

MINUTES
April 2, 2020
REGULAR MEETING OF THE CITY COUNCIL [ELECTRONIC]
ASSEMBLY ROOM – OPERATIONS CENTER
5:45 p.m.

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

Participating Electronically: Mayor Pro Tem Smith, Council Member Lyndsey Simpson

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Development Assistance Director Susan Frady, Senior Planner Daniel Heyman, Planner Tyler Morrow, Communications Manager Allison Nock, Utilities Director Lee Smith

1. Call to Order: Mayor Volk called the regular meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with three members in attendance physically and two participating electronically.

Mayor Volk explained this meeting is being held electronically to comply with the stay-at-home restrictions in place to avoid the spread of COVID-19. She stated public comments for the scheduled public hearings were received electronically beforehand. She explained roll call votes will be taken to meet all requirements. She asked for the public's feedback on the electronic meeting.

2. Invocation and Pledge of Allegiance to the Flag: There was a moment of silence for prayer. The Mayor asked everyone to keep the entire country in their thoughts and especially all of the front-line workers dealing with the corona virus. The silent prayer was followed by the Pledge of Allegiance to the Flag.

3. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda. The following comments were provided by electronic means.*

There was none.

4. Consideration of Agenda:

Additions to Consent Agenda:

- M. Consideration of Policies Relating to COVID-19 Legislation:
 - i. Emergency Family Medical Leave Act (FMLA) Expansion Act Policy
 - ii. Emergency Paid Sick Leave Act
 - iii. Revisions to Temporary Employee Leave and School Closure Policy
- N. Consideration of a Revision to the Electronic Attendance Policy

Council Member Miller moved approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *Consent agenda items are considered routine, non-controversial in nature and are considered and disposed of through a singular motion and vote.*

A. Consideration of Minutes:

February 27, 2020 Special Meeting – Retreat
 February 28, 2020 Special Meeting – Retreat
 March 5, 2020 Regular Meeting
 March 20, 2020 Special Meeting

B. Consideration of Budget Amendment for Grey Mill Project: Mr. Adam Murr, Budget and Management Analyst, presented an amendment to reallocate existing funds in the Public Works Operating budget (Fund 10) to the Grey Hosiery Mill Project (Fund 305) to make funds available budget for underground utilities and repair sidewalk associated with the Grey Hosiery Mill Project.

Fund 305: Increase of \$70,000
 Fund 10: Decrease of \$70,000

C. Consideration of Tax Discoveries, Releases, Refunds and Forgiven Interest: Deputy Tax Collector submitted tax bill adjustments occurring between February 20, 2020 and March 23, 2020.

SUMMARY TOTAL OF DISCOVERIES, RELEASES, REFUNDS, AND FORGIVEN INTEREST

FOR TRANSACTIONS AS OF 3/23/2020

VALUE CHANGE	\$	(175,411)
RELEASES	\$	(945.46)
REFUNDS	\$	-
FORGIVEN INTEREST	\$	-
TOTAL TAX BILL ADJUSTMENTS	\$	(945.46)

Adjustments, Releases, Refunds are provided by Henderson County Tax

D. Consideration of Operations Center Security Changes - Design Proposal and City Hall Exterior Assessment Proposal, Associated Capital Project Ordinance and Budget Amendment:

Mr. Wooten presented changes as part of the City's goal to further secure city facilities. Staff obtained a proposal from PFA Architects to redesign the front entrance of the City Operations Center. The proposed changes will keep the public entrance at the same location, but another set of doors will be added to separate staff from the public area and will separate the reception area from the public using a safety window. The entrance to the assembly room will be slightly altered but a double door will remain in place and remain open to the public. An additional door will be added to the rear main hallway to secure staff from the public area. The morning room areas and the large restrooms will be open to the public and to the assembly room. The price to complete the design work is \$39,200. He requested permission to move forward with the design work.

Mr. Wooten provided a Capital Project Ordinance for this project which meets statutory requirements and follows the City's Capital Improvement Program (CIP).

Ordinance #20-0422

CAPITAL PROJECT ORDINANCE FOR THE CONSTRUCTION AND INSTALLATION OF THE CITY HALL AND CITY OPERATIONS RENOVATION PROJECT

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of

Section 1: The projects authorized are City infrastructure projects described as the City Hall and City Operations renovation projects.

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

Account Number			Account Name	Total Budget
Org	Obj	Proj		
4607110	551000	19140	C/O - SERVICES AND FEES	19,600.00
4607110	558000	19140	C/O - BUILDINGS	43,583.00
4104120	551000	19140	C/O - SERVICES AND FEES	19,600.00
4104120	558000	19140	C/O 0 BUILDINGS	43,583.00
Total Project Appropriation				\$ 126,366.00

Section 3: The following revenues are anticipated to be available via debt proceeds and transfers from the General Fund and Water and Sewer Fund for project expenses: Project Will Be Funded Using Existing Contingency Funds

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 General Fund and 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, on this second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

E. Consideration of Franchise Agreement with Public Service Company of North Carolina, Inc. (second reading):

Mr. Connet reported the franchise agreement with Public Service Company of North Carolina Incorporated (PSNC) and its successors expires November 26, 2020. The franchise agreement grants PSNC the right to utilize public rights-of-way to provide natural gas to residents and businesses. The company has requested an updated franchise agreement that extends their rights until 2050. The execution of a franchise agreement requires two readings by the City Council. It was first approved by the City Council at their March 5, 2020 meeting and therefore, the agreement will be finalized after this second reading.

Ordinance #20-0314

AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO USE AND OCCUPY THE PUBLIC WAYS OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A GAS UTILITY SYSTEM AND ALL NECESSARY MEANS FOR TRANSMITTING AND DISTRIBUTING GAS WITHIN SAID CITY FOR A PERIOD OF THIRTY YEARS.

WHEREAS, Public Service Company of North Carolina, Incorporated proposes to continue to construct, operate and maintain a Gas Utility System and all necessary means for transmission and distribution of gas within the City of Hendersonville, North Carolina, the "City" and

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

SECTION 1. DEFINITIONS. Whenever and wherever used in this Ordinance the following words and names shall have the following meanings:

- (a) CITY COUNCIL shall mean the governing body of the City of Hendersonville, North Carolina, as now or hereafter constituted.
- (b) COMPANY shall mean Public Service Company of North Carolina, Incorporated, dba Dominion Energy North Carolina, its successors and assigns.
- (c) CITY shall mean the City of Hendersonville, North Carolina, including its present and future boundaries.
- (d) DEPARTMENT OF TRANSPORTATION shall mean the North Carolina Department of Transportation or its successor.
- (e) GAS shall mean natural gas, mixed gas and substitute fuels carried over the Company's facilities as authorized by the North Carolina Utilities Commission.
- (f) GAS UTILITY SYSTEM shall mean all facilities of the Company in the City used for the transmission or distribution of Gas within the City.
- (g) FERC shall mean any reference made to the Federal Energy Regulatory Commission or its successor.
- (h) COMMISSION shall mean the North Carolina Utilities Commission or any successor body lawfully constituted.
- (i) PUBLIC WAY OR WAYS shall mean any public street, avenue, road, alley, lane, bridge, or other public right-of-way within the City over which the City has jurisdiction or exercises control.
- (j) GOOD UTILITY PRACTICES shall mean the practices, methods and acts engaged in or approved by a significant portion of the gas industry during the relevant time period or other practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, requirements of governmental agencies having jurisdiction, and at the lowest reasonable cost. The term Good Utility Practices is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods, or acts.

SECTION 2. Grant of Authority The right, power and authority is hereby granted to and vested in the Company to construct, install, replace, repair, maintain and operate transmission mains, gas mains, pipes, equipment, service lines, communications lines, facilities and other appurtenant apparatus of the gas system, for the purpose of operating a natural gas system along, across, and under the streets, alleys, bridges, rights-of-way, and other public places of the City together with any necessary rights of access thereto; and to use that natural gas system to conduct a gas business. This granting of authority is provided that the City as of the applicable time, has jurisdiction or exercises control of the public ways. This Franchise Agreement shall also permit the Company to exercise the rights granted herein without the need for additional permit(s) from the City.

SECTION 3. Conditions on Use of Public Ways

- (a) No street, alley, bridge, right-of-way or other public place used by the Company shall be obstructed longer than reasonably necessary during its work of construction or repair, and shall be restored to the same good order and condition as when said work was commenced. However, should any such damage occur due to the Company's failure to use due care, the Company shall repair the same as promptly as possible, and, in default thereof, the City, after written notice and opportunity for the Company to repair, may make such repairs and charge the reasonable cost thereof and collect the same from the Company. The Company shall save the City harmless from liability (including judgment, decrees, and legal court costs) resulting directly from its negligence and failure to use due care in the exercise of the privileges hereby granted or of its rights under this Section.
- (b) All work upon the streets and public places of the City shall be done subject to reasonable inspection of the City Manager or designee (or other legally constituted governing body) of the City, all sidewalks or street pavements or street surfaces which may be displaced by reason of such work shall be properly replaced by the Company, its successors and assigns, to the reasonable requirements of the City.

SECTION 4. Annexation Notification: The City shall mail or email notice to the Company of areas annexed into the City. Said notices shall include pertinent maps and/or tax map numbers, so that newly annexed customers may be identified.

SECTION 5. Service:

- (a) The Company may supply any form of gas containing approximately one thousand (1,000) BTU's per cubic foot, and its obligation in respect thereto shall continue only so long as it is able to reasonably obtain an adequate supply of such gas hereunder, provided, however, that in the supply of such gas the customers within the City shall enjoy equal rights with respect to other similar customers served by the Company consistent with Commission rules and regulations.
- (b) The Company shall, as to all other conditions and elements of service not fixed herein, be and remain subject to the rules and regulations of the Commission, Department of Transportation, and FERC or its successors, applicable to gas service in the City.

SECTION 6. Nonexclusive Grant and Term:

- (a) The gas franchise granted by this Ordinance is not exclusive. The City may grant the same or similar rights and privileges to other certified persons or companies at any time, provided that any such grants shall be made under terms and conditions which do not materially impair the exercise of the rights and privileges granted to the Company under this franchise.
- (b) Upon ratification and acceptance, this franchise shall constitute a contract between the City and the Company, and shall be in force and effect for an initial term of thirty (30) years, and shall continue in force and effect year-to-year thereafter until properly terminated by either party. Either party may terminate the contract at the end of its initial term

or its anniversary date any year thereafter, by giving written notice of its intention to do so no less than one (1) year before the proposed date of termination.

SECTION 7. Franchise Not Waiver of Law This franchise is subject to the constitution and laws of the State of North Carolina, and is not a waiver of any present or future law or regulation. This franchise is not a limitation of the authority of the City to enact any ordinance or policy that does not diminish, conflict or impair the rights and authority granted to the Company in this franchise or otherwise impose additional obligations on the Company in order to exercise the rights granted herein.

SECTION 8. Regulations, Safety and Customer Service

(a) Gas utility service is not guaranteed to be free from interruptions, supply failure or outages.

(b) The Company will restore gas utility service using Good Utility practices.

(c) The Company shall maintain and operate its Gas Utility System in compliance with applicable State and Federal maintenance and safety regulations.

(d) Company vehicles, responding to natural gas emergencies, may park as close to the location of the emergency as is practicable.

SECTION 9. Commission Rules and Rates: The Company may from time to time declare, make and enforce such rules and regulations as shall have been fixed or allowed by the Commission as to the sale or distribution of Gas to any of its customers in the City. The rates to be charged for Gas at all times shall be such rates as are fixed or allowed by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission.

SECTION 10. Plat of Gas Utility System. The Company shall maintain maps or plats of its Gas Utility System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's offices, and the City may review the same during any regular business hours of the Company.

SECTION 11. Bankruptcy, Successors, Assigns In the event the Company is adjudged bankrupt or its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, then the interest, rights and remedies of the City in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company, shall be bound by this Ordinance and the terms and provisions hereof and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance. Likewise, if the Company reorganizes, merges, or consolidates with any other company, then the City is bound by this Ordinance.

SECTION 12. Revocation In the event the Company fails to comply with the provisions of this Ordinance and, within thirty (30) days after receipt of written notice from the City, the Company fails to cure or remedy such default, or to have begun reasonable measures to do so, then the City may cause the Company to appear at a hearing before the City upon thirty (30) days prior written notice. Any written notice to the Company shall be sent to Public Service Company of North Carolina, 800 Gaston Road Gastonia, North Carolina, 28053, ATTN: D. Russell Harris. If at such hearing the City should determine that the Company's failure or default has been substantial, repeated or flagrant, then upon such determination the City may revoke and terminate this franchise; provided, however, that the Company may file with the City within ten (10) days after such determination the Company's election to appeal to the proper North Carolina court, during the pendency of which the Ordinance shall remain in full force and effect. In that event the City and Company agree that such court shall hear and determine de novo whether there has been substantial, repeated or flagrant failure or default by the Company of the terms, conditions or obligations of this Ordinance. Failure or default which cannot be corrected by the Company shall not be grounds for revocation or termination, unless such failure or default shall be determined to be material and continuing.

SECTION 13. Severability, Third Party Rights

(a) If any provision in this contract is determined to be invalid, void or unenforceable by any court or regulatory body having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or gas supply, this Contract or transaction or any provisions thereof.

(b) The rights hereunder in this Ordinance accrue exclusively to the parties, their successors and assigns. It is the express intent of the parties that this franchise shall not create any rights in third parties.

SECTION 14. Effective Date, Term, Adoption, and Ratification

(a) This Ordinance shall be effective from and after the fifth day of March, 2020, provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist in force for a period of 30 years hereafter, and continue in force year to year thereafter until cancelled upon written notice of either party at least one year in advance.

(b) All other Ordinances and clauses of Ordinances in conflict herewith are hereby repealed.

Adopted by the City of Hendersonville on the fifth day of March 2020, and a second reading on April 2, 2020, hereby ratified.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

ACCEPTANCE BY COMPANY

Public Service Company of North Carolina, Incorporated does hereby accept and acknowledge the foregoing Ordinance, and in consideration of the benefits and privileges granted to it does hereby agree to the terms and conditions therein provided. This the ____ day of _____, 20__.

PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED

By: D. Russell Harris President and Chief Operating Officer

ATTEST: Jordan C. Saltzberg, Assistant Corporate Secretary

(Corporate Seal)

F. Consideration of Contract Award of Kanuga Park Interconnect Water Main Extension and Associated Capital Project Ordinance and Budget Amendment: Mr. Lee Smith reported informal

bids were received for the Kanuga Park Interconnect Water Main Extension on March 6, 2020. The results are shown in the following bid tabulation.

City of Hendersonville Kanuga Park Interconnect Water Main Extension 3/6/2020 Bid Tabulation				TP Howard's Plumbing Company, Inc.		Steppe Construction, Inc.		Hyatt Pipeline, LLC		Gosnell Construction Utility Company, Inc.		Double R Utilities, Inc.	
Item	Description	Unit of Measure	Quantity	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost
2.3	Mobilization	LS	1	\$5,420.00	\$5,420.00	\$3,500.00	\$3,500.00	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00
3.5	DIP Water Pipe including rest., fittings, 6-inch - STA 0+00 to 12+00	LF	1250	\$48.00	\$60,000.00	\$52.50	\$65,625.00	\$51.00	\$63,750.00	\$75.00	\$93,750.00	\$85.00	\$106,250.00
3.6	Valve, resilient gate valve, 6-inch Connection to Existing 6-inch Water Main -	EA	3	\$1,105.00	\$3,315.00	\$1,250.00	\$3,750.00	\$2,200.00	\$6,600.00	\$2,500.00	\$7,500.00	\$1,500.00	\$4,500.00
3.7	Anne Avenue/Old Kanuga Road	EA	1	\$3,000.00	\$3,000.00	\$7,500.00	\$7,500.00	\$1,500.00	\$1,500.00	\$7,500.00	\$7,500.00	\$7,500.00	\$7,500.00
3.8	COH Standard Fire Hydrant Assembly, 250 PSI Abandon Existing 6-inch Water Main -	EA	2	\$6,000.00	\$12,000.00	\$6,000.00	\$12,000.00	\$9,000.00	\$18,000.00	\$6,000.00	\$12,000.00	\$7,500.00	\$15,000.00
3.11	Anne Ave/Old Kanuga Remove & Replace Roadway Asphalt, Anne Ave per detail WD-2, 5	EA	1	\$3,400.00	\$3,400.00	\$4,000.00	\$4,000.00	\$1,000.00	\$1,000.00	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00
2.8	Anne Ave per detail WD-2, 5 Remove & Replace Roadway Asphalt, Old Kanuga Rd per NCDOT detail 654.01	SY	25	\$120.00	\$3,000.00	\$175.00	\$4,375.00	\$200.00	\$5,000.00	\$200.00	\$5,000.00	\$200.00	\$5,000.00
2.12	Gravel Driveway Repair, ABC Stone	TN	20	\$30.00	\$600.00	\$30.00	\$600.00	\$50.00	\$1,000.00	\$50.00	\$1,000.00	\$60.00	\$1,200.00
2.13	Restoration and permanent seeding	AC	0.3	\$18,800.00	\$5,640.00	\$2,200.00	\$660.00	\$5,000.00	\$1,500.00	\$7,500.00	\$2,250.00	\$4,000.00	\$1,200.00
2.5	Rock Excavation	CY	50	\$20.00	\$1,000.00	\$1.00	\$50.00	\$160.00	\$8,000.00	\$250.00	\$12,500.00	\$100.00	\$5,000.00
2.6	Select Backfill Material	CY	50	\$21.00	\$1,050.00	\$1.00	\$50.00	\$20.00	\$1,000.00	\$50.00	\$2,500.00	\$50.00	\$2,500.00
2.7	Stone Embedment and Undercut, 6-inch depth, #57 Stone	LF	100	\$6.00	\$600.00	\$4.00	\$400.00	\$10.00	\$1,000.00	\$25.00	\$2,500.00	\$5.00	\$500.00
2.8	Incidental Stone, #57 Stone	TN	50	\$36.00	\$1,800.00	\$22.00	\$1,100.00	\$35.00	\$1,750.00	\$40.00	\$2,000.00	\$50.00	\$2,500.00
2.8	Incidental Stone, ABC	TN	50	\$26.00	\$1,300.00	\$20.00	\$1,000.00	\$30.00	\$1,500.00	\$35.00	\$1,750.00	\$50.00	\$2,500.00
				\$106,500.00		\$110,860.00		\$122,600.00		\$165,250.00		\$178,650.00	
												Low Bidder	

I hereby certify that the above bid tabulation is a correct tabulation of the bids received on March 6, 2020

Adam A. Steurer
Adam Steurer, PE
City of Hendersonville

Mr. Lee Smith reported the project consists of installation of approximately 1,200 linear feet of six-inch diameter ductile iron water main and appurtenances along Old Kanuga Road between Sugar Hollow Drive and Anne Avenue to boost pressures and available fire flows in the Kanuga Park neighborhood.

Mr. Lee Smith requested the Council adopt the budget amendment and capital project ordinance as presented, and authorize the City Manager to award and execute the contract for the construction of the Kanuga Park Interconnect Water Main Extension to TP Howard's Plumbing Company, Inc. the lowest responsive and responsible bidder, in the amount of \$106,500; as presented and recommended by staff.

Budget Amendment: Funds 60, 460 in the amount of \$106,500

This project is recommended to be funded through existing funds available in Water and Sewer Fund.

Ordinance #20-0423

CAPITAL PROJECT ORDINANCE FOR THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE KANUGA PARK WATER INTERCONNECT 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 infrastructure project described as the Kanuga Park Water Interconnect project.

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

Account Number			Account Name	Total Budget
Org	Obj	Proj		
4607126	559500	17004	C/O - INFRASTRUCTURE	106,500.00
Total Project Appropriation				\$ 106,500.00

Section 3: The following revenues are anticipated to be available via debt proceeds and transfers from the Water and Sewer Fund for project expenses: Project Will Be Funded Using Existing Operating Budget In The Water And Sewer Fund

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 and 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, on this second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

G. Consideration of City Clerk Job Description and Pay Grade: Due to the upcoming retirement of the City Clerk, Mr. Connet stated he reviewed the job description and salary for the position which is standard

practice for vacant positions. He recommended reclassifying the city clerk position from pay grade 25 to pay grade 22. [The job description is available in the office of the Human Resources Director.]

H. Consideration of Resolution of Intent to Close an Unopened and Unimproved Right-of-way for a Portion of 6th Avenue East Located on PIN 9568-99-9384: Development Assistance Director Susan Frady presented the application from the Hendersonville Housing Authority to close a portion of an unopened and unimproved right-of-way for a portion of Sixth Avenue East located on PIN 9568-99-9384.

Resolution #20-0424

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing a portion of an unopened and unimproved Right-of-Way for a portion of 6th Avenue East located on PIN 9568-99-9384

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and

WHEREAS, Hendersonville Housing Authority, has petitioned the Council of the City of Hendersonville to close an unopened and unimproved ROW for a portion of 6th Avenue East located on PIN 9568-99-9384.

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of an unopened and unimproved ROW for a portion of 6th Avenue East located on PIN 9568-99-9384.

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

1. A meeting will be held at 5:45 p.m. on the fourth day of June 2020, in the Assembly Room of the Operations Center to consider closing an unopened and unimproved for a portion of 6th Avenue East.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

I. Consideration of Resolution of Intent to Close an Unopened and Unimproved Alley between Williams and Harris Streets located on PIN 9568-99-9384: Development Assistance Director Susan Frady presented the application from the Hendersonville Housing Authority to close a portion of an unopened and unimproved alley between Williams and Harris Streets located on PIN 9568-99-9384.

Resolution #20-0425

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing a portion of an unopened and unimproved alley between Williams Street and Harris Street located on PIN 9568-99-9384

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and

WHEREAS, Hendersonville Housing Authority, has petitioned the Council of the City of Hendersonville to close an unopened and unimproved alley between Williams Street and Harris Street located on PIN 9568-99-9384.

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of an unopened and unimproved alley between Williams Street and Harris Street located on PIN 9568-99-9384.

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

1. A meeting will be held at 5:45 p.m. on the fourth day of June 2020, in the Assembly Room of the Operations Center to consider closing an unopened and unimproved alley between Williams and Harris Street.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

J. Resolution of Intent to Close an Unopened and Unimproved Right-of-Way for Roberson Street located on PIN 9568-49-2048: Development Assistance Director Susan Frady presented the application from the Hendersonville Housing Authority to close an unopened and unimproved right-of-way for Roberson Avenue located on PIN 9568-49-2048.

Resolution #20-0426

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing a portion of an unopened and unimproved Right-of-way for Roberson Avenue located on PIN 9568-49-2048

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and

WHEREAS, Hendersonville Housing Authority, has petitioned the Council of the City of Hendersonville to close an unopened and unimproved ROW for Roberson Avenue located on PIN 9568-49-2048.

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of an unopened and unimproved ROW for Roberson Avenue located on PIN 9568-49-2048.

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

1. A meeting will be held at 5:45 p.m. on the fourth day of June 2020, in the Assembly Room of the Operations Center to consider closing an unopened and unimproved Roberson Avenue.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

K. Consideration of Coronavirus Actions - Utility Disconnections, Etc.: As part of the City's response to COVID-19, the City Manager made the decision to discontinue the disconnection of water service and the applying of late fees and penalties for utility customers with outstanding account balances. He requested City Council ratify the suspension of water service and applying of late penalties until the COVID-19 until reinstated by the City Council.

L. Consideration of Establishing Mark III Insurance Brokerage firm as the City's Benefits

Administrator for Voluntary Insurances: Human Resources Director Jennifer Harrell explained currently, the City's voluntary insurance products are spread over three primary carriers, Colonial Life, Liberty National Life and Lincoln National Life. Utilizing this many companies is time consuming for staff and confusing for employees. She stated staff would like to establish Mark III, our current insurance brokerage firm, as our benefits administrator for the block of voluntary insurances offered to employees.

Mrs. Harrell stated Mark III utilizes various insurance companies and we have been assured the rates of these companies are comparable or better than our current rates due to the volume of business they hold. They will leverage the best deal from competing companies in every benefit category. They provide a call center as well as a dedicated account manager and a local field account manager. She stated they will also provide customized benefit plan booklets for employees along and videos.

Mrs. Harrell stated the City is already paying for this service with Mark III but have not been utilizing it because they require the entire block of voluntary insurances and because Colonial Life Insurance has their own enrollers and will not allow a third party to enroll for them. The Human Resources staff has been informed by Lincoln Life that we do not have enough employees in their system and beginning July 1, 2020 the City will no longer be supported by them. She recommended establishing Mark III as the benefits administrator for voluntary insurance and have them in place as soon as possible so they can take over flawlessly at open enrollment.

M. Consideration of Policies Relating to COVID-19 Legislation: In response to COVID-19, the Federal Government has enacted special legislation to assist employees during this crisis. The new legislation expands family medical leave (FMLA) and paid sick leave benefits. He provided two new policies draft by Human Resources Director Jennifer Harrell and revisions to the Temporary Employee Leave and School Closure Policy to meet the legislative requirements. The new policies will only be effective until the end of the COVID-19 crisis or December 31, 2020, whichever comes first.

Emergency FMLA Expansion Act Policy

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with expanded family and medical leave for specified reasons related to COVID-19.

Eligibility: All employees (full-time, part-time, seasonal) who have worked for the City of Hendersonville for at least 30 days prior to the designated leave are eligible for Emergency Family and Medical Leave. Please note that this new act does not change the eligibility requirements for regular FMLA leave.

New FMLA Qualifying Reason: Lack of Child Care Due to COVID-19: The Emergency FMLA Act amends the Family and Medical Leave Act (FMLA) of 1993 by the following:

- Added a new qualifying reason that provides 12 weeks of leave when an employee is unable to work – either onsite or remotely - due to a need to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider is unavailable due to an emergency with respect to COVID-19 as declared by a federal, state, or local authority;
- A "childcare provider" under the Act is defined as one who provides childcare services on a regular basis and receives compensation for those services. It excludes the situation where a family member has been providing childcare and is no longer available.
- Leave taken under the Emergency FMLA Act is paid leave after a 10-day waiting period; an employee may choose to use accrued leave for the 10-day waiting period. In no instance can the City require the employee to use accrued leave during the waiting period;

- After the 10-day period, the City is required to pay full-time employees no less than two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled. The new Act limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee; employees may use accrued leave to make up the missing one third pay; employees who work a part-time or an irregular schedule are entitled to be paid based on the average number of hours the employee worked for the six months prior to taking leave; employees who have worked for less than 6 months prior to leave are entitled to the employee's reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.
- The regular rules under the FMLA will apply to job reinstatement. The City has the same obligation as under traditional FMLA to return any employee who has taken Emergency FMLA leave to the same or equivalent position upon the return to work.

Leave Rules:

- Employees are still limited to a total of twelve weeks of FMLA leave within a 12-month period for all reasons combined.
- Employees who have already used their FMLA allotment for the year are not entitled to emergency FMLA leave.
- Requested leave will begin no earlier than April 1, 2020.

Requesting Leave: As with regular FMLA leave, where the need for leave is foreseeable, employees must provide the City as much advance notice as practicable. The employee is to submit the Employee Request for Emergency Family and Medical Leave form to their department head. The department head shall send this form to Human Resources immediately for review and processing. All other normal call-in procedures apply to all absences from work.

Retaliation: The City will not retaliate against employees who request or take leave in accordance with this policy.

Expiration: Emergency FMLA leave is available only as long as a federal, state or local COVID-19 state of emergency is in effect and in any event only through December 31, 2020. In addition, emergency FMLA leave cannot be carried over after December 31, 2020.

Note: Provisions under the regular FMLA Act still apply and are available to employees that meet eligibility requirements as it pertains to protected leave because the employee needs to care for a spouse, child, or parent with a serious health condition, or because of the employees own serious medical condition.

Approved by: /s/John Connet, City Manager

Emergency Paid Sick Leave Act

The City of Hendersonville is taking proactive steps to protect the workplace in the event of an infectious disease outbreak. It is the City's goal during any such time period to strive to operate effectively and ensure that all essential services are continuously provided and that employees are safe within the workplace.

The City of Hendersonville is committed to providing authoritative information about the nature and spread of infectious diseases, including symptoms and signs to watch for, as well as required steps to be taken in the event of an illness or outbreak.

Per new federal legislation the City of Hendersonville will provide eligible employees with emergency paid sick leave under certain conditions.

The City of Hendersonville provides eligible employees with emergency paid sick leave under certain conditions.

Eligibility: All employees are eligible for emergency paid sick leave.

Reason for Leave: You may take emergency paid sick leave if you are unable to work (or telework) because:

1. You are subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. You have been advised by a health care provider to self-quarantine because of COVID-19;
3. You are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
4. You are caring for someone subject to a federal, state or local quarantine or isolation order related to COVID-19 or who has been advised by their healthcare professional to self-quarantine for COVID-19 related reasons;
5. You are caring for a child whose school or place of care is closed, or whose childcare provider is unavailable, due to COVID-19 precautions; or
6. You are experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Duration/Compensation:

Employees are entitled to:

- Full-time employees: 80 hours of pay at their regular pay rate. However, when caring for a family member (for reasons 4, 5, and 6 above), sick leave is paid at two-thirds the employee's regular rate.
- Part-time employees: Pay for the number of hours the employee works, on average, over a two-week period.

Paid leave under this policy is limited to \$511 per day (\$5,110 in total) where leave is taken for reasons 1, 2, and 3 described above (generally, an employee's own illness or quarantine); and no less than two-thirds the employee's regular rate where leave is taken for reasons 4, 5, or 6 (care for others or school closures); for reasons 4,5 and 6 the new Act limits this pay entitlement to \$200 per day (\$2,000 in total).

Employees may use accrued leave to make up the missing one third pay.

Leave Rules: You may elect to use emergency paid sick leave before using any accrued paid leave. No leave provided by the City before April 1, 2020 may be credited against your leave entitlement. In addition, emergency paid sick leave cannot be carried over after December 31, 2020.

Requesting Leave: If you need to take emergency paid sick leave, provide notice as soon as possible. The employee is to submit the Employee Request for Emergency Paid Sick Leave form to their department head.

The department head shall send this form to Human Resources immediately for review and processing. All other normal call-in procedures apply to all absences from work.

Retaliation: The City of Hendersonville will not retaliate against employees who request or take leave in accordance with this policy.

Expiration: This policy expires on December 31, 2020.

Approved by: /s/John F. Connet, City Manager

Revisions to Temporary Employee Leave and School Closure Policy

The City of Hendersonville is taking proactive steps to protect the workplace in the event of an infectious disease outbreak. It is the City's goal during any such time period to strive to operate effectively and ensure that all essential services are continuously provided and that employees are safe within the workplace.

Temporary Leave Policies

a. During this state of emergency related to this infectious disease, all leave policies will be relaxed to allow employees to use any form of accrued leave to self-isolate or self-quarantine if you are unable to telework for the following reasons: you are subject to a federal, state or local quarantine or isolation order related to COVID-19; you have been advised by a health care provider to self-quarantine because of COVID-19; you are experiencing symptoms of COVID-19 and are seeking a medical diagnosis.

b. Employees who have pending transferred sick leave will be awarded those transfers immediately.

c. Employees who have exhausted all forms of leave may ~~will~~ be advanced up to 14 days of sick leave.

Employees must contact Human Resources prior to exhausting all leave to begin the advanced sick leave process. Advanced sick leave must be repaid with future sick leave accrual. If an employee's employment is terminated prior to satisfying the advanced sick accrual, a deduction shall be made from the employee's final check to the extent allowed by law to cover the value remaining that was advanced to the employee or the employee shall make a cash payment to the City for the balance remaining.

[additions are underlined, deletions are struck-through]

N. Consideration of a Revision to the Electronic Attendance Policy: Mr. Connet presented the following resolution revising the policy:

Resolution #20-0432

A RESOLUTION AMENDING THE CITY'S POLICY RESPECTING ELECTRONIC ATTENDANCE AT CITY COUNCIL MEETINGS

WHEREAS, the City Council determines that the greatest reasonable participation by Council Members at Council meetings is desirable, and

WHEREAS the Council wishes to balance ease of Board member access to and participation in orderly proceedings, especially where there are occurrences that pose impediments to physical attendance; and

WHEREAS the Council wishes to follow North Carolina General Statutes Chapter 143 Article 33C as amended from time to time and any applicable City ordinances as amended from time to time; and

WHEREAS the Council wishes to encourage City Council members to physically attend meetings whenever practicable; and

WHEREAS the Council recognizes that states of emergency may affect some members' ability of desirability of attending Council meetings; and

WHEREAS in the absence of a designated physical place for holding a Council meeting arrangement ought to be made for public viewing of, attendance at, and participation in, a Council meeting,

NOW, THEREFORE, the City Council does resolve as follows:

- I. The City Does hereby amend as follows its policy for attendance of City Council meetings electronically:
 1. Subject to the provisions of paragraph (14) below, ~~E~~lectronic attendance at a City Council meeting shall not constitute any part of a quorum for any portion of such meeting.
 2. Subject to the provisions of paragraph (14) below, ~~E~~ither the Mayor or Mayor Pro Tem must be physically present at the place of the meeting.
 3. A City Council member wishing to attend a meeting via electronic means shall notify the Mayor and the City Manager no later than 48 hours before the scheduled start of the City Council meeting.
 4. A City Council member participating in a meeting electronically may do so by any method of communication that allows for simultaneous communication and is capable of being heard specifically by all other Council members attending the meeting (whether in person or electronically) and generally by the public attending the meeting, if any, and recorded by the Clerk.
 5. A City Council member participating in a meeting electronically pursuant to this Policy is not required to do so in a setting that is open to the public.
 6. The City Manager, is delegated to supervise and coordinate electronic participation by City Council members pursuant to this Policy.
 7. A City Council member participating via electronic means pursuant to this Policy is considered present at the City Council meeting and may vote at the City Council meeting on any matter except as otherwise provided herein.
 8. A City Council member participating via electronic means may cast the deciding vote on any matter properly before the City Council except as otherwise provided herein.
 9. Where at least one City Council member is participating via electronic means pursuant to this Policy, all votes of the City Council will be taken by roll call.
 10. This Policy does not create a right for the public to observe and record any closed session of the City Council conducted pursuant to law.

11. Participation in the hearing, deliberation and decision of any quasi-judicial matter is not permitted under this policy. If a single agenda item contains both quasi-judicial and non-quasi-judicial components, participation in the hearing, deliberation and decision of any part of such agenda item is not permitted by this policy.
12. Participation in a closed session is discouraged but permitted by this policy. No vote by a person attending a closed session electronically is permitted in that closed session unless the measure being voted upon is passed regardless of the votes of any persons attending electronically. A person attending the closed session electronically may participate in a vote taken out of closed session without this restriction.
13. In order to be permitted to participate in a vote electronically the voter shall have attended (whether electronically or in person or both) the entire hearing and deliberation of the matter voted on.
14. (a) In the event of a duly authorized governmental declaration of emergency of a jurisdiction including the City of Hendersonville, the requirements of paragraphs (1) and (2) above shall not apply. In such case the person presiding shall note at the meeting the particulars (issuer, date and general description) of the declaration(s) relied upon, and shall state why such declaration(s) applies to current conditions in the City of Hendersonville, but failure to do these things shall not affect the application of paragraphs (1) and (2).
- (b) In the event that, for any reason, no physical location is established for any Council meeting, the city manager shall establish one or more locations where the public may electronically view, attend, and participate in such meeting, to the greatest extent practicable approximating viewing, attendance, and participation in a physical meeting. Notice of such location(s) and how one may attend shall be sent as part of any notice required by NCGS § 143-318.12 as amended from time to time.

II. This amendment policy shall take effect upon adoption of this resolution.

Adopted this second day of April 2020 at 5:48 p.m.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Council Member Hensley moved the City Council to resolve to approve the items listed on the consent agenda as amended. A unanimous vote of the Council followed. Motion carried.

6. Public Hearing - Consideration of an Application from William A. Pace, Jr. for the Rezoning of Parcel Located at 137 E. Central Street from C-2 CZD Secondary Business Conditional Zoning District and R-15 Medium Density Residential to C-2CZD Secondary Business Conditional Zoning District to construct a 10,000 Square Foot Building: Mr. Daniel Heyman, Senior Planner, presented the application of Mr. Pace for the Conditional Rezoning for the development of a commercial structure on a 3.06-acre lot. The subject property is identified as parcel number 9578-24-8681 and contains a commercial structure. The applicant is requesting to rezone the subject property from C-2 CZD Secondary Business Conditional Zoning District and R-15 Medium Density Residential to C-2 CZD Secondary Business Conditional Zoning District.

Mr. Heyman stated the applicant is requesting that the following uses be permitted: business services, construction trades facilities, personal services, public and semi-public buildings, recreational facilities, indoor, religious institutions, repair services, miscellaneous, residential dwellings, single-family, residential dwellings, two-family, wholesale businesses, and light manufacturing.

Existing Land Use & Zoning: Mr. Heyman stated the subject property is currently zoned C-2CZD Secondary Business Conditional Zoning District and R-15 Medium Density Residential and contains a commercial structure. He reviewed the surrounding zoning and land uses.

Comprehensive Plan Consistency: Mr. Heyman reported the subject property is classified as High Intensity Neighborhood on the 2030 Comprehensive Plan's Future Land Use Map and reviewed the goal of that classification and the recommended primary and secondary land uses.

Mr. Heyman stated the 2030 Comprehensive Plan's Future Land Use Map designates all adjacent parcels as High Intensity Neighborhood. Some parcels located to the southwest of the project are classified as Neighborhood Activity Center.

Plan Review: Buildings: Mr. Heyman stated the site currently contains a 10,000 square foot commercial structure. The applicant is proposing to construct a new commercial structure similar in size and appearance to the existing structure.

Landscaping: The site plan shows a fence and landscape buffer on property lines that abut residential uses. More substantial screening from adjacent residential uses were required by the City Council previously.

Entrance: The site will be serviced off E. Central Street through a shared drive with 137 E. Central Street.

Neighborhood Compatibility: Mr. Heyman reported a neighborhood compatibility meeting concerning the application was held on February 27, 2020. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property as required by the Zoning Ordinance. Two people

attended the meeting and asked questions concerning the extending of E. Central Street and sewer connections. He provided the neighborhood compatibility report.

Planning Board: Mr. Heyman stated the Planning Board voted unanimously to recommend that City Council approve the rezoning request.

Zoning Ordinance Guidelines: Mr. Heyman reviewed the factors contained in Section 11-4 of the Zoning Ordinance be that City Council must consider prior to adopting or disapproving an amendment to the City’s Official Zoning Map.

Mayor Volk opened the public hearing at 5:56 p.m. in accordance with NCGS by notice published in the Times News. No comments were submitted. Mr. Pace stated he was present to answer questions. There was none. The public hearing was closed.

Council Member Hensley moved the City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property from C-2 CZD Secondary Business Conditional Zoning District and R-15 Medium Density Residential to C-2 CZD Secondary Business Conditional Zoning District, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the Published List of Uses and Conditions, 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: development. A unanimous vote of the Council followed. Motion carried.

Ordinance #20-0427

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE
IN RE: E Central St Rezoning
(File # P20-10-CZD; William A. Pace, Jr., Applicant)**

Be it ordained by the City Council of the City of Hendersonville:

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 9578-24-8681 from C-2 CZD, Secondary Business Conditional Zoning District and R-15 Medium Density Residential to C-2 CZD, Secondary Business Conditional Zoning District.

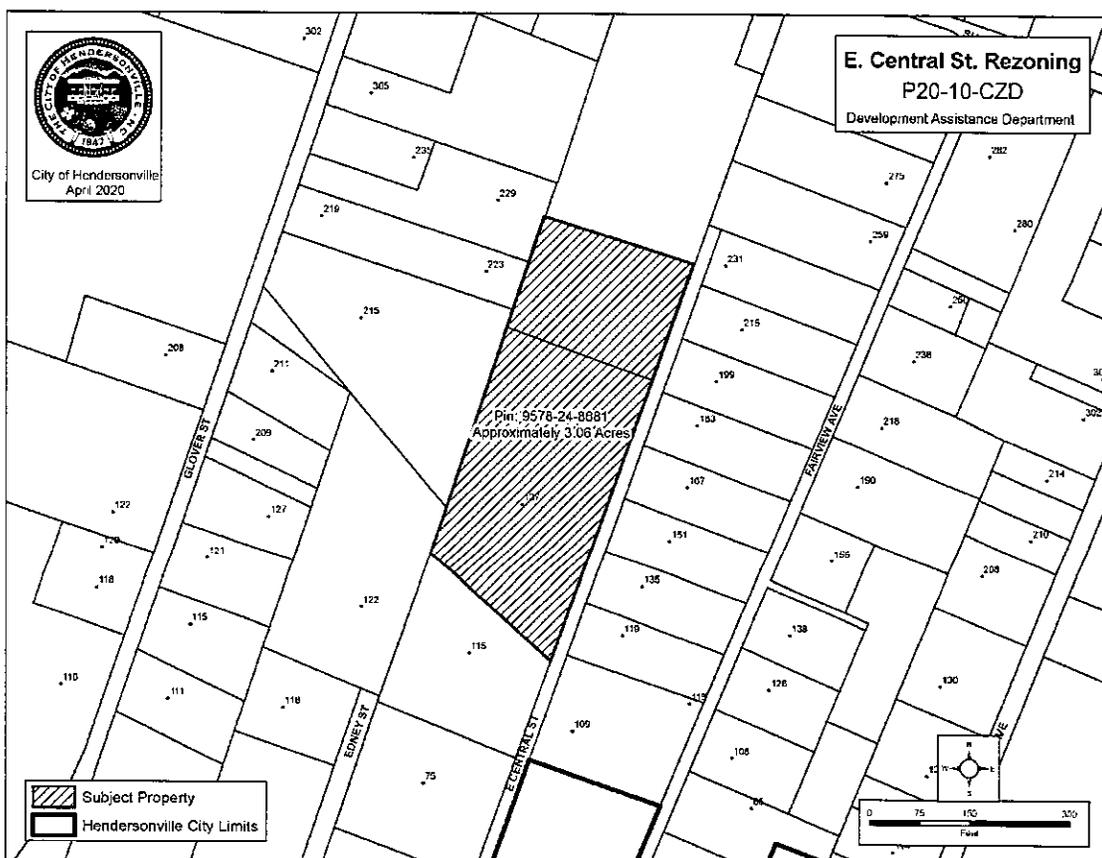
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney



7. Public Hearing - Consideration of an Application from Stephen Drake for the Rezoning of Certain Parcels located at 2620 Chimney Rock Road from HMU Highway Mixed Use District to

PRD Planned Residential Development Conditional Zoning District, for a 78-unit Multi-Family Development:

Senior Planner Daniel Heyman presented an application from Stephen Drake of Broadcraft Construction & Development, Inc. for the development of 78 senior multi-family residential units on approximately 4.64 acres located on Chimney Rock Road and includes parcel numbers 9670-70-6498, 9670-70-8607, 9670-70-8864. He stated the applicant is requesting to rezone the subject property from HMU Highway Mixed Use to PRD CZD Planned Residential Development Conditional Zoning District. This application is a conditional rezoning review. The preliminary site plan is subject to recommendation by the Planning Board and approval by City Council. The parcel currently contains two residential structures.

Existing Land Use & Zoning: Mr. Heyman stated the subject property is zoned HMU and contains two residential structures. He reviewed the zoning and land uses of surrounding parcels.

Comprehensive Plan Consistency: Mr. Heyman stated the subject property is classified as Neighborhood Activity Center on the 2030 Comprehensive Plan's Future Land Use Map and reviewed the goal of the classification. He reviewed the primary and secondary recommended land uses.

Mr. Heyman stated the 2030 Comprehensive Plan's Future Land Use Map designates parcels located to the west and south of the subject property as Neighborhood Activity Center. The parcels to the north of the subject property are classified as Business Center. The parcels to the east of the subject property are classified as Medium Intensity Neighborhood.

Mr. Heyman then reviewed the site plan.

Buildings: The site plan shows a three-story multi-family development totaling approximately 31,900 square feet.

Density: The site plan shows 78 proposed units on a 4.64 acre tract for a total density of 16.8 units per acre. Proposed PRDs with a density over 10 units per acre must meet the following requirements:

- a) *The property on which the development is proposed to be situated shall be located in close proximity to a thoroughfare designated as such in the Comprehensive Transportation Plan.* Chimney Rock Road is designated as a thoroughfare in the Comprehensive Transportation Plan.
- b) *Vehicular access for such development shall be limited to one or more boulevards or thoroughfares designated as such in the Comprehensive Transportation Plan.* Vehicular access is limited to Chimney Rock Road.
- c) *The carrying capacity of the roadway shall be adequate to handle increased traffic associated with the development without reducing the level of service of such roadway.* Mr. Heyman stated it appears that the carrying capacity of Chimney Rock Road and nearby intersections is adequate to handle the increased traffic associated with the proposed development. According to the ITE Trip Generation Manual, the development is expected to generate between two and 29 trips during the a.m. peak hour, and between two and 20 trips during the p.m. peak hour.
- d) *The development is proposed to be located within reasonable walking distance of places of employment and/or shopping facilities and shall provide pedestrian amenities in order to foster pedestrian access to such facilities.* There are existing sidewalks on Chimney Rock Road. This requirement was satisfied by the Brittany Place development by constructing sidewalks to the nearby Ingles grocery store at the corner of Howard Gap Road. This proposed development will have similar access to the same.
- e) *The development shall provide common open space sufficient for the needs of its residents, which shall not be less than the greater of the common open space required by Section 6-16-2, below, or 1% of the land area of the development for each dwelling unit per acre proposed.* Any density authorized by City Council pursuant to this section shall not exceed 18 dwelling units per acre. Section 6-16-2 requires 500 square feet of common open space per dwelling unit or 10 percent of the total site. Alternatively, this section requires 16.8 percent based on the density per acre. The greater of these three numbers is 500 square feet per dwelling unit for a total of 39,000 square feet which the site plan provides.

Parking: The subject property is within the Entry Corridor Overlay District which allows a 20 percent reduction in parking. 117 spaces are required based on the number of units. A 20 percent reduction results in 94 spaces required. The site plan shows 95 proposed parking spaces including eight handicap accessible spaces.

Landscaping: Landscaping is provided for vehicular use areas, as well as additional trees along the internal streets and around the common amenities. One tree is provided for every 25 linear feet of property line that abuts a public street.

Stormwater/Flood Hazard Area: The applicant will be providing stormwater management plans to the Engineering Department as part of the final site plan submittal requirements.

Neighborhood Compatibility: Mr. Heyman stated a neighborhood compatibility meeting concerning the application was held on February 18, 2020. Four people attended the meeting and asked questions regarding the price of the units, services provided, operations, and existing vegetation. He provided the neighborhood compatibility report.

Planning Board: The Planning Board voted unanimously to recommend City Council approve the rezoning request.

Tree Board: The Tree Board did not make a recommendation on the proposed rezoning. He stated the site plan shows a net increase in trees.

Zoning Ordinance Guidelines: Mr. Heyman reviewed the factors contained in Section 11-4 of the Zoning Ordinance that must be considered by the City Council prior to adopting or disapproving an amendment to the Official Zoning Map.

Mayor Volk opened the public hearing at 6:04 p.m. in accordance with NCGS by notice published in the Times News. The following addressed the Council:

Stephen Drake stated he is President of WDT Development who specialize in affordable senior housing. He stated the demand for affordable senior housing is strong in the City and County. He reviewed the proposal for White Pine Villas with 78 high quality, energy-efficient apartment homes for ages 55 and older. The typical average age of residents is above 70 years. He stated Henderson County is considered a high-income county with a median income of \$66,400. He stated they will be targeting seniors that make between 30-80% of the median income. The average price of rent will be between \$350-\$750 per month.

Regarding the development, Mr. Drake stated they design and construct buildings to meet the needs of seniors. All of the apartment units will be located in a single building with two elevators. He stated the apartments will be accessed through internal corridors. They are proposing a common area with a community center, management offices and storage, on-site laundry facility, mail center, game and craft room, library, computer room with internet access.

Mr. Drake stated the outside will provide ample landscaping and a picnic pavilion.

Mr. Drake stated this is a great location for senior housing and talked about the great amenities in the area.

Council Member Hensley asked if the developer is combining parcels. Mr. Drake responded they are combining three parcels. Council Member Hensley voiced support of the project for the many elderly on fixed incomes.

Mayor Volk reviewed the two comments submitted electronically.

Alex Nelson, 109 St. Marys Drive, has no objection to the development but expressed concerns about piece-mill development on Chimney Rock Road that in the aggregate will have an undesirable impact on Highway 64 East and Chimney Rock Road a little at a time.

Ken Fitch, 1046 Patton Street, supports the project as it serves a need for seniors and is compatible with the area. He raised concerns about retention of the tree buffers, after hours security and the need for additional handicapped parking spaces.

Mr. Drake stated they will not have staff 24/7 but the building has an access entry system or management can allow visitors through the vestibule. He stated a call center will also be located in the vestibule for visitors. He stated the building will be very secure.

Mr. Drake stated they will attempt to save as many of the existing trees as possible. He stated any will be replaced and they will be adding some trees. He stated they want an attractive building and landscaping.

Mr. Drake stated the number of handicapped parking spaces was determined by the engineer but more can be added if needed.

Mayor Volk stated the Council members received the full comments before the meeting.

Being no further comment, the public hearing was closed at 6:14 p.m.

Mayor Pro Tem Smith moved the City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property from HMU, Highway Mixed Use to PRDCZD Planned Residential Development Conditional Zoning District, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the Published List of Uses and Conditions, 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: it provides additional housing options for residents 55 years and older in our community. A unanimous vote of the Council followed. Motion carried.

Ordinance #20-0428

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE

IN RE: White Pine Villas; Applicant Stephen Drake
File # P20-7-CZD

Be it ordained by the City Council of the City of Hendersonville:

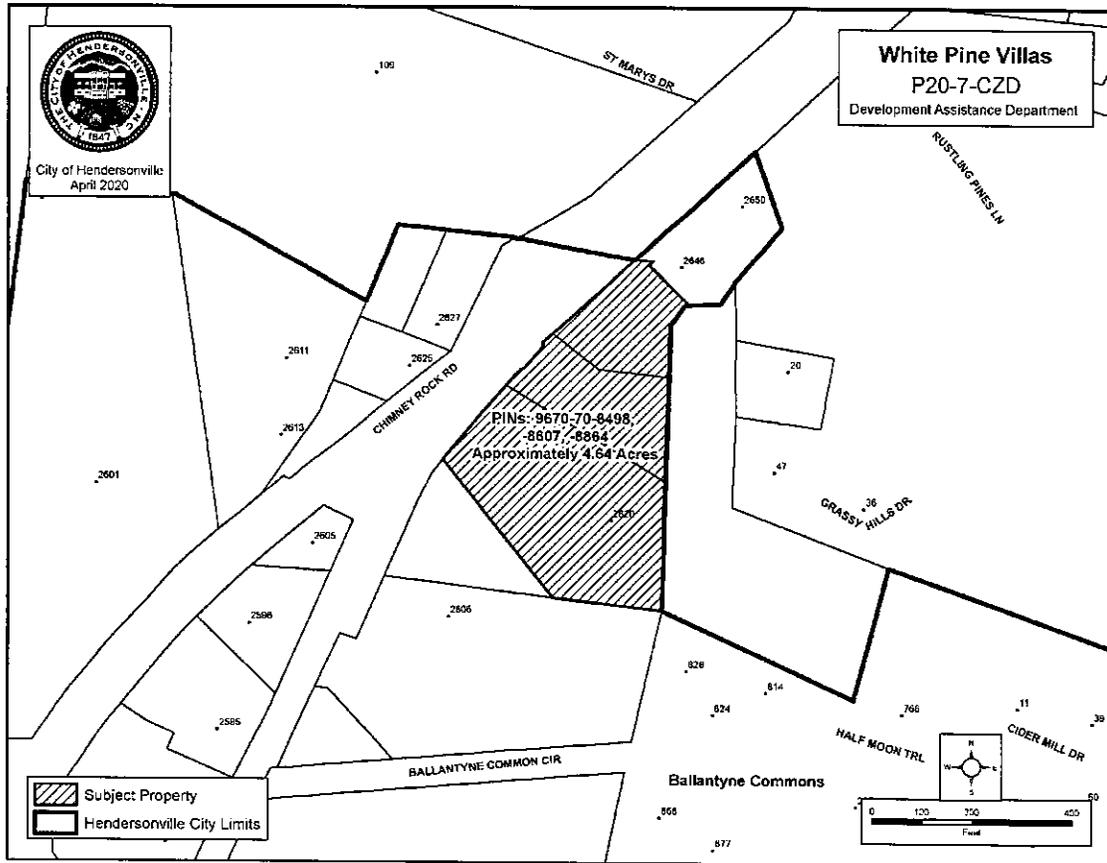
1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:
 Parcels 9670-70-6498, 9670-70-8607, 9670-70-8864 from HMU, Highway Mixed Use to PRD CZD, Planned Residential Development Conditional Zoning District
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney



8. Public Hearing - Consideration of an Application for Contiguous Annexation from Mark Coleman for a 0.15-acre Parcel Located at 1412 Old Spartanburg Highway:

Development Assistance Director Susan Frady presented the petition from Mark Coleman for contiguous annexation of 0.15-acre located at 1412 Old Spartanburg Highway identified as tax parcel 9578-42-6478. This request is associated with a request for sewer service.

Mrs. Frady reviewed the provisions set forth in North Carolina General Statutes for annexation and stated the Council accepted the Clerk's Certificate of Sufficiency at their March 5 meeting and set a public hearing for this meeting.

Mayor Volk opened the public hearing at 6:17 p.m. in accordance with NCGS by notice published in the Times News. Mayor Volk reported no comments were received from the public. The public hearing was closed at 6:17 p.m.

Council Member Miller moved the City Council adopt an ordinance annexing the property included in the petition submitted by Mark Coleman. The effective date is April 2, 2020. A unanimous vote of the Council followed. Motion carried.

Ordinance #20-0429

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA AS A CONTIGUOUS ANNEXATION

Adopted date: 04.02.2020
 Effective date: 04.02.2020
 Total Acreage: 0.15
 Petitioner: Mark Coleman

WHEREAS, the City Council of the City of Hendersonville, North Carolina, has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Hendersonville, NC, at 5:45 p.m. on April 2, 2020, after due notice by publication on March 22, 2020 and March 29, 2020; and

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described contiguous territory is hereby annexed and made part of City of Hendersonville as of April 2, 2020:

METES AND BOUNDS DESCRIPTION
3262/298

Recorded in the Henderson County, NC Register of Deeds

TRACT ONE: (PARCEL ID: 109619) 1412 Old Spartanburg Rd

BEGINNING at a stake on the East side of the Old Spartanburg Road, formerly A.D. Stanton's southwest corner and runs with Stanton's line North 56 degrees East 250 feet to a stake, the southwestern corner of the property described in that deed from Junia Lyda Floyd to Lillian B. Owen and others dated September 11, 1956 and recorded in Deed Book 358 at Page 69; thence with the southern line of the property described in Deed Book 358 at Page 69, South 39 degrees East 50 feet to a stake, thence South 56 degrees West 250 feet to a stake on the Old Spartanburg Road, thence with said road North 39 degrees West 50 feet to the point of **BEGINNING**, and being all of that property in a deed from P.F. Patton and wife to Junia Lyda Floyd dated October 29, 1940 and recorded in Deed Book 232 at Page 125, excluding therefrom that property conveyed to Lillian B. Owen and others by virtue of that Deed dated September 11, 1956 and recorded in Deed Book 358 at Page 69, Henderson County Registry.

TOGETHER WITH and SUBJECT TO easements, rights of way and all other such matters as further of record in the Henderson County Registry.

AND BEING the same property conveyed to James Allen Moffitt and wife, Elizabeth Moffitt by Deed recorded on September 16, 1982 in Deed Book 617 at Page 924 in the Henderson County Registry. Also being all of that property conveyed to Donald Lee Moffitt and wife, Martha B. Moffitt in Deed Book 950 at Page 280, Henderson County Registry.

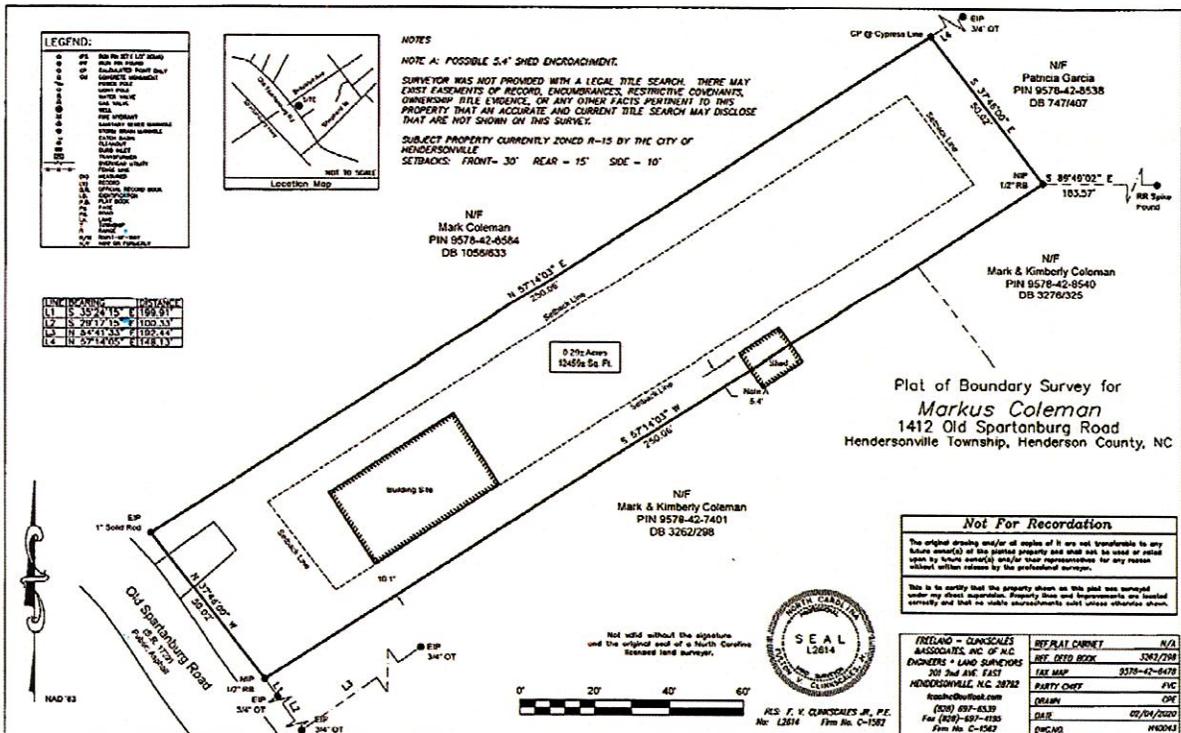
Donald Lee Moffitt acquired sole title to the property by operation of law upon the passing of Martha B. Moffitt a/k/a Martha Ann Moffitt on September 24, 2012 in Henderson County, North Carolina.

Donald Lee Moffitt passed on January 15, 2018 in Henderson County, North Carolina and pursuant to the terms of his Last Will and Testament as the same has been probated in Henderson County Clerk of Court Estate File 18 E 239, the above described property was inherited by James Matthew Moffitt.

Section 2. Upon and after April 2, 2020, the above described territory and it citizens and property shall be subject of all debts, laws, ordinances and regulations in force in City of Hendersonville, North Carolina. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this second day of April 2020.
/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, City Clerk
Approved as to form: /s/Samuel H. Fritschner, City Attorney



9. Discussion of Parking Deck Size and Financial Plan and a Resolution Authorizing the City Manager to Execute an Option Contract with Respect to Certain Real Property: Mr. Connet stated the City Council approved moving forward with the construction of a parking deck at the corner of Fifth Avenue and Church Street at their March 5 meeting. He stated staff has reviewed all parking deck information and recommends the following action:

1. Due to financial considerations and concerns about the scale of the parking deck staff recommends directing Walker Consultants and ADW Architects to move forward with the design development of a four-story parking deck versus five stories.
2. Staff recommends delaying any demolition or construction activity or metering Main Street until such time as the local and national economy have stabilized to support moving forward with this project.
3. Staff recommends extending the purchase options until July 2, 2020 for the Jackson Property and purchase the property on or after that date in the amount of \$1,150,000. Extending the option past that date is not an option.
4. Staff recommends working with the Fazio Corporation to extend the purchase option for one year to June 30, 2021 for one percent of the purchase price which goes toward the purchase price of \$880,000.

Mr. Connet stated it is staff's intention to secure interim financing for the purchase of the property until final financing is secured for the construction of the parking deck. He stated the Local Government Commission will have to review and approve any financing.

Mayor Pro Tem Smith purchase price of option one percent or ten percent? \$800,000 price, \$8,000 that goes toward the purchase price.

Because Council is looking at a four-story parking deck, Mayor Pro Tem Smith requested the cost for a three-story deck as well.

Council Member Simpson requested as many sustainability elements as possible be included in the deck: water cisterns to collect rainwater, green wall, solar panels for the lighting in the building.

Council Member Miller moved Council to resolve to move forward with design development of a four-story parking deck, and the cost for a three-story deck option, option extensions and property purchases, as recommended. He further moved the Council delay the construction of the parking deck until the local and national economy has stabilized to support moving forward with this project. A unanimous vote of the Council followed. Motion carried.

Resolution #20-0430

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN OPTION CONTRACT WITH RESPECT TO CERTAIN REAL PROPERTY IN HENDERSON COUNTY

WHEREAS the City Council is considering purchasing certain real property between Wall and Church Streets on the South Side of Fifth Avenue, PINs 9568-78-5391 and 9568-78-5480, for the construction of a parking garage, and

WHEREAS the City and Frank B. Jackson have previously entered into an option agreement with respect to such a purchase, and

WHEREAS the City manager previously agreed on behalf of the City to enter into, and did enter into, an option agreement with Frank B. Jackson with respect to the property for a payment of \$10,000 to be applied to the eventual purchase price, and,

WHEREAS the City manager has provisionally agreed with Frank B. Jackson, the owner of the said real property that \$5,000.00 is a fair price for an extension of the said option agreement on the said property, to and including July 2, 2020, and

WHEREAS the City Council finds \$5,000.00 to be a fair and equitable price for the said option contract extension,

NOW, THEREFORE, BE IT RESOLVED that the city manager be and he is hereby authorized and directed to execute an option contract extension with the owner of the said tract for the sum of \$5,000.00 and with such additional terms as the city manager in consultation with the city attorney finds just and reasonable.

Adopted this second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Resolution #20-0431

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN OPTION CONTRACT WITH RESPECT TO CERTAIN REAL PROPERTY IN HENDERSON COUNTY

WHEREAS the City Council is considering purchasing certain real property between Wall and Church Streets on the South Side of Fifth Avenue, PIN 9568-78-6365, for the construction of a parking garage, and

WHEREAS the City and TJF Enterprises LLC have previously entered into an option agreement with respect to such a purchase, and

WHEREAS the City manager previously agreed on behalf of the City to enter into, and did enter into, an option agreement with TJF Enterprises LLC with respect to the property for a payment of \$8,000 to be applied to the eventual purchase price, and,

WHEREAS the City manager has provisionally agreed with TJF Enterprises, LLC, the owner of the said real property that \$8,000.00 is a fair price for an extension of the said option agreement on the said property, to and including July 2, 2021, and

WHEREAS the City Council finds \$8,000.00 to be a fair and equitable price for the said option contract extension,

NOW, THEREFORE, BE IT RESOLVED that the city manager be and he is hereby authorized and directed to execute an option contract extension with the owner of the said tract for the sum of \$8,000.00 and with such additional terms as the city manager in consultation with the city attorney finds just and reasonable.

Adopted this second day of April 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

10. Discussion of Second Monthly Meeting Mr. Connet proposed a structured two-hour workshop to allow Council's discussion of policy or administrative items. He stated this will make the regular meetings more efficient. He proposed the following ground rules:

- The meeting will last no more than two hours.
- If there is nothing to discuss, staff will request the meeting be canceled.
- No formal action/votes will be taken.
- The meeting will be held at the regularly scheduled date and time.

The Council discussed the demand on staff time and shorter regular meetings, so the public doesn't have to wait a long time to speak. Mayor Volk suggested flexibility on scheduling the second meeting. After discussion, **the Council agreed by majority consensus to hold a second monthly meeting on the fourth Wednesday, 4 to 6 p.m. The Council directed staff to proceed.**

11. Consideration of a Resolution Stating the City's Commitment to Reduce the Frequency and Volume of Sewer System Overflows from the Wastewater Collection System: Utilities Director Lee Smith presented a resolution expressing the City's commitment to make it a priority to reduce sanitary system overflows (SSOs). He read a portion of the resolution.

Council Member Simpson moved the Council to adopt the resolution showing the City's commitment to reduce sanitary sewer overflows. A unanimous vote of the Council followed. Motion carried.

Resolution #20-0432

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL

WHEREAS, North Carolina General Statutes 160A-12 Exercise of corporate power, provides: A power, function, right, privilege, or immunity that is conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the city council.

WHEREAS, The City of Hendersonville owns and operates a wastewater collection system and permitted 4.8 million gallon per day wastewater treatment facility.

WHEREAS, Frequent and repetitive sanitary sewer overflows (SSOs) have occurred in portions of the City's wastewater collection system, which contribute to the pollution of surface waters.

WHEREAS, SSOs can have a myriad of causes including but not limited to: pipe blockages, pipe breaks, inadequate treatment and/or conveyance capacity, power failures, excessive infiltration and inflow, and severe natural conditions.

WHEREAS, The frequency and volume of SSOs generally can be reduced through improvements to the collection system and/or treatment facility to reduce infiltration and inflow and increase conveyance and treatment capacity.

WHEREAS, The frequency and volume of SSOs generally can be reduced through application of sound and appropriate operations, infrastructure maintenance, proper planning practices, and management principles to wastewater collection systems and wastewater treatment facilities.

WHEREAS, The City of Hendersonville City Council is committed to reducing the frequency and volume of SSOs from its wastewater collection system.

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

1. The City of Hendersonville City Council hereby sets a goal to improve surface water quality through a reduction in the frequency and volume of SSOs; and
2. The City will continue to perform appropriate operations, infrastructure maintenance, proper planning practices, and management principles to its wastewater collection system and wastewater treatment facility; and
3. The City will continue to collaborate with the North Carolina Department of Environmental Quality to identify strategies and best practices for reducing SSOs; and
4. The City will perform the following SSO reduction activities recommended by staff for improvements to its wastewater collection system and/or treatment facility which, once completed, will be sufficient to adequately collect wastewater made tributary to the collection system.
 - a. Creation of an Infiltration and Inflow Reduction Task Force comprised of City staff which meets on a regular basis to plan and implement infiltration and inflow reduction activities. First meeting held on March 25, 2020.
 - b. On or before June 30, 2020, complete high priority sanitary sewer evaluation study activities as recommended in the Sewer Basin 5 Micro monitoring Study report.
 - c. On or before December 31, 2020, begin a Sewer Basin 6 Micro monitoring Study.
 - d. On or before April 1, 2021, complete the Wastewater Treatment Facility Master Plan, which includes but is not limited to: treatment process evaluation, equalization basin preliminary engineering evaluation, and capital improvement project prioritization/recommendation.

- e. On or before June 30, 2021, complete construction of the Clear Creek Interceptor Replacement project as identified in the Sanitary Sewer Asset Inventory and Assessment Master Plan Report.
- f. On or before December 31, 2021, begin construction of the Mud Creek Interceptor Replacement project as identified in the Sanitary Sewer Asset Inventory and Assessment Master Plan Report.

Effective as of the date of adoption.

Adopted this the second day of April 2020, a regular [electronic] meeting of the Council, held at the Operations Center, 305 Williams Street, Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

12. Reports/Comments by Mayor and City Council Members:

Mayor Volk thanked staff for putting the electronic meeting together. She requested feedback from the public on improvements to the process. Mayor Pro Tem Smith echoed his appreciation to staff for their efforts and response to COVID-19 with staff and other agencies and organizations.

13. Staff Reports

14. Consideration of Appointments to Boards/Commissions

Animal Service Advisory Committee: Mrs. Drake presented the applications received for this Committee.

Council Member Simpson nominated Alexa Arnold for a one-year term on the ASAC. A unanimous vote of the Council followed. Motion carried.

Council Member Miller nominated Barbara Burke for a one-year term on the ASAC. A unanimous vote of the Council followed. Motion carried.

There was discussion of the number of boards citizens may serve on.

Mrs. Drake reminded the Council of the vacancies of other boards and commissions: Environmental Sustainability Board and Walk of Fame Steering Committee.

15. New Business: There was none.

16. Adjourn. The meeting adjourned at 6: 49 p.m. upon unanimous assent of the Council.


Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk