

**MINUTES**  
**May 7, 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, Planner Tyler Morrow, Communications Manager Allison Nock, Assistant Manager Brian Pahle

This meeting was held electronically to comply with the stay-at-home restrictions in place to avoid the spread of COVID-19. Public comments for the scheduled public hearings were received electronically beforehand. Roll call votes were taken to meet all requirements.

**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.

**2. Invocation and Pledge of Allegiance to the Flag:** There was a moment of silence for prayer 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.*

Mayor Volk read comments from:

Mary Delafuenta, commented on the City's policy for deposits on utility accounts.

Ken Fitch, 1046 Patton Street, commented on public involvement for zoning and development projects, the public's access to the process, etc.

**4. Consideration of Agenda:**

**Addition to Regular Agenda:**

**11a. Consideration of Authorization to Initiate Eminent Domain Action for the Acquisition of a Sewer Line Easement Associated with the Halfway Tree Mobile Home Park**

Council Member Miller moved approval of the agenda as amended. A unanimous [roll call] 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:**

April 2, 2020 Regular Meeting  
 April 22, 2020 Workshop

**B. Consideration of Utility Extension Agreement - Cantrell Hills and Townes at Stonecrest**

**Development:** City Engineer Brent Detwiler reported The Cantrell Hills and Townes at Stonecrest Development located off Clear Creek Road proposes to extend the City's water distribution and sanitary sewer collection systems to serve a proposed development. He provided a Utility Extension Agreement (UEA) outlining the process and assigns responsibilities to the developer and the City.

Because gravity sanitary sewer is not available, Mr. Detwiler stated as part of this UEA, the developer agrees to compensate the City the current estimated value of a sanitary sewer pumping station which will be constructed in accordance with City standards to serve the proposed development. In return the City will expedite the installation of the Clear Creek Interceptor Replacement Project, identified in the City's Capital Improvement Plan (CIP), which will allow the proposed development to be served with gravity sanitary sewer.

**C. Consideration of Engagement Letter from Greene, Finney LLP and Contract to Audit the City's Financial Statements for Fiscal Year Ending June 30, 2020:**

As required by the North Carolina General Statutes Paragraph 159-34, Finance Director John Buchanan provided an Engagement Letter from Greene, Finney LLP, and the contract to audit the City of Hendersonville's financial statements for the fiscal year ending June 30, 2020. He also provided a letter of required communications from the auditor to City Council.

**D. Ratification of COVID-19 Positive Test:** Human Resources Director Jennifer Harrell reported the Center for Disease Control advises if an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee. She presented a policy for employees testing positive for COVID-19 and for employees that have had close contact with an employee diagnosed with COVID-19.

#### COVID-19 POSITIVE TEST

In the event an employee tests positive for Covid-19, the following protocol shall be followed.

The City of Hendersonville has a general duty to provide a safe workplace. The CDC advises that if an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee.

- Any employee who tests positive with COVID-19 may return to work under the following conditions:
  - At least 3 days (72 hours) have passed since recovery defined as resolution of fever without the use of fever-reducing medications and
  - Improvement in respiratory symptoms (e.g., cough, shortness of breath); and,
  - At least 7 days have passed since symptoms first appeared.
  - OR, you received two negative tests in a row, 24 hours apart.

An employee who test positive for COVID-19 may use up to 80 hours of Emergency Paid Sick Leave, after which he/she will need to use their accrued leave.

- Any employee who has had close contact with the COVID-19 diagnosed employee should follow the guidelines below.
  - Watch for symptoms such as fever, cough, and shortness of breath.
  - If mild symptoms develop, remain at home at least 7 days since symptoms started and at least 3 days (72 hours) have passed since recovery defined as resolution of fever without the use of fever-reducing medications.
  - If moderate or severe symptoms develop that require medical attention, contact a health provider informing them of close contact with a known case of COVID-19.

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

This policy may be modified by the City Manager as needed and ratified by the City Council at their next meeting.

**E. Ratification of Emergency Family Medical Leave Act (FMLA) Policy:** Human Resources Director Jennifer Harrell reported staff has reevaluated the current Emergency Family and Medical Leave Expansion Act Policy to update the definition of who is a childcare provider based upon recommendations from the U.S. Department of Labor. She explained the Act states a childcare provider 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. She stated the US Department of Labor definition of childcare includes individuals paid to provide childcare, like nannies, au pairs, and babysitters. It also includes individuals who provide childcare at no cost and without a license on a regular basis, for example, grandparents, aunts, uncles, or neighbors.

#### EMERGENCY PAID SICK LEAVE

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

This policy may be modified by the City Manager as needed and ratified by the City Council at their next available meeting.

**F. Ratification of Temporary Leave and School Closure Policy:** Human Resources Director Jennifer Harrell reported Staff has reevaluated the current Temporary Leave and School Closure Policy. The update reflects removing the statements advancing sick leave and adding the portion that the City will allow employees to use up to 80 hours of City Administrative Sick Leave. This will ensure employees are not required to pay back leave and they aren't required to use all of their accrued leave prior to the availability of leave.

#### TEMPORARY 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. During the pandemic State of Emergency, full time employees will be allowed up to 80 hours of City Administrative Sick Leave related to COVID-19. Part-time employees will be paid for the number of hours the employee works, on average, over a two-week period. This is in addition to the hours given in the Emergency Paid Sick Leave Act which has further guidance. Any employee using City Administrative Sick Leave or Emergency Paid Sick Leave must contact Human Resources. Employees who have exhausted all forms of leave may 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.
- d. The Temporary Telecommuting Arrangement Policy will be in place during this time frame to allow the City Manager in conjunction with Department Heads to make decisions about telework to allow for continuity of operations.
- e. If telecommuting is not conducive for continuity of operations, staff rotation and shift adjustments may become necessary.
- f. No overtime will be allowed for work completed off-site due to this protocol.

#### School/Daycare Closings

If an employee is unable to arrange childcare services while their child's school is closed due to the current state of emergency, the following applies:

- a. For the safety of all children and employees, children should not be brought to work. Any employee who can work from home during this period is encouraged to do so.
- b. 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 take care of their children.

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

This policy may be modified by the City Manager as needed and ratified by the City Council at their next available meeting.

**G. Consideration of Reclassification of Human Resources Analyst Pay Grade:** Human Resources Director Jennifer Harrell explained after reviewing the Human Resource Analyst position, she requested the pay grade be reclassified from pay grade 13 to pay grade 15. She provided the job description that is on file in the Human Resources Office.

**H. Consideration of Agreement with YMCA to Manage Patton Pool:** Public Works Director Tom Wooten reported the YMCA of Western Carolina has requested to enter into another five-year agreement to operate Patton Pool and utilize the ball fields and pavilions at Patton Park for their day camp and youth programs. He requested approval of the agreement. *[The agreement is available in the office of the Public Works Director.]*

**I. Consideration of Proposed Greenway Map:** City Engineer Brent Detwiler reported during the development and implementation of the recently adopted Subdivision Ordinance, Chad Meadows of CodeWright Planners strongly suggested the City adopt a greenway network map to help staff during the review of subdivision plans. The map would serve to inform staff and developers where greenways may be required during the

subdivision process. In addition, having a proposed greenway network better defined in an adopted map will be useful as staff applies for future greenway/trail grants.

Mr. Detwiler provided an interactive greenway network map with data gathered from the Henderson County Greenway Master Plan and combined it with potential greenway extensions along area streams and existing sewer lines. He noted staff will work to develop a greenway master plan and combine it with much-needed revisions to the 2007 Pedestrian Plan. The greenway map will be further refined during this planning process. He requested approval of the proposed Greenway Network Map.

**J. Consideration of the Certificate of Sufficiency for the Annexation of Ivy Terrace:** Senior Planner Daniel Heyman presented a petition from Charles S. Campbell, Jr., Marianne Ewbank Campbell, Joseph Boothroyd Ewbank and Linda C. Ewbank for a contiguous annexation of PINs 9568-18-5388, 9568-17-5727, 9568-18-8043, 9568-18-8429 and 9568-18-9677 located at the corner of Fifth Avenue West and Westbrook Street which is approximately 15.591 acres. He provided the Clerk's Certificate of Sufficiency finding the petition is valid. He stated the next step in the annexation process is to accept the Clerk's certificate and set a date for the public hearing on the question of adoption of an ordinance of annexation for June 4, 2020 Council meeting.

**K. Consideration of a Resolution to Adopt the South Mountains Regional Hazard Mitigation Plan:** Mr. Connet explained in order to be eligible for Federal Emergency Management Administration (FEMA) funding the City must have a recently adopted hazard mitigation plan. He presented a plan that was developed in partnership with Henderson, Polk, Rutherford and Transylvania Counties and the municipalities in each county. He recommended adoption of the resolution.

Resolution #20-0534

**RESOLUTION TO ADOPT THE SOUTH MOUNTAINS REGIONAL HAZARD MITIGATION PLAN**

WHEREAS, City of Hendersonville is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the City of Hendersonville desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the Hendersonville City Council to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

WHEREAS, it is also the intent of the Hendersonville City Council to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the City of Hendersonville; and

WHEREAS, City of Hendersonville, in coordination with Henderson, Polk, Rutherford and Transylvania Counties and the participating municipalities within those Counties has prepared a multi-jurisdictional hazard mitigation plan with input from the appropriate local and state officials;

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency are reviewing the South Mountains Regional Hazard Mitigation Plan for legislative compliance and will approve the plan pending the completion of local adoption procedures;

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

1. Adopts the South Mountains Regional Hazard Mitigation Plan; and
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted on May 7, 2020.

/s/Barbara G. Volk, Mayor

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

**L. Consideration of Sale of Personal Property:** City Manager John Connet reported North Carolina General Statute 160A-266(b) allows us to sell personal property owned by the City valued at less than \$30,000 at a fair market negotiated price. City Clerk Tammie Drake has requested permission to buy her City-issued cell phone from the City. The finance department researched similar devices and found the average sale price is \$140. He recommended selling the Samsung Galaxy S8 to Tammie Drake for \$140.

**M. Consideration of Grey Mill Loan Deferral Request:** City Manager John Connet reported staff received a request from Ken Reiter and Matt Springer regarding deferring the City's portion of the Grey Hosiery Mill loan payments for short period of time. He reported unit leasing was going very well until the "Stay at Home Order" was issued by the governor. Under the \$500,000 Loan, Grey Mill Ventures will defer the \$100,000 payment that is due June 30 until no later than December 31, 2020. Under the \$200,000 loan, Grey Mill Ventures will pay the January through March interest payments. Grey Mill Ventures will defer interest payments without penalty or accrued interest until October 1.

**N. Consideration of Revisions to the Utility Billing Policy and Procedures:** Finance Director John Buchanan submitted revisions to the Utility Billing Policy and Procedures, Section A (3), Customer Deposits under the Utility Billing Policy document.

**Customer Deposit.** The purpose of a customer deposit is to try to ensure that all utility charges are collected. All new residential and non-residential customers are required to pay a deposit on the most recently approved rate tier. The customer's Utility Credit Worthiness and type of service may determine the deposit tier. Upon termination of an account, the deposit may be applied to any outstanding balance. Any remaining deposit greater than \$5.00, after applying to the outstanding balance, may be refunded. As part of the application process, the Customer Service Department may determine if you may be required to pay a deposit on your account based on your credit rating. With

a good credit rating, this deposit fee may be waived. The amount of the deposit shall be set from time to time by the City Council (Rate & Fee Schedule).

- i. Any current residential or non-residential customer that does not have a deposit with the City of Hendersonville whose service is involuntarily terminated for nonpayment, tampering, delinquencies, returned payments, or other reasons more than twice in any 12-month period, may be required to pay a deposit in the amount described above.
- ii. Any customer requesting utility service who has previously had an unpaid balance to the City may be required to satisfy any outstanding balance, plus establish a utility deposit. The City may require a signed service application in order to establish the required deposit.
- iii. The City has the right to apply the customer deposit to any unpaid utility charges after an account is more than 60 days past due. If all or any portion of a customer deposit is applied to past due charges, and the customer continues to receive utility services, the City may require the customer to replenish the deposit amount that may be added to the bill upon approval and subject to disconnection for nonpayment.
- iv. Any customer that elects not to disclose their social security number will be considered a "high-risk," due to our inability to complete the credit check. Deposits will be calculated in the high-risk tier and calculated at (2) two times the deposit amount.
- v. Any customer with the City of Hendersonville that has a returned payment for any reason other than City error may be required to have a utility deposit established on their account within 30 days. The City may require a signed service application in order to establish the required deposit.
- vi. Any residential applicant(s) that are financially responsible for an established or previous account within the last 24 months and has (2) two years or more of documented payment history may have the deposit waived on a new residential account. This does not apply to non-residential customers such as rental property, commercial or industrial accounts.
- vii. Good credit is defined as no delinquencies, return checks, fraudulent credit/debit card transactions, tampering, and no involuntary disconnections in the past 12 months' during a continuous service period. The residential applicant(s) applying for new service must have been a primary or secondary financial responsible applicant.
- viii. Customers that have credit freezes hold or other account blocks that will prevent the City to access your utility credit check will allow 24 hours to release the blocks. If after 24 hours, the City is unable to receive the Utility check report, the "high-risk tier" will be required for deposit on the utility account. The City will not allow multiple credit checks or withdrawing of applicants once the initial credit check has been processed or the deposit has been established.
- ix. When one or more applicants apply for a utility account, the City will process the Utility credit check with both applicants. The deposit will be calculated on the "higher risk tier" for either applicant. The City will not allow multiple credit checks or withdrawing of applicants once the initial credit check has been processed or the deposit has been established.
- x. Non-residential accounts that apply for service with a Federal Tax Identification number will be subject to a minimum deposit in the amount most recently approved in the Utility Fee Schedule. If the applicant wishes to establish an account with an individual social security number, the City will process a Utility credit check and the applicant will be financially responsible for the utility account.

**O. Consideration of Special Appropriations Full-Funding List: (moved as item 8a).**

Mayor Pro Tem Smith requested item O be moved to the regular agenda for discussion. This was added as Item 8a. **Council Member Miller moved the City Council to resolve to approve the remaining items listed on the consent agenda as amended. A unanimous [role call] vote of the Council followed. Motion carried.**

**6. Public Hearing - Consideration of an Application from Jeff Justus to Rezone the Property Identified as PIN 9578-51-0342 located at 1601 Old Spartanburg Road from R-15 Medium Density Residential, C-3 Highway Business and C-3SU Highway Business Special Use to C-3 Highway Business:** Mr. Tyler Morrow presented the application of Mr. Jeff Justus to rezone the property identified as parcel number 9578-51-0342, from R-15 Medium Density Residential, C-3 Highway Business and C-3 SU Highway Business Special Use to C-3 Highway Business. The total subject area is approximately 4.17 acres.

Mr. Morrow reviewed the existing land use and zoning. He stated the subject property currently contains several structures. On July 8, 1999, City Council rezoned a section of this parcel to C-3 SU for the purpose of allowing the owner to operate an antique retail store from the existing residential structure at 1607 Old Spartanburg Road.

Mr. Morrow stated parcels to the north are zoned R-15 Medium Density Residential. Parcels to the north east are zoned C-4 neighborhood commercial and contain Fitclub Inc. The parcels to the east are zoned R-15 and Community Commercial by Henderson County. Parcels to the south are zoned C-3, Community Commercial, and PRD Planned Residential Development and contain commercial uses and Hillside Commons. Parcels to the south west are zoned C-3 and I-1 industrial and contain Southern Concrete Material and Selee Corporation. Parcels to the west are zone C-3 and I-1. Parcels to the North West are zoned C-3 SU, Highway Business Special Use.

Mr. Morrow reported the proposed zoning classification is C-3 Highway Business zoning district which is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and residents.

In an analysis of the request, Mr. Morrow reviewed the dimensional requirements for the zoning district classifications as well as the uses permitted by right provided that they meet all requirements of the ordinance.

*Comprehensive Plan Consistency:* Mr. Morrow stated according to N.C.G.S.160A-383, zoning map amendments shall be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan's Future Land Use Map designates the subject area as Neighborhood activity center and Natural Resource/ Agricultural. H reviewed the purpose of the category.

*Floodplain Designation:* Mr. Morrow stated a portion of this property is located within the 100- year floodplain. He stated historically, some areas of the City's planning jurisdiction were developed despite the fact that they lie within the 100-year floodplain. In order to address concerns about urban blight, this section allows redevelopment to occur on existing developed sites which no longer function as natural flood plain and when such redevelopment will not result in any further loss of floodplain functionality. Where feasible, redevelopment proposals should demonstrate an improvement in the site's functionality in the floodplain. Requirements for redevelopment are outlined in the ordinance and must be complied with prior to issuance of a zoning compliance permit.

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

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

Mayor Volk opened the public hearing at 6:07 p.m. in accordance with NCGS by notice published in the Times News. The following addressed the Council:

Jeff Justus, 303 S. Church Street, Hendersonville, voiced support of the rezoning to redevelop the properties. Utilities are immediately available to the property and he plans to request annexation of the property. He believes the tax value will increase to \$6-\$8 million.

There was no public comment submitted. The public hearing was closed at 6:10 p.m. *In compliance with the newly adopted legislation by the General Assembly as it relates to remote meetings during a Governor or General Assembly imposed state of emergency, as well as the notice published, the City Council will accept public input from the advertised date until 24 hours after the hearing.*

**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 parcel number 9578-51-0342, from R-15 Medium Density Residential, C-3 Highway Business and C-3 SU Highway Business Special Use to C-3, Highway Business, 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 reasons stated in the proposal. A unanimous [roll call] vote of the Council followed. Motion carried.**

Ordinance #20-0535

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

IN RE: FILE NO. P20-15-Z; Jeff Justus, Applicant

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

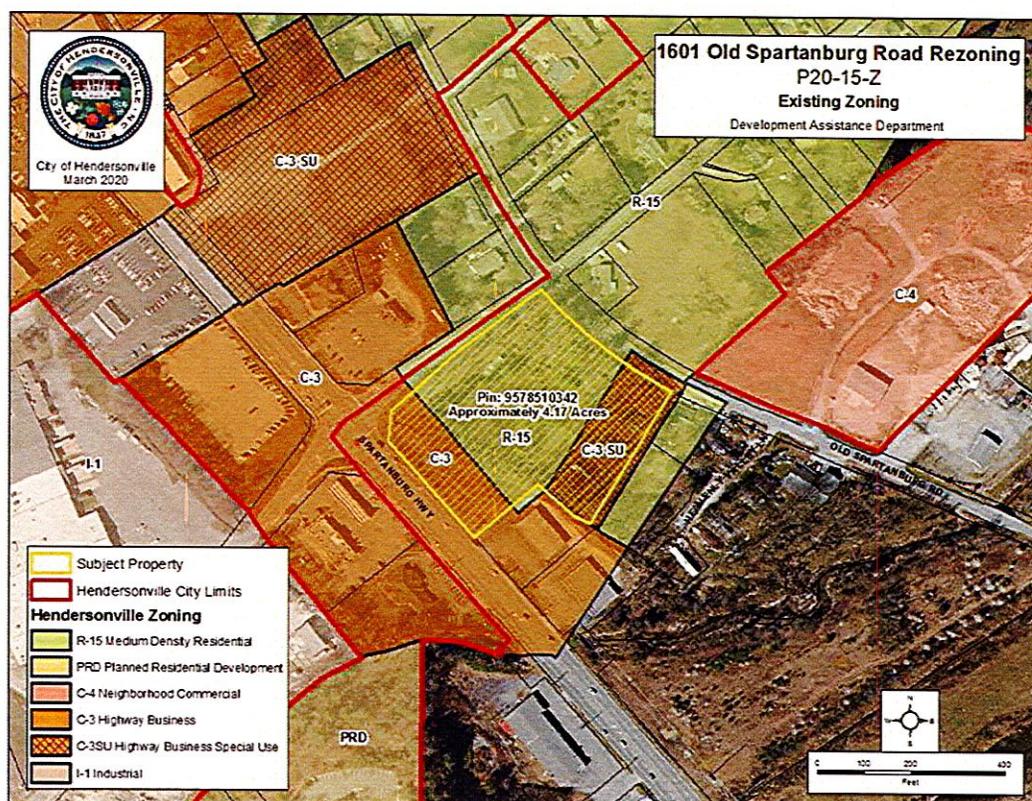
1. Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel number 9578-51-0342, from R-15 Medium Density Residential, C-3 Highway Business and C-3 SU Highway Business Special Use to C-3, Highway Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this seventh day of May 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 to Accept Public Input Regarding the Proposed Installment Financing Contracts in a Principal Amount not to exceed \$11,500,000 and Deeds of Trust Pursuant to Section 160A-20 of the North Carolina General Statutes for the Purpose of Providing Funds to pay the Capital Costs of the Construction and Equipping of a new Police Headquarters to be Located within the Block Bounded by Ashe Street, E. Pace Street, Beech Street, and Jonas Street within the City:** Assistant Manager Brian Pahle explained this hearing is one of final steps in approving the Police headquarters project. He stated this hearing is for the financing for an interim loan to begin the construction on the project until the USDA funds are awarded. He explained the USDA funds will come at the end of construction. The final hearing for the USDA funds will be the following week and expects final approval in June.

Mayor Volk opened the public hearing at 6:12 p.m. in accordance with NCGS by notice published in the Times News. No one expressed a desire to speak. No comments were received. The public hearing was closed. *In compliance with the newly adopted legislation by the General Assembly as it relates to remote meetings during a Governor or General Assembly imposed state of emergency, the City Council will accept public input from the advertised date until 24 hours after the hearing.*

**Mayor Pro Tem Smith moved Council to adopt a resolution directing the application to the Local Government Commission for approval of an Installment financing contract and certain related matters. A unanimous [roll call] vote of the Council followed. Motion carried.**

RESOLUTION #20-0536

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA,  
AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER**

**RELATED MATTERS THERETO**

*WHEREAS*, the City of Hendersonville, North Carolina (the "City") is a municipal corporation existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "State");

*WHEREAS*, the City has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment purchase contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

*WHEREAS*, the City Council of the City (the "City Council") hereby determines that it is in the best interest of the City to (a) enter into a short-term installment financing contract (the "Interim Contract") with a financial institution to be determined (the "Bank") in order to obtain sufficient funds to construct a new police headquarters (the "Project") and (b) to enter into a deed of trust and security agreement (the "Interim Deed of Trust") related to the City's fee simple interest in the real property on which the Project will be located (the "Site") that will provide security for the City's obligations under the Interim Contract;

*WHEREAS*, the City expects to discharge this Interim Contract upon completion of the construction of the Project, at which time the City will enter into an installment financing contract (the "USDA Contract," and together with the Interim Contract, the "Contracts") with the United States Department of Agriculture, Rural Development for long-term financing of the Project and execute and deliver a deed of trust and security agreement (the "USDA Deed of Trust," and together with the Interim Deed of Trust, the "Deeds of Trust") securing the City's obligations under the USDA Contract;

*WHEREAS*, the City hereby determines that the acquisition of the Project is essential to the City's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contracts and Deeds of Trust is necessary and expedient for the City by virtue of the findings presented herein;

*WHEREAS*, the City hereby determines that the Contracts allow the City to purchase the Project and take title thereto at a favorable interest rate currently available in the financial marketplace and upon terms advantageous to the City;

*WHEREAS*, the City hereby determines that the estimated cost of financing the acquisition of the Project is an amount not to exceed \$11,500,000 and that such cost of the acquisition of the Project exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

*WHEREAS*, although the cost of financing the acquisition of the Project pursuant to the Contracts is expected to exceed the cost of financing the acquisition of the Project pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of financing the Project pursuant to the Contracts and Deeds of Trust and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of acquiring the Project; and (3) no revenues are produced by the Project so as to permit a revenue bond financing;

*WHEREAS*, the City has determined and hereby determines that the estimated cost of financing the Project pursuant to the Contracts reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

*WHEREAS*, the City anticipates a future property tax increase to pay installment payments falling due under the Contracts and that such increase in taxes necessary to meet the sums to fall due under the Contracts will not be excessive;

*WHEREAS*, no deficiency judgment may be rendered against the City in any action for its breach of the Contracts, and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contracts;

*WHEREAS*, the City is not in default under any of its debt service obligations;

*WHEREAS*, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

*WHEREAS*, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the North Carolina Local Government Commission (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies.

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

Section 1. *Authorization to Negotiate the Contracts.* That the City Manager and the Finance Officer, with advice from the City Attorney and Special Counsel, are hereby authorized and directed to proceed and negotiate on behalf of the City for the financing of the Project for a principal amount not to exceed \$11,500,000 under the Contracts to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina and to provide in connection with the Interim Contract, as security for the City's obligations thereunder, the Interim Deed of Trust conveying a lien and interest in the Site, including the improvements thereon, as may be required by the entity, or its assigns, providing the funds to the City under the Interim Contract.

Section 2. *Application to LGC.* That the Finance Officer or his designee is hereby directed to file with the LGC an application for its approval of the Contracts and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the City and its financial condition as may be required by the LGC.

Section 3. *Direction to Retain Financing Team.* That the City Manager and the Finance Officer, with advice from the City Attorney, have retained the assistance of Parker Poe Adams & Bernstein LLP, as special counsel, and First Tryon Advisors, as financial advisor to the City.

Section 4. *Repealer.* That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 5. *Effective Date.* That this Resolution is effective on the date of its adoption.

*PASSED, ADOPTED AND APPROVED* this seventh day of May 2020.

/s/Barbara G. Volk, Mayor

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

## **8. Discussion of Delaying/Continuing City Council Actions Requiring Public Hearings and Options for Public Input:**

Mr. Connet addressed the Council stating at the direction of Council, staff has developed options for public input as we hold remote meetings. He stated no advisory board meetings have been held due to concerns surrounding public input.

Mr. Connet reviewed current and potential options:

1. Public Input Software (current, comments submitted prior to meeting)
2. Email/Phone Call (current, comments submitted prior to meeting) and proposed the additional possibilities:
3. Utilizing a conference phone to allow people to call in and ask questions during the meeting. The phone will be managed by staff and individuals waiting will be placed in a queue. The staff can view the number of calls holding and manage the callers. One person can ask questions at a time. The person cannot listen to the meeting while on hold unless they are using another source to listen such as Facebook Live. We would utilize existing phone system.
4. Utilize Zoom and Public Input platforms to allow public to watch the event and ask questions via phone and/or online chat. Staff would monitor the event and manage citizen participation. We would have to purchase Zoom subscription.

Mr. Connet stated the City will continue to provide a location for those who do not have computer, internet access, etc. He stated options 3 and 4 will enhance the way we receive current input and not only during the current situation but may be used in the long term. He stated more options may be available going forward with the emerging market.

The Council discussed the options available. Mayor Pro Tem Smith requested Council delay public hearings with the exception of the budget hearing until July and educate the public on how to participate electronically. Council Member Simpson agreed with Mayor Pro Tem Smith. She expressed appreciation for all the work staff has put into this but commented it has not solved the problem. She agreed public hearings, neighborhood compatibility meetings should be delay until July to get information out to public in a timely fashion. Council Member Hensley did not support delaying public hearings.

There was discussion of the hearings/meetings that would be affected by a delay. Mr. Connet stated the budget hearing, an annexation and street closing orders are scheduled in June. The Council discussed the need for the closing of the streets. Mr. Connet reported another issue is an application before the Historic Preservation Commission (HPC) for renovating a building on Main Street that needs a Certificate of Appropriateness. There was discussion of who has standing in the project. Mrs. Frady stated there will be no Planning Board meeting in May.

The Council also discussed the two neighborhood compatibility meetings for The Cedars and a residential development project for Lakewood, the notification process and advertising requirements.

Mayor Pro Tem Smith moved Council to resolve to delay public hearings until after July 1 excluding the budget hearing, the annexation and the HPC meeting in June. The vote was two in favor (Smith, Simpson) and three opposed (Volk, Miller, Hensley). Motion failed.

**Council Member Miller moved Council to resolve to proceed with the public hearing for the budget for Fiscal Year 2020-21, the public hearings for the street closings at the June 4 meeting, an HPC meeting and a Planning Board in June and to delay the annexation hearing until the July meeting as long as option three or four are in place. In discussion, Council Member Simpson commented she is only in favor of moving forward with the meetings if either option three or four are in place. The vote was one opposed (Smith) four in favor (Simpson, Hensley, Miller, Volk). Motion carried. Mr. Connet stated staff will work on the arrangements.**

**8a. Consideration of Special Appropriations Full Funding List:** Mayor Pro Tem Smith commented on the City's commitment to funding the Henderson County Investment Fund for five or six years at \$50,000/year and that commitment has been fulfilled. He stated it should not be included in full funding list. Council Member Miller commented the Partnership would like to continue the Investment Fund and he supported that.

After discussion, **Mayor Pro Tem Smith moved Council to resolve to approve the full funding list except for the Henderson County Economic Investment Fund, pending a presentation at the June meeting and consideration at that time. A unanimous [roll call] vote of the Council followed. Motion carried.**

## 9. Reports/Comments by Mayor and City Council Members:

**MPO Update:** Council Member Hensley provided an update on the MPO. She stated the grant opportunity is still available.

Council Member Hensley stated there is streetlight data, etc. for the four counties which shows a 40-60% increase in traffic on roads in last six weeks. She will forward the graphics to the Council. No action was required or taken.

## 10. Staff Reports

**a. Investment Report:** Mr. Connet provided the investment report on behalf of Finance Director John Buchanan.

As of March 31, 2020 the City's cash and investments consists of the following:

U.S. Treasuries	\$ 606,328.13
Government Agencies:	\$ 7,082,262.50
Municipal & NC:	\$ 1,501,282.50
Commercial Paper	\$ 3,976,568.05
NCCMT( FCB Cash):	\$ 25,385.54
NCCMT Cash	\$ 806,856.73
NCCMT Term	\$ 2,002,620.70
Rev Bond Funds	\$ 5,823,119.57
Central Depository:	\$ 4,448,577.14
Total	\$26,273,000.86

Investment income is expected to be approximately \$300,000 for FY 2020. Rates have fallen drastically in the last couple of months and will negatively affect interest earnings next fiscal year.

**b. Report on Vacancies and Up-Coming Appointments to Boards/Commissions:** City Clerk Tammie Drake provided a report on board vacancies and upcoming appointments.

**c. Proclamation of Respect and Appreciation:** Mayor Volk presented a proclamation of Respect and Appreciation to retiring City Clerk Tammie Drake.

## 11. New Business:

**a. Consideration of Authorization of Eminent Domain Proceedings for the Sewer Line to Halfway Tree Mobile Home Park:** Mr. Connet reported staff has been working with the proposed purchaser of Halfway Tree Mobile Home Park to obtain the necessary easements for the sewer line. He stated this will impact eight property owners. He stated a final point of negotiation is very close. He stated in essence of time, he requested eminent domain action be authorized to keep the process moving forward.

**Council Member Hensley moved Council to authorize the City Attorney to initiate eminent domain action for the acquisition of a sewer line easement associated with the Half-Way Tree Mobile Home Park. A unanimous [roll call] vote of the Council followed. Motion carried.**

**12. Closed Session as provided under NCGS §143-318.11(a)(6) and (5):** At 7:33 p.m., Council Member Miller moved the Council enter closed session as provided under NCGS §143-318.11(a)(6) and (5). **A unanimous [roll call] vote of the Council followed. Motion carried.**

The Council conducted interviews with two applicants for the position of City Clerk and discussed a potential property exchange. No action was taken upon exit of the closed session.

**13. Adjourn.** The meeting adjourned at 9:25 p.m. upon unanimous assent of the Council.

  
Barbara G. Volk, Mayor

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Tammie K. Drake, City Clerk