

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

*I move that City Council adopt the minutes of the October 27, 2021, Second Monthly Meeting, and November 4, 2021 Regular Meeting as presented.*

#### **B. Adoption of 2021 General Records and Program Records Retention Schedules – Angela L. Reece, City Clerk**

*I move that City Council adopt the Resolution by the City of Hendersonville City Council to Adopt the 2021 Records Retention and Disposition Schedules for Local Government Including the General Records and Program Records for Municipal Government as presented.*

**Resolution #R-21-110**

#### **RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ADOPT THE 2021 RECORDS RETENTION AND DISPOSITION SCHEDULES FOR LOCAL GOVERNMENT INCLUDING THE GENERAL RECORDS SCHEDULE AND PROGRAM RECORDS SCHEDULE FOR MUNICIPAL GOVERNMENT**

**WHEREAS**, “Public Record” means any document, paper, letter, map, book, photograph, film, sound recording, magnetic or other tape, electronic data-processing record, artifact, or other documentary material, despite physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions; and

**WHEREAS**, without a records retention program, public records can accumulate, causing the need for additional storage space, and without a schedule for disposal, valuable documents can be mistakenly discarded; and

**WHEREAS**, the City of Hendersonville currently uses the Municipal Records Retention and Disposition Schedule for General Records released March 1, 2019 and all other Municipal Records as released on September 10, 2012 for record retention and disposal; and

**WHEREAS**, G. S. § 121- 5 and G. S. § 132- 3 require a municipality to approve the current schedule in order to conduct routine disposal of records which must otherwise be retained without specific permission for disposal by the Division of Archives and Records; and

**WHEREAS**, the City elects to utilize the Agency Policy option for specified items recorded within the North Carolina Department of Cultural Resources Record Retention and Disposition Schedule.

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

1. To reduce the burden and costs of record retention and maintain efficient City records management, the City Council finds and determines that this Resolution should be approved.
2. The City of Hendersonville hereby adopts the adopts the October 1, 2021 Municipal General Records Retention and Disposition General Records and Program Record Schedules, and the Agency Policy options for specified items within the Schedules as presented in accordance with the provisions of Chapters 121 and 132 of the General Statutes of North Carolina, copies of which are on file in the office of the City Clerk.
3. This schedule is to remain in effect from the date of approval until it is reviewed and

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**C. Acceptance of November 2, 2021 Official General Election Results** – *Angela L. Reece, City Clerk*

*I move that City Council accept the abstract of votes as provided by the Henderson County Board of Elections for the November 2, 2021 General Election as presented.*

**D. Resolution Declaring Property Surplus & Authorizing Sale** – *D. James Miller, Fire Chief*

*I move that City Council adopt the Resolution declaring certain property as surplus and authorizing a sale to West Macon Fire & Rescue as presented.*

**Resolution #R-21-111**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL DECLARING CERTAIN PROPERTY SURPLUS AND AUTHORIZING SALE**

**WHEREAS**, the City Council of the City of Hendersonville desires to dispose of certain surplus property of the City; and

**WHEREAS**, the City wishes to dispose of certain surplus property by private sale to West Macon Fire and Rescue, Inc., for a sum of \$30,000; and

**WHEREAS**, the City is authorized by N.C.G.S. § 160A-279 to sell personal property by private sale to a nonprofit entity carrying out a public purpose, provided the property continues to be used for a public purpose by the nonprofit entity; and

**WHEREAS**, West Macon Fire and Rescue, Inc., is a private nonprofit corporation organized for the public purpose of providing fire protection services;

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

1. The following described property is hereby declared to be surplus to the needs of the City:
  - a. 2016 Chevrolet Tahoe Vin # 1GNSKFEC6GR326522 City ID # (14-61) (the “Surplus Property”)
2. The City Manager is authorized to sign a Bill of Sale for the private sale of the Surplus Property to West Macon Fire & Rescue for the sum of \$30,000.00 with a restriction that the property continue to be used for the public purpose of fire protection services.
3. That the City Clerk shall cause notice to be published in accordance with G.S. 160A-267, and the sale of the Surplus Property shall not be consummated until 10 consecutive calendar days following the publication of the notice.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**E. Budget Amendments December 2021** – *Alex Norwood, Budget Analyst*

*I move that City Council approve budget amendments 12022021-01, 12022021-02, 12022021-03, 12022021-04, 12022021-05, and 12022021-06 as presented.*

**F. Agreement - NC Resolution to Accept the Offer from the North Carolina Department of Transportation to Purchase Real Property**– *Drew Finley, Assistant to the Utilities Director*

*I move that City Council adopt the Resolution by The Hendersonville City Council to Accept the Contingent Offer of Just Compensation from The North Carolina Department of Transportation For The Nc 191 Widening Project as presented.*

**Resolution #R-21-112**

**RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO ACCEPT THE CONTINGENT OFFER OF JUST COMPENSATION FROM THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE NC 191 WIDENING PROJECT**

**WHEREAS**, the North Carolina Department of Transportation (“NCDOT”) is conducting a road widening project of N.C. 191 from N.C. 280 to S.R. 1381 and

**WHEREAS**, NCDOT must acquire right of way and easements from the City as part of this process and

**WHEREAS**, NCDOT has conducted an appraisal and has determined the fair market value for the necessary land and easements required for the road widening project and

**WHEREAS**, NCDOT has submitted to the city a contingent offer of just compensation for the necessary land and easements in the amount of \$134,300 and

**WHEREAS**, City staff have determined that this offer is reasonable and recommend that City Council approve the offer as presented.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that this offer from the NCDOT has been accepted and approved.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**G. December 2021 Capital/Grant Project Ordinances and Reimbursement Resolutions** – Alex Norwood, Budget Analyst

*I move that City Council adopt the grant/capital project ordinances for: Ashe Street Community Development Block Grant (CDBG) Project #G2201, Ewart Hill Reservoir Rehabilitation Project #19025, and budgets as presented.*

*I move City Council adopt the reimbursement resolutions for the Fleetwood Infrastructure Project #21012, Laurel Park Automated Meter Infrastructure Project #20011, Ashe Street CDBG Project #G2201, and Ewart Hill Reservoir Rehabilitation Project #19025.*

**Capital Project Ordinance #O-21-52**

**CAPITAL PROJECT ORDINANCE FOR  
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE EWART  
HILL RESERVIOR REHABILITATION 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 Ewart Hill Reservoir Rehabilitation Project.

**Section 2:** The following amounts are appropriated for the projects:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	7055	550103	19025	Capital Outlay - CIP	\$750,000
<b>Total Project Appropriation</b>					<b>\$ 750,000</b>

**Section 3:** The following revenues are anticipated to be available via grant proceeds:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470010	19025	Installment Purchase/Debt Obligations Issued	\$750,000
<b>Total Project Appropriation</b>					<b>\$750,000</b>

**PROJECT TO BE FUNDED USING**

**Section 4:** The Finance Director is hereby directed to maintain within the capital 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 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 2<sup>nd</sup> day of December 2021.

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

**Grant Project Ordinance #O-21-53**

**GRANT PROJECT ORDINANCE FOR  
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE ASHE  
STREET COMMUNITY DEVELOPMENT BLOCK GRANT 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 grant project ordinance is hereby adopted:

**Section 1:** The project authorized is a City project described as the Ashe Street Community Development Block Grant Project.

**Section 2:** The following amounts are appropriated for the projects:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1014	550103	G2201	Capital Outlay - CIP	\$750,000
<b>Total Project Appropriation</b>					<b>\$ 750,000</b>

**Section 3:** The following revenues are anticipated to be available via grant proceeds:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	420050	G2201	Grant Revenue	\$750,000
<b>Total Project Appropriation</b>					<b>\$750,000</b>

**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 General Fund 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 2<sup>nd</sup> day of December 2021.

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

**Resolution #R-21-113**

**HENDERSONVILLE, NORTH CAROLINA  
DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

**BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina, this declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of HENDERSONVILLE, North Carolina (the "Issuer") with respect to the matters contained herein.

**Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE EWART HILL RESERVIOR REHABILITATION PROJECT, ORDINANCE #O-21-52 (the "Projects").

**Plan of Finance.** The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

**Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$750,000.

**Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**Resolution #R-21-114**

**HENDERSONVILLE, NORTH CAROLINA  
DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

**BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina, this declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of HENDERSONVILLE, North Carolina (the "Issuer") with respect to the matters contained herein.

**Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE LAUREL PARK AUTOMATED METER INFRASTRUCTURE IMPROVEMENT PROJECT, ORDINANCE #O-21-20 (the "Projects").

**Plan of Finance.** The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

**Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$400,000.

**Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**Resolution #R-21-115**

**HENDERSONVILLE, NORTH CAROLINA  
DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

**BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina, this declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of HENDERSONVILLE, North Carolina (the "Issuer") with respect to the matters contained herein.

**Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE ASHE STREET COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT, ORDINANCE #O-21-53 (the "Projects").

**Plan of Finance.** The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

**Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$750,000.

**Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**Resolution #R-21-116**

**HENDERSONVILLE, NORTH CAROLINA  
DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

**BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina, this declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of HENDERSONVILLE, North Carolina (the "Issuer") with respect to the matters contained herein.

**Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE FLEETWOOD INFRASTRUCTURE IMPROVEMENT PROJECT, ORDINANCE #O-21-19 (the "Projects").

**Plan of Finance.** The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

**Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$1,400,000.

**Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**H. Street Approval of Resolution Ratifying the City of Hendersonville's Participate in the National Opioid Settlement – John Connet, City Manager**

*I move that City Council adopt the Resolution ratifying the City's participation in the National Opioid Settlement and authorizing the City Manager to execute all documents.*

**Resolution #R-21-117**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO RATIFY THE CITY OF HENDERSONVILLE'S PARTICIPATION IN THE NATIONAL OPIOID SETTLEMENT AND AUTHORIZE THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS**

**WHEREAS**, on July 21, 2021 the National Prescription Opiate Litigation MDL Plaintiffs' Executive Committee, several State Attorney General, and the four major defendants reached a nationwide settlement; and

**WHEREAS**, the City of Hendersonville, a local government subdivision, is eligible to receive a portion of the settlement funds to assist with opioid remediation in our community; and

**WHEREAS**, the settlement agreement required timely responses from local governments to determine what entities were participating in the settlement; and

**WHEREAS**, the City of Hendersonville continues to see the negative effects of opiate addiction and believes the settlement funds could be used to reduce these effects.

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

1. The City Council ratifies the City of Hendersonville's participation in the National Opioid Settlement.
2. The City Manager is authorized to execute all documents associated with National Opioid Settlement.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**I. Utility Contract Award – Ewart Hill Reservoir No. 2 Improvements – Adam Steurer, Utilities Engineer**

*I move that City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into a Contract for the Construction of the Ewart Hill Reservoir No. 2 Improvements as presented.*

**Resolution #R-21-118**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF THE EWART HILL RESERVOIR NO. 2 IMPROVEMENTS**

**WHEREAS**, on October 11, 2021 at 11:00am, a minimum of three competitive bids were not received and in accordance with NCGS 143-132(a), bids were not opened, and the project was re-advertised; and

**WHEREAS**, on October 25, 2021 at 11:00am one sealed formal bid was received and opened; and

**WHEREAS**, the project engineer and City Staff reviewed each bid for completeness and accuracy. MB Kahn Construction Co, Inc., was the lowest responsive, responsible bidder; and

**WHEREAS**, bid received exceeded budgeted funds, and the scope was therefore reduced to bring the project within budget;

**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 Ewart Hill Reservoir No. 2 Improvements is awarded to MB Kahn Construction Co, Inc., the lowest responsive and responsible bidder, in the total amount of \$602,285.00. The City Manager is authorized to execute a contract consistent with the terms of this Resolution.
2. The City Manager is authorized to approve change orders which, cumulatively, do not exceed 10% of the approved contract amount of \$602,285.00, 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 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**J. Annexation Certificate of Sufficiency: Providence Walk (P21-65-ANX)** – *Matthew Manley, AICP | Planning Manager*

*I move that City Council accept the City Clerk's Certificate of Sufficiency for the petition submitted by Travis Fowler of Providence Walk, LLC and set January 6, 2022 as the date for public hearing.*

**Resolution #R-21-119**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF  
PUBLIC HEARING ON QUESTION  
OF ANNEXATION PURSUANT TO G.S. 160A-58.2**

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

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

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

**Section 1.** A public hearing on the question of annexation of the contiguous area described herein will be held in the Assembly Room of the City Operations Center located at 305 Williams St. Hendersonville, NC 28792 at 5:45 p.m. on January 6, 2022, or as soon thereafter as it may be heard.

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

BEING all of that real property consisting of Tracts A, B, C, & D, described in the plat recorded in Book 2021 - \_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said Tracts A, B, C, & D being described by metes and bounds as follows:

TRACT A –

BEGINNING AT A CONCRETE MONUMENT (BROKEN TOP) BEING THE NORTHEAST CORNER OF DEED BOOK 1609 PAGE 267, TRACT 5, HAVING NORTH CAROLINA GRID COORDINATES (NAD 83/11) N: 595,655.29'; 968,445.31';  
THENCE WITH THE WESTERN MARGIN OF A 20' RIGHT OF WAY PER PLAT SLIDE 5548,

S 06°48'50" E, A DISTANCE OF 252.95' TO A CONCRETE MONUMENT (BROKEN); THENCE LEAVING SAID RIGHT OF WAY AND WITH THE PROPERTY OF PROVIDENCE WALK, LLC, S 65°11'07" W, A DISTANCE OF 113.07' TO A CONCRETE MONUMENT; THENCE FOLLOWING THE PROPERTY OF THE PROVIDENCE WALK, LLC, N 14°59'58" W, A DISTANCE OF 244.69' TO A CONCRETE MONUMENT; THENCE ALONG THE SOUTH MARGIN OF N. MAIN STREET, N 65°23'23" E, A DISTANCE OF 149.53' TO A CONCRETE MONUMENT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 31,639.1 SQUARE FEET, 0.726 ACRES.

BEING ALL OF TRACT A OF AN ANNEXATION SURVEY FOR PROVIDENCE WALK LLC, BY RONALD J. CUTSHALL, NC PLS #L-4563, OF COLE SURVEYING & DESIGN, PA, DATED 10/18/2021.

TRACT B -

BEGINNING AT A CONCRETE MONUMENT, BEING THE NORTHEAST CORNER OF DEED BOOK 3797 PAGE 587, BEING S 65°23'23" E, A DISTANCE OF 149.53' FROM A CONCRETE MONUMENT HAVING NORTH CAROLINA GRID COORDINATES (NAD 83/11) N: 595,655.29' E: 968,445.31'; THENCE FROM THE BEGINNING CORNER, FOLLOWING THE PROPERTY OF THE PROVIDENCE WALK, LLC, S 14°59'58" E, A DISTANCE OF 244.69' TO A CONCRETE MONUMENT; THENCE FOLLOWING THE PROPERTY OF PROVIDENCE WALK, LLC, S 65°04'25" W, A DISTANCE OF 113.67' TO A #5 NEW IRON REBAR BEING IN THE EASTERN MARGIN OF LAKE STREET, A 20' R/W PER DEED BOOK 476 PG 277; THENCE WITH THE MARGIN OF SAID RIGHT OF WAY, N 45°32'33" W, PASSING A (REFERNENCE) NEW IRON REBAR A DISTANCE OF 258.72, A TOTAL DISTANCE OF 262.00' TO A CALCULATED POINT IN THE SOUTH MARGIN OF N. MAIN STREET; THENCE WITH THE SOUTH MARGIN OF N. MAIN STREET, N 66°02'34" E, A DISTANCE OF 248.14' TO A CONCRETE MONUMENT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 1.01 ACRES.

BEING ALL OF TRACT B OF AN ANNEXATION SURVEY FOR PROVIDENCE WALK, LLC BY RONALD J. CUTSHALL, NC PLS #L-4563, OF COLE SURVEYING & DESIGN, PA, DATED 10/18/2021.

TRACT C -

BEGINNING AT A CONCRETE MONUMENT (BROKEN), BEING THE NORTHEAST CORNER OF DEED BOOK 1424 PAGE 576, BEING S 06°48'50" E, A DISTANCE OF 252.95' FROM A CONCRETE MONUMENT HAVING NORTH CAROLINA GRID COORDINATES (NAD 83/11) N: 595,655.29' E: 968,445.31'; THENCE RUNNING FROM THE BEGINNING CORNER, WITH THE WESTERN MARGIN OF A 20' RIGHT OF WAY PER PLAT SLIDE 5548 S 06°44'04" E, A DISTANCE OF 338.51' TO A #5 NEW IRON REBAR, BEING IN THE EASTERN MARGIN OF LAKE STREET, A 20' R/W PER DEED BOOK 476 PG 277; THENCE WITH THE SAID MARGIN OF 20' RIGHT OF WAY, N 45°32'33" W, A DISTANCE OF 343.83' TO A NEW #5 IRON REBAR; THENCE FOLLOWING THE PROPERTY OF THE PROVIDENCE WALK, LLC, N 65°04'25" E, A DISTANCE OF 113.67' TO A CONCRETE MONUMENT; THENCE FOLLOWING THE PROPERTY OF PROVIDENCE WALK, LLC, N 65°11'07" E, A DISTANCE OF 113.07' TO A CONCRETE MONUMENT (BROKEN); WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 36,484.8 SQUARE FEET, 0.84 ACRES

BEING ALL OF TRACT C OF AN ANNEXATION SURVEY FOR PROVIDENCE WALK LLC, BY RONALD J. CUTSHALL, NC PLS #L-4563, OF COLE SURVEYING & DESIGN, PA, DATED 10/18/2021.

TRACT D -

BEGINNING AT A ½" EXISTING IRON PIPE, IN THE LINE OF 601 DUNCAN HILL, LLC, HAVING NORTH CAROLINA GRID COORDINATES (NAD 83/11) N: 594,363.81' E: 968,748.86;

THENCE WITH THE PROPERTY OF 601 DUNCAN HILL, LLC S 45°54'42" W, A DISTANCE OF 390.82' TO A NEW IRON REBAR AT THE NORTH SIDE OF BATFORK CREEK THENCE

CONTINUING WITH THE PROPERTY OF 601 DUNCAN HILL, S 60°02'44" E, A DISTANCE OF 248.31' TO AN UNMARKED POINT IN BAT FORK CREEK;

THENCE CONTINUING WITH THE PROPERTY OF 601 DUNCAN HILL, S 47°06'19" W, PASSING A #5 EXISTING IRON REBAR AT 52.64', AND PASSING ANOTHER #5 NEW IRON REBAR A DISTANCE OF 348.10', FOR A TOTAL DISTANCE OF 452.55' TO AN UNMARKED POINT IN MUD CREEK;

THENCE WITH MUD CREEK AND PROPERTY OF THE CITY OF HENDERSONVILLE, N 42°19'28" W, A DISTANCE OF 351.21' TO AN UNMARKED POINT IN MUD CREEK;

THENCE LEAVING MUD CREEK, CONTINUING WITH THE PROPERTY OF THE CITY OF HENDERSONVILLE, N 46°09'36" E, PASSING A #4 EXISTING IRON REBAR AT A DISTANCE OF 19.79, AND THENCE CROSSING BAT FORK CREEK AND RUNNING WITH THE PROPERTY SHOWN ON PLAT SLIDE 10082, AND PASSING ANOTHER #4 EXISTING IRON REBAR AT A DISTANCE OF 492.97' FOR A TOTAL DISTANCE OF 692.41' TO A #4 EXISTING IRON REBAR;

THENCE WITH THE PROPERTY SHOWN ON PLAT SLIDE 10082, N 06°44'25" W, A DISTANCE OF 14.06' TO A #5 NEW IRON REBAR, BEING A POINT IN TRACT 2 OF PLAT SLIDE 5648;

THENCE WITH PLAT SLIDE 5648, S 70°03'12" E, A DISTANCE OF 144.48' TO A ½" EXISTING IRON PIPE; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 4.260 ACRES.

BEING ALL OF TRACT D OF AN ANNEXATION SURVEY FOR PROVIDENCE WALK LLC, BY RONALD J. CUTSHALL, NC PLS #L-4563, OF COLE SURVEYING & DESIGN, PA, DATED 10/19/2021.

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

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**K. Resolution Accepting Proposal from Nu-Pipe LLC Culvert Repair at New Village Rd. –**  
*Michael Huffman, Stormwater Administrator*

*I move that City Council approve the Resolution by the City of Hendersonville City Council to Accept the Proposal from Nu-Pipe LLC for Culvert Repair Under New Village Rd. as presented.*

**Resolution #R-21-120**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT THE PROPOSAL FROM NU-PIPE LLC FOR CULVERT REPAIR UNDER NEW VILLAGE RD.**

**WHEREAS**, informal bids have been received for the repair of a culvert located under New Village Road, a city-maintained street as follows:

Vendor Name	Vendor 1:	Vendor 2:	Vendor 3:
	Nu-Pipe	Vortex Inc.	SnapTite
Total Quote	\$ 99,935.00	\$ 147,650.00	\$ 146,520.00

**WHEREAS**, Nu-Pipe LLC submitted the lowest responsive proposal to repair the deteriorating culvert under New Village Rd. in Hendersonville, NC; and

**WHEREAS**, Nu-Pipe LLC has extensive experience in trenchless culvert repair techniques and is therefore a responsible contractor; and

**WHEREAS**, the repair of this culvert is imperative to maintaining New Village Rd., the only point of entry for Henderson Village HOA; and

**WHEREAS**, the City does not have the resources to complete this repair and the repair will ensure the long-term function of the culvert and associated infrastructure.

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

1. The informal bid for the repair of the culvert located under New Village Road is awarded to Nu Pipe, LLC, in the amount of \$99,935.00.
2. The City Manager is authorized to execute into a contract with Nu-Pipe LLC to repair a deteriorating culvert under New Village Rd. in Hendersonville, NC consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**L. Approval of Resolution Accepting Proposal from AQUALIS for CCTV Inspection and Cleaning services for the City of Hendersonville Stormwater System – Michael Huffman, Stormwater Administrator**

*I move that City Council approve the Resolution by the City of Hendersonville to Authorize the Center Manager to Enter into a Contract with AQUALIS, as presented.*

**Resolution #R-21-121**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AQUALIS**

**WHEREAS**, the City of Hendersonville requested proposals for CCTV Inspection and cleaning for the City's storm sewer system; and

**WHEREAS**, three proposals were received, with New Restoration and Recovery Services, LLC, dba AQUALIS, submitting the lowest responsive proposal in the amount of \$146,143.28, together with a proposed scope of services to complete CCTV Inspection and cleaning for the City of Hendersonville storm sewer system; and

**WHEREAS**, AQUALIS has developed a comprehensive and effective approach to managing stormwater facilities that ensure proper function and regulatory compliance; and

**WHEREAS**, comprehensive CCTV inspections of the City's municipal separate storm sewer system (MS4) will help City Staff develop a detailed asset management and capital improvement plan for the MS4;

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

1. New Restoration and Recovery Services, LLC, dba AQUALIS, is determined to be the lowest responsive, responsible proposer for the CCTV Inspection and cleaning service for the City's MS4.
2. The City Manager is authorized to execute into a contract with New Restoration and Recovery Services, LLC, dba AQUALIS, in the amount \$146,143.28 consistent with the terms of this Resolution, in consultation with the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

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

**M. Resolution Accepting Proposal from McGill Associates, PA for the Wash Creek Stormwater Improvements Preliminary Engineering Report (Area 2) – Michael Huffman, Stormwater Administrator**

*I move that City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into a Contract with McGill Associates, PA for the Wash Creek stormwater improvements preliminary engineering report and survey as presented.*

**Resolution #R-21-122**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MCGILL ASSOCIATES, PA (Wash Creek Subwatershed)**

**WHEREAS**, McGill Associates, PA has submitted a scope of services to complete surveying and develop a preliminary engineering report for stormwater improvement project for priority areas of the Wash Creek subwatershed; and

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

**WHEREAS**, this survey and preliminary engineering report will help City Staff develop a detailed capital improvement plan for priority area two within the Wash Creek subwatershed; and

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

**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 McGill Associates, PA to assist the City of Hendersonville with surveying and a preliminary engineering report for the Wash Creek subwatershed in an amount not to exceed \$37,200.00.
2. The contract is exempted from the requirements of the Mini-Brooks Act.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

***Council Member Jerry Smith moved that City Council approve the consent agenda as presented. A unanimous roll call vote of the Council followed. Motion carried.***

## **10. PRESENTATIONS**

### **A. Proclamation – Kwanzaa Week – Barbara G. Volk, Mayor**

Mayor Barbara G. Volk presented a proclamation to Crystal Cauley and Tiara Channer designating the week of December 26, 2021 through January 1, 2022 as Kwanzaa Week.

## **Proclamation Kwanzaa Week**

**WHEREAS**, Kwanzaa Week was first established by Dr. Maulana Karenga, a professor and chairman of African Studies at California State University, who first created Kwanzaa in 1966. Kwanzaa is based on harvest festivals that originated in Africa and the name translates to “first fruits of the harvest” in the Swahili language; and

**WHEREAS**, Kwanzaa is observed annually throughout the world representing family, culture and heritage with events, observances, and proclamations; and

**WHEREAS**, Kwanzaa is celebrated using various symbols associated with harvest and by lighting a Kinara or seven-pronged candle holder that has seven candles. Each candle represents one of these seven principles which include unity, self-determination, collective responsibility, cooperative economics, purpose, creativity, and faith; and

**WHEREAS**, through each principle we will recognize the essence of building and reflecting shared values that bind us and celebrate Kwanzaa Week, December 26 to January 1st. This proclamation acknowledges the value of celebrating this cultural week and our commitment is to strive to strengthen diversity, inclusion, equity and opportunity for all; and

**WHEREAS**, Kwanzaa will be celebrated while reflecting on the many blessings and memories over the past year and aspirations for the new year to come. This special week reminds us to recommit ourselves to building a stronger country and overcoming challenges together.

**WHEREAS**, Hendersonville is a vibrant mountain city where the government and citizens work together for a high quality of life and the City acknowledges the valued and varied contributions of people of African descent in Hendersonville have made and continue to make to the city.

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville do hereby proclaim the week of December 26, 2021 through January 1, 2022 as

**“Kwanzaa Week”**

in the City of Hendersonville.

**PROCLAIMED** this 2<sup>nd</sup> day of December 2021

/s/Barbara G. Volk, Mayor

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

**11. PUBLIC HEARINGS**

**A. Street Closure: Order to Close - Portion of Beech Street (AKA Richlieu Avenue) (P21-57-SCL) – Tyler Morrow, Planner II**

Tyler Morrow advised the city has received an application from Marie H. Flowers, Willie Lee Brown Jr, and the City of Hendersonville to close an unopened and unimproved portion of Beech Street (AKA Richlieu Avenue) between PINs 9578-09-0813 and 9568-99-9737. Mr. Morrow advised the parcel is between the two PINs listed and does not have its own PIN. City Manager John Connet stated the city will maintain a 20’ drainage and utility easement at this location.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 7:32 p.m.

There were no comments.

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

*Council Member Debbie O’Neal-Roundtree moved that the City Council adopt an ordinance permanently closing an unopened and unimproved portion of Beech Street (AKA Richlieu Avenue) between PINs 9578-09-0813 and 9568-99-9737 petitioned by Marie H. Flowers, Willie Lee Brown Jr, and the City of Hendersonville. A unanimous roll call vote of the Council followed. Motion carried.*

**ORDER #O-21-54**

**ORDER TO PERMANENTLY CLOSE, AN UNOPENED,  
UNIMPROVED PORTION OF AN UNIMPROVED RIGHT-OF-WAY LYING BETWEEN PINS:  
9578-09-0813 and 9568-99-9737**

(Petition from Marie H. Flowers and Willie Lee Brown Jr)

NORTH CAROLINA  
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

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

WHEREAS, Marie H. Flowers, Willie Lee Brown Jr, owners, have petitioned the City of Hendersonville City Council to close a portion of unimproved right-of-way that abuts property described in a deed recorded in the Henderson County Registry in Deed Book 1215 at page 131, having PIN of 9568-99-9737

WHEREAS, on November 4<sup>th</sup>, 2021, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting December 2<sup>nd</sup>, 2021 as the date of a public hearing regarding such closure; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing in the Hendersonville Times-News (a newspaper of general and regular circulation

in Hendersonville and Henderson County) and a copy thereof has been sent by certified mail to all owners of property adjoining the street as shown on the county tax records; and

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

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

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

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

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

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

Description of a portion of Beech Street

between Jonas Street and Martin Luther King Jr. Boulevard

to be closed under NCGS 160A-299

Beginning at a 1 inch diameter open top iron pipe found recessed 0.6 feet below grade at the intersection of the Eastern margin of the right-of-way of Jonas Street with the Northern margin of an unopened section of Beech Street, said pipe being the most Westerly corner of the property of Willie Lee Brown Jr. (see Estate File 2020/1082), as described in Deed Book 481, page 85 of the Henderson County Register of Deeds, said pipe also being located at North Carolina State Plane Grid coordinates of Northing: 589907.42 US Survey feet and Easting: 970023.36 US Survey feet, said pipe being further located South 45°42'55" West a distance of 93.77 feet from a ½ inch diameter open top iron pipe found recessed 0.2 feet below grade in the Eastern margin of Jonas Street; thence from the Beginning thus established South 46°53'25" West a distance of 40.34 feet to a #4 rebar found recessed 0.8 feet below grade at the intersection of said margin of Jonas Street and the Southern margin of the unopened section of Beech Street, said rebar being the most Northerly corner of the property of Marie H. Flowers as described in Deed Book 1215, pages 129 & 131 of said Register; thence with Flowers' line and the margin of the unopened section of Beech Street South 44°17'05" East a distance of 86.30 feet to a point, the intersection of said street margin with the controlled access right-of-way of Martin Luther King Jr. Boulevard (US-64), said point lying North 53°56'06" East a distance of 4.74 feet from a concrete right-of-way monument found projecting 0.5 feet above grade; Thence, 3 calls with the controlled access right-of-way of US-64: (1) North 53°56'06" East a distance of 20.37 feet to a point at the intersection of the centerline of the unopened section of Beech Street ; (2) North 53°56'06" East a distance of 15.02 feet to a concrete right-of-way monument found projecting 0.5 feet above grade; (3) North 52°36'49" East a distance of 5.34 feet to a point in the Northern margin of the unopened section of Beech Street and the Southernmost corner of the aforementioned property of Willie Lee Brown Jr., said point also lying South 52°36'49" West a distance of 95.71 feet from another concrete right-of-way monument found in the margin of US-64; thence with the Northern margin of the unopened section of Beech Street and the line of Willie Lee Brown Jr. North 44°17'05" West a distance of 91.18 feet to the Beginning, containing 3582 square feet.

Subject to an easement, twenty feet in width for drainage and other utilities, reserved by the City of Hendersonville within the closed street as provided for in NCGS 160A-299, further described as follows: Beginning at a point, the intersection of the centerline of the unopened portion of Beech Street with the Eastern margin of Jonas Street, said point lying South 46°53'25" West a distance of 20.17 feet from the Point of Beginning of the previously described street closure area; thence with the Eastern margin of Jonas street, South 46°53'25" West a distance of 20.17 feet to a #4 rebar found recessed 0.8 feet below grade, a corner of said closure area; thence with the margin of said closure area, South 44°17'05" East a distance of 2.82 feet to a point; thence through said closure area 2 calls: (1) South 61°07'27" East a distance of 17.83 feet; (2) South 44°16'49" East a distance of 67.16 feet to a point in the margin of said closure area in the controlled access right-of-way of US-64; thence, with the line of the closure area and the with the margin of US-64, North 53°56'06" East a distance of 20.21 feet to a point, said point lying South 53°56'06" West a distance of 9.97 feet from a concrete right-of-way monument found; thence through said closure area 2 calls: (1) North 44°16'49" West a distance of 73.01 feet; (2) North 61°07'27" West a distance of 17.26 feet to the Beginning, containing 1781 square feet.

The foregoing legal description and reservation of easement are as depicted on that plat recorded in Book \_\_\_\_\_ at page \_\_\_\_\_ of the Henderson County Registry [to be filled in at recording].

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

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**B. Rezoning: Standard Rezoning - Shepherd St. (P21-59-RZO) – Alexandra Hunt, Planner I**

Alexandra Hunt stated the city is in receipt of a zoning map amendment (rezoning) application from the City of Hendersonville to rezone property along Shepherd Street (PIN: 9578-51-3579) from R-15 Medium Density Residential to C-4 Neighborhood Commercial. 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.

There were no questions.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 7:40 p.m.

Lynne Williams of 309 Chadwick Ave. addressed City Council stating she has lost her faith in the governing body and said she is upset and angry. Ms. Williams stated the map depicted in the presentation is not accurate.

There were no other comments.

The public hearing was closed at 7:42 pm

Council Member Jerry Smith stated the city owns the land and said the purpose of this rezoning is to allow the Fire Station to be constructed.

***Council Member Dr. Jennifer Hensley domed 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 9578-51-3579) from R-15 Medium Density Residential to C-4 Neighborhood Commercial based finding that the rezoning is consistent with the Comprehensive Plan's Future Land Use map designation of High Intensity Neighborhood and that the rezoning is reasonable and in the public interest for the following reasons: that it is reasonable and in the public's interest to approve the application because it will advance goals related to the Comprehensive Plan and that the rezoning is compatible with the surrounding land uses. A unanimous roll call vote of the Council followed. Motion carried.***

**Ordinance #O-21-55**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL (PIN - 9578-51-3579) BY CHANGING THE ZONING DESIGNATION FROM R-15 (MEDIUM DENSITY RESIDENTIAL) DISTRICT TO C-4 (NEIGHBORHOOD COMMERCIAL) DISTRICT**

IN RE: Shepherd St. (PIN - 9578-51-3579)  
(File # P21-59-RZO)

**WHEREAS**, the City is in receipt of a Rezoning application from the City of Hendersonville.

**WHEREAS**, the Planning Board took up this application at its regular meeting on November 8, 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 December 2, 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 9578-51-3579 from R-15 (Medium Density Residential) to C-4 (Neighborhood Commercial) District
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 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**C. Rezoning: Conditional Zoning District Site Plan Amendment - The Landings of Flat Rock PIN 9588-12-4337 (P21-50-CZD MOD) - Tyler Morrow, Planner II O-21-56**

Tyler Morrow stated the city is in receipt of an application for a conditional zoning district amendment from Carolina Commercial Contractors, LLC. Mr. Morrow stated the applicant is requesting to amend the conditional zoning district on the subject property, PIN 9588-12-4337 located on S. Allen Road. Mr. Morrow stated the subject property was previously rezoned from Henderson County OI, Office Institutional District to PRD CZD, Planned Residential Development Conditional Zoning District by City Council in December of 2020 for the construction of a one-story, 58 bed, 32,000 sq. ft. assisted living facility and a three-story, 95 bed, 85,000 sq. ft. independent living facility. Mr. Morrow stated the applicant is also requesting an exemption to height standards not to exceed 50 feet in height and said the developer is meeting all the criteria to grant a height exemption. Mr. Morrow confirmed the proposed height will not allow shadow to leave property.

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 Jerry Smith asked for clarification as to the Planning Board being aware that the developer was asking for a height exemption not to exceed 50 feet when they voted, and Mr. Morrow confirmed they were.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 7:50 p.m.

Corey Mabus of Carolina Contractors addressed City Council stating they are asking for the amendment for financing purposes due to HUD requirements and confirmed the building plans have not changed.

Community Development Director Lew Holloway stated the height was not picked up in the original review and said staff determined upon further review that the applicant would need more than 35 feet. Director Holloway stated the original plan showed a three-story building but did not specifically illustrate the roof line. Council Member Lyndsey Simpson confirmed the sun study is required when the height is taller than 35 feet and is required.

Lynn Williams of 309 Chadwick Ave. referred to other public hearings today asking City Council not to approve the plan stating she is upset over tree loss and natural resources.

There were no other comments.

The public hearing was closed at 8:00 p.m.

Council Member Jerry Smith stated he struggles with how this was missed and asked for this not to happen again.

*Lyndsey Simpson moved that City Council adopt an ordinance amending the approved site plan associated with the Planned Residential Development Conditional Zoning District for the subject property (PIN9588-12-4337) on the official zoning map of the City of Hendersonville, based on the site plan submitted by the applicant. Finding that the zoning amendment 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: This development is within a priority growth area as designated in the comprehensive plan and the development provides additional senior housing options for the City of Hendersonville. A unanimous roll call vote of the Council followed. Motion carried.*

Ordinance #O-21-56

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBER 9588-12-4337 BY AMENDING CONDITIONAL ZONING ORDINANCE #20-0591**

IN RE: Parcel Number: 9588-12-4337 –The Landings of Flat Rock Site Plan Amendment  
(File # P21-50-CZD MOD)

**WHEREAS**, the City Council adopted Ordinance #20-0591, An Ordinance Amending the Official Zoning Map of the City of Hendersonville which rezoned Parcel Number 9588-12-4337 (previously 9588-12-7382, the “Subject Parcel”) from Henderson County OI Office Institutional to PRD CZD Planned Residential Development Conditional Zoning District; and

**WHEREAS**, Ordinance #20-0591 approved a site plan for the subject parcel and imposed conditions governing development of the Subject Parcel, which conditions were consented to by the Owner of the Subject Parcel; and

**WHEREAS**, as adopted, Ordinance #20-0591 approved the development of a 32,000 square foot assisted living facility and an 85,000 square foot independent living facility on approximately 8.449 acres; and

**WHEREAS**, the City is in receipt of a Conditional Rezoning Amendment application from Carolina Commercial Contractors, LLC (applicant) and Henderson Propco LLC (Property Owner) for the subject parcel, consisting of a proposed revised site plan for the subject parcel, to allow the subject parcel to be subdivided into two (2) parcels and for City Council to grant a height exemption in accordance with section 5-14-6.5 “Building Height” of the zoning ordinance; and

**WHEREAS**, the Planning Board took up this application at its regular meeting on November 8<sup>th</sup>2021; voting unanimously to recommend City Council approve the requested amendments, finding that the proposed amendments were consistent with the Comprehensive Plan’s Future Land Use map, and that the rezoning is reasonable and in the public interest, and

**WHEREAS**, City Council took up this application at its regular meeting on December 2, 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 adopting the following modifications to Conditional Zoning Ordinance #20-0591:
  - a. The revised site plan is approved as presented, including the subdivision of the subject property into two (2) parcels.
  - b. Grant a height exemption in accordance with section 5-14-6.5 “Building Height” of the zoning ordinance to the Independent Living Facility (northern building on the site plan) for a maximum height of 50’.
2. Except as modified by this Ordinance, all other terms, and conditions of Conditional Zoning Ordinance #20-0591 shall remain in full force and effect and shall govern the development on the Subject Parcel, and the same are hereby ratified and incorporated herein by reference.
3. In addition to the requirements of Conditional Zoning Ordinance #20-0591, as modified by this Ordinance, 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.
4. The property Final plans for the project shall comply with approved plans, conditions imposed, allowable uses, and terms of Conditional Zoning Ordinance #20-0591 as amended by this Ordinance, and all applicable provisions of the Hendersonville Zoning Ordinance and Code of Ordinances.

5. This ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**D. Rezoning: Standard Rezoning - 0 South Allen Road PIN 9588-22-1126 (P21-60-RZO) –**

*Tyler Morrow, Planner II*

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 8:03 p.m.

***Council Member Jerry Smith moved that City Council continue this hearing until the January 6, 2022 regular session meeting. A unanimous roll call vote of the Council followed. Motion carried.***

**E. Zoning Text Amendment: Supplementary Standards for Private Clubs (P21-58-ZTA) –**

*Matthew Manley, AICP – Planning Manager O-21-58*

Matthew Manley stated the city is in receipt of a zoning text amendment application from Gene Ellison on behalf of Sam Souhail of Casablanca Cigar Bar to remove the 600' radius supplementary standard associated with Private Clubs. Mr. Manley stated there are currently four licensed private clubs in Hendersonville and said the Legislative Committee of the Planning Board, the Economic Vitality Subcommittee of the Downtown Advisory Board, the Downtown Advisory Board, and the Planning Board reviewed this application and are recommending the following amendments to the zoning ordinance: Remove all Supplementary Standards related to Private Clubs from Section 16-4 of the Zoning Code. And reclassify Private Clubs as a 'Permitted Use' rather than a 'Special Use' in the Zoning Districts found in Article 5 of the Zoning Ordinance in which they are currently permitted as a 'Special Use'. These include C-1, C-2, C-3, CMU, and I-1.

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 Jerry Smith inquired if the city zoning ordinance defines "city block". Council Member Smith referred to a street behind Casa Blanca asking if it is a street or alley. Mr. Manley stated any right of way should begin a new city block. City Manager John Connet stated staff has a question about Wall Street and a 10-foot alley way which is actually a sidewalk in the area. After much discussion City Council were in favor of examining expansion of the definition of "block" as the Economic Vitality Team has suggested.

Council Member Lyndsey Simpson stated she finds the private club rules antiquated but said she feels that the space is large enough to accommodate one per block face.

Council Member Dr. Jennifer Hensley agreed with Council Member Simpson and stated she is inclined to have no restrictions to be more business friendly and said the private clubs who are operating in the city have been very supportive and involved with local nonprofit organizations. Council Member Hensley also stated she doesn't feel more will open up due to the market. Mr. Manley clarified that both advisory bodies working on the matter gave recommendations for no restrictions and the committees conceded.

Council Member Jerry Smith stated he not in favor of removing all restrictions but is in favor of no private club being located within 600 feet of another in all districts. Council Member Simpson stated she would also support 300 feet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 8:31 p.m.

Attorney Gene Ellison representing Casa Blanca addressed City Council expressing thanks and appreciation of staff for assisting through this process and asked City Council to approve the amendment in accordance with the planning board and committee recommendations.

Caroline Gunther, Chair of the Downtown Advisory Board, and business owner at 231 N. Main St business addressed City Council recalling lengthy discussions regarding distances between clubs and stated the advisory body consensus was to omit all restrictions.

There were no further comments.

The public hearing was closed at 8:35 p.m.

***Council Member Dr. Jennifer Hensley moved that City Council approve an ordinance amending the official zoning ordinance of the City of Hendersonville, Article XVI – Supplementary Standards for Certain Uses, Section 16-4-20 Private Clubs as presented. Finding that the zoning text amendment is consistent with the Comprehensive Plan Chapter 4 - Goal CR-4 and Chapter 8, Strategy LU-1.1, Action LU-1.1.1, and Goal LU-10 and that the zoning text amendment is reasonable and in the public interest for the following reasons: It encourages reinvestment in commercial real estate within the City of Hendersonville, supporting a sustainable tax base. It reflects adaptation by the City to changing market trends in entertainment and hospitality. It will promote additional entertainment, hospitality, and social experiences within the City of Hendersonville’s primary entertainment districts.***

Council Member Jerry Smith stated he would support the four-block rule.

Mayor Barbara G. Volk stated she feels the advisory boards researched the matter and said she will support their recommendations.

***The motion carried by a vote of 3-2 with Council Members Jerry Smith and Debbie O’Neal-Roundtree voting against.***

Ordinance #O-21-58

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE CITY OF HENDERSONVILLE’S CODE OF ORDINANCES - PART II - APPENDIX A – ZONING ORDINANCE, ARTICLE V - ZONING DISTRICT CLASSIFICATIONS AND ARTICLE XVI: SUPPLEMENTARY STANDARDS FOR CERTAIN USES, SECTION 16-4-20 PRIVATE CLUBS**

**WHEREAS**, the City of Hendersonville’s Downtown Advisory Board and Planning Board have reviewed and recommended for adoption a zoning text amendment pertaining to the supplementary standards and use designation for Private Clubs as regulated by the City of Hendersonville Zoning Ordinance; and

**WHEREAS**, City Council desires to promote additional entertainment, hospitality, and social experiences within the City of Hendersonville’s primary entertainment districts; and

**WHEREAS**, City Council desires to encourage reinvestment in commercial real estate within the City of Hendersonville, supporting a sustainable tax base; and

**WHEREAS**, the proposed amendment reflects adaptation by the city to changing market trends in entertainment and hospitality.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina that Zoning Ordinance Article V – Zoning District Classifications and Article XVI: Supplementary Standards for Certain Uses, Section 16-4-20 Private Clubs shall be amended as follows:

**ARTICLE V - ZONING DISTRICT CLASSIFICATIONS**

**5-6-1 Permitted Uses:** The following uses are permitted by right in the C-1 Central Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Private Clubs

**5-6-2 Special Uses:** The following uses shall be permitted in the C-1 Central Business Zoning District Classification only upon issuance of a Special Use pursuant to Article X and shall be subject to Special Use requirements contained in Section 16-4, below:

Private clubs

**5-7-1 Permitted Uses:** The following uses are permitted by right in the C-2 Secondary Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Private Clubs

**5-7-2 Special Uses:** The following uses shall be permitted in the C-2 Secondary Business Zoning District Classification only upon issuance of a Special Use pursuant to Article X and shall be subject to Special Use requirements contained in Section 16-4, below:

~~Private clubs~~

**5-8-1 Permitted Uses:** The following uses are permitted by right in the C-3 Highway Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Private Clubs

**5-8-2 Special Uses:** The following uses shall be permitted in the C-3 Highway Business Zoning District Classification only upon issuance of a Special Use pursuant to Article X and shall be subject to Special Use requirements contained in Section 16-4, below:

~~Private clubs~~

**5-12-1 Permitted Uses:** The following uses are permitted by right in the I-1 Industrial Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance. SIC references are to the 1987 edition of the Standard Industrial Classification Manual published by the Office of Management and Budget.

Private Clubs

**5-12-2 Special Uses.** The following uses shall be permitted in the I-1 Industrial Zoning District Classification only upon issuance of a Special Use Permit pursuant to Article X and shall be subject to Special Use requirements contained in Section 16-4, below:

~~Private clubs~~

**5-19-1 Permitted Uses** The following uses are permitted by right in the CMU Central Mixed Use Zoning District Classification provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Private Clubs

**5-19-2 Special Uses** The following uses shall be permitted in the CMU Central Mixed Use Classification only upon issuance of a Special Use Permit pursuant to Article X and shall be subject to Special Use requirements contained in Section 16-4, below

~~Private clubs~~

## ARTICLE XVI - SUPPLEMENTARY STANDARDS FOR CERTAIN USES

### ~~16-4-20 Private Clubs.~~

~~a) No private club shall be located within a 600-foot radius of another private club.~~

~~b) The parking lot for such facility shall be adequately lighted to provide security for its patrons and to otherwise comply with Section 6-13, above.~~

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

## 12. NEW BUSINESS

### **A. Resolution By the City of Hendersonville City Council Authorizing Purchase Of 2022/2023 Spartan Metro Star / Smeal Custom Pumper Pursuant to N.C.G.S. § 143-129(E)(3) – D. James Miller, Fire Chief**

Deputy Fire Chief Justin Ward stated the Fire Department is requesting permission to replace a 2004 E-One Fire Engine which is currently 17 years old and said by the time a replacement engine is ordered, built, and delivered, it will be 19 or 20 years old. Mr. Ward advised City Council the vendor has provided a notice of a price increase of 5% on January 5<sup>th</sup> of \$34,693.15 dollars. Mr. Ward stated this engine was selected from among four vendors by the Fire Department's Truck Committee which is reflective of the personnel, different shifts, and positions (Firefighters, Engineers and Officers) that will be using this fire truck.

City Manager John Connet reminded everyone the fire apparatuses are on a 15-year rotation and said the old engine will be surplus. Manager Connet stated the engine will serve on the front line for 10 years and the last 5 in reserve and will be replacing engine 1.

***Council Member Jerry Smith moved that City Council adopt the Resolution by The City of Hendersonville City Council Authorizing Purchase Of 2022/2023 Spartan Metro Star / Smeal***

***Custom Pumper PURSUANT TO N.C.G.S. § 143-129(e)(3) as presented. A unanimous roll call vote followed. Motion carried.***

**Resolution #R-21-123**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING PURCHASE OF 2022/23 Spartan Metro-Star / Smeal Custom Pumper PURSUANT TO N.C.G.S. § 143-129(e)(3)**

**WHEREAS**, the City Council of the City of Hendersonville desires to purchase a new 2022/23 Spartan Metro-Star / Smeal Custom Pumper to replace a 2004 E- One that is 17 years old to ensure the provision of high quality, safe fire suppression services for its residents, property owners, visitors, and Fire Department personnel; and

**WHEREAS**, the City staff researched alternatives for the planned purchase of a replacement with E-One, Pierce, and KME during FY2021; and

**WHEREAS**, N.C.G.S. § 143-129(e)(3) authorizes direct purchases from a competitive bidding group purchasing program; and

**WHEREAS**, the City is utilizing the group purchasing program authorized under Section 143-129(e)(3) of the NC General Statutes, and is relying upon a competitive bid process used by Sourcewell, formerly National Joint Powers Alliance (NJPA) of Staples, MN to purchase a new 2022/23 Spartan Metro-Star / Smeal Custom Pumper from Atlantic Coast Fire Trucks; and

**WHEREAS**, Sourcewell, formerly NJPA is an established nationwide government cooperative procurement service, and offers competitively bid products and services for local government public safety, emergency services, and communications among other equipment and services, and

**WHEREAS** it is the recommendation of the City Manager, the Fire Chief, and the Procurement and Contract Administrator that the City purchase the 2022/23 Spartan Metro-Star / Smeal Custom Pumper at a cost of \$693,863.00 from Atlantic Coast Fire Trucks; and

**WHEREAS** the City of Hendersonville Finance Director has determined that sufficient funds are available to cover the cost of this purchase. Funds will be available and encumbered in the designated Capital Project Fund.

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

1. That the purchase of the 2022/23 Spartan Metro-Star / Smeal Custom Pumper at a cost of \$693,863.00 from Atlantic Coast Fire Trucks; is approved pursuant to the authority granted by N.C.G.S. § 143-129(e)(3).
2. The City Manager is authorized to negotiate and execute a contract with Atlantic Coast Fire Trucks, in consultation with the City Attorney, containing such terms as he, in his discretion deems appropriate provided such contract is consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**B. Resolution By the City of Hendersonville City Council Authorizing Purchase Of 2022/2023 Spartan Gladiator / Smeal 100' Mid-Mount Platform Pursuant to N.C.G.S. § 143-129(e)(3) – D. James Miller, Fire Chief**

Deputy Fire Chief Justin Ward stated the Fire Department is requesting permission to replace a 2004 E-One Ladder Truck and said it is currently 17 years old and by the time it is ordered, built, and delivered it will be 19 to 20 years old. Mr. Ward stated the vendor provided a notice of a price increase of 5% on January 5<sup>th</sup> of \$72,675.15 dollars. Mr. Ward stated the replacement criteria is similar to the engine discussed previously but said this truck will be surplus and not placed in rotation.

***Council Member Jerry Smith moved that City Council adopt the Resolution by The City of Hendersonville City Council Authorizing Purchase Of 2022/2023 Spartan Gladiator / Smeal***

***100' Mid-Mount Platform PURSUANT TO N.C.G.S. § 143-129(e)(3) as presented. A unanimous roll call vote followed. Motion carried.***

**Resolution #R-21-124**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING PURCHASE OF 2022/2023 Spartan Gladiator / Smeal 100' Mid-Mount Platform PURSUANT TO N.C.G.S. § 143-129(e)(3)**

**WHEREAS**, the City Council of the City of Hendersonville desires to purchase a new 2022/23 Spartan Gladiator / Smeal 100' Mid-Mount Platform to replace a 2004 E- One 100 ft. Tower / Ladder that is 17 years old to ensure the provision of high quality, safe fire suppression services for its residents, property owners, visitors, and Fire Department personnel; and

**WHEREAS**, the City staff researched alternatives for the planned purchase of a replacement with Pierce, E-One, and Sutphen during FY2021; and

**WHEREAS**, N.C.G.S. § 143-129(e)(3) authorizes direct purchases from a competitive bidding group purchasing program; and

**WHEREAS**, the City is utilizing the group purchasing program authorized under Section 143-129(e)(3) of the NC General Statutes, and is relying upon a competitive bid process used by Sourcewell, formerly National Joint Powers Alliance (NJPA) of Staples, MN to purchase a new 2022/23 Spartan Gladiator / Smeal 100' Mid-Mount Platform from Atlantic Coast Fire Trucks; and

**WHEREAS**, Sourcewell, formerly NJPA is an established nationwide government cooperative procurement service, and offers competitively bid products and services for local government public safety, emergency services, and communications among other equipment and services, and

**WHEREAS** it is the recommendation of the City Manager, the Fire Chief, and the Procurement and Contract Administrator that the City purchase the 2022/23 Spartan Gladiator / Smeal 100' Mid-Mount Platform at a cost of \$1,453,503.00 from Atlantic Coast Fire Trucks; and

**WHEREAS** the City of Hendersonville Finance Director has determined that sufficient funds are available to cover the cost of this purchase. Funds will be available and encumbered in the designated Capital Project Fund.

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

1. That the purchase of the 2022/23 Spartan Gladiator / Smeal 100' Mid-Mount Platform at a cost of \$1,453,503.00 from Atlantic Coast Fire Trucks; is approved pursuant to the authority granted by N.C.G.S. § 143-129(e)(3).
2. The City Manager is authorized to negotiate and execute a contract with Atlantic Coast Fire Trucks, in consultation with the City Attorney, containing such terms as he, in his discretion deems appropriate provided such contract is consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2<sup>nd</sup> day of December 2021.

/s/Barbara G. Volk, Mayor

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

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

**C. Consideration of Employee Christmas Bonuses – John Connet, City Manager**

City Manager John Connet stated Council Member Dr. Jennifer Hensley has made the suggestion that the City reward employees for their efforts during the COVID -19 pandemic by providing \$1000.00 Christmas bonuses to all full and part-time employees. Council Member Dr. Jennifer Hensley stated she and City Council value the city employees and are grateful for them.

***Council Member Dr. Jennifer Hensley moved that City Council authorize City Manager to issue \$1,000 Christmas Bonuses to all permanent full and part-time employees as a reward for outstanding service during the COVID-19 Pandemic. A unanimous roll call vote followed. Motion carried.***

**13. CITY COUNCIL COMMENTS**

Council Member Jerry Smith asked City Council to consider a policy for not holding advisory board or other meetings on election day and to move the city council meetings back one week in election years. Council Member Smith additionally asked Council to consider directing staff to purchase a larger screen with a pointer for the meeting room.

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

City Manager John Connet reminded everyone that the Second Monthly Meeting of City Council has been canceled on December 22<sup>nd</sup>.

**15. BOARD/COMMISSION/COMMITTEE APPOINTMENTS**

Mayor Barbara G. Volk asked for nominations for the following advisory boards. Mayor Volk called for a vote in the order in which multiple nominations were received.

**1. Board of Adjustment - Appointment to vacant seat (City Appointed Seat)  
(1vacancy/ ending June 30, 2023)**

*Council Member Jerry Smith moved that City Council appoint Stefan Grunwald to an unexpired term on the Board of Adjustment ending June 30, 2023.*

**2. Environmental Sustainability Board - Appointment to vacant At-Large seat  
(1 vacancy/ unexpired term ending June 30, 2023)**

*Council Member Lyndsey Simpson moved that City Council appoint Will Garvey to an unexpired term (At-Large) on the Environmental Sustainability Board ending June 30, 2023.*

**3. Historic Preservation Commission - Appointment to vacant seats  
(3 vacancies/ ending December 31, 2024)**

*Council Member Jerry Smith moved that City Council appoint Cheryl Jones to serve a term on the Historic Preservation Commission ending December 31, 2024. A unanimous roll call vote followed. Motion carried.*

*Council Member Lyndsey Simpson moved that City Council appoint Chris Battista to serve a term on the Historic Preservation Commission ending December 31, 2024. A unanimous roll call vote followed. Motion carried.*

*Council Member Dr. Jennifer Hensley moved that City Council appoint Richard Reagen to serve a term on the Historic Preservation Commission ending December 31, 2024. The motion failed by a roll call vote of 3-2 with Council Members Smith, Simpson, and O'Neal-Roundtree voting against.*

*Council Member Jerry Smith moved that City Council appoint James Welter to serve a term on the Historic Preservation Commission ending December 31, 2024. The motion carried by a roll call vote of 4-1 with Council Members Dr. Jennifer Hensley voting against.*

**4. Planning Board - Appointment to vacant seats (City Appointed Seats)  
(1 vacancy/ ending December 31, 2024)  
(1 vacancy/ unexpired term ending December 31, 2022)**

*Council Member Jerry Smith moved that City Council appoint Fred Nace, to serve a term on the Planning Board ending December 31, 2024. A unanimous roll call vote of the Council followed. Motion carried.*

*Council Member Lyndsey Simpson moved that City Council appoint Diana Lewis to serve an unexpired term on the Planning Board ending December 31, 2022. The motion failed by a roll call vote of 3-2 with Council Members Smith, Hensley, and Mayor Volk voting against.*

*Council Member Dr. Jennifer Hensley moved that City Council appoint Stuart Glassman, to serve an unexpired term on the Planning Board ending December 31, 2022. A unanimous roll call vote of the Council followed. Motion carried.*

**5. Tree Board - Appointment to vacant seats**

(2 vacancies/ terms ending December 31, 2024) – At-Large Seats

(1 vacancy/ unexpired term ending December 31, 2023)

*City Council Members Lyndsey Simpson and Debbie O'Neal-Roundtree moved that City Council appoint Mark Madsen, and Mary Davis each to a term on the Tree Board ending December 31, 2024. A unanimous roll call vote of the Council followed. Motion carried.*

*City Council Member Jerry Smith moved that City Council appoint Landon Justice to an unexpired term on the Tree Board ending December 31, 2023. A unanimous roll call vote of the Council followed. Motion carried.*

**6. Walk of Fame Steering Committee - Appointment to a vacant seat**

(1 vacancy/ term ending December 31, 2024)

*Council Member Dr. Jennifer Hensley moved that City Council appoint Marcia Mills-Kelso to a term on the Walk of Fame Steering Committee ending December 31, 2024. A unanimous roll call vote of the Council followed. Motion carried.*

**16. CLOSED SESSION** – John F. Connet, City Manager

*At 9:02 p.m. Mayor Pro Tempore Lyndsey Simpson 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. A unanimous roll call vote of the Council followed. Motion carried.*

*Mayor Pro Tempore Lyndsey Simpson moved that City Council return to Open Session at 9:15 p.m. A unanimous roll call vote of the Council followed. Motion carried.*

**17. ADJOURN**

There being no further business, the meeting was adjourned at 9:15 p.m. upon unanimous assent of the Council.

s/Barbara G. Volk, Mayor

ATTEST:

s/Angela L. Reece, City Clerk