



MINUTES

July 2, 2020 [ELECTRONIC]

MONTHLY MEETING OF THE CITY COUNCIL

ASSEMBLY ROOM – OPERATIONS CENTER | 305 WILLIAMS ST. 5:45 p.m.

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

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, Assistant City Manager Brian Pahle, City Clerk Angela Reece, Communications Manager Allison Nock, Chief of Police, Herbert Blake

1. Call to Order

Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with 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 *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

Public comments were submitted by Drew Finley of 35 Brittany Estates Circle, Apt 202 Hendersonville, suggesting recommendations for police and community relations, and Ken Fitch of 1046 Patton Street Hendersonville encouraging facilitation of community action to avoid the use of deadly force.

4. Consideration of Agenda

Council Member Jeff Miller moved to approve the agenda with the addition of Discussion of Governor's Executive Order 147 as Item 11A.

A unanimous vote of the Council followed. Motion carried.

5. Consent Agenda

A. Adoption of City Council Minutes

- i. May 7, 2020, Workshop Minutes
- ii. May 27, 2020 Workshop Minutes
- ii. June 4, 2020 Regular Meeting Minutes
- iii. June 24, 2020 Workshop Minutes

B. Consideration of a Request to Suspend the MSD Tax Incentive Program

C. Consideration of Clerk's Certificate of Sufficiency for Contiguous Annexation of Property Owned by Jeff Justus at 1601 Old Spartanburg Highway

D. Consideration of COVID 19 Payment Plan Policy

E. Consideration of Sale of Public Property

F. Consideration of CDBG Policies

- i. Citizen Participation Policy

CITIZEN PARTICIPATION PLAN

This plan describes how the *City of Hendersonville* will involve citizens in the planning, implementation and assessment of the Community Development Block Grant (CDBG) program. The funds must be used for projects which benefit low and moderate-income persons and aids in the elimination and prevention of slums and blight. The program is intended to assist governments in understanding neighborhood improvement programs. The regulations give ultimate responsibility for the design and implementation of the program to local elected officials and require that citizens be given an opportunity to serve in a key advisory role to these elected officials.

SCOPE OF CITIZEN PARTICIPATION

Citizens will be involved in all stages of the CDBG program, including program implementation, assessment of performance and design of changes in the Citizen Participation Plan. There will be three (3) general mechanisms for their involvement:

1. To serve as an advisory committee to the project;
2. To attend or hold public hearings or community meetings; and
3. To provide individual citizen efforts in the form of comments, complaints or inquiries submitted directly to the Program Administrators or designated Town official.

PROGRAM IMPLEMENTATION

Citizen participation in program implementation will occur primarily through consultation with the City of Hendersonville. The City will be asked to review and comment on specific guidelines for approved projects. They will also meet to review any program amendments, budget revisions and program modifications. All such changes will be discussed with the City and their comments considered prior to taking action. If program amendments require approval from the North Carolina Department of Commerce, a public hearing shall be held specifically on the amendment. Citizens may also be involved in implementation of projects specifically requiring citizen participation, such as self-help projects. Their roles will be defined as the project develops. Technical assistance will be available as needed.

PROGRAM ASSESSMENT

Program assessment activities by citizens will occur in a variety of ways. A performance hearing will be held thirty to sixty (30 to 60) days prior to the start of planning for the next program year. The Program Amendment will be asked to provide citizen commentary for the Grantee Performance Report.

As a part of the orientation to the program offered at the public hearing, citizens will be invited to submit comments on all aspects of program performance through the program year. Comments should be submitted in writing to City Manager, John Connet. He will respond in writing within ten (10) days. If the response is unsatisfactory, the complainant should write directly to Mayor, Barbara Volk. She shall respond within ten (10) days.

If the citizen is still dissatisfied, he/she should write to the NC Department of Commerce, Rural Economic Development Division/State CDBG Program, 4346 Mail Service Center, Raleigh, NC 27699-4346, Attention: Citizen Participation Matter. Program staff will also be available during normal business hours to respond to any citizen inquiries or complaints at 919-814-4663

The Citizen Participation Plan will be subject to annual review and proposed revision, to occur in the period between the performance hearing and the public hearing on the subsequent year's application.

TECHNICAL ASSISTANCE

Technical Assistance will be provided to citizen organizations and groups of low/moderate income persons or target area residents upon request to The City of Hendersonville. Such assistance will support citizen efforts to develop proposals, define policy and organize for the implementation of the program. It is expected that such assistance will be provided directly to the City in response to their request. Assistance could be provided in the form of local presentations, informational handouts, research of a specific issue or other short-term efforts.

PUBLIC INFORMATION

The City of Hendersonville will also undertake public information efforts to promote citizen participation. These efforts will include the following:

1. Public Notice of all Public Hearings will be published in the non-legal section of the local newspaper at least ten (10) days before the scheduled hearing. These notices will indicate the date, time, location and topics to be considered. These notices will also be made available in the form of press releases, as a public service announcement to local radio stations and will be provided to churches within the target area of distribution.
2. Orientation Information will be provided at the first public hearing. The Program Administrator(s) will make a presentation which covers: (a) the total amount of CDBG funds available and the competitive basis for award; (b) the range of eligible activities; (c) the planning process and the schedule of meetings and hearings; (d) the role of citizens in the program and (e) a summary of other program requirements, such as the environmental policies, fair housing provisions and contracting procedures.
3. A Public File containing program documentation will be available for review at the City of Hendersonville Office during normal business hours. Included will be copies of the Application, Environmental Review Record, the Citizen Participation Plan and the Annual Performance Report. Other program documents are also available for citizen review on request at the City of Hendersonville office consistent with applicable State and local laws regarding personal privacy and obligations of confidentiality.
4. Public Hearings an interpreter will be provided for all non-English speaking individuals and/or deaf individuals.
4. If virtual hearings are used, real-time responses and accommodation for persons with disabilities and/or with limited English proficiency will be made available to the greatest extent possible. Also, the virtual hearing method will only be used in lieu of an in-person hearing if national or local health authorities recommend social distancing and limit public gatherings for public health reasons.

ii. Anti-Displacement and Relocation Assistance Plan

City of Hendersonville, NC
Residential Anti-Displacement and Relocation Assistance Plan
Under Section 104(d) of The Housing and Community
Development Act of 1974, As Amended

WHEREAS, the City of Hendersonville anticipates award of 2020 Neighborhood Revitalization Program Funds; and
WHEREAS, the City of Hendersonville is required to adopt a Residential Anti-Displacement and Relocation Assistance Plan; and
WHEREAS, the purpose of this plan is to minimize residential displacement and to provide relocation assistance to displaced residents in a timely manner; and

NOW, THEREFORE, BE IT RESOLVED that the following constitutes the Residential Anti-Displacement and Relocation Assistance Plan for the City of Hendersonville:

The City of Hendersonville will replace all occupied and vacant occupiable low/moderate income dwelling units demolished or converted to a use other than low/moderate income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.606 (b) (1).

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, The City of Hendersonville will make public the following information in writing:

- 1) A description of the proposed assisted activity;
- 2) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate income dwelling units as a direct result of the assisted activity;
- 3) A time schedule for the commencement and completion of the demolition or conversion;
- 4) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
- 5) The source of funding and a time schedule for the provision of replacement dwelling units; and
- 6) The basis for concluding that each replacement dwelling unit will remain a low/moderate income dwelling for at least 10 years of initial occupancy.

The City of Hendersonville will provide relocation assistance, as described in 570.606 (b) (2), to each low/moderate income household displaced by demolition of housing or by the conversion of a low/moderate income dwelling to another use as a direct result of assisted activities.

G. Consideration of Special Event Permits for the Asheville Triathlon and Music on Main

H. Consideration of Interlocal Agreement with the Town of Laurel Park for Stormwater Fee Billing

AGREEMENT REGARDING BILLING SERVICES

This AGREEMENT, made this 2nd day of July, 2020 by and between the **City of Hendersonville**, a North Carolina public body and body politic and corporate created and established under the and the **Town of Laurel Park**, a body corporate and politic with its principal office and place of business at 441 White Pine Drive, Laurel Park, NC 28739.

WITNESSETH

WHEREAS, the Town of Laurel Park is required by the Federal Clean Water Act and National Pollutant Discharge Elimination System Permit Program to establish a stormwater management program to regulate point sources that may discharge pollutants into the waters of the United States; and

WHEREAS, the Town of Laurel Park is establishing a stormwater management public enterprise in accordance with Article 16, Part 1 of North Carolina General Statute 160A; and

WHEREAS, certain residents of the Town of Laurel Park are customers of the City of Hendersonville Utility System; and

WHEREAS, the Town of Laurel Park wishes to bill and collect rates, fees and charges for their stormwater management program through the utility billing system; and

WHEREAS, the Town of Laurel and City of Hendersonville wish to enter into an interlocal agreement in accordance of Article 20, Part 1 of North Carolina General Statute 160A for the City of Hendersonville to bill and collect stormwater management fees and charges for Laurel Park residents on the City of Hendersonville Utility System.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions and obligations herein undertaken, it is agreed as follows:

1. City will act as the Town of Laurel Park's (Town) agent and bill and collect all rates, fees and charges levied by the Town for stormwater management to those customers in the Town who also receive water from the City Water System (hereinafter "Customers").

2. The Town will provide City with the rates, fees and charges for stormwater management provided to Customers in the Town who also receive water from the City, and a list of such Customers on an annual basis. The Customer list will be updated as new users connect to the City system
3. City will send bills to Customers as shown on the Customer list on a monthly basis and will exercise all reasonable efforts to ensure such bills are paid promptly. The Town and City acknowledge and agree that one bill for water and stormwater management will be sent to Customers. City shall take appropriate action to collect any unpaid fees for service, including but not limited to, the discontinuing of water service to such Customer.
4. The Town will pay City \$0.50 per bill. City will bill the Town, and the Town shall promptly pay such charges. This fee may be adjusted, annually, by mutual agreement of the Town and City based on the prevailing MCI or CPI.
5. Payments received by City from a Customer shall be applied to charges for water and stormwater management. Customer payments will be applied in the same manner the City applies payments for its services. The Town agrees to accept all City policies for adjustments to the customers' bills. Delinquent or late fees collected by the City shall be the property of the City.
6. Payments received by the City for the Customers' stormwater management service shall be deposited in an account designated by the Town on a monthly basis.
7. Except as set forth herein, City shall have no responsibility to collect unpaid charges for Town from any Customer.
8. City's records and accounts relating to the billing and collection of rates, fees and charges for stormwater management services shall be open to inspection by the Town at all reasonable times.
9. The effective date of this agreement is 7/2/2020. The Town will provide Customer and billing information so that City can begin billing for stormwater management services as of 7/2/2020.
10. This Agreement may not be amended except by a writing signed by an authorized representative of the Town and the City.
11. This agreement shall remain in effect until terminated by mutual agreement of the Town and City or by operation of law. If either City or the Town desire to terminate this agreement, the party requesting termination shall send the other party a request for termination. Such request shall be in writing and shall be sent via regular US Mail and by electronic mail, no later than six months prior to the requested termination date; addressed as follows:

AS TO CITY:

City Manager
City of Hendersonville
160 Sixth Avenue East
Hendersonville, N.C 28739

AS TO TOWN OF LAUREL PARK:

Town Manager
Town of Laurel Park
441 White Pine Drive

Laurel Park, NC 2873IN WITNESS WHEREOF, the parties hereto acting under the authority of their respective governing bodies, have caused this Agreement to be duly executed in two counterparts, each of which shall constitute an original.

Barbara G. Volk, Mayor, City of Hendersonville

J. Carey O’Cain, Mayor, Town of Laurel Park

ATTEST:

Angela L. Reece, City Clerk

Tamara Amin, Town Clerk

- I. Consideration of a Request from the Hendersonville Bridge Center for Refunding of Lease Payments and Reduction of Future Lease Payments
- J. Consideration of a Governor’s Crime Commission Grant Award

Date of Certification: 07-02-2020

To: State Agency Head and Chief Fiscal Officer

Certification

We Certify that the City of Hendersonville does not have any overdue tax debts, as defined by N.C.G.S. 105-243.1, at the Federal, State, or local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143C-6-23(c) is guilty of criminal offense punishable as provided by N.C.G.S. 143-34(b).

Sworn Statement:

Barbara G. Volk, Mayor, and Mike Vesely, Lieutenant, being duly sworn, say that we are the Authorizing Official and Project Director, respectively, of The City of Hendersonville of [Hendersonville] in the state of North Carolina; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed to us. We also acknowledge and understand that any misuse of any State funds will be reported to the appropriate authorities for further action.

Barbara Volk, Mayor of Hendersonville

Mike Vesely, Lieutenant, Hendersonville Police Department

ATTEST:

Angela L. Reece, City Clerk

Ordinance # 20-0559

GRANT PROJECT ORDINANCE FOR THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSALLATION OF THE GOVERNOR’S CRIME COMMISSION GRANT PROJECT

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

Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: The project authorized is a grant project described as the Governor’s Crime Commission Grant Project.

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

Account Number			Account Name	Total Budget
Org	Obj	Proj		
3210000	553000		Non-Capital Equipment	\$ 34999.00
Total Project Revenue				\$34,998.99

Section 3: The following revenues are anticipated to be available via transfers from the General Fund, Drug Enforcement Fund, and grant proceeds:

Account Number			Account Name	Total Budget
Org	Obj	Proj		
3210000	434991		Grant Revenue	\$ 34999.00
Total Project Appropriation				\$34,999.00

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

Section 5: Funds may be advanced from the General Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

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

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

Section 8: Copies of this grant 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 July 2020.

Barbara Volk, Mayor of Hendersonville

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

ATTEST:

Angela L. Reece, City Clerk

Resolution #20-0560

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL ACCEPTING GOVERNOR’S CRIME COMMISSION GRANT AWARD

WHEREAS, the city is in receipt of a grant award from the Department of Public Safety Governor’s Crime Commission in the amount of \$34,998.00, and

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

WHEREAS, the grant will assist the city in purchasing a Pepper Ball Non-Lethal Delivery System, four (4) police radios, and four (4) Taser's and holsters, battery packs, cartridges with a 4-year warranty on each Taser for police officers. Having this equipment, police officers will have a less than lethal option to effectively make arrests with limited use of force, building trust within our community in Hendersonville, NC, and

WHEREAS, City of Hendersonville Police Officers will successfully improve the high quality of public service expected, and

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

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

That the City of Hendersonville does hereby accept the Governor’s Crime Commission Grant offer of \$34,998.00.

Effective as of the date of adoption. Adopted this 2nd day of July 2020

Barbara Volk, Mayor of Hendersonville

ATTEST: Angela L. Reece, City Clerk

K. Consideration of a Contract with Hazen and Sawyer Engineering to Evaluate the Town of Laurel Park’s Water System and Perform On-Call Water and Sewer Modeling

Council Member Jeff Miller moved to approve the items on the consent agenda.

A unanimous vote of the Council followed. Motion carried.

6. Presentations

i. Dark Sky Presentation by HPC Representative Ralph Hammond-Green

Ralph Hammond-Green presented Dark Sky Initiative information to City Council. Mr. Hammond-Green stated the Initiative seeks to reduce energy consumption and lower light pollution. He asked Council to consider installation of Dark Sky compliant lighting fixtures on the City's 7th Avenue Streetscape project and the new Police Station for the parking lot and building exteriors.

ii. Presentation of Quarterly MVP by John Connet

Manager Connet presented the Quarterly MVP staff awards to City Council. He stated twenty-two employees were nominated from January through March 2020 and said announced the top three to Council. The City recognizes and commends outstanding customer service exhibited by Police Officer Stephen McDonald, Police Officer Cameron Singleton, and Human Resources Coordinator Lu Ann Welter. Mayor Volk and members of City Council expressed thanks and appreciation of employees who go above and beyond their job duties.

iii. Presentation of HPD Use of Force Policies by Police Chief Herbert Blake

Police Chief Herbert Blake addressed City Council as requested with 8 that Can't Wait reform suggestions. Chief Blake discussed national and local concerns over the following eight topics: Ban choke holds and strangleholds; Require de-escalation; Require warnings before shooting; Exhaust all alternatives before shooting; Duty to intervene; Ban shooting at moving vehicles; Require use of force continuum; and Require comprehensive reporting.

Chief Blake stated choke holds are not taught in BLET (Basic Law Enforcement Training) in NC nor in any curriculum or practiced by the Hendersonville Police Department nor any other department he is aware of throughout North Carolina.

Chief Blake stated the Hendersonville Police Department requires de-escalation and said the Department has a very strict vetting process for hiring police officers who possess interpersonal skills. Chief Blake stated training is stringent and said officers are required by policy to deescalate situations. Chief Blake stated he often sends officers to classes to learn additional skills at N.C. Justice Academy -Ednyville Campus.

Chief Blake stated the Hendersonville Police Department practices a continuum that requires a verbal warning unless there is some sort of imminent danger where the officer would not have time to give verbal commands.

Chief Blake stated although the Hendersonville Police Department already practiced intervention, he has now written this into the general orders/policy to reassure citizens and to make sure HPD officers understand the importance of intervention.

Chief Blake stated shooting at moving vehicles is forbid in the Hendersonville Police Department policy and said officers' practice smart police work and how to be safe when engaging with people.

Chief Blake discussed the Use-of-Force Continuum explaining that it is a set of steps for determining an officer's initial reaction, weapon choice, and when to escalate or de-escalate a situation. Chief Blake stated although this is contained within policy there is no guarantee that the continuum can always be used and gave an example of 5ft 100 lb. female officer engaging a 6ft 200 lb. male subject. Chief Blake stated HPD requires and encourages the use of the Continuum but said in this situation the officer would need to do what was necessary at the time to bring the altercation to an end in order to protect herself.

Chief Blake stated exhaustion of all other means before shooting has been a constitutional requirement since 1985 as a result of the Tennessee v. Garner and said this is what any good agency would do. Chief Blake stated officers are trained on this annually.

Chief Blake stated HPD is one of first agencies in NC that implemented the BOLA Wrap System to augment HPD's less lethal options. The system is a restraint system that does not rely on pain compliance and is specifically designed to be deployed early in an engagement to subdue noncompliant subjects until assistance can arrive.

Chief Blake stated HPD requires comprehensive reporting on any use of force incidents by policy and said he also keeps the community informed through his monthly reports. He stated administration reviews every use of force and said there were 10 use of force incidents in 2019 with neither officer or citizens being hurt. Chief Blake reminded everyone that the NC League of Municipalities assisted with a high-risk policy review in 2017 and found HPD to be in compliance with standards.

Chief Blake stated he believes the most important person in a police department is the Chief and said he believes he is the example and should lead the way and set the culture of the department. Chief Blake stated he implemented a Chief ride-along with each new officer to discuss his expectations of them. He also discussed many training tools and videos HPD uses to promote a culture of compassion, service, restraint, and relationships and said he believes our community is not making dramatic requests to how we police them due to this.

Council Member Jeff Miller thanked Chief Blake for his leadership. Council Member Jerry Smith inquired about discipline and Chief Blake stated it depends on the level of violation and stated there are policy violations that can lead to immediate discharge. Mayor Volk thanked Chief Blake and encouraged the public to email City Council if they had any further questions.

7. Public Hearing - Consideration of an Annexation Ordinance for Property Owned 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 5th Avenue West and Westbrook Street which is approximately 15.591 acres.

Senior Planner, Daniel Heyman stated the City has received 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 5th Avenue West and Westbrook Street which is approximately 15.591 acres. Mr. Heyman recalled the acceptance of the Clerk's Certificate of Sufficiency and recommendation of a public hearing for the annexation during the Council meeting of May 7, 2020. At this public hearing, any person residing in or owning property in the area proposed for annexation and any resident of Hendersonville may appear and be heard on the questions of the sufficiency of the petition and the desirability of the annexation. If City Council then finds and determines that the area described in the petition meets all of the standards set out in G.S. 160A-31, Council may adopt an ordinance annexing the area described in the petition. Mr. Heyman stated the result of this annexation would not affect any approved site plan related to this property.

Mayor Volk opened the public hearing at 6:35 p.m. The City Clerk confirmed the hearing has been advertised in accordance with NC General Statutes.

Ken Fitch of 1046 Patton Street Hendersonville addressed City Council stated the existing site plan included in the packet will not exist in the future and stated a plan for proposed development has been submitted for the site and expressed concerns of future stormwater impacts and wildlife. There were no other public comments.

Mayor Volk closed the public hearing at 6:39 p.m.

Council Member Jerry Smith stated Mr. Fitch brings up important points regarding development but stated under circumstances when someone meets the zoning requirement the Council does not have a mechanism to view this as a development at this time.

***Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance extending the corporate limits of the City of Hendersonville annexing the property included in the petition from Charles S. Campbell, Jr. and others, effective July 2, 2020.
A unanimous vote of the Council followed. Motion carried.***

Ordinance #20-0561

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

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 July 2, 2020, after due notice by publication; 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 July 2, 2020:

METES AND BOUNDS DESCRIPTION

BEING LOCATED WITHIN HENDERSONVILLE TOWNSHIP – HENDERSON COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET AT THE INTERSECTION OF THE NORTHERN MARGIN OF 5TH AVENUE WEST AND THE EASTERN MARGIN OF WESTBROOK STREET; SAID POINT OF BEGINNING BEARING NORTH CAROLINA GRID COORDINATES (NAD83-2011): NORTHING= 587,748.39 FEET AND EASTING= 961557.06 FEET; THENCE FROM THE SAID POINT OF BEGINNING AND FOLLOWING THE EASTERN MARGIN OF SAID WESTBROOK STREET THE FOLLOWING TWO COURSES AND DISTANCES: 1) NORTH 03°56'21" WEST A DISTANCE OF 181.62 FEET TO A 3/4" DIAMETER IRON PIPE (FOUND DISTURBED, MEASURED AT BASE OF PIPE) AND 2) NORTH 02°47'49" WEST A DISTANCE OF 1100.95 FEET TO A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET; THENCE TURNING AND RUNNING WITH THE SOUTHERN BOUNDARY OF THE CAIRNES PROPERTY (AS RECORDED IN DEED BOOK 824 PAGE 433) NORTH 72°59'19" EAST A DISTANCE OF 285.00 FEET TO A 1/2" DIAMETER IRON PIPE STANDING 0.5 FEET ABOVE ADJACENT GRADE; THENCE CONTINUING ON THE SAME COURSE AND WITH THE SOUTHERN BOUNDARY OF THE FRANK A. EWBANK – TRUSTEE PROPERTY (AS RECORDED IN DEED BOOK 1002 PAGE 417) NORTH 72°59'19" EAST A DISTANCE OF 236.66 FEET TO A 1/2" DIAMETER IRON PIPE STANDING FLUSH WITH ADJACENT GRADE; THENCE TURNING AND RUNNING WITH THE WESTERN BOUNDARY OF THE PROPERTY OF PARSONS (AS RECORDED IN DEED BOOK 1056 PAGE 188) SOUTH 07°33'35" EAST A DISTANCE OF 27.45 FEET TO A 1" AXLE STANDING 0.8 FEET ABOVE ADJACENT GRADE; THENCE RUNNING WITH THE WESTERN BOUNDARY OF THE PROPERTIES OF LANCE (AS RECORDED IN DEED BOOK 1429 PAGE 674 AND DEED BOOK 3214 PAGE 562) THE FOLLOWING TWO COURSES AND DISTANCES: 1) SOUTH 06°51'15" EAST A DISTANCE OF 99.17 FEET TO A 3/4" DIAMETER IRON PIPE STANDING 0.8 FEET ABOVE ADJACENT GRADE AND 2) SOUTH 08°21'59" EAST A DISTANCE OF 99.91 FEET TO A #4 REBAR WITH “RPLS #1603” IDENTIFICATION CAP STANDING 0.3 FEET ABOVE ADJACENT GRADE; THENCE RUNNING WITH THE SOUTHERN BOUNDARY OF THE SAID LANCE PROPERTY NORTH 82°18'28" EAST A DISTANCE OF 133.91 FEET TO A #4 REBAR WITH “RPLS #1603” IDENTIFICATION CAP STANDING FLUSH WITH ADJACENT GRADE AND LOCATED ON THE WESTERN MARGIN OF THE 40' PUBLIC RIGHT OF WAY OVER PINECREST DRIVE; THENCE WITH THE SAID RIGHT OF WAY SOUTH 04°03'30" EAST A DISTANCE OF 88.11 FEET TO A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET; THENCE TURNING AND RUNNING WITH THE WESTERN BOUNDARY OF THE MCADAMS PROPERTY (AS RECORDED IN DEED BOOK 1063 PAGE 15) SOUTH 13°07'34" WEST A DISTANCE OF 323.90 FEET TO A 3/4" IRON PIPE STANDING 0.3 FEET ABOVE ADJACENT GRADE; THENCE TURNING AND RUNNING WITH THE NORTHERN MARGIN OF THE PRIVATE UNOPENED RIGHT OF WAY LOCATED OVER IOWA STREET SOUTH 82°07'34" WEST AND PASSING A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET ON THE BOUNDARY LINE AT A DISTANCE OF 67.39 FEET FOR A TOTAL DISTANCE OF 72.39 FEET TO A CALCULATED POINT LOCATED IN A STREAM; THENCE TURNING AND RUNNING WITH THE CENTER OF THE SAID STREAM AND THE WESTERN BOUNDARY OF THE PESCHL PROPERTY (AS RECORDED IN DEED BOOK 1048 PAGE 714) THE FOLLOWING FIVE COURSES AND DISTANCES: 1) SOUTH 29°15'02" EAST A DISTANCE OF 30.36 FEET TO A CALCULATED POINT, 2) SOUTH 21°43'06" EAST A DISTANCE OF 57.40 FEET TO A CALCULATED POINT, 3) SOUTH 35°22'08" EAST A DISTANCE OF 42.81 FEET TO A CALCULATED POINT, 4) SOUTH 58°40'16" EAST A DISTANCE OF 48.60 FEET TO A CALCULATED POINT, AND FINALLY 5) SOUTH 55°00'06" EAST A DISTANCE OF 17.46 FEET TO A CALCULATED POINT; THENCE LEAVING THE SAID STREAM AND STILL RUNNING WITH THE WESTERN BOUNDARY OF PESCHL SOUTH 07°44'01" EAST PASSING A #5 REBAR STANDING 0.5 FEET ABOVE ADJACENT GRADE AT A DISTANCE OF 4.10 FEET FOR A TOTAL DISTANCE OF 11.49 FEET TO A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET ON THE NORTHERN MARGIN OF THE 12 FOOT WIDE UNOPENED ALLEYWAY RECORDED AND SHOWN IN PLAT CABINET B SLIDE 35; THENCE TURNING AND RUNNING WITH THE NORTHERN MARGIN OF THE SAID ALLEYWAY SOUTH 81°45'25" WEST A DISTANCE OF 224.25 FEET TO A CALCULATED POINT; THENCE TURNING AND CROSSING THE SAID ALLEYWAY SOUTH 08°14'35" EAST A DISTANCE OF 12.00 FEET TO A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET; THENCE RUNNING WITH THE WESTERN BOUNDARY OF THE DIAZ PROPERTY (AS RECORDED IN DEED BOOK 1382 PAGE 575) SOUTH 08°05'22" EAST A DISTANCE OF 149.96 FEET TO A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET ON THE NORTHERN MARGIN OF THE 40 FOOT RIGHT OF WAY LOCATED OVER MIDWAY STREET; THENCE CROSSING THE SAID MIDWAY STREET SOUTH 08°14'05" EAST A DISTANCE OF 40.00 FEET TO A CALCULATED POINT LOCATED ON THE SOUTHERN MARGIN OF THE SAID MIDWAY STREET; THENCE TURNING AND RUNNING WITH THE SAID SOUTHERN MARGIN OF MIDWAY STREET NORTH 81°45'55" EAST PASSING A 1/2" DIAMETER IRON ROD STANDING 0.5 FEET ABOVE ADJACENT GRADE AT A DISTANCE OF 1.58 FEET FOR A TOTAL DISTANCE OF 31.35 FEET TO A 1/2" DIAMETER IRON ROD STANDING 0.2 FEET ABOVE ADJACENT GRADE; THENCE TURNING AND RUNNING WITH THE WESTERN MARGIN OF A 16.5 FOOT WIDE UNOPENED ALLEYWAY SOUTH 07°06'39" EAST A DISTANCE OF 215.68 FEET TO A #5 REBAR STANDING 0.6 FEET ABOVE ADJACENT GRADE; THENCE TURNING AND RUNNING WITH THE NORTHERN AND WESTERN BOUNDARY OF THE BRYAN PROPERTY (AS RECORDED IN DEED BOOK 3217 PAGE 399) THE FOLLOWING TWO COURSES AND DISTANCES: 1) SOUTH 82°07'58" WEST A DISTANCE OF 16.18 FEET TO A 3/4" DIAMETER IRON PIPE STANDING 0.6 FEET ABOVE ADJACENT GRADE AND 2) SOUTH 09°02'32" EAST A DISTANCE OF 152.16 FEET TO A #4 REBAR STANDING 0.1 FEET ABOVE ADJACENT GRADE; THENCE TURNING AND RUNNING WITH THE NORTHERN MARGIN OF 5TH AVENUE WEST SOUTH 82°16'10" WEST A DISTANCE OF 300.01 FEET TO A #4 REBAR WITH “MCABEE” IDENTIFICATION CAP SET; THENCE TURNING AND RUNNING WITH THE EASTERN AND WESTERN BOUNDARY OF THE RAMO PROPERTY (AS RECORDED IN DEED BOOK 3087 PAGE 131) THE FOLLOWING TWO COURSES AND DISTANCES: 1) NORTH 44°44'33" WEST A DISTANCE OF 99.34 FEET TO A 1/2" DIAMETER IRON PIPE STANDING 0.1 FEET ABOVE ADJACENT GRADE AND 2) SOUTH 07°13'01" EAST A DISTANCE OF 78.58 FEET PLANTED STONE; THENCE TURNING AND AGAIN RUNNING WITH THE NORTHERN MARGIN OF 5TH AVENUE WEST SOUTH 83°23'12" WEST A DISTANCE OF 90.00 FEET TO THE POINT AND PLACE OF BEGINNING.

PROPOSED ANNEXATION AREA DESCRIBED ABOVE CONTAINING 15.591 ACRES.

Section 2. Upon and after July 2, 2020, the above described territory and its 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.

Barbara Volk, Mayor of Hendersonville

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

ATTEST:

Angela L. Reece, City Clerk

8. Public Hearing - Consideration of an Application for Community Development Block Grant Funding in the amount of \$750,000 for improvements to the Ashe Street Neighborhood.

Ashlynn McCoy of the Housing Assistance Corporation in partnership with the City of Hendersonville is requesting permission to submit an application for a Community Development Block Grant in the amount of \$750,000 for the Ashe Street Neighborhood between Barker Street and Elm Street. Ms. McCoy stated the grant funding would be utilized for the following activities in the Ashe Street neighborhood behind the new police headquarters: Homeowner Rehabilitation - \$175,000; Public Infrastructure (Curb and Gutter) - \$500,000; and Administrative Cost - \$75,000. Ms. McCoy stated there is no match requirement for this grant but said staff time and additional city funds may be needed to complete all grant activities if construction costs exceed grant funding.

Ms. McCoy stated the three livability principals of the program are to promote equitable and affordable housing, support existing communities, and value communities and neighborhoods. Ms. McCoy stated the project must meet one of the three national objectives which are benefiting low and moderate income persons; preventing or eliminating slum and blight or meeting other community development issues which are deemed to be urgent due to existing conditions which pose an immediate threat to the health and welfare of the community where other financial resources are not available.

Ms. McCoy stated the City Council will also need to appoint a City Council member to serve on the Homeowner Rehabilitation Selection Committee. Council Member Lyndsey Simpson inquired regarding the makeup of the Committee Council Member Dr. Jennifer Hensley stated she feels it is a conflict of interest for a Council Member to sit on the Committee. Ms. McCoy stated member selection is required based on a point system. Council Member Jerry Smith inquired if two council members could sit and Manager Connet stated this was permissible. Manager Connet reminded City Council they could appoint a neighborhood representative as well.

Mayor Volk opened the public hearing at 6:47 p.m. The City Clerk confirmed the hearing has been advertised in accordance with NC General Statutes.

Ken Fitch of 1046 Patton Street Hendersonville addressed City Council stated it is important to note the Grant program mandates community involvement and said it would fulfill a local promise to the neighborhood.

Mayor Volk closed the public hearing at 6:39 p.m.

Council Member Jerry Smith moved that City Council resolve to submit a Community Development Block Grant application in the amount of \$750,000 and further moved to appoint Council Member Lyndsey Simpson to the Homeowner Rehabilitation Selection Committee. Council Member Lyndsey Smith further moved to appoint Council Member Jerry Smith to the Homeowner Rehabilitation Selection Committee.
A unanimous vote of the Council followed. Motion Carried.

RESOLUTION #20-052

RESOLUTION FOR THE CITY OF HENDERSONVILLE APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE 7TH AVENUE REVITALIZATION PROJECT

WHEREAS, the City of Hendersonville's Council has previously indicated its desire to assist in community development efforts for housing within the Town/City/County; and,

WHEREAS, the Council has held two public hearings concerning the proposed application for Community Development Block Grant funding to benefit the revitalization of the 7th Avenue Area; and,

WHEREAS, the Council wishes the City to pursue a formal application for Community Development Block Grant funding to benefit the 7th Avenue Area; and will invest monies in the amount of \$750,000 into the project as committed to in the application.

WHEREAS, the Council certifies it will meet all federal regulatory and statutory requirements of the State of North Carolina Community Development Block Grant Program,

NOW, THEREFORE BE IT RESOLVED, by the City of Hendersonville's Council that the City is authorized to submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant to benefit the revitalization of the 7th Avenue Area.

Adopted this 2nd day of July 2020

Barbara Volk, Mayor of Hendersonville

ATTEST: Angela L. Reece, City Clerk

9. Consideration of Parking Enforcement Software and Remote Payment Application

Hendersonville Police Department Dispatcher Amber Glisson presented findings on Brazos's parking enforcement software which is currently utilized to issue and track payment of parking citations and to perform other parking functions for the City of Hendersonville. Ms. Glisson stated due to the implementation of the new finance software the Brazos's parking enforcement software has become incompatible. Ms. Glisson stated a committee was formed to research parking enforcement software companies and has determined selection of a different software company and addition of a parking meter application would be the best option. Ms. Glisson stated the committee recommended using iParq with a one-time charge of \$16,750 and annual cost between \$790.00 to \$1,040 per month depending on which options are selected. Ms. Glisson stated the Committee also suggested using an online parking app through Parkmobile, LLC. She stated this app can be integrated into the iParq software which would charge the user a \$0.35 convenience fee to cover the operation cost of the app.

Council Member Dr. Jennifer Hensley clarified the parking fee will be \$1.85 cents instead of \$1.50 for the first transaction and asked if the Committee was familiar with the Passport Parking App. Ms. Glisson stated she and other Committee members spoke with that vendor who gave differing pricing information ranging from no cost to \$500.00 per month and upwards of \$2,500 per month. She advised the charge was billed to the municipality each month instead of the consumer. Mayor Volk clarified this is a convenience fee for using the app and by using the kiosk there is no user fee. Council Member Hensley stated she was concerned about passing additional fees along to the consumer and asked for additional information on both software apps. Lew Holloway stated the Committee spent some time reviewing both apps and said there were real efficiencies and advantages by using Parkmobile, LLC instead of Passport. Manager Connet inquired if Council would be willing to approve moving forward with iParq due to the Brazos's contract expiring and said staff will provide additional information regarding the parking apps.

Council Member Jeff Miller moved the City Council approve the iParq software system purchase as quoted. A unanimous vote of the Council followed. Motion Carried.

10. Discussion Regarding Designating Operations Center Assembly Room as Permanent Location for City Council Meetings

City Manager John Connet addressed City Council regarding official designation of the location for City Council Meetings. Manager Connet recalled prior to COVID-19 there being a crowding issue in the historic City Council chambers at City Hall due to the room size. Manager Connet stated a return is unlikely over the next several months due to COVID-19 and inquired of City Council's preference to designate the Operations Center Assembly Room as their meeting location. Manager Connet commended staff for implementing new technology such as Zoom and YouTube to film the meetings but said if the location is going to be permanent then slight renovations will be necessary to make the room more user friendly with technology. Manager Connet presented preliminary renderings of the potential set up of the room. Council Member Dr. Jennifer Hensley stated she would like to proceed with minimal cost and disruption as possible. Mayor Barbara Volk stated she enjoys City Hall but understands the flexibility the Assembly Room has. Mayor Volk requested a design that allows Council to view the projector screen. Council conceded to designate the space as the meeting location and to proceed with design.

11. Reports/Comments by Mayor and City Council Members

A. Council Member Jerry Smith initiated discussion regarding Governors Executive Order 147 and business owners and masks.

Council Member Jerry Smith stated he has spoken with the City Attorney and City Manager on several occasions regarding enforcement of the Governor's Executive Order 147 which requires face coverings while in public. Council Member Smith stated he wished to discuss the matter to seek clarification for remedies for business owners who refuse to follow the Governor's Order and to discuss who would be responsible for enforcing it. Council Member Lyndsey Simpson concurred.

Council Member Dr. Jennifer Hensley stated the Governor's Executive Order 147 is not a state law passed by the NC General Assembly and stated there is a provision in the Order making it unenforceable. Council Member Hensley stated she feels it is undesirable to ask HPD officers to engage in this dialogue during the political climate and said she believes it is a heavy-handed overreach of City Council power. Council Member Hensley stated she spoke with the District Attorney about enforcement of the Order and said she has concerns of putting these types of actions ahead of domestic cases in district court proceedings. Council Member Hensley stated the City has an amazing police force and great relationships with business owners and said she doesn't want to make police officers' jobs harder than they needed to be or to add additional stress to business owners during this already difficult time. Council Member Hensley referred to an email from Council Member Lyndsey Simpson regarding the Defund the Police Movement and said she is concerned over Council Member Simpson's support for the movement and potential additional job duties being added to HPD officers.

Council Member Lyndsey Simpson clarified her statements surrounding defund the police movement email stating she supports the movement nationwide but does not support it locally due to the way the City of Hendersonville Police Department is structured. Council Member Simpson stated she believes this is a public health issue and said she feels business owners have a duty to protect the health and wellbeing of their employees and customers. She stated she has spoken with other business owners on Main Street who have the same concerns and who support enforcement of face coverings especially surrounding food service type businesses.

Council Member Jerry Smith asked the City Attorney of his interpretation. Attorney Fritschner stated Executive Order 147 permits local governments to enforce the Order with criminal citations only against business owners who do not comply with enforcement of their employees wearing face coverings. Attorney Fritschner stated the Order does not provide for issuing citations to the general public. Council Member Smith asked for clarification regarding the citation process. Attorney Fritschner stated there are two types of citations that may be issued. The first is a criminal citation which may be prosecuted by the District Attorney and would constitute a Class 2 Misdemeanor which would go before a District Court Judge in which case he or she may levy a fine not to exceed \$1,000 or jail time not to exceed 30 days or both.

Council Member Dr. Jennifer Hensley stated she cannot support this.

Council Member Jeff Miller stated he believes wearing a mask helps lessen the spread of the virus and keeps people out of the hospital and said he supports face coverings in public. Council Member Miller stated he doesn't understand why business owners are being held responsible and said it puts them in an awkward position when many members of the public are refusing to comply. He expressed concerns of ascertaining if an individual has a legitimate reason not to wear a face covering and said this puts business owners and employees in a difficult situation but believes individuals should be cited and not business owners. Council Member Miller stated he encourages everyone to wear masks but does not like this approach.

Mayor Barbara Volk agreed with Council Member Miller but said non-compliant business owners should be issued warnings to avoid a shut down as many businesses would not survive a second shut down. Mayor Volk stated compliant businesses shouldn't be penalized for doing what is asked of them and said she feels warnings or citations should be issued to non-compliant businesses after complaints have been received.

Council Member Jerry Smith clarified his intention was to cite business owners for negligence and non-enforcement of mask wearing and proper social distancing among their employees. Council Member Smith further clarified his intention was to support issuing citations to non-compliant business owners with respect to non-enforcement of Executive Order 147 (employees wearing masks) and not for the general public refusing to wear masks within the business. Attorney Fritschner clarified business owners may not be cited for customers failing to wear face coverings.

The consensus of the majority of City Council was to direct City Manager John Connet to proceed with enforcing Governor Cooper's Executive Order 147 when businesses are blatantly ignoring the Order. The enforcement action should occur once a complaint is received and the businesses have been appropriately warned by the police department. The City Council is aware that the criminal citation may or may not be prosecuted by the District Attorney.

12. Staff Reports

A. Parking Deck Update

Assistant City Manager Brian Pahle stated the initial design phase for the new parking deck is nearing completion and presented the architect schematic designs depicting what the facility will look like. The images are available on the City’s website. There were no additional comments from Council.

B. Open Streets

Downtown Economic Development Director Lew Holloway addressed City Council with additional survey data on the Open Streets events. Director Holloway stated staff are working to assess the success of Open Streets in an environment that is completely different than anything previously in the downtown area. Director Holloway stated the responses to the survey were again mixed as illustrated below.

Count of Open Streets is currently scheduled for July 3-5, July 17-19 and July 31-August 2. After these dates, would you like to see the program continue?

Colour

Row Labels	other	restaurant	retail	Grand Total
No		3	14	17
Other	1	1	3	5
Other; No	1		2	3
Yes - 1-2 more times this summer		2	4	6
Yes - 1-2 more times this summer; Yes - Monthly			1	1
Yes - Bi Monthly		2	3	5
Yes - Bi Monthly; Yes - Monthly	1		1	2
Yes - Monthly	2		4	6
Yes - Weekly	2	1	2	5
(blank)				
Grand Total	7	9	34	50

Total who took survey	Count of Name
other	9
restaurant	12
retail	36
Grand Total	57

Director Holloway discussed visitor center and parking data stating that there were significant impacts with more parking being recorded on the Open Streets weekends. He stated staff are continuing to work with merchants to determine impacts and understand challenges the merchants have with staffing and supplies. Director Holloway stated staff have received very positive feedback from patrons attending the Open Streets weekends and said some merchants have even reported an increase in sales over the same weekend one year ago. Director Holloway stated staff would like to continue the effort in some form and would welcome the opportunity to hold the event once per month through the end of the year. Council Member Jeff Miller stated he supports cancellation of the event in the event of poor weather to benefit the retail merchants as long as there were not major events scheduled. Manager Connet and Director Holloway conceded. Council Members agreed to begin cancellations of the events due to poor weather beginning in August if necessary and also conceded to offer the event on a monthly basis beginning Labor Day weekend.

C. Surplus Vehicles

Manager John Connet provided a list of items to City Council indicating they are surplus a will be disposed of by government auction.

13. Consideration of Appointments to Boards/Commissions

Council Member Dr. Jennifer Hensley nominated Dr. John Galligan to serve a three-year term as Veterinary liaison to the Animal Services Advisory Committee.
A unanimous vote of the council followed. Motion Carried.

14. New Business

There was no new business.

15. Closed Session as Provided Under NCGS §143-318.11 (a)(3)(4)(6)

Council Member Jeff Miller moved that City Council enter closed session as permitted under NCGS §143-318.11(a)(3)(4)(6) at 8:11 p.m. A unanimous vote of the council followed. Motion Carried.

Council Member Jeff Miller moved that City Council return to Open Session at 9:15 p.m. A unanimous vote of the Council followed. Motion carried.

There was no further business.

16. Adjourn

The meeting adjourned at 9:15 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Angela L. Reece, City Clerk