

**December 7, 2017 – Pearl Harbor Remembrance Day
Regular Meeting of the City Council
Operations Center – Assembly Room
5:45 p.m.**

Present: Mayor Barbara G. Volk, Mayor Pro Tem Steve Caraker and Council Members: Ron Stephens, Jerry Smith and Jeff Miller

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Police Chief Herbert Blake, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Management and Budget Analyst Adam Murr, Assistant Manager Brian Pahle, Utilities Director Lee Smith, Fire Chief Joseph Vindigni, Public Works Director Tom Wooten

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 five members in attendance.

2. Invocation and Pledge of Allegiance: A moment of silence for prayer was followed by the Pledge of Allegiance to the Flag.

3. Consideration of Agenda: The following amendments were made to the agenda:

Removal from Regular Agenda:

17. Consideration of North Main Street Sidewalk Contract Award – moved to January 2018 Agenda

Mayor Pro Tem Caraker moved approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.



ORGANIZATIONAL MEETING OF THE COUNCIL

4. Administration of the Oath of Office and Presentation of Certificate of Election to Mayor Barbara G. Volk by the Honorable District Court Judge Emily Cowan: Mayor Volk was joined by her husband, Dr. James Volk, who held their family Bible for the oath of office:

State of North Carolina
County of Henderson

In the Matter of
City of Hendersonville, Mayor

OATH OF OFFICE

I, Barbara G. Volk, do solemnly swear (or affirm) that I will support the Constitution and laws of the United States, that I will be faithful and bear true allegiance to the State of North Carolina, and to the Constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

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

This is the seventh day of December 2017.


Barbara G. Volk

Sworn to and subscribed before me,
this seventh day of December 2017.


Emily Cowan
District Court Judge
29B Judicial District

5. Administration of the Oath of Office and Presentation of Certificate of Election to Council Member Jeff Miller by City Clerk Tammie Drake:

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

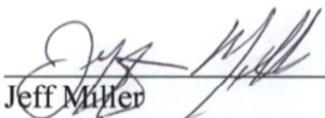
IN THE MATIER OF
JEFF MILLER
City of Hendersonville, City Council Member

OATH OF OFFICE

I, Jeff Miller, do swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the Constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

I, Jeff Miller, do swear (or affirm) that I will well and truly execute the duties of the office of City of Hendersonville Council Member according to the best of my skill and ability, according to law; so help me God.

This is the seventh day of December 2017.



Jeff Miller

Sworn to and subscribed before me
this the seventh day of December 2017.



6. Administration of the Oath of Office and Presentation of Certificate of Election to Council Member Jerry A. Smith, Jr. by City Clerk Tammie Drake:

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

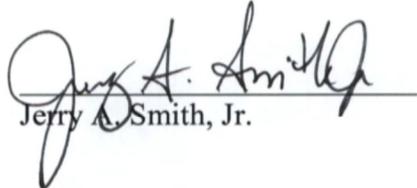
IN THE MATIER OF
JERRY A. SMITH, JR.
City of Hendersonville, City Council Member

OATH OF OFFICE

I, Jerry A. Smith, Jr., do swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the Constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

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

This is the seventh day of December 2017.


Jerry A. Smith, Jr.

Sworn to and subscribed before me
this the seventh day of December 2017.


Tammie K. Drake, City Clerk

8. Remarks by Mayor Barbara Volk and City Council Members:

Mayor Volk commented it is an honor to be elected to another term as mayor to serve the citizens of this community.

Council Member Miller commented it is an honor to live here in this great place. He thanked the voters for trusting him with another term.

Council Member Smith thanked his parents, Jerry A. Smith., Sr. and Lou Sasser, his wife, Ann, and family members Martha, Miriam, and J.T. He thanked God, City staff, his campaign workers and supporters and residents for the opportunity to serve them.

9. Election of Mayor Pro Tempore: Mayor Pro Tem Caraker nominated Council Member Ron Stephens to serve as Mayor Pro Tempore. A unanimous vote of the Council followed. Motion carried. Ron Stephens was sworn in by City Attorney Fritschner as Mayor Pro Tem.

State of North Carolina
 County of Henderson

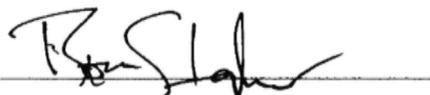
In the Matter of
 City of Hendersonville Mayor Pro Tem

OATH OF OFFICE

I, Ron Stephens, do solemnly swear (or affirm) that I will support the Constitution and laws of the United States, that I will be faithful and bear true allegiance to the State of North Carolina, and to the Constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

I, Ron Stephens, do swear (or affirm) that I will well and truly execute the duties of the office of City of Hendersonville Mayor Pro Tem according to the best of my skill and ability, according to law, so help me God.

This is the seventh day of December 2017.



Sworn to and subscribed before me,
 this seventh day of December 2017.


 Notary Public
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My Commission Expires:
 3 August 2018



9. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda. Mayor Volk asked comments be kept to three to four minutes.*

Judith Sheehan, 1034 Kanuga Road, addressed the Council regarding the widening of Kanuga Road. She thanked the Council for listening to them and taking their comments seriously and for the willingness of the Council to work with them and NCDOT on this issue to find a solution.

Glen Englam, 230 Miller J Drive, representing the community effort on NCDOT's improvement plans for Highway 64 West. He stated much of the highway is within the City's land use area. He stated they have met with NCDOT who refers to the Laurel Park Town Council. He stated he lives in the extraterritorial jurisdiction and asked the Council for assurance that they will listen to their concerns and be active participants in the process. Mayor Volk stated the Council is aware of the proposal by NCDOT.

Joe Sanders, 206 Ewart Hill Road, commended the amended plan for Kanuga Road improvements is a good compromise. He stated the greenway provides an adequate alternative for pedestrians and bicycles and will improve the quality of life for residents.

Ken Fitch, 1046 Patton Street, regarding the widening of Kanuga Road, the amended plan shows the coming together of the City, NCDOT, the neighborhood, etc. to minimize the impact on the corridor. He stated the amended plan recognizes community and neighborhoods and the identity of historic Hendersonville. He stated the natural environment is very important. He asked how we do not become the City of Four Seasons “Boulevard.”

10. Recognitions:

A. Police Department – Presentation of Life Saving Awards: Police Chief Herbert Blake presented commendations - Life Saving Awards to Sergeant Bruce Darrah, Police Officer Michele Hoyle and Police Officer Zeffrey Childress for their demonstrated superior performance in the execution of their duties on October 1, 2017.

“While on patrol in the early morning of October 1, 2017 Sergeant Darrah noticed heavy smoke that indicated an active structure fire at an apartment complex on 6th Avenue West in the Hendersonville city limits. Sergeant Darrah was the first responder on scene, followed immediately by Officer Hoyle and Officer Childress. Sergeant Darrah immediately notified dispatch and called for assistance from his colleagues on his patrol team; and together, they all commenced to smartly evacuate the many sleeping residents of the apartment complex. Within minutes, the complex was fully engulfed. The complex was a total loss. There is no doubt that the attentiveness while on duty, followed by their selfless act of bravery saved many lives and prevented related injuries. This is a prime example of a first responder's commitment to professionalism and to outstanding performance of their duties.”

B. Service Excellence Quarterly MVPs: Mr. Connet and Mayor Volk presented Quarterly Service Excellence MVP Awards to Fire Lieutenant Jared Morgan, Police Telecommunicator Liz Nix and Kemper Henderson of Public Works.

C. GFOA Budget Award: Mr. Connet reported the City has received the Government Finance Officers Association’s Distinguished Budget Award. He recognized Brian Pahle, Assistant Manager, and Adam Murr, Budget and Management Analyst for their work on the document. Mayor Volk echoed her appreciation for the work that went into the document.

D. Presentation by Walk of Fame Section Committee – Class of 2018: Chairman Tom Orr introduced the committee members present and announced the 2018 honorees for the Walk of Fame: Louise Bailey, Georgia Bonesteel, Albert Browning, Dr. Kenneth and Eleanor Cosgrove, Albert Edwards, Grace Etheredge, Frank Ewbank, Robroy Farquhar, Josiah Johnson and Robert Morgan for their lasting contributions to Hendersonville and Henderson County. He stated their goal is to continue to find ways to fund the walk, educate the residents, visitors and students and to find a better way to promote the area and suitable way to display the markers. Mayor Volk thanked Mr. Orr and the Committee members’ work on the Walk of Fame.



11. Consideration of Consent Agenda: *(Note: All items denoted with an asterisk (*) are considered routine, non-controversial in nature and will be considered and disposed of through a singular motion and vote.)*

A. Consideration of Minutes of November 2, 2017 Regular Meeting

B. Consideration of Approval of 2016 Proposed Schedule of Regular Meeting Dates: City Clerk Tammie Drake presented the schedule of regular meetings for the City Council and the boards/commissions serving the City for 2018.

C. Consideration of Election Results – Abstract of Votes:

November 07, 2017 General Election Results by Contest		Tuesday, November 28, 2017 Page 1 of 3					
Contest	Choice	Party	Total Votes	Election Day	One Stop	Abs Mail	Provisional
CITY OF HENDERSONVILLE MAYOR	Barbara G. Volk		1,090	835	247	8	0
	Jeff Miller (Write-In)		5	4	0	1	0
	Gregg Newman (Write-In)		1	0	1	0	0
	Bill Campbell (Write-In)		1	0	1	0	0
	Brian Burgess (Write-In)		3	2	1	0	0
	Daniel Parker (Write-In)		1	0	1	0	0
	Jim Peeler (Write-In)		1	1	0	0	0
	David Gurley (Write-In)		1	1	0	0	0
	Bill Moss (Write-In)		1	1	0	0	0
	Judy Bevan (Write-In)		2	2	0	0	0
	Mary Landry (Write-In)		1	1	0	0	0
	Katie Oelizza (Write-In)		1	1	0	0	0
	Steve Scoggins (Write-In)		1	1	0	0	0
	Loretta Nicol (Write-In)		1	1	0	0	0
	John Moore (Write-In)		1	1	0	0	0
	Flip Fisher (Write-In)		1	1	0	0	0
	CITY OF HENDERSONVILLE COUNCIL MEMBER	Diane Caldwell		433	333	97	3
John Moore (Write-In)			56	46	10	0	0
Jeff Miller			789	609	170	10	0
Debbie Roundtree			351	249	101	1	0
Larry Smith, Jr.			694	541	150	3	0

D. Consideration of Waiver of 2009 Penalty for Taxes: Tax Collector Tammy Holland presented a request by Mr. David Key, prior acting attorney, to waive the interest and penalties for the 2009 tax bill for Hendersonville Health Partners.

In November of 2017, the City Tax Collector issued past due tax notices for all unpaid tax bills between the years of 2000 and 2016. Mr. Key contacted the office and advised that the company owning the property had been dissolved in 2010. Mr. Key had handled the dissolving of the company. Currently the City nor Mr. Key can find any evidence of the 2009 bill being paid, the final 2010 tax bill was paid in full. Furthermore Mr. Key is unable to access any bank files or records from that time period. Mr. Key has offered to pay the original bill amount of 66.22 but has requested the waiver of penalties and interest that has accrued since 2009 (49.00).

The City Tax Collector recommended waiving the penalties and interest for the 2009 tax bill. No prior notices were mailed regarding any unpaid bills and the company is no longer in existence so any further collection attempts would be for null.

E. Consideration of Appointment of Interim Finance Officer and Resolution to Appoint Authorized Representatives for Banking Activity: Per North Carolina General Statutes 159-25 (b) all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer and countersigned by another official of the local government or public authority designated for this purpose by the governing board.

Staff suggested Council appoint Brian Pahle as interim Finance Director until which time a permanent Finance Officer/Director is hired. Mr. Pahle will be authorized to sign on all existing bank, depository and investment accounts held in the Cities name and execute all contracts as the finance officer to comply with pre-audit requirements. Other authorized signatories include Mayor Barbara G. Volk, City Manager John Connet and City Clerk Tammie Drake.

F. Consideration of Applications to Designate (Six) Heritage Trees: Mr. Wooten presented the following applications for Heritage Tree designation:

David and Carolyn Rutecki, 941 Kanuga Road:

- White Oak, 48 inches in circumference – Champion Big Tree, Historic Value. Tree is located at the right corner, back of lot. Tree is located on right side of property that was an Azalea Garden open to the public in the 1930-50s.
- White Oak, 54 inches in circumference – Champion Big Tree, Historic Value. Tree is located on right side of property that was an Azalea Garden open to the public in the 1930-50s.
- Southern Red Oak, 149 inches in circumference – Champion Big Tree, Historic Value. Tree is located on property that was an Azalea Garden open to the public in the 1930-40s. Located on the left side of property between the driveway and the Stillwell house built in 1924.

Jon and Linda Laughter, 842 Kanuga Road:

- White Oak – mature growth. Tree is 34 inches in circumference, located adjacent to front driveway.
- Southern Red Oak – mature growth. Tree is 40 inches in circumference, located near carport in back yard.

Judith Sheehan, 1034 Kanuga Road:

- Norway Spruce – mature growth, rare variety/rare species habitat, southwest corner of property close to Kanuga Road.

Mr. Wooten explained the applicants understand and agree with the below conditions for designation of a Heritage Tree.

- (1) Information on the Heritage Tree will be filed in the City Clerk's office with the location of the tree noted on a city map.
- (2) The Heritage Tree will be listed and filed in the office of the Director of Public Works.
- (3) The Heritage Tree shall not be trimmed, cut or removed without 30 days written notice to the Director of Public Works.
- (4) The Heritage Tree can be removed from its Heritage Tree designation by written request from the property owner to the administrator of the Hendersonville Tree Ordinance.

Mr. Wooten reported Mr. Mark Madsen inspected each of the trees and recommended them for Heritage tree status. The Tree Board voted unanimously to approve the designation. The Tree Board requested that City Council approve all six Heritage tree applications.

G. Consideration of Certificate of Sufficiency for the Voluntary Annexation of Property Located at 1926 Haywood Road: Development Assistance Director Susan Frady presented the petition from Diane Newman and Patrick Tighe for the contiguous annexation of parcel 9569-14-7462 containing approximately 0.76 acres located at 1926 Haywood Road. This petition is related to a request for sewer service.

Mrs. Frady presented the City Clerk's Certification of Sufficiency finding the petition is valid. The next step in the process is to accept the Clerk's Certificate and hold a public hearing on the question of the annexation at the January 4, 2018 City Council meeting.

H. Consideration of Wastewater AIA Phase 2 - Master Plan Engineering Contract Amendment:

City Engineer Brent Detwiler reported staff has been working with Black & Veatch to complete the first phase of a wastewater asset inventory and assessment project. The City received a State Grant for \$150,000.00 from the NC Department of Environmental Quality's Division of Water Infrastructure to partially fund this first phase. The first phase is nearly complete, and Black & Veatch has recently provided a scope for the second phase of the project, a master plan of the wastewater system, which will go along with the water system master plan completed earlier this year.

Mr. Detwiler requested Council authorize the City Manager to execute an amendment to the original engineering agreement with Black and Veatch to complete Phase 2 of the Wastewater AIA project - the wastewater master plan. This will include the completion of the system inventory and assessment from the first phase, flow projections, future year model capacity and project identification/prioritization, CIP development and master plan documentation and training. This project will be completed in the second half of 2018. He provided the proposed scope and fee and noted some funds left from the first phase will be applied to this one. [The agreement is on file in the Engineering Department.]

I. Consideration of Amended Memorandum of Understanding with Belmont Sayre, LLC, Regarding the Purchase of the Mill Building: Mr. Connet presented an amended Memorandum of Understanding with Belmont Sayre, LLC to deal with the changing Federal historic tax credit environment. The proposed amended outlines the provision for the City of Hendersonville advancing a portion of the architectural and consulting fees, not to exceed \$40,000, for the development of the Part 2 Tax Credit Application. He stated these fees will be reimbursed by the developer at the time of the closing of the construction loan. The amended MOU also adjust critical dates by 60 days to account for delays in completing the Part 2 Application due to federal tax reform legislation. Staff recommends approval of the amended Memorandum of Understanding. [The Amended Memorandum of Understanding is on file in the office of the City Clerk.]

J. Consideration of a Grant Project Ordinance for the Mill Building Project: Mr. Pahle presented a grant project ordinance for the Grey Hosiery Mill redevelopment project for Council's consideration. This project will consist of numerous transactions including the transfer of grant funds to a private developer. The grant will be administered by the City. This initial project ordinance will establish the budget for the initial consulting costs and tax credit application. The budget amendment is necessary once details are finalized regarding property transfer, acquisition, and construction.

Ordinance #17-1285

GRANT PROJECT ORDINANCE FOR THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE GREY HOSIERY MILL REDEVELOPMENT 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 Grey Hosiery Mill Redevelopment Project.

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

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

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 seventh day of December 2017.

/s/Barbara G. Volk, Mayor

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

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

K. Consideration of Budget Amendments (10):

1) Insurance and Donations, Fund 10, Increase of \$35,411: An amendment to increase the General Fund budget by \$35,411 to reflect insurance proceeds and a donation. The insurance proceeds were for damage done in the Oakdale Cemetery, a police vehicle, and the Dogwood Parking Lot payment kiosk. In addition, the City is in receipt of a donation from the Community Foundation for \$1,880 for trees planted on Main Street.

2) Fire Department Half time, Fund 10, No Increase/Decrease: An amendment to move funds that were budgeted for half-time in the regular salaries account to its own "Salaries & Wages - Halftime" account.

3) Kennel Club New K-9, Fund 160, Increase of \$7,500: An amendment to increase the Kennel Club Fund by \$7,500 to purchase a new police K-9. The funding will be provided from reserves.

4) Needy Persons Donation, Fund 130, Increase of \$5,300: An amendment to increase the Needy Persons Fund budget by \$5,300 resulting from of an increase in donations.

5) Downtown Grant Project, Fund 20, Decrease of \$100,000, Fund 21, Increase of \$100,000: An amendment to decrease the Main Street Fund budget by \$100,000 and increase the 7th Avenue Fund budget by \$100,000 to properly account for the State allocation of funding for a downtown revitalization project. The funds have been proposed to be used on Maple St. which includes a portion of the 7th Avenue Municipal Service District (MSD). These funds will upgrade the existing street condition and add landscaping and decorative lighting along the street and in the MSD.

6) Drug Forfeiture Correction, Fund 190, Decrease of \$5,000, Fund 195, Increase of \$5,000: An amendment to decrease the Drug Forfeiture Fund budget by \$5,000 and increase the Federal Drug Forfeiture Fund budget by \$5,000 to properly account for the State and Federal drug forfeiture programs. The funds have been previously accounted for in a single fund. However, this leads to reporting challenges. This amendment will establish a second fund so we can account and report for state drug forfeiture and federal drug forfeiture budgets separately.

7) Grey Hosiery Mill Project, Fund 350, Increase of \$100,000: An amendment establishing the budget for the Grey Hosiery Mill Redevelopment project. This amendment accompanies the grant project ordinance to establish the fund. This budget is for the initial costs of the project which may be amended once further details regarding acquisition and construction are finalized. This initial budget is needed to pay for legal services, architect fees, the historic tax credit application, and grant administration consulting costs. \$60,000 will be transferred from the General Fund's contingency account and \$40,000 will be reimbursed by the developer upon successful construction financing.

8) NCDOT Reimbursement, Fund 60, Increase of \$293,000, Fund 421, Decrease \$293,000: Budget Amendment covers the NCDOT participation in a utility agreement executed on 09112108 (DOT Project U-4428).

9) Turkey Trot, Fund 80, Increase \$1,753: An amendment to increase the budget for the Turkey Trot by \$1,753 for additional revenues and corresponding expenditures realized after the completion of the event.

10) Bear Sales, Fund 20, Increase of \$13,244: An amendment to increase the Main St. Fund budget by \$13,244 as a result in actual revenues for the auctioning of public art displays (bears) coming in higher than budgeted.

Council Member Caraker moved approval of the items listed on the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

12. Public Hearing – Consideration of a Zoning Text Amendment of Section 4-5 Classification of Uses Table 4-5, Section 5-9-2 C-4 Conditional Uses, Section 5-13-2 Conditional Uses, Section 12-2 Definition of Commonly Used Terms and Words and Article XVI Special Requirements for Certain Uses Section 16-4 Standards Pertaining to Pet Sitting:

Planner Daniel Heyman presented an application from Michael and Melanie Gambill to amend Zoning Ordinance Article V Section 5-9 C-4 Neighborhood Commercial Zoning District Classification to add "pet sitting" as a conditional use subject to special requirements. Additionally, staff is recommending that Article V Section 5-13 Residential Commercial Transition Zoning District Classification be amended to add "pet sitting" as a conditional use subject to special requirements. Pet-Sitting is defined as "The temporary boarding of no more than six (6) household pets at one time in a dwelling unit.

Mr. Heyman reviewed the standards and special requirements for pet sitting in the draft ordinance. He reported the Planning Board voted unanimously to recommend approval of the Zoning Ordinance text amendment with the addition of reference the noise control ordinance.

At 6:40 p.m., the public hearing was opened by Mayor Volk in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Council Member Caraker moved City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 4-5 Classification of Uses Table 4-5, Section 5-9-2 C-4 Conditional Uses, Section 5-13-2 RCT Conditional Uses, Section 12-2 Definition of Commonly Used Terms and Words and Article XVI Special Requirements for Certain Uses Section 16-4 Standards Pertaining to Pet Sitting. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-1286

AN ORDINANCE AMENDING SECTION 4-5 CLASSIFICATION OF USES TABLE, SECTION 5-9-2 C-4 CONDITIONAL USES, SECTION 5-13-2 RCT CONDITIONAL USES, SECTION 12-2 DEFINITION OF COMMONLY USED TERMS AND WORDS AND ARTICLE XVI SPECIAL REQUIREMENTS FOR CERTAIN USES SECTION 16-4 STANDARDS PERTAINING TO PET-SITTING

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures, and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances, and

WHEREAS, the City of Hendersonville understands the need to serve all members of the community, and

WHEREAS, the City of Hendersonville supports organizations that supply services to those in need, and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to pet sitting.

NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

1. Article IV Establishment of Districts Section 4-5 Classification of Uses Table 4-5 is hereby amended to include the following:

Add "pet sitting" as a conditional use subject to special requirements (SR) in the C-4 and RCT Zoning Districts.

2. Article V Zoning District Classifications, Section 5-9-2 C-4 Neighborhood Commercial Conditional Uses is hereby amended to include the following use:

Pet sitting.

4. Article V Zoning District Classifications, Section 5-13-2 RCT Residential Commercial Transition Conditional Uses is hereby amended to include the following use:

Pet sitting.

5. Article XII Definition of Terms Section 12-2 Definition of Commonly Used Terms and Words is hereby amended to include the following definition:

Pet sitting: The temporary boarding of no more than six (6) household pets at one time in a dwelling unit.

6. Article XVI Special Requirements For Certain Uses Section 16-4 Standards is hereby renumbered as follows:

16-4- ~~18~~ 19 Private Clubs
16-4- ~~19~~ 20 Progressive Care Facilities
16-4- ~~20~~ 21 Public Utility Facilities
16-4- ~~21~~ 22 Residential Care Facilities
16-4- ~~22~~ 23 Rest Homes
16-4- ~~23~~ 24 Restaurants
16-4- ~~24~~ 25 Schools, Primary & Secondary
16-4- ~~25~~ 26 Shelter Facilities
16-4- ~~26~~ 27 Telecommunications Towers and Antennas

7. Article XVI Special Requirements For Certain Uses Section 16-4 Standards is hereby amended to include the following uses and special requirements:

Section 16-4 Standards is hereby amended as follows:

16-4-18 Pet Sitting.

- a. No person other than members of the family residing on the premises shall be engaged in pet sitting.
 - b. There shall be no change in the outside appearance of the building or premises, or other visible evidence of pet sitting other than one sign, not exceeding 4 square feet in area, non-illuminated.
 - c. At no time are animals permitted to be outdoors unsupervised.
 - d. No more than six animals total may be boarded for a fee at one time.
 - e. All animals must be over the age of six months.
 - f. No outdoor storage of materials or equipment or outdoor facilities, accessory structures, outdoor kennels, or similar devices are permitted in connection with pet sitting.
 - g. Animals boarded are restricted to domestic dogs and/or cats.
 - h. Facilities shall be kept clean, sanitary, and free from accumulations of animal waste.
 - i. Pet sitting facilities are subject to all applicable City ordinances including, but not limited to, the Noise Control Ordinance.
 - j. Facilities shall be operated in compliance with regulations adopted pursuant to the Animal Welfare Act, N.C.G.S. §19A-20, et seq., as it may be amended from time to time.
 - k. No pet sitting facility shall be operated without all necessary licensure, certification or other form of permission from the state and any other governmental agency with jurisdiction over its operation. Loss of such permission shall be grounds for revocation of any conditional use or zoning compliance permit authorizing pet sitting.
8. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.
 9. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
 10. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.
 11. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.
 12. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this seventh day of December 2017.

/s/Barbara G. Volk, Mayor

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

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

13. Public Hearing – Consideration of a Petition for Annexation from Stephen Parker for Contiguous Annexation of Parcel 9578-42-8279 Containing 0.421 acres located on Old Spartanburg Road: Development Assistance Director Susan Frady presented the petition from Stephen Parker for contiguous annexation of parcel 9578-42-8279 containing 0.421 acres located on Old Spartanburg Road. This annexation application is related to a sewer service request.

Mrs. Frady explained 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.

At 6:48 p.m., the public hearing was opened by Mayor Volk in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Council Member Smith moved the City Council adopt an ordinance annexing the property included in the petition from Stephen Parker effective December 7, 2017. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-1287

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA - Stephen Parker

WHEREAS, the City of Hendersonville has been petitioned, pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein; and,

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall, Hendersonville, N.C. at 5:45 p.m., on the seventh day of December 2017, after due notice by publication as by law provided; and,

WHEREAS, the City Council further finds the areas described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The area is contiguous to the present City boundaries;
- b. The petition presented to the City Council was signed by the owners of the real property located in the area;
- c. The petition was prepared in accordance with a form prescribed by NCGS 160A -31, and
- d. At the public hearing all persons owning property in the area to be annexed who allege an error in the petition were given an opportunity to be heard, as well as residents of the City who question the necessity for annexation.

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-58.1, as amended, the following described area is hereby annexed and made part of the City of Hendersonville as of the seventh day of December 2017.

DESCRIPTION OF PROPERTY: BEGINNING on an existing one inch iron pipe (with NCGS Grid Coordinates of Northing: 582,281.184 and Easting: 974,767.811) located at the westernmost point of the property described in Deed Book 3071 at Page 438 and on the northern right-of-way of Old Spartanburg Road (S.R. 1722) and thence leaving said right-of-way and running N 58°03'07" E-191.68 feet to an existing 1/2 inch iron pipe; Thence S 28°28'41" E-91.80 feet to an existing 1/2 inch iron pipe; Thence S 55°34'31" W – 192.37 feet to an existing 1/2 inch iron pipe on the northern right-of way of Old Spartanburg Road; Thence along said right-of-way, N 28°28'41" W – 100.12 feet to the point of beginning. The above described parcel containing 0.421 acres more or less.

Section 2. Upon and after the seventh day of December 2017, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville, and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-31, as amended.

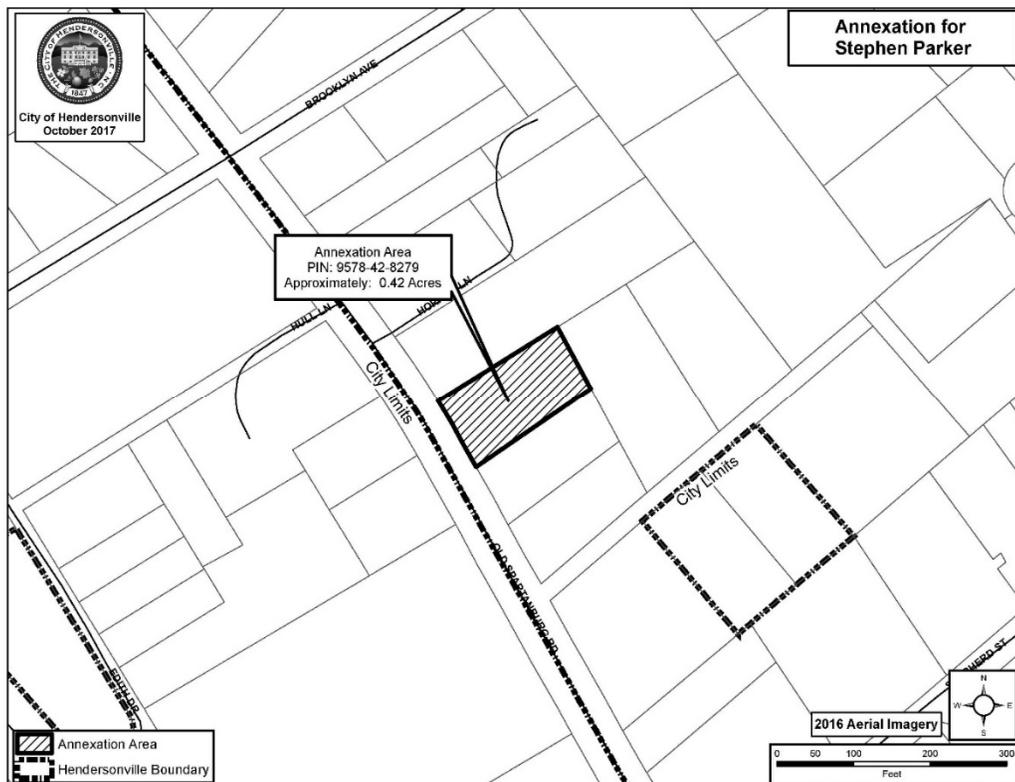
Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with a duly certified copy of this ordinance.

ADOPTED this seventh day of December 2017.

/s/Barbara G. Volk, Mayor

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

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



14. Public Hearing – Consideration of a Resolution Authorizing the Sale of Certain City-Owned Real Property Known as the “Mill Building” Pursuant to NCGS 158-7.1(d): Mr. Connet stated a public hearing was advertised and presented a draft resolution for Council’s consideration authorizing the sale of City-owned property known as the Mill Building. He stated the City is selling the property under the economic development statute by private sale. The project proposed is a downtown hotel.

Mr. Connet stated the hourly wage range for employees will range from \$10/hour to \$37.00/hour 37.50, or probable average weekly wage at \$400.00 and \$1,500.00, varying with position. He reported after due investigation the City found the fair market value of the property is \$1,000,000, the agreed upon purchase price, and the City has received an offer to purchase from Belmont Sayre, LLC for that sum.

Mr. Connet reported the City will finance the project at 3.5 percent interest over a 10-year period with a balloon payment at the sale of the property or after ten years. Other considerations/benefits include use of hotel rooms, catering and use of space.

Mr. Connet stated a subsequent agreement is being done that allows the property to revert to the City if the property is not developed. He presented a resolution authorizing the sale.

Mayor Volk opened the public hearing in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Council Member Caraker moved the City Council approve the resolution authorizing the sale of the Grey Hosiery Mills Building to Belmont Sayre, LLS for \$1,000,000.00. A unanimous vote of the Council followed. Motion carried.

RESOLUTION #17-1289

**A RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED REAL PROPERTY
PURSUANT TO N.C.G.S. § 158-7.1(d)**

WHEREAS the City of Hendersonville has explored the possibility of selling certain real property with improvements identified as PIN 9568-88-7494, sometimes called the “Mill Building” in this resolution; and

WHEREAS the City has determined that it is desirable for the City to sell the Mill Building under certain terms and conditions that benefit the City; and

WHEREAS the City has conducted certain private negotiations respecting the sale of the Mill Building as provided in N.C.G.S. § 158 7.1(d), sometimes called “the Statute” in this resolution; and

WHEREAS the City desires to subject the property to such covenants, conditions, and restrictions as it deems to be in the public interest and necessary to carry out the purposes of the Statute; and

WHEREAS the City has held a public hearing, both noticed and held according to the terms of the Statute on the seventh day of December 2017; and

WHEREAS the City has determined after due investigation that the probable average hourly wage to be paid to workers by the business to be located at the Mill Building is between \$10.00 and \$37.50, or probable average weekly wage at \$400.00 and \$1,500.00, varying with position; and

WHEREAS the City has determined after due investigation that the fair market value of the interest to be sold, subject to the conditions and restrictions listed herein is \$1,000,000.00; and

WHEREAS the City has received an offer to purchase the Mill Building from Belmont Sayre, LLC for the sum of \$1,000,000.00 upon certain conditions securing the sale and the payment of the purchase price, and

WHEREAS the City purchased the Mill Building in 1988 in accordance with the provisions of N.C.G.S ' 158 7.1(b) upon approval by the City Council after a public hearing was held.

NOW, THEREFORE, BE IT THEREFORE RESOLVED that the City Council does hereby approve the sale of the real property identified as PIN 9568-88-7494 to Belmont Sayre, LLC or its assigns approved by the City Council for \$1,000,000.00, subject to the condition and restriction that the property as developed shall retain its historic character and that the facades of the 1915 and 1919 sections be preserved;

BE IT FURTHER RESOLVED that the city manager is hereby authorized to execute a deed to the Mill Building on terms established herein along with such other reasonable terms and with such supporting documents as may be determined by the city manager in consultation with the city attorney.

Adopted this seventh day of December 2017.

/s/Barbara G. Volk, Mayor

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

15. Discussion of Kanuga Road Widening Project by NCDOT: Council Member Steve Caraker reported a positive experience working with NCDOT on the Kanuga Road widening project. He reported every municipality in the county brought concerns to NCDOT about the plans. He stated the City’s response is to maintain NCDOT’s base plan from King Street to White Street. He stated NCDOT has moved the project to spring to allow plenty of time to get it right. He commented on the improvement on White Street stating the signalization has not been decided.

Council Member Caraker stated the plan was reviewed section by section along with some individual properties. He stated NCDOT was asked to install sidewalk from White Street to Erkwood Drive only on one side of the roadway. He stated NCDOT may be willing to reduce the width of the improvements while accommodating bicycles with a type of curb and gutter that may be driven on.

Council Member Caraker stated turn lanes may be added at major subdivisions, i.e., Crooked Creek, Little River Road, and others. He stated these reductions are estimated to reduce the project by \$3-4 million. He reported the City will

have the opportunity to review the revised plans. He stated they are trying to minimize impacts on property owners, increase safety, etc. He stated Mr. Dockendorf from Flat Rock proposed a greenway that parallels the City's sewer easement to make it bike and pedestrian-friendly. He stated it may be funded through the MPO.

Mr. Connet all municipalities asked NCDOT to scale down the project. He expressed appreciation for the public's input stating this is the way local government works best. He stated he expects a good product resulting from the meeting. Mayor Volk expressed appreciation for the work on the project. **No action was taken by the Council.**

16. Presentation of Preliminary Architectural Drawings for Building and Grounds Maintenance Facility at Patton Park: City Manager John Connet recognized Larry Reeves and Kevin Rhodes from the Public Works Department who have worked on the preliminary plan for the facility. He stated a priority of City Council is to construct a new facility for the Building and Grounds Maintenance crews. The building will be constructed on a small parcel at Patton Park adjacent to North Main Street. He stated Tamara Peacock provided the preliminary design.

Mr. Connet presented the schematics stating it will provide better protection for staff, office space for supervisors, office space for future growth, restroom facilities and a mud room to change clothes. He stated they are attempting to stay under \$1,000,000 but bidding prices will determine the cost. He asked for Council's concurrence.

Discussion from the Council included access to the mezzanine by fork lift, and investigating the use of solar for heating or an on-demand water heater, sky lights for ambient light. Council Member Smith suggested provided a water fountain because of its proximity to the greenway. Mr. Connet stated yes it is possible. Mr. Connet reported construction may begin after further design this spring or summer. He stated the project loan will have to be approved through the Local Government Commission and a contractor chosen. **The Council agreed to the project by unanimous assent.**

17. Consideration of North Main Street Sidewalk Contract Award

18. Comments from Mayor and City Council Members: Mayor Pro Tem Stephens commented on the public's reaction of the location of the new post office at the Blue Ridge Mall. He cited traffic concerns and possible safety issues with parking behind the building. He stated he wants to issue a public statement that it is not a good decision. Mayor Volk stated Council relayed their preference for a downtown location. She does not think another statement will change their plans. Council Member Smith suggested improvements to the entrance of the post office for after-hours customers. Council Member Miller suggested the City do their part by stepping up police patrols particularly behind the mall. Mayor Volk suggested the City encourage the post office to install an emergency call box. **Staff will relay the Council's concerns and comments to the Post Office.**

19. Comments from Staff

A. Report on Contingencies: Mr. Connet provided a reported on contingency appropriations as required by NCGS 159-13(b)(3). **No action was required or taken.**

B. Scheduling of City Council Planning Retreat: The Council retreat was scheduled for Thursday, February 11, dinner meeting to review financial information from 6 – 8 p.m., and Friday, February 12, 2016, location to be announced. **Council Member Smith moved the Council to change the regular meeting of February 1, 2018 to Tuesday, February 6, 2018 at 5:45 p.m. A unanimous vote of the Council followed. Motion carried.**

C. Reminder of Employee/Volunteer Christmas Lunch – December 13, 11:30 a.m., Whitmire Activity Building: Mr. Connet reminded the Council of the Christmas lunch for employees and volunteers on December 13 beginning at 11:30 a.m. at the Whitmire Activity Building.

E. Reminder of Required Ethics Training for Newly-Elected Officials: Mr. Connet reminded the newly elected Council members to complete the required ethics training within a year of (re)election.

20. Consideration of Appointments to Boards and Commissions:

A. Council Representatives to Boards: City Clerk Tammie Drake requested the Council reaffirm those serving on boards/commissions. Mayor Pro Tem Stephens was selected as the Land-of-Sky Regional Council 2nd Alternate. **The following representatives were reaffirmed by the Council:**

Downtown Advisory Committee: Ron Stephens-Council Liaison

Firemen's Relief Fund Board: Barbara Volk and Steve Caraker

French Broad MPO TAC: Steve Caraker

French Broad MPO TCC: Matt Champion

Henderson Co TAC: Steve Caraker

HSAD Board - Council Liaison: Steve Caraker

Land-of-Sky Regional Council: Barbara Volk, Ron Stephens-Alternate, John Connet-2nd Alternate

LGCCA: Barbara Volk, Ron Stephens

Mills River Partnership Council Rep: Steve Caraker, Alternate position is vacant.

B. Appointments/Announcement of Vacancies and Upcoming Appointments: Mrs. Tammie Drake, City Clerk, announced the terms of Ray Mundy, Jon Blatt and John Coker will expire in December.

Mayor Pro Tem Stephens nominated Ray Mundy, Jon Blatt and John Coker stating they are all good members. A unanimous vote of the Council followed. Motion carried.

Announcement/Reminder of Vacancies and Up-Coming Vacancies: Mrs. Drake announced the Hendersonville Sister Cities – two vacant positions, Board of Adjustment - vacant alternate position and the Historic Preservation Commission - two vacancies (Payton, Ray).

Tree Board: Mr. Richard Baxter has resigned from the Tree Board. Ms. Kristy Lapidus, currently serving on the Environmental Sustainability Board would like to be considered for that position. This will be considered at the January 2018 Council meeting.

21. New Business: There was none.

22. Adjournment: Being no further business, the meeting adjourned at 7:35 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk