



MINUTES

October 1, 2020

REGULAR MEETING OF THE CITY COUNCIL

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

Present: Mayor Barbara G. Volk, Mayor Pro Tem Jerry Smith, and Council Members: Jeff Miller, Dr. Jennifer Hensley, and Lyndsey Simpson

Staff Present: City Manager John F. Connet, City Attorney Angela Beeker, Assistant City Manager Brian Pahle, City Clerk Angela Reece, Communications Manager Allison Nock, Interim Police Chief Bill Hollingsed, Community Development Director Lew Holloway, and Planner Tyler Morrow

1. **Call to Order**

Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. **Invocation and Pledge of Allegiance to the Flag**

The City Council observed a moment of silence for prayer or reflection followed by the Pledge of Allegiance to the Flag.

3. **Public Comment** *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

The Mayor acknowledged written comments had been received by City Council. There were no additional public comments made during the meeting.

4. **Consideration of Agenda**

City Manager John Connet requested to remove Item 9C, City Council Meeting Format, Public Comment Policy.

Council Member Jeff Miller moved to approve the agenda as amended removing Item 9C, City Council Meeting Format, Public Comment Policy. A unanimous vote of the Council followed. Motion carried.

5. **Consent Agenda**

A. Adoption of City Council Minutes

- i. August 26, 2020 Special Call
- ii. September 3, 2020 Regular Session

B. Budget Amendments FY21- Presenter: Adam Murr, Budget Analyst

C. Resolution of Support for Henderson County CDBG Application- Presenter: John F. Connet, City Manager

Resolution #20-0573

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL SUPPORTING HENDERSON COUNTY'S CDBG-CV APPLICATION FOR THE PROVISION OF HOUSING OR UTILITY PAYMENT ASSISTANCE

WHEREAS, the Coronavirus epidemic has had a tremendous impact on the citizens of Hendersonville and Henderson County and has resulted in numerous business closing or layoffs; and

WHEREAS, these business closing and layoffs have resulted in the Henderson County unemployment rate exceeding thirteen percent (13%) in the months of May and June and currently exceeding seven percent (7%); and

WHEREAS, the loss of employment has resulted in large numbers of individuals and families losing the ability to pay mortgages, rents and utility bills; and

WHEREAS, the City of Hendersonville Utility Department currently has 2,263 customers who are delinquent on their utility accounts; and

WHEREAS, The U.S Department of Housing and Urban Development have created a Community Development Block Grant Program to support the high risk and vulnerable families who have been impacted by the Coronavirus epidemic; and

WHEREAS, Henderson County has offered staff support and resources to prepare and administer a grant application on behalf of Henderson County and its municipalities.

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

1. The City Council offers the full support of the City of Hendersonville to Henderson County in the submission of this CDGB-CV Application for the provision of housing or utility payment assistance.
2. If awarded, the City Council supports accepting the CDBG-CV funding up to \$900,000 to fund housing and utility payment programs for low to moderate income homeowners in Henderson County.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

D. Convergence Master Planning Services Proposal & Agreement (Main, Church, King)-
Presenter: Lew Holloway, Community Development Department

Resolution #20-0574

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO APPROVE PROPOSAL FOR MAIN, CHURCH, AND KING STREETS CONVERGENCE
MASTER-PLANNING SERVICES WITH KIMLEY HORN**

WHEREAS, master-planning services are required for the Main, Church and King Street Convergence Project NCDOT TIP project U-6049, its design implications on mobility with the Ecusta Trail and the opportunities for creating an enhanced gateway into downtown Hendersonville; and

WHEREAS, a proposed draft Agreement with Kimley Horn and Associates, Inc., a North Carolina corporation (“Kimley Horn”), has been presented to the City Council to outline the terms and conditions under which Kimley Horn., proposes to provide the required services (attached hereto and incorporated by reference);

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

1. The Agreement dated August 24, 2020 received from Kimley Horn, to provide master-planning services required for the Main, Church and King Street Convergence Project, NCDOT TIP project U-6049, its design implications on mobility with the Ecusta Trail and the opportunities for creating an enhanced gateway into downtown Hendersonville (“Agreement”);
2. The Agreement is exempted from the requirements of the Mini-Brooks Act, NCGS § 143-64.31.
3. The City Manager is authorized to sign the attached draft Agreement with such changes as are reasonable after consulting with the City Attorney.
4. The City Manager, City Attorney, City Clerk, and City staff are authorized to take such actions as are necessary to carry out the City’s obligations under the terms of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

The Master Planning Services Agreement with Kimley Horn is not made part of these minutes but is available upon request.

E. Half-Way Tree Agreement Contract & Resolution *Presenter: John F. Connet, City Manager*

Resolution #20-0575

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO APPROVE UTILITY AND EXTENSION REIMBURSEMENT AGREEMENT
WITH HALF WAY TREE, LLC**

WHEREAS, Half Way Tree, LLC, a North Carolina limited liability company, hereinafter “Half Way Tree,” is the owner of owner of that tract of real property located in the unincorporated area of Henderson County consisting of +/- 18.02 acres, and being more particularly described in that deed into MVF Half Way Tree, LLC, recorded in Deed Book 3489 at Page 553 of the Henderson County Registry, having a REID of 114871, hereinafter the “Property;” and

WHEREAS, Half Way Tree operates Half Way Tree Manufactured Home Park on the Property, having +/- 118 manufactured homes therein, all served by septic tanks, the Manufactured Home Park being hereinafter referred to as the “Park;” and

WHEREAS, due to environmental concerns and failing septic tanks within the Park, Half Way Tree applied for a sewer extension permit from the City in order to provide City sewer collection and treatment to the Property and the Park; and

WHEREAS, a City sanitary sewer main exists and runs along Erkwood Drive in the vicinity of the Property. Half Way Tree applied for a permit to construct a gravity sewer extension that would provide sewer service to the Property and connect into the Erkwood Drive sewer main; and

WHEREAS, In order to construct the Extension, the acquisition of sewer easements to be titled in the name of the City was required, Half Way Tree requested the assistance of the City in order to acquire the following easements and the City has agreed provided that Half Way Tree reimburse the City all of its acquisition costs; and

WHEREAS, a proposed agreement has been presented to the City Council to outline the terms and conditions under which the sewer extension would be permitted, and the City’s assistance with easement acquisition would be provided;

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

1. The Utility Extension and Reimbursement Agreement, a draft of which is attached to this Resolution, is approved.
2. The City Manager is authorized to sign the attached draft Agreement with such changes as are reasonable after consulting with the City Attorney, provided such changes do not impose financial obligations on the City that would not be fully reimbursed by Half Way Tree.
3. The City Manager, City Attorney, City Clerk, and City staff are authorized to take such actions as necessary to carry out the City’s obligations under the terms of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

The Utility Extension and Reimbursement Agreement is not made part of these minutes but is available upon request.

F. Special Event Approval- Black Bear Half Marathon - Presenter: Lew Holloway, Community Development Department

G. Heritage Tree Application – 309 Chadwick Avenue Presenter: Tom Wooten, Public Works Director

H. CARES Funding Interlocal Agreement - Presenter: Brian Pahle, Assistant City Manager

Resolution #20-0576

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE
AN INTERLOCAL AGREEMENT WITH HENDERSON COUNTY
FOR CARES ACT FUNDING**

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) established the Coronavirus Relief Fund (CRF); and

WHEREAS, the State of North Carolina received approximately \$4.067 billion in CRF funds, including approximately \$481,000,000, which the U.S. Treasury sent directly to four local governments in the State; and

WHEREAS, S.L. 2020-80 allocates \$300 million of the State of North Carolina’s CRF allocation to counties ineligible to receive direct funding from the federal CRF; and

WHEREAS, S.L. 2020-80 directs the recipient county to allocate at least 25 percent of the funds for use by municipalities within the County for necessary expenditures incurred due to the public health emergency as required by section 601(d) of the Social Security Act, as amended by the CARES Act; and

WHEREAS, the Henderson County's ("County") CRF allocation is \$4,439,236, and of that amount, the municipal governments within the County will share \$1,109,809; and

WHEREAS, the City of Hendersonville's ("City") CRF allocation (to be used as reimbursement for qualifying expenditures) is \$597,013; and

WHEREAS, the City submitted a plan to the County for use of the City's CRF allocation; and

WHEREAS, the attached interlocal agreement sets for the City's and County's respective obligations with respect to the CRF funding;

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

1. The proposed Interlocal Agreement Between the County of Henderson And the City of Hendersonville For Management of Funds from the Coronavirus Relief Fund (CRF) Established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act ("Interlocal Agreement"), as presented to City Council is hereby approved.
2. The City Manager is authorized to sign the Interlocal Agreement and to approve modifications to the Interlocal Agreement after consultation with the City Attorney, provided such modifications do not impose financial obligations of the City above those provided in the Agreement as presented. The City Manager and City staff are hereby authorized to take such actions as are necessary to carry out the City's obligations under the Interlocal Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

The Interlocal Agreement with Henderson County for CARES Act funding is not made part of these minutes but is available upon request.

I. Municode Software Upgrade - Presenter: John F. Connet, City Manager

Resolution #20-0577

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE
MUNICIPAL CODE COOPRORATION SOFTWARE UPGRADES**

WHEREAS, the City of Hendersonville currently utilizes Municipal Code Corporation Software for codification of the Code of Ordinances; and

WHEREAS, the City of Hendersonville is committed to providing quality, efficient services to all citizens, visitors, and businesses through open communication, timely responses, and quality results; and

WHEREAS, software upgrades would streamline the meeting and agenda management process and allow citizens and staff to have access to the most current ordinances, agendas, minutes; and

WHEREAS, a proposal from Municipal Code Corporation has been presented to the City Council to outline the terms and conditions under which Municipal Code Corporation proposes to provide the required services;

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

1. The proposal dated September 21, 2020 received from Municipal Code Corporation is approved for the following services:
 - a. Municode Meetings Annual Subscription, \$4,800 per year
 - b. Portal, \$1,000 per year
 - c. Email notifications (on demand + weekly digest-for Citizens), \$600 per year
 - d. MuniDocs, \$350 per year
 - e. MyMunicode (bundled pricing includes MunicodeNext, OrdBank, CodeBank, CodeBank Compare, eNotify, MuniPRO, and Banner), \$995 per year

2. The City Manager is authorized to sign the attached draft Agreement with such changes as are reasonable after consulting with the City Attorney.
3. The City Manager, City Attorney, City Clerk, and City staff are authorized to take such actions as are necessary to carry out the City's obligations under the terms of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

The Municipal Code Software Agreement is not made part of these minutes but is available upon request.

J. Proposal for Additional Environmental Work- Church St. Parking Deck (S&ME) -

Presenter: John F. Connet, City Manager

Resolution #20-0578

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE PROPOSAL FOR ADDITIONAL SUPPORT SERVICES AND ASBESTOS ASSESSMENT FOR THE CHURCH STREET PARKING DECK WITH S&ME, INC.

WHEREAS, additional support services and asbestos assessment services are needed for properties purchased for the Church Street Parking Deck; and

WHEREAS, a proposal from S&ME, Inc., has been presented to the City Council to outline the terms and conditions under which the S&ME, Inc., proposes to provide the required services;

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

1. The proposal dated September 21, 2020 received from S&ME, Inc., to provide additional support services and asbestos assessment services for the Church Street Parking Deck Project is approved.
2. The S&ME, Inc., proposal is exempted from the requirements of the Mini-Brooks Act, NCGS § 143-64.31.
3. The City Manager is authorized to sign the attached draft Agreement with such changes as are reasonable after consulting with the City Attorney.
4. The City Manager, City Attorney, City Clerk, and City staff are authorized to take such actions as are necessary to carry out the City's obligations under the terms of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

The S&Me Inc. Proposal for asbestos assessment is not made part of these minutes but is available upon request.

K. Resolution Accepting Drinking Water State Revolving Fund Loan for French Broad

River Raw Water Intake & Pump Station Project - *Presenter: Lee Smith, Utilities Director*

Resolution #20-0579

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO RATIFY AN OFFER AND ACCEPTANCE OF A FEDERAL DWSRF LOAN

WHEREAS, the Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Fund have authorized the making of loans and/or grants, as applicable, to aid eligible, drinking water system owners in financing the cost of construction for eligible, drinking water infrastructure; and

WHEREAS, the North Carolina Department of Environmental Quality has offered a State Revolving Loan in the amount of \$14,124,000.00 for construction of Installation of New 21-MGD Intake and 12-MGD Raw Water Pump Station on the French Broad River; and

WHEREAS, the City of Hendersonville intends to construct said Project in accordance with engineering plans and specifications that have been or will have been approved by the North Carolina Public Water Supply Section.

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

1. The City of Hendersonville does hereby accept the Drinking Water State Revolving Fund Loan offer in the amount of \$14,124,000.00; and
2. The City of Hendersonville does hereby give assurance to the North Carolina Department of Environmental Quality that they will adhere to all applicable items specified in the standard “Conditions” and “Assurances” of the Department’s funding offer, awarded in the form of a Drinking Water State Revolving Fund Loan;
3. And that John F. Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information, as the appropriate State agency may request, in connection with such application or the Project; to make the Assurances as contained above; and to execute such other documents as may be required in connection with the application; and
4. The City of Hendersonville has complied substantially or will comply substantially with all Federal, State and local laws, rules, regulations, and ordinances applicable to the Project, and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

Council Member Jeff Miller moved to approve the items on the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

6. Presentations

A. Representative Chuck McGrady

Representative Chuck McGrady addressed City Council indicating he resigned his position on Monday, September 28th and said he has accepted a position on the NCDOT Board. Mr. McGrady extended thanks and appreciation to the City Council and citizens of Hendersonville and said he was proud of the accomplishments he was able to make with the support of Hendersonville residents and City Council. Mr. McGrady pledged as a NCDOT Board member, that he will advocate for WNC and Henderson County. Mr. McGrady stated he is very happy with the City and commended City Manager John Connet for recognizing financial impacts of COVID and working to mitigate them quickly. Mr. McGrady stated he feels the City Council has their priorities straight and said he was looking forward to enjoying more greenways. Mr. McGrady discussed the importance of smart growth and said it is critical to figure out how to grow and change to remain prosperous while maintaining character. Mayor Volk and City Council Members congratulated Mr. McGrady and extended best wishes in his new position.

B. Colonial History Month Proclamation- *Presenter: Barbara G. Volk, City of Hendersonville Mayor*

Mayor Barbara G. Volk proclaimed the month of October as Colonial History Month in the City of Hendersonville and urged all citizens to recognize the contributions of our Veterans and encouraged its observance.

C. Parks & Recreation Presentation- *Presenter: Hunter Jones*

Mr. Hunter Jones of Jones of 600 Hebron Rd. Hendersonville addressed City Council requesting consideration for additional recreational opportunities and upgrades to all City parks. Mr. Jones stated he conducted a survey on Facebook and had 20 respondents with 13 being City residents. Mr. Jones stated respondents indicated preferences for additional amenities, safety, and activities and noted that one quarter of respondents indicated they did not use City Parks.

D. Safety Award Recognition- *Presenter: John F. Connet, City Manager*

City Manager John Connet stated the City Council has made significant investment in the City’s safety program and extended thanks and appreciation to Lu Ann Welter for the effort she has put into creating and managing the City’s safety program. Manager Connet stated the City’s Public Works and Fire Departments have received safety awards from the NC Department of Labor. Manager Connet expressed thanks and appreciation to Public Works Director, Tom Wooten and Fire Chief D. James Miller for their efforts to ensure staff are safe. Manager Connet said safety is something we are focusing on in our organization and said the most important thing we do is to send everyone home safe.

7. Public Hearings

A. Contiguous Annexation Ordinance -Group Ventures LLC (PIN 9579-29-2872) - Presenter: *Lew Holloway, Community Development Department Director*

Community Development Director Lew Holloway stated the City of Hendersonville has received a petition from Group Ventures LLC for contiguous annexation of a portion of PIN 9579-29-2872 located on Lakewood Road that is approximately 29.198 acres and recalled acceptance of the Clerk's Certificate of Sufficiency at their September 3rd, 2020 meeting and recommendation of a public hearing for the October 1st, 2020 City Council meeting.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The Public Hearing was opened at 6:25 p.m.

There were no public comments.

The Public hearing was closed at 6:26 p.m. There was no discussion by City Council.

Council Member Jerry Smith moved that City Council adopt the ordinance annexing the property included in the petition from Group Ventures LLC effective October 1, 2020. A unanimous vote of the Council followed. Motion carried.

Ordinance #20-0580

AN ORDINANCE BY THE CITY OF HENDERSONVILLE CITY COUNCIL 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 by Group Ventures LLC. 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 October 1st, 2020, after due notice by publication on September 20, 2020 and September 27, 2020; and

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

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 October 1st, 2020:

METES AND BOUNDS DESCRIPTION

LYING AND BEING IN HENDERSONVILLE TOWNSHIP, HENDERSON COUNTY, NC; BEING TRACT A OF PLAT BOOK 2020 PAGE 12675, AND BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 857 PAGE 631; HAVING AN AREA OF 29.198 ACRES, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A NEW IRON REBAR WITH ID CAP "COLE" AT THE WEST MARGIN OF LAKEWOOD ROAD (SR 1518), SAID IRON REBAR HAVING NORTH CAROLINA GRID COORDINATES OF N: 600,088.03' E: 973,385.98' (NAD 83/11), AND BEING THE NORTH EAST CORNER OF THE UNITED STATES POSTAL SERVICE PROPERTY AS DESCRIBED IN DEED BOOK 836 PAGE 127; THENCE ALONG AND WITH THE UNITED STATES POSTAL SERVICE PROPERTY THE FOLLOWING THREE CALLS: N 73°00'02" W, 646.12' TO AN EXISTING IRON REBAR; THENCE S 17°58'57" W, 343.99' TO AN EXISTING CONCRETE MONUMENT; THENCE S 73°00'02" E, 646.12' TO A NEW IRON REBAR WITH ID CAP "COLE" AT THE MARGIN OF LAKEWOOD ROAD, AND BEING THE SOUTH EAST CORNER OF THE UNITED STATES POSTAL SERVICE PROPERTY; THENCE LEAVING THE LINE OF THE UNITED STATES POSTAL SERVICE ALONG A NEW LINE S 73°00'02" E, 27.24' TO A POINT IN THE CENTER OF LAKEWOOD ROAD; THENCE ALONG THE CENTER OF LAKEWOOD ROAD, A NEW LINE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 59.79', WITH A RADIUS OF 2264.00', WITH A CHORD BEARING OF S 11°32'21" W, AND WITH A CHORD LENGTH OF 59.79' TO AN EXISTING RAILROAD SPIKE, THE NORTH WEST CORNER OF THE CEDAR TERRACE NC LLC PROPERTY AS DESCRIBED IN DEED BOOK 1660 PAGE 625 AND TRACT 1 OF PLAT SLIDE 10146; THENCE ALONG AND WITH THE CEDAR TERRACE NC LLC PROPERTY AND WITH THE CENTER

OF LAKEWOOD ROAD THE FOLLOWING TEN CALLS: S 10°46'58" W, 124.66' TO A POINT; THENCE S 12°02'37" W, 35.91' TO A POINT; THENCE S 10°02'47" W, 32.26' TO A POINT; THENCE S 07°40'29" W, 32.79' TO A POINT; THENCE S 05°29'18" W, 35.31' TO A POINT; THENCE S 03°30'28" W, 31.58' TO A POINT; THENCE S 01°59'55" W, 69.69' TO A POINT; THENCE S 02°33'30" W, 31.19' TO A POINT; THENCE S 03°48'21" W, 31.75' TO A POINT; THENCE S 06°42'43" W, 11.45' TO AN EXISTING MAG-NAIL, A CORNER OF A REMAINING PORTION OF THE GROUP VENTURES, INC. PROPERTY AS DESCRIBED IN DEED BOOK 857 PAGE 631; THENCE ALONG AND WITH THE GROUP VENTURES, INC. PROPERTY THE FOLLOWING FOUR CALLS: ALONG A NEW LINE S 12°16'44" W, 76.20' TO AN EXISTING MAG-NAIL IN THE CENTER OF LAKEWOOD ROAD; THENCE ALONG A NEW LINE S 33°14'12" W, 75.10' TO AN EXISTING MAG- NAIL IN THE CENTER OF LAKEWOOD ROAD; THENCE ALONG A NEW LINE, AND LEAVING LAKEWOOD ROAD S 68°11'06" W, 234.69' TO AN EXISTING IRON REBAR, ID CAP "KEE"; THENCE ALONG A NEW LINE CROSSING ALLEN BRANCH IN MULTIPLE LOCATIONS N 58°19'10" W, 1071.88' TO A NEW IRON REBAR, ID CAP "COLE"; THENCE ALONG A NEW LINE CROSSING ALLEN BRANCH N 17°31'17" E, 1000.46' TO AN EXISTING CONCRETE MONUMENT, THE SOUTH WEST CORNER OF THE SHAMROCK ESTATES SUBDIVISION AS DESCRIBED IN PLAT SLIDE 2317 AND PLAT SLIDE 1867; THENCE ALONG THE SHAMROCK ESTATES SUBDIVISION S 87°48'22" E, PASSING AN EXISTING DISTURBED IRON REBAR 0.61' LEFT OF LINE AT 41.03' ALONG LINE, THE SOUTH EAST CORNER OF PLAT SLIDE 2317 LOT 12; PASSING AN EXISTING IRON REBAR ID CAP "PARKER" AT 184.72' ALONG LINE, THE SOUTH WEST CORNER OF PLAT SLIDE 1867 LOT 7; PASSING AN EXISTING IRON REBAR WITH ILLEGIBLE ID CAP 0.18' LEFT OF LINE AT 269.86' ALONG LINE, THE SOUTH EAST CORNER OF PLAT SLIDE 2317 LOT 11; PASSING AN EXISTING IRON REBAR ID CAP "PARKER" 0.11' LEFT OF LINE AT 544.68' ALONG LINE, SOUTH EAST CORNER OF PLAT SLIDE 1867 LOT 7; AND PASSING AN EXISTING IRON REBAR AT 831.60' ALONG LINE, SOUTH EAST CORNER OF PLAT SLIDE 1867 LOT 8; A TOTAL DISTANCE OF 1017.64' TO AN EXISTING CONCRETE MONUMENT, THE NORTH WEST CORNER OF THE LARRY DEAN CRAIG & GAIL LORRAINE CRAIG PROPERTY AS DESCRIBED IN DEED BOOK 3197 PAGE 344 AND PLAT BOOK 2018 PAGE 11197 LOT 2. THENCE ALONG WITH THE CRAIG PROPERTY S 03°53'13" W, 197.01' TO AN EXISTING CONCRETE MONUMENT; THENCE PARTIALLY WITH THE CRAIG PROPERTY AND CROSSING LAKEWOOD ROAD S 84°02'23" E, PASSING AN EXISTING BENT 3/4" PIPE AT 126.51', A TOTAL DISTANCE OF 179.43' TO AN EXISTING IRON REBAR AT THE EAST MARGIN OF THE RIGHT OF WAY OF LAKEWOOD ROAD, NORTH WEST CORNER OF THE SAMS REAL ESTATE BUSINESS TRUST PROPERTY AS DESCRIBED IN DEED BOOK 1236 PAGE 420

TRACT 2; THENCE ALONG WITH THE SAMS REAL ESTATE BUSINESS TRUST PROPERTY AND EAST MARGIN OF THE RIGHT OF WAY OF LAKEWOOD ROAD THE FOLLOWING TWO CALLS: WITH A CURVE TURNING TO THE RIGHT, WITH AN ARC LENGTH OF 243.88', WITH A RADIUS OF 847.44', WITH A CHORD BEARING OF S 23°57'03" W, WITH A CHORD LENGTH OF 243.04', TO AN EXISTING BENT IRON REBAR; THENCE WITH A REVERSE CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 5.85', WITH A RADIUS OF 717.50', WITH A CHORD BEARING OF S 31°57'01" W, WITH A CHORD LENGTH OF 5.85', TO A POINT; THENCE ALONG A NEW LINE CROSSING LAKEWOOD ROAD N 73°00'02" W, 50.75' TO A NEW IRON REBAR ID CAP "COLE", THE POINT

Section 2. Upon and after October 1, 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.

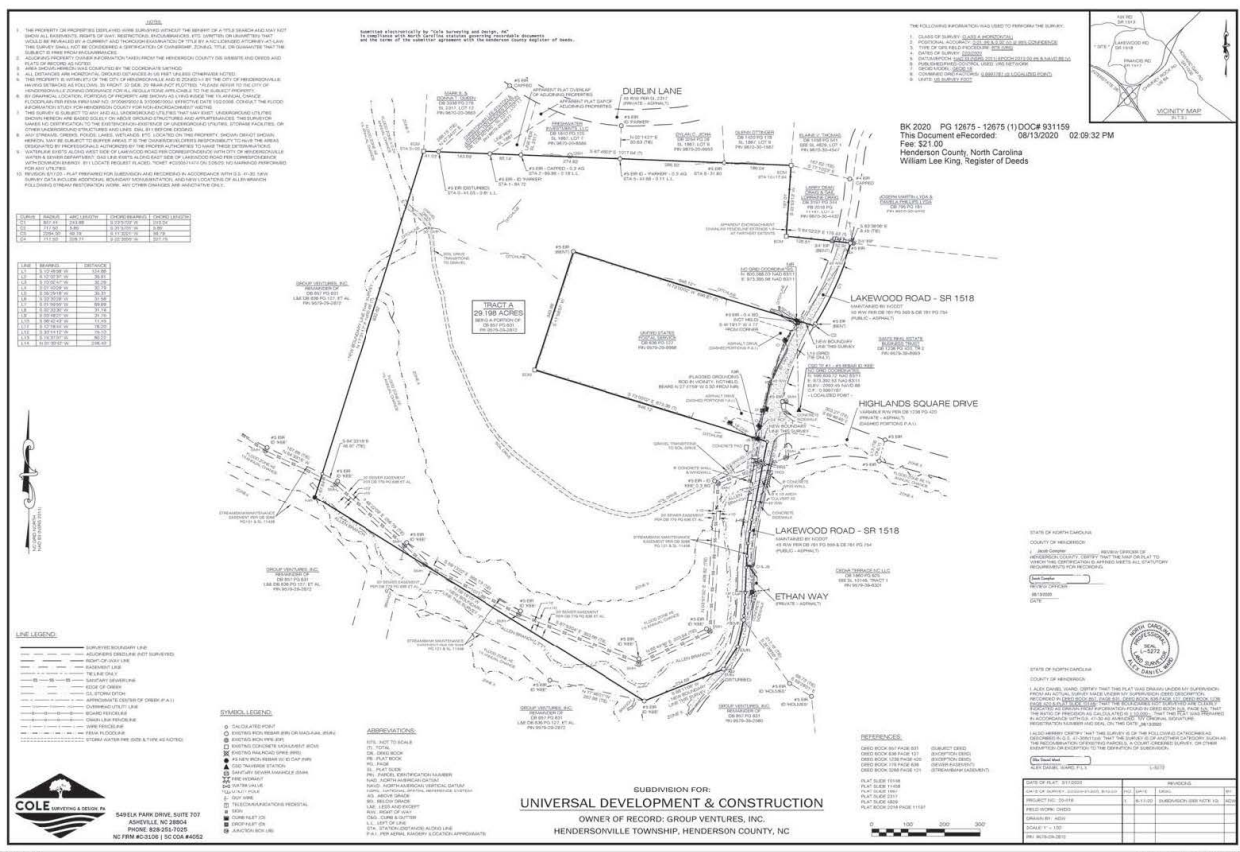
Such a map shall be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

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



This image is only an illustrative reference. The full-size map is recorded at the Henderson County Register of Deeds in Book 2020, Page 12675.

B. Zoning Map Amendment -Parking Deck Project (PIN#'s 9568-78-5480, 9568-78-5391, and 9568-78-6365) - Presenter: Tyler Morrow, Planner I

Tyler Morrow, Planner addressed City Council stating the City of Hendersonville has received a Conditional Rezoning application from the City of Hendersonville for the development of a four-level parking deck on 0.66 acres. The subject project is located at the intersection of 5th Ave W. and Church Street, and is identified by parcel numbers 9568-78-5480, 9568-78-5391, and 9568-78-6365. The applicant is requesting to rezone the subject property from C-1, Central Business to C-1 CZD, Central Business Conditional Zoning District.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The Public Hearing was opened at 6:32 p.m.

Lynne Williams of 309 Chadwick Avenue addressed City Council in opposition of the parking deck project requesting a delay to gather more information on the need.

Ken Fitch of 1046 Patton St. addressed City Council in opposition of the parking deck project citing imposition of fees for usage as being a barrier as well as citing concerns of not having a full time attendant as well as stormwater infrastructure concerns. Written comments in support of the parking deck project as an asset to the downtown businesses were submitted by Ken Butcher and by Marshall Kanner of 443 North Main St.

City Manager John Conned clarified the parking deck fee has not been finalized and recalled City Council expressing preference to keep the fee below \$2. Manager Connet stated the fee for the parking deck would be more economical than on street parking and stated staff will present a cost analysis to the Council at their November meeting for their consideration.

The public hearing was closed at 6:51 p.m.

Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property from C-1 Central Business to C-1 CZD, Central Business Conditional Zoning District, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the Published List of Uses and Conditions, finding that the rezoning is consistent with the Comprehensive Plan's Future Land Use map, and that the rezoning is reasonable and in the public interest for constructing and building a parking deck for the City of Hendersonville.

A unanimous vote of the Council followed. Motion carried.

Ordinance #20-0581

AN ORDINANCE BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR THE PARKING DECK PROJECT BY CHANGING THE ZONING DESIGNATION FROM C-1, CENTRAL BUSINESS TO C-1 CZD CENTRAL BUSINESS CONDITIONAL ZONING DISTRICT FOR PARCEL NUMBERS 9568-78-5480, 9568-78-5391, and 9568-78-6365

WHEREAS, the City Council of the City of Hendersonville, North Carolina, has been petitioned under G.S. 160A-364 to amend the official zoning map; and

WHEREAS, the City Council has authority under G.S. 160A article 19 to adopt zoning and development regulation ordinances for the purpose of promoting health, safety, morals, or the general welfare of the community;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:

1. Parcel numbers 9568-78-5480, 9568-78-5391, and 9568-78-6365 from C-1, Central Business to C-1 CZD, Central Business Conditional Zoning District.
2. The site plan as submitted by the applicant is approved. Development of the subject parcel shall occur in accordance with the site plan and rezoning and shall be subject to the site limitations and conditions stipulated on the List of Uses and Conditions.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

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



This image is only an illustrative reference. As outlined in the City's Zoning Ordinance Section 4-2, District Boundaries, the full-size digital map is available on the City's website or by contacting the Community Development Director.

8. Unfinished Business

A. 303 Chadwick Avenue Conditional Rezoning (PIN 9568-93-6593) - Presenter: Lew Holloway, Community Development Department Director

Community Development Director Lew Holloway recalled previous discussions, presentation, and site plans regarding this request. Stated Mr. Noble has submitted a revised site plan on September 18, 2020 which includes a reduction of total proposed units to three (3), increased building footprints to 1,500 square feet each, lot size increased to 10,225 square feet each, a proposed vegetative buffer or 8' privacy fence along the south-east, east and northeast edges of the parcels, and a proposed ditch between lots 2 and 3.

Mike Huffman, Stormwater Administrator addressed Council clarifying the quadrangle USGS map does not show a blue line stream located on this property and said therefore the buffer requirement does not apply to this site. Mr. Huffman discussed stormwater runoff on the site recommending leaving the swale or reconstructing a swale as close to the current location as possible. Mr. Huffman recommended a ditch along the property or installation of a culvert underneath the driveways to connect to the existing culvert on Chadwick Ave. Manager Connet stated the plan does not show a culvert under the driveway and sought clarification from Mr. Noble.

Mr. Noble stated there will be a culvert located under the driveway of lot 2 and 3 along the front of the property and said the natural swale above lot 3 would be maintained and improved. Mr. Huffman stated as long as there is a flow path under the driveway of lot 2 and 3 to connect to the Chadwick Ave. culvert this would mitigate flooding on Chadwick. Mr. Huffman and Mr. Noble agreed a grass swale is preferable for infiltration and treatment to mitigate runoff. Mr. Noble clarified that the vegetative buffer is located on his property and stated he has no intention of destroying the buffer. Mr. Noble stated he will clean it up but will not remove it and clarified that he may put a fence on his property. Council Member Miller clarified that Mr. Noble was agreeing not to intentionally do anything to destroy the vegetative buffer and inquired if a subsequent landowner would be subject to this condition. Attorney Angela S. Beeker stated Council could impose deed restrictions requiring the landowner to maintain the existing buffer and suggested the language to be drafted and approved by the City Attorney consistent with discussion. Council Member Miller clarified the addition of a fence would be the property owners' option and is separate from the vegetative buffer condition and will not be part of these conditions. Mr. Noble agreed to allow deed restrictions to maintain the grass swale along lot 3 in a way that is consistent with yard maintenance.

Manager Connet clarified the additional conditions Council and Mr. Noble are agreeing to are installation of a swale or culvert along the Chadwick Ave. side of the property, maintain or improve the existing swale along lot 3, maintain the vegetative buffer along lot 3 and agree to deed restrictions with this requirement, maintain the swale along lot 3 and agree to deed restrictions with this requirement.

Council Member Lyndsey Simpson inquired about a heritage tree located on this property. Manager Connet stated City Council has designated this tree as a heritage tree and would require approval by the Public Works Director before it can be cut but said there is no guarantee that the tree would never be cut. The tree is approximately located on the property line of Mr. Noble and the Swanners and is in an unopened alley. Mr. Noble stated he had no plans to remove this tree.

Council Member Jerry Smith moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property from C-1 Central Business to C-1 CZD, Central Business Conditional Zoning District, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the Published List of Uses and Conditions, including the condition that the vegetative buffer and additional drainage, and site plan are updated to reflect the restrictive covenants, as approved by the City Attorney, 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.
A unanimous vote of the Council followed. Motion carried.

Community Development Director Lew Holloway advised City Council there was a clerical error in the motion text and said that the correct zoning districts should be C-3 SU Highway Business Special Use to C-3 CZD, Highway Business Conditional Zoning District.

Council Member Jerry Smith moved to AMMEND his previous motion as follows: ***I move to amend the motion to state that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property from C-3 SU Highway***

Business Special Use to C-3 CZD, Highway Business Conditional Zoning District., based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the Published List of Uses and Conditions, including the condition that the vegetative buffer and additional drainage, and site plan are updated to reflect the restrictive covenants, as approved by the City Attorney, 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. A unanimous vote of the Council followed. Motion carried.

Ordinance #20-0571

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

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:

Parcel 9568-93-6593 from C-3 SU, Highway Business Special Use to C-3 CZD, Highway Business Conditional Zoning District.
2. The site plan as submitted by the applicant, James Noble (revised September of 2020) is approved. Development of the subject parcel shall occur in accordance with the site plan and rezoning and shall be subject to the site limitations and conditions stipulated on the List of Uses and Conditions.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

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



This image is only an illustrative reference. As outlined in the City's Zoning Ordinance Section 4-2, District Boundaries, the full-size digital map is available on the City's website or by contacting the Community Development Director. The preliminary site plan is recorded at the Henderson County Register of Deeds Book# 3430, Page# 220.

9. New Business

**A. Modification of Water Service Extension Review Process with Henderson County by
*Resolution- Presenter: John F. Connet, City Manager***

City Manager John Connet asked City Attorney Angie Beeker to recuse herself from this portion of the meeting due to her having a conflict and said that Billy Clark is representing the City in this matter.

Manager Connet stated in 1997, Mayor Fred Niehoff proposed a policy to allow Henderson County and other jurisdictions to review and approve water service extensions to ensure compliance with existing land use plans and controls and said the Henderson County Board of Commissioners have recently placed conditions on water service extensions to two parcels due to philosophical differences over utility rate setting. Manager Connet stated staff does not believe that the policy or current laws allow for the placement of conditions on water service extensions and proposed a modification to the Water Service Extension Review Policy. Manager Connet stated this informal policy was significant in 1997 as the only development that could occur at the time was dependent on water and sewer infrastructure. Manager Connet stated prior to the County approving open use zoning in 2001 there was no zoning in the County and said utility extensions were the primary way to prevent uncontrolled growth in areas of Henderson County that lacked comprehensive land use planning and land use ordinances. Manager Connet stated in the last 23 years many jurisdictions have adopted comprehensive plans, small area plans and land development codes to allow them to have greater control of development.

Manager Connet stated he requested Roberts & Stevens Law Firm, Attorney William Clarke review this matter since there is no formal agreement between the City of Hendersonville and Henderson County limiting the City's authority with respect to such extensions and rates. Manager Connet advised Attorney Clarke has issued guidance indicating the City of Hendersonville may extend water lines outside the corporate limits of the city so long as such extensions are reasonable. The opinion further stated that what is reasonable depends on the facts and circumstances of a particular case. Attorney Clarke also advised the City may also charge higher rates for water service provided outside the corporate limits.

Council Member Lyndsey Simpson clarified that project approvals will not require a separate vote for water extension by the County. Mayor Volk inquired if the Water Sewer Advisory Committee should approve extensions and Council Member Jeff Miller stated it is a great idea for them to see but stated his preference is for City Council approval. Council members agreed.

Council Member Jeff Miller moved that City Council adopt the Resolution updating the 1997 Water Extension Policy as presented. A unanimous vote of the Council followed. Motion carried.

Resolution #20-0582

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY OF HENDERSONVILLE CITY
COUNCIL UPDATING THE 1997 WATER EXTENSION POLICY**

WHEREAS, the extensions of the City's water distribution system are necessary to provide safe, reliable drinking water and fire protection throughout Henderson County and its municipalities; and

WHEREAS, the Water Extension Policy established in 1997 specified that no extension will occur without the review by Henderson County and/or other governing jurisdictions; and

WHEREAS, the Policy was enacted to prevent uncontrolled growth in areas of Henderson County that lacked comprehensive land use planning and land use ordinances; and

WHEREAS, over the past twenty-three years, Henderson County and other jurisdictions have adopted comprehensive plans, small area plans and land development codes to allow them to have greater control of development; and

WHEREAS, the City of Hendersonville has the legal authority to reasonably extend water lines and set rates without the approval of any other local governing jurisdiction.

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

1. The Water Extension Policy will be updated to reemphasize that growth and development control is completely in the hands of the Henderson County Board of Commissioners and/or other governing boards through their land use and zoning control ordinances.
2. City staff will forward all water availability request to Henderson County staff or staff from other municipalities for use in their land use approval processes.
3. City staff will wait until each development project has been approved by the respective jurisdiction prior to approving its water extension final design.
4. City staff will communicate with Henderson County staff or staff from other municipalities regarding other system extensions or improvements.
5. Water extension policies will be periodically reviewed by the Water and Sewer Advisory Committee and approved by the Hendersonville the City Council.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October 2020.

/s/Barbara G. Volk, Mayor

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

B. Operations Center Safety Improvements Bid Award - *Presenter: Tom Wooten, Public Works Director*

Public Works Director Tom Wooten stated safety improvements and modifications to the assembly room continue to progress and said bids were opened on August 27, 2020 with Dunlap Construction was the low bidder. Mr. Wooten stated the bids were higher than anticipated so staff met with Dunlap Construction and the architect to review cost saving alternatives. Mr. Wooten stated the initial bid was \$193,327, and the revised bid with value engineering deductions is \$177,467 which included \$3,000.00 deduction for removal of the performance bond requirement, a \$1,400.00 deduction for changing the multipurpose room carpet to carpet tile, a \$9,500.00 deduction for changing the front corridor flooring from porcelain tile to the same resilient tile used in the back corridor, and a \$1,960.00 deduction for changing the solid surface counter tops to high pressure laminate.

Council Member Lyndsey Simpson moved that City Council award the bid for Operations Center Safety Improvements Construction as submitted to Dunlap Construction as the low bidder and authorize the City Manager to execute the contract. A unanimous vote of the Council followed. Motion carried.

10. City Council Comments

Council Member Lyndsey Simpson expressed concerns for trick or treating, and City Council directed staff to issue a public safety announcement ahead of the Halloween holiday for those for those who choose to participate.

Council Member Jeff Miller spoke about an incident at a local business involving an elderly person that his wife witnessed and commended HFD and HPD for their public safety response. Council Member Miller stated the elderly person recently suffered a loss and has no family in the area and said the compassion shown by staff was incredible and worthy of recognition.

11. City Manager Report - *Presenter: John F. Connet, City Manager*

City Manager John Connet provided a list of items to City Council indicating they are surplus and said staff is continuing to clean and dispose of items. Manager Connet recognized City Engineer, Brent Detwiler and his team for obtaining national recognition in an article for their streambank restoration project in the Stormwater Journal for Surface Water and Erosion Control Professionals. The City's Multi-Area Streambank Restoration Project (MASR) will restore 13,000 linear feet of stream, nearly 2.5 miles, to protect sewer infrastructure from erosion and to reduce the likelihood of sanitary flow reaching waterways. Manager Connet stated this project is viewed as a best practice in this state and across the nation and commended Mr. Detwiler and his team for their innovation.

A. LED Streetlight Comparison - *Presenter: Tom Wooten, Public Works Director*

Manager Connet reminded Council that Mr. Ralph Hammond-Green previously requested consideration of The Dark Sky Initiative and said staff has prepared a presentation to illustrate the differences in the types of LED streetlights. Public Works Director Tom Wooten stated his department has received complaints from citizens indicating the new LED streetlights being installed by Duke Energy were too bright and said there are approximately 500 that have been replaced with the 4000K lights in the City so far. Mr. Wooten stated there are over 1,000 streetlights in the City and said to replace the lights with the 3000K will cost around \$40 per fixture. He stated Duke Energy has agreed to halt replacement of the remaining fixtures pending the outcome of this discussion. Mr. Wooten prepared a visual presentation with two actual streetlights for City Council to observe which included a 4,000K (daylight color) and a 3,000K (soft white color) light. Mr. Wooten stated the 3000K light is Dark Sky Initiative compliant and clarified that both lights utilize the same wattage. Council Members Jerry Smith and Jeff Miller expressed concerns of safety and Manager Connet suggested a pilot project area to replace a portion of the lights with the 3000K color to determine the needs for the next 30 days.

12. Adjourn

There being no further discussion, the meeting was adjourned at 8:00 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Angela L. Reece, City Clerk