

MINUTES
April 4, 2019
REGULAR MEETING OF THE CITY COUNCIL
CITY HALL – COUNCIL CHAMBERS
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Samuel Fritschner, City Clerk Tammie Drake, Development Assistance Director Susan Frady, Planner Daniel Heyman, Engineering Director Brent Detwiler, Human Resources Director Jennifer Harrell, Budget and Management Analyst Adam Murr, Fire Chief Joseph Vindigni

1. Call to Order: Mayor Volk called the regular meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with four members in attendance. Council Member Smith arrived at 6:17 p.m.

2. Invocation: A moment of silence for prayer was provided.

3. Pledge of Allegiance: The Pledge of Allegiance to the Flag was led by Miss Samantha Johnson, recipient of the Mayor's Civic Achievement Award.

4. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda.*

Indian Jackson, 2689 Howard Gap Road, Hendersonville, addressed the Council stating the prices on Seventh Avenue may increase and she wants existing businesses to be able to stay in business and the families remain in the neighborhood. Mayor Volk stated the Council has discussed this.

Linda Miller, 62 S. Lakewood Circle, Hendersonville, urged the Council to endorse the Equal Rights Amendment and notify our legislators.

Nancy Glowacki, 117 Woodbridge Drive, Hendersonville, spoke in favor of the adoption of the Equal Rights Amendment to the Constitution stating this is a non-political, non-partisan issue but is a human rights issue. She hopes NC will be the deciding thirty-eighth vote to ratify the amendment. Mayor Volk stated Council Member Smith has asked the Council to discuss this at the April 11 special meeting.

5. Consideration of Agenda:

Addition to Regular Agenda:

- 9a. Discussion of limiting truck traffic on Berkeley Road
- 13a. Consideration of Proposed Change Order No. 1 for the Wastewater Treatment Plant Generator Project

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

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

A. Consideration of Minutes:

- i. February 21, 2019 Special Meeting
- ii. March 7, 2019 Regular Meeting
- iii. March 14, 2019 Special Meeting

B. Consideration of Budget Amendments: Mr. Adam Murr, Budget and Management Analyst, presented the following budget amendments.

Fund 10 – Increase of \$2,821
 To increase the budget by \$2,821 to reflect insurance proceeds and their respective claim repair accounts.
 Total Expenditures: \$2,821

Fund 10 – Decrease of \$150,000
 In February the City Council voted to delay the Whitmire building improvements project in order to completely fund the downtown restrooms project. This amendment decreases the budget appropriated for Whitmire accordingly in the General Fund budget.
 Total Expenditures: \$150,000

C. Consideration of a Resolution Accepting the Dedication of Certain Real Property Interests to the City of Hendersonville: City Attorney Sam Fritschner presented the following resolution for Council's consideration.

Resolution #19-0415

A RESOLUTION ACCEPTING THE DEDICATION OF CERTAIN REAL PROPERTY INTERESTS TO THE CITY OF HENDERSONVILLE

WHEREAS the City Council is advised that in order for a dedication to the City of an interest in real property, to be completed, requires not only the initial dedication but also the acceptance in some form by the City of the dedication; and

WHEREAS the City Council has determined that it is desirable for the City to accept dedications formally and in a manner that can easily be discovered; and

WHEREAS the City Council believes that the most formal and easily discovered method of accepting real property dedications is by City Council resolution, where the property interest has not been accepted by a document executed by an authorized City representative; and

WHEREAS the City Council is informed that the real property interests listed below have been dedicated to the City but not yet accepted in writing;

NOW, THEREFORE, BE IT THEREFORE RESOLVED that the City Council does hereby accept the dedication of the following identified real property interests effective as of the moment of adoption of this resolution:

Dedicated by	Date of recording	Property interest and short description
Henderson County	2/9/2019	Sewer Easement - Ashemore Ave. & Asheville Hwy.

Adopted this 4th day of April 2019.

/s/Barbara G. Volk, Mayor

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

D. Consideration of a Lease Agreement for a Plotter/Scanner for the Fire Department: Fire Chief Joseph Vindigni requested approval of a lease agreement with RJ Young Company-Nashville for a plotter/scanner that will be utilized by the fire department's life safety division for plans review, mapping and other inspections and GIS-related activities. *[The lease agreement is in the office of the Fire Chief].*

E. Consideration of a Request for the Extension of Water Service to Sycamore Cottages, Phase 2: Utilities Director Lee Smith submitted the request for water service to provide service to Sycamore Cottages, Phase 2, consisting of 77 residential units. The property is located on Old Hendersonville Road.

Mr. Lee Smith reported the proposed water system will consist of: 2,270 linear feet of six-inch ductile iron pipe. This project is within the Zoning and Planning Jurisdiction of the Town of Fletcher and has received approval dated February 11, 2019.

Based on this information, Mr. Lee Smith stated the Water and Sewer Department has the capacity to support this additional infrastructure and associated connections and recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

F. Consideration of Special Event Permits for: Planner

i. 2019 Block Party on Main: Development Assistance Director Susan Frady reported the Special Events Committee and the Downtown Advisory Committee voted unanimously for City Council's approval of this event. The application requests the closing of Main Street between Allen and Caswell Street from 6 PM-10PM. This will be a music concert with the feature band as the "Swinging Medallions".

ii. Carolina Mountain Car Club: Development Assistance Director Susan Frady reported the Special Events Committee recommends approval of additional dates for the Carolina Mountain Car Club. These events are held during the Friday Night Music on Main events. In past years the Corvette Club held part of the car shows but they are no longer doing any shows, so three additional dates were added for the Carolina Mountain Car Club. The 2019 dates are: June 7, June 14, June 21, June 28, July 12, July 19, July 26, August 2, August 9, August 16 and August 23. There are no additional changes to this event.

iii. 7th Avenue Open Streets: Development Assistance Director Susan Frady reported the Special Events Committee recommends approval of an application from Strive Beyond, sponsor of the 7th Avenue Open Streets event to be held Sunday, May 19 from 2-5 PM. This event is a multi-block street closure to motor vehicles for approximately three hours, during which the street is used to play games, host active exercises and performances (not staged) and build community. Attendees are encouraged to park remotely and make the walk or bike ride to the event as part of their experience. In addition to the street festival, a temporary version of on-street bike/pedestrian infrastructure and 7th Avenue streetscape considerations will be demonstrated. The proposal is to close 7th Avenue East from Grove Street to Ashe Street, Locust Street from 7th to Track Street, Track Street from Locust to Maple and Maple from Track Street to the alley.

G. Consideration of the Water Shortage Response Plan: Utilities Director Lee Smith explained the NC Division of Environmental Quality requires the update of the City's Water Shortage Response Plan

every five years. The Plan was updated in June 2018, but it is now required to be adopted in the form of a resolution.

Mr. Lee Smith summarized the major revisions as: adjusting the river flow percentiles to reflect more accurately conditions seen during drought conditions. He stated no updates to the ordinance, Chapter 52, Article VI - Water Shortage Response and Conservation, are required at this time.

Resolution #19-0416

RESOLUTION APPROVING WATER SHORTAGE RESPONSE PLAN

WHEREAS, North Carolina General Statute 143 355 (l) requires that each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as set out in a Water Shortage Response Plan and submitted to the Department for review and approval; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Water Shortage Response Plan for the City of Hendersonville, has been developed and submitted to the City Council for approval; and

WHEREAS, the City Council finds that the Water Shortage Response Plan is in accordance with the provisions of North Carolina General Statute 143 355 (l) and that it will provide appropriate guidance for the future management of water supplies for the City's Water and Sewer Department, as well as useful information to the North Carolina Department of Environmental Quality for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville that the Water Shortage Response Plan, dated June 2018, is hereby approved and shall be submitted to the North Carolina Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the City Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the 4th day of April 2019 at Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

H. Consideration of a Letter of Support for Sidewalks on Grove Street: City Manager John Connet reminded the City Council that at their September 6, 2018 meeting the City Council asked Councilman Caraker to support the funding for the construction of sidewalks on Grove Street during NCDOT's project prioritization process. He reported the project was funded and construction is expected to occur after 2022. NCDOT has requested a letter confirming that the City is willing to provide the 20% match and still supports the project.

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

7. Recognitions/Presentations:

A. Proclamation for Week of the Young Child: Mayor Volk presented a proclamation for Week of the Young Child to Alisha Freeman, Director of Family and Children Resource Center. She expressed her appreciation for the proclamation and the grant received in support of their developmental screening programs. Last year 1,176 children were screened.

B. Proclamation for Parkinson's Awareness Month: Mayor Volk presented a proclamation for Parkinson's Awareness Month to Dick Orwoll and others. Mr. Orwoll expressed appreciation for the proclamation on behalf of those suffering with the disease.

8. Public Hearing – Consideration of an Order to Permanently Close Lily Drive and an Unopened portion of W. Barnwell Street: Development Assistance Director Susan Frady presented the petition from Sharon Stepp and Hendersonville Little Theatre, Inc., to close an unopened and unimproved right-of-way of Lily Drive and the unopened and unimproved portion of W. Barnwell Street.

Mrs. Frady stated the Council adopted a Resolution of Intent to close this unopened right-of-way at their February 7th, 2019 meeting. A copy of the Resolution of Intent was mailed to the adjoining property owners, notification of the proposed closing was posted on the property, and the Resolution of Intent and notice of the public hearing was advertised for four times in the legal notice section of a local newspaper. She reviewed General Statute 160A-299 authorizing the closed of streets.

At 6:14 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 Council to adopt the Order to Permanently Close a portion of an unopened and unimproved ROW for Lily Drive and a portion of W. Barnwell Street located on PIN numbers 9568-76-2275 and 9568-76-3519 as petitioned by Sharon Stepp and Hendersonville Little Theatre, Inc. A unanimous vote of the Council followed. Motion carried.

ORDER #19-0417

**ORDER TO PERMANENTLY CLOSE LILY STREET AND
A PORTION OF W. BARNWELL STREET
(Petition by Sharon Stepp and Hendersonville Little Theatre, Inc.)**

NORTH CAROLINA
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

WHEREAS, North Carolina General Statute Section §160A-299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing of such streets or alleyways; and

WHEREAS, Sharon Stepp and Hendersonville Little Theatre, Inc., have petitioned the City of Hendersonville to close Lily Drive and a portion of W. Barnwell Street; and

WHEREAS, on the seventh day of February 2019, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the fourth day of April 2019, as the date of a public hearing regarding such closure; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing in the Hendersonville Times News (a newspaper of general and regular circulation in Hendersonville and Henderson County) and a copy thereof has been sent by certified mail to all owners of property adjoining the street as shown on the county tax records; and

WHEREAS, notice of the closings and of the public hearing has been posted in at least two places along the streets; and WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the fourth day of April 2019.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby make the following findings of fact:

1. The closing of the streets hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the alley or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order: Being located in the County of Henderson, State of North Carolina and more particularly described as:

TRACT "E"

BEGINNING AT A POINT; THENCE NORTH 81 DEGREES 40 MINUTES 00 SECONDS EAST A DISTANCE OF 15.36 FEET TO THE NORTHWEST CORNER OF DEED BOOK 1625, PAGE 013 ALSO THE CORNER OF THE SOUTHERN MARGIN OF BARNWELL STREET AND EASTERN MARGIN OF LILY DRIVE; THENCE WITH THE WESTERN LINE OF DEED BOOK 1625, PAGE 013 AND EASTERN MARGIN OF LILY DRIVE SOUTH 04 DEGREES 58 MINUTES 00 SECONDS WEST A DISTANCE OF 228.55 FEET TO A POINT; THENCE NORTH 40 DEGREES 15 MINUTES 05 SECONDS WEST A DISTANCE OF 21.07 FEET TO A POINT; THENCE NORTH 04 DEGREES 58 MINUTES 00 SECONDS EAST A DISTANCE OF 210.18 FEET TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 3280 SQUARE FEET, 0.08 ACRES

TRACT "F"

BEGINNING AT A POINT IN THE EASTERN LINE OF DEED BOOK 104, PAGE 281; THENCE NORTH 81 DEGREES 40 MINUTES 00 SECONDS EAST A DISTANCE OF 15.36 FEET TO A POINT; THENCE SOUTH 04 DEGREES 58 MINUTES 00 SECONDS WEST A DISTANCE OF 210.18 FEET TO A POINT; THENCE NORTH 33 DEGREES 17 MINUTES 09 SECONDS WEST A DISTANCE OF 24.15 FEET TO A POINT IN THE EASTERN LINE OF DEED BOOK 104, PAGE 281; THENCE WITH SAID LINE NORTH 04 DEGREES 58 MINUTES 00 SECONDS EAST A DISTANCE OF 187.68 FEET TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 2974 SQUARE FEET, 0.07 ACRES

TRACT "A"

BEGINNING AT A POINT IN THE EASTERN LINE OF DEED BOOK 104, PAGE 281 AND THE NORTHERN MARGIN OF THE RIGHT OF WAY FOR BARNWELL STREET AS SHOWN ON P.C. "B", SLIDE 116; THENCE NORTH 81 DEGREES 40 MINUTES 00 SECONDS EAST A DISTANCE OF 77.92 FEET TO A POINT IN THE CENTERLINE OF WASH CREEK AND THE NORTHERN MARGIN OF SAID RIGHT OF WAY; THENCE DOWN THE CENTERLINE OF WASH CREEK SOUTH 28 DEGREES 02 MINUTES 30 SECONDS EAST A DISTANCE OF 26.29 FEET; THENCE SOUTH 81 DEGREES 40 MINUTES 00 SECONDS WEST A DISTANCE OF 92.63 FEET TO A POINT IN THE EASTERN LINE OF DEED BOOK 104, PAGE 281; THENCE WITH THE EASTERN LINE OF DEED BOOK 104, PAGE 281 NORTH 04 DEGREES 58 MINUTES 00 SECONDS EAST A DISTANCE OF 25.43 FEET TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 2111 SQUARE FEET, 0.05 ACRES

TRACT "D"

BEGINNING AT A POINT IN THE EASTERN LINE OF DEED BOOK 104, PAGE 281; THENCE NORTH 81 DEGREES 40 MINUTES 00 SECONDS EAST A DISTANCE OF 92.63 FEET TO POINT IN THE CENTERLINE OF WASH CREEK; THENCE WITH THE CENTERLINE OF WASH CREEK SOUTH 37 DEGREES 23 MINUTES 31 SECONDS EAST A DISTANCE OF 28.31 FEET TO A POINT IN THE NORTHERN LINE OF DEED BOOK 1625, PAGE 013; THENCE PARTIALLY WITH THE NORTHERN LINE OF DEED BOOK 1625, PAGE 013 SOUTH 81 DEGREES 40 MINUTES 00 SECONDS WEST A DISTANCE OF 112.24 FEET TO A POINT IN THE EASTERN LINE OF DEED BOOK 104, PAGE 281;

THENCE WITH THE EASTERN LINE OF SAID DEED NORTH 04 DEGREES 58 MINUTES 00 SECONDS EAST A DISTANCE OF 25.43 FEET TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 2535 SQUARE FEET, 0.06 ACRES

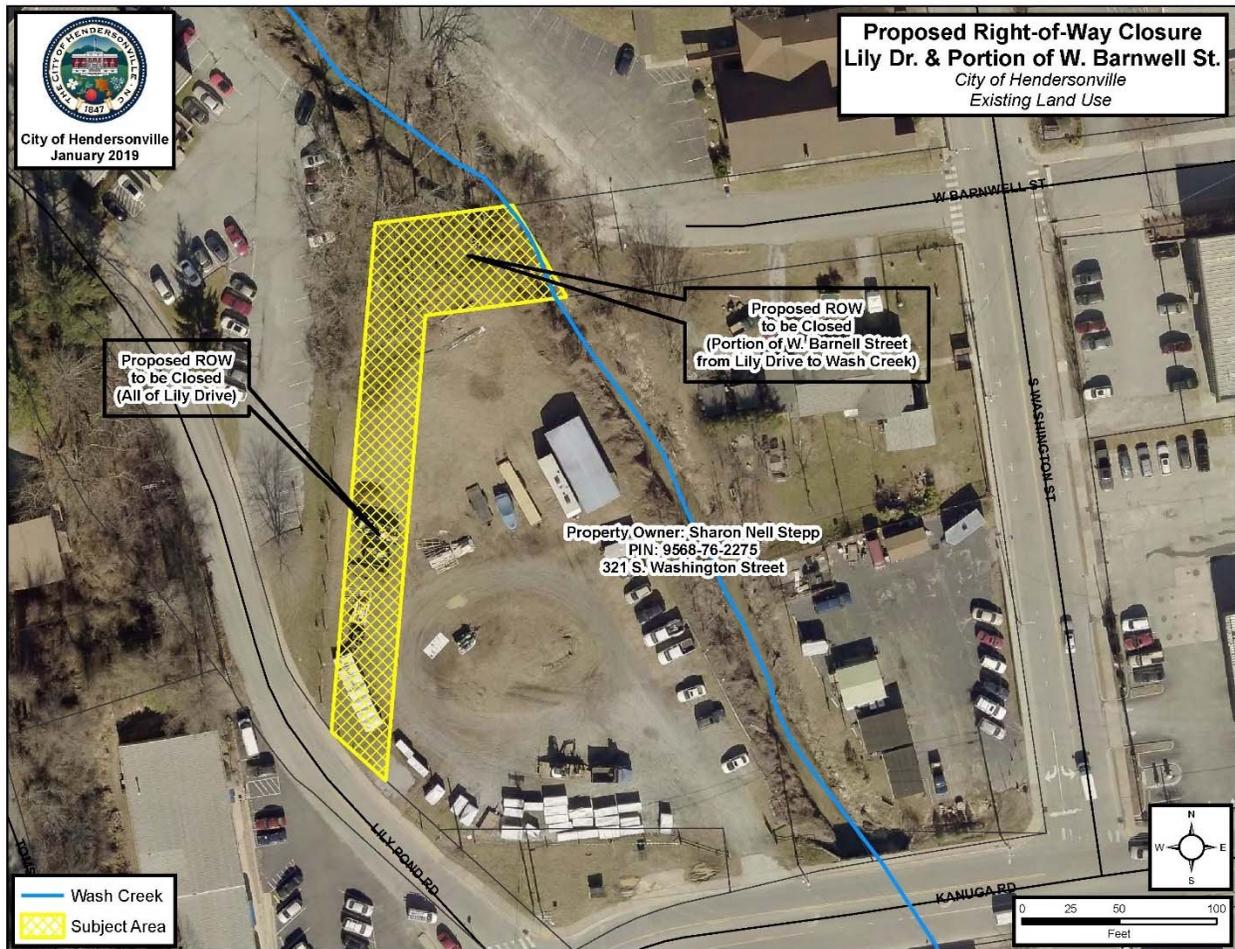
2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the fourth day of April 2019.

/s/Barbara G. Volk, Mayor

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

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



9. Presentation from Laurelwood Condo Association: Ms. Barbara Boatman, 54 Laurelwood Circle West, Unit #21, in Laurelwood, west of the Blythe Street/U.S. 64 West intersection, addressed the Council. She discussed the impacts of the NCDOT project on their complex. The proposal is for three lanes, sidewalks and bike lanes. [Council Member Smith arrived at 6:17 p.m.]

Ms. Boatman stated the project will impact old growth Hemlock trees and other old growth wood that their complex has preserved from the time an old farmhouse was there. She stated part of woodland will be destroyed, Oaks, Hemlocks and the understory and it will negatively affect the appearance of their complex, the gateway into downtown Hendersonville and result in the loss of the City's tree canopy. Hendersonville is an award-winning Tree City recognized at State level. Loss of trees will mean loss of pollinators and increased noise. She asked that their views be entered the record for Council's consideration if they any influence before construction begins. She stated the Council is their voice to NCDOT. She asked the Council to think about them and the beauty that is being destroyed.

Council Member Caraker reported a conversation with Brian Birch of NCDOT and believes the project may be pared back. He stated NCDOT is accepting of public comments and he will relay their concerns. **No action was taken.**

9a. Discussion of Limiting Truck Traffic on Berkeley Road: Mr. Connet stated residents approached Henderson County commissioners about limiting truck traffic on Berkeley Road. He stated the commissioners have requested input from the Council because of the impacts to traffic in the City.

Mr. Connet reported it is his understanding that NCDOT is not be in favor of restricting truck traffic on Berkeley Road because it does not meet their warrants. He requested guidance from the City Council.

Council Member Miller opposed the idea stated Henderson County eliminated the possibility of a new road to offset truck traffic and limiting truck traffic on this road would force that traffic onto North Main Street. He stated it should be determined how to make the traffic flow better, but it is not fair to shut it down to truck traffic. Mayor Pro Tem Stephens also opposed the idea stating NCDOT may need to widen the road. Council Member Smith commented he travels the road very frequently and does not feel unsafe. Council Member Caraker commented that when the Balfour Parkway was eliminated, he expressed concern about truck traffic from the landfill and trucks taking the shortest route. Mayor Volk commented the purpose of Signal Hill Road is so traffic does not have to go through downtown. After discussion, **Council Member Miller moved Council to oppose limiting any truck traffic on Berkeley Mills Road. A unanimous vote of the Council followed. Motion carried.**

Council Member Miller expressed appreciation to Commissioner Lapsley for inviting the City Council's input. Mayor Volk echoed her appreciation.

10. Consideration of Street Condition Survey: City Public Works Director Tom Wooten gave a presentation on the street condition survey that is used to prioritize which streets are resurfaced. He explained the

previous method used to assess the condition of asphalt. He stated the new method is computerized that removes the human element from the equation.

Mr. Wooten explained the Laser Crack Measurement System (LCMS) results in high quality data: a list of street segments with the individual score for each segment, a "crack map," and the Pavement Condition Index map which is used when preparing the resurfacing program. He stated the streets in the worst condition go to the top of the resurfacing list.

Council Member Miller asked if the crack map and traffic counts could be merged. Mr. Wooten stated yes; it could be done with manpower.

Mr. Wooten stated the City maintains 68 miles of streets. He ended the presentation by stating the City will continue resurfacing and will closely monitor utility crews for cuts before resurfacing. He stated surveys will be done every five years. Sidewalk data will be received soon which will help identify ADA ramp issues, trip hazards, total length of sidewalk, etc. **No action was taken.**

11. Consideration of an Interlocal Agreement with Henderson County for the Joint Collection of Property Taxes: Assistant City Manager Brian Pahle presented an Interlocal Agreement with Henderson County for the joint collection of property taxes. He stated currently tax payers receive two separate tax bills that are paid at two different locations. Under this agreement, taxpayers will receive one bill.

Mr. Pahle explained the term of the agreement is five years and Henderson County will collect City taxes at a rate of 0.05% of total collection or approximately \$45,000/year. He stated the City will recover this cost based on the County's higher collection rate. He believes this will benefit the citizens while enhancing the City's current property tax collections.

The Council discussed payment plans, pre-payments and the pro-rata share of payments. Interest and penalties are applied if the bill is not paid in full. Staffing was also noted by Mayor Pro Tem Stephens.

Council Member Caraker moved the City Council to authorize the City Manager to execute the interlocal agreement for tax collection. A unanimous vote of the Council followed. Motion carried.

STATE OF NORTH CAROLINA COUNTY OF HENDERSON
INTERLOCAL AGREEMENT FOR TAX COLLECTION

THIS INTERLOCAL AGREEMENT is made and entered into this the ___ day of _____ 2019, and effective as of the 1st day of July 2019, by and between HENDERSON COUNTY, hereinafter the "County" and the CITY OF HENDERSONVILLE, hereinafter the "City", and collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the County and City have determined that it is in the public benefit and interest to enter into an Interlocal Agreement for Tax Collection; and

WHEREAS, the Parties have agreed that the negotiated payment set forth herein is in the best interests of their citizens; and

WHEREAS, the North Carolina General Statutes in Chapter 160A, Article 20, provide that units of local government may enter into agreements in order to execute an undertaking providing for the continual exercise by one unit of any power, function or right, including the collection of taxes; and

WHEREAS, the City and County agree this Interlocal Agreement shall continue for five (5) years, from July1, 2019 to June 30, 2024, unless terminated pursuant to the terms herein; and

WHEREAS, the governing bodies of the City and County have ratified this Interlocal Agreement by Resolutions being recorded in their respective minutes; and

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained in this Interlocal Agreement herein accruing to the benefit of each of the respective parties hereto and other good and valuable consideration, receipt and sufficiency of which is acknowledged by the City and County, the parties agree as follows:

1. County Billing and Collection of City Taxes
 - a) The County shall provide collection of current and future municipal ad valorem property taxes. Collection of delinquent taxes existing as of the date hereof shall be the responsibility of the City except as stated below. The City shall within thirty (30) days of the date hereof provide the County with a list of all such delinquent taxes owed, and delinquent taxpayers, as of the date hereof.
 - b) Notwithstanding, no City tax bill in an amount less than Five Dollars (\$5.00) shall be issued.
 - c) The City does hereby for the term of this agreement appoint the County's Tax Collector as the City's Tax Collector, and the County's Delinquent Tax Collector as the City's Delinquent Tax Collector.
2. Term of Agreement: This Interlocal Agreement shall continue until terminated pursuant to the terms herein.
3. Compliance: The County will comply with all applicable tax collection laws of North Carolina, including those contained in Subchapter II of Chapter 105 of the General Statutes of North Carolina, and all administrative mandates issued by the State of North Carolina.
4. Records and Accounts and Operations
 - a) The County shall be responsible for maintaining, in an on-line environment, all ad valorem tax records, including amounts paid and unpaid, in the same manner as County records are maintained.

- b) The City will provide the County with all necessary information for transfer for all funds due the City, the County will properly account and distribute such funds by check or other mutually agreed upon method monthly and notify the City Finance Director by the 15th of each month on amounts to be transferred.
- c) The County shall provide the City with all necessary and required reports in such format and detail to enable the City to prepare and record the necessary financial transactions. Such reports shall be mutually agreed upon by the City and County Finance Directors.
- d) The County will provide the City with information sufficient to complete all required reports to outside agencies, including the TR-2 report and reports necessary for the City's financial statements. The City shall be responsible for the completion of all reporting involving property tax.
- e) The County shall provide the City's External Auditors, during regular business hours, access to the City Tax Receivables' daily cash transactions and other records pertaining thereto to the fullest extent practicable.
- f) The City shall provide the County Tax Collection Office with access, to the extent legally allowable, into any of the City's records systems that the City deems to be beneficial in the collection of City taxes.
- g) The City agrees to appoint and maintain one of its employees as a Deputy Tax Collector to act on behalf of the City in presenting certain matters to the City Council.
- h) The County shall promptly provide the City with requests for releases or refunds when received, together with reasonable information needed to make a determination on requests for releases or refunds. The City shall, at its next regular City Council meeting occurring at least ten (10) days after the receipt of the request and information, place the matter before the City Council for determination as to whether to grant the release or refund of City taxes.

5. Pro Rata Payments: Unless the taxpayer specifies otherwise, the County shall distribute payments received from City taxpayers of less than the total amount owed on City and County taxes on a proportionate basis between taxes owed the County and the City, after all costs, interest and penalties are first paid.

6. Costs for Billing and Collections: The County shall incur all costs for preparing, printing, billing and collecting the City tax bills, including follow-up notices.

With respect to the cost for collection actions taken by the County, for example advertising costs, attorney's fees and garnishment fees where such costs are not paid directly by the taxpayer involved, the County shall split the costs on a proportionate basis between taxes owed the County and the City.

When agreed upon by both the County and City, joint advertisement, including the advertisement of tax liens for both the County and the City, is permissible.

7. Foreclosures

- a) The County shall be responsible for determining the time for commencing all tax foreclosure proceedings (except for those regarding any foreclosure proceedings instituted by the City on City taxes delinquent as of the date of this agreement). The City hereby delegates this decision to the County. The County shall give the City notice of the institution of any foreclosure action at least thirty days prior to filing in cases where there are delinquent taxes owed the City as of the date hereof.
- b) The County shall send a joint notice as required by N.C. Gen. Stat. §105-375(c) and shall consolidate the tax liens of the County and the City for the purpose of docketing a judgment on such liens as contemplated by N.C. Gen. Stat. §105- 375(k). Following entry of a judgment, an execution shall be issued to enforce such judgment.
- c) All expenses directly related to compliance with the procedural and substantive requirements of N.C. Gen. Stat. §105-375, including but not limited to notice, docketing the judgment and execution on such judgment, shall be advanced by the County, and reimbursed to the County from the proceeds of any foreclosure sale prior to payment to the City and County of taxes recovered.
- d) The parties shall agree in advance of the sale upon a "maximum joint bid" for each execution sale of property to enforce a judgment entered as provided herein above, which bid will be entered on behalf of both parties. The "maximum joint bid" shall be the sum of all taxes, interest, penalties and applicable costs of enforcement, collection and sale owed to both jurisdictions. The parties further agree that if third parties bid at such execution sale, they will bid up to the "maximum joint bid", such that no third party will purchase the property for less than the "maximum joint bid". If the parties are the highest bidder at any sale, they shall each contribute to the purchase price a pro rata amount of the whole, determined by the amount of ad valorem taxes owed to each of them for the respective tax year on the subject real property in relation to the total amount of ad valorem taxes owed to both parties.
- e) If the parties acquire title to real property following an execution sale as contemplated in this Agreement, they shall take title as tenants in common with each party owning a fractional interest of the whole that is equal to the same fraction as their contribution to the purchase price.

8. Payment to County: The fee for collection services for each fiscal year shall be a flat amount of 0.5% (equivalent to one half of one percent of the then-current Fiscal Year collections). Payment shall be accomplished by the County withholding the fee when remitting the monthly collection to the City.

9. Termination: This Interlocal Agreement may be terminated by either party by providing six (6) months' notice prior to the start of the next fiscal year. Upon notice of termination of the Interlocal Agreement, the County shall deliver to the City all tax records, in a customary electronic data format, or in whatever form held in its hands, pertaining to its listing, billing and collecting, consistency of the tax bills, tax scrolls and other related records by February 1st of the fiscal year in which the termination shall be effective. The County shall continue to collect current and delinquent taxes through June 30th of the fiscal year in which the termination shall be effective. Upon termination of the Interlocal Agreement, the County shall provide a full accounting to the City of the status of all tax collections. After June 30th of the fiscal year in which the termination becomes effective, the County shall not be further obligated either as to current or delinquent taxes due to the City.

10. Entire Agreement: This Interlocal Agreement, including all exhibits or attachments if any, sets forth the entire Agreement between the Parties regarding the services and matters set forth herein. All prior conversations or writings between the Parties hereto or their representatives on this subject matter are merged within and extinguished. This Interlocal Agreement shall not be modified or amended except by a written instrument executed by duly authorized representatives of the Parties herein.

11. Notice: Notice under this Interlocal Agreement shall be deemed sufficient upon the mailing to the parties by certified or registered mail at the following locations:

County of Henderson c/o Charles Russell Burrell
1 Historic Courthouse Square, Suite 5
Hendersonville, NC 28792
City of Hendersonville c/o
145 5th Avenue East Hendersonville, NC 28792

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on the day and year first above written and if corporate, by their duly authorized representative.

HENDERSON COUNTY
CITY OF HENDERSONVILLE
PRE-AUDIT CERTIFICATION

By: Steve Wyatt, County Manager
By: John Connet, City Manager

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act N.C.G.S. 159-28(a).
Henderson County Finance Director

By: Samantha Reynolds
Date:

12. Consideration of NC Parks and Recreation Trust Fund Grant Application for Clear Creek Greenway Extension: City Engineer Brent Detwiler explained applications for NC Parks and Recreation Trust Fund Grants (PARTF) are due May 1. He stated the City's project will involve construction and land acquisition.

Mr. Detwiler reviewed the proposed project that extends from the Oklawaha Greenway, east of the old treatment plant. A pedestrian bridge will cross Mud Creek and it will run parallel to Clear Creek to the back of the Carolina Village property. He reported Carolina Village has agreed to provide \$250,000 as a grant match. He stated the grant requires a 50% match.

Mr. Detwiler reported staff is working with NCDOT to ensure the bridge is wide enough to extend the greenway under Interstate 26, along Allen Branch to a commercial area off Highway 64 east.

Mr. Detwiler stated staff has had conversations with a PARTF representative and the cost estimate will be refined. It is possible the match may be higher – up to \$400,000. He noted the sewer line may have to be upsized in the area. He stated if the grant is received, this project may be done at the same time or possibly provisions can be made to get the necessary land.

Mr. Detwiler recommended hosting a public input meeting. Communications Director Allison Nock has scheduled this meeting for April 16, 5-6 p.m. at the Operations Center. He also asked the Council to approve Henderson County's Greenway Master Plan by resolution to serve as a guide for future greenway development in the City.

Council Member Caraker moved the City Council to direct staff to submit an application for a PARTF Grant for the Clear Creek Greenway Extension and to authorize the Mayor to execute the application. He further moved Council's adoption of a resolution supporting the vision, objectives and benefits of the Henderson County Greenway Master Plan. A unanimous vote of the Council followed. Motion carried.

Resolution #19-0418

RESOLUTION SUPPORTING THE VISION, OBJECTIVES, GOALS AND BENEFITS OF THE HENDERSON COUNTY GREENWAY MASTER PLAN

Whereas, the Hendersonville City Council has been a strong advocate for the construction of greenways; and

Whereas, the City of Hendersonville has constructed and currently maintains over three miles of greenways in Hendersonville; and

Whereas, the City of Hendersonville continues to acquire greenway easements through the development review and utility construction processes; and

Whereas, the City of Hendersonville supports the vision, objectives, goals and benefits of the Henderson County Greenway Master Plan; and

Whereas, the Hendersonville Clear Creek Greenway Extension is included in Henderson County's Master Plan as an opportunity to provide connectivity to the eastern portion of Henderson County.

Now, therefore the City Council does hereby adopt the Henderson County Greenway Master Plan as approved by the Henderson County Board of Commissioners on April 1, 2019 to serve as a guide for future greenway development in the City of Hendersonville.

Adopted this fourth day of April 2019.

/s/Barbara G. Volk, Mayor

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

13. Consideration of Acceptance of Bid and Award of the Wastewater Treatment Plant Improvements – Filter Replacement Project: City Engineer Brent Detwiler said on March 5, 2019, the Wastewater Treatment Plant Improvements – Filter Replacement project was formally bid, but only two bids were received. Per NCGS 143-129, the bids were not opened, and the project was rebid. He stated the project consists of the replacement of the tertiary filter system in filter basin No. 1 with a Cloth-Media Filtration System, structural modifications and repairs to the filter basin, procurement and installation of all piping, valves, weir gates, and appurtenances, and routing of power and controls signals between the new cloth media filtration system and the treatment plant's power and control systems. The Engineer's Opinion of Probable Construction Cost for this project is approximately \$1,200,000.

Mr. Detwiler reported on March 19, 2019, two bids were received with the following results:

Turner Murphy Company, Inc. - \$676,217.32
The Harper Corporation - \$703,000.00.

Mr. Detwiler reported our consultant, McKim & Creed, reviewed each of the bids received for accuracy and completeness. As a result of this review, City staff and the consultant recommends the project award to Turner Murphy Company, Inc., the lowest responsive and responsible bid.

After discussion of the cost estimate, **Council Member Caraker moved Council to authorize the City Manager to award and execute the contract for the construction of the Wastewater Treatment Plant Improvements - Filter Replacement Project to Turner Murphy Company, Inc., the lowest responsive and responsible bidder, in the amount of \$676,217.32, as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.**

13a. Consideration of Proposed Change Order No. 1 for the Wastewater Treatment Plant

Generator Project: Utilities Director Lee Smith explained as the contractor began work on the subgrade for the new generator pad, poor or unsuitable material was found underneath. He stated the plant was built on fill material. He stated the contractor worked on the assumption that the material was good. The result was a recommendation to drive 11 helical piers to bedrock beneath the pad and to undercut the three feet of unsuitable material as the equipment is very heavy.

Mr. Lee Smith stated the Contractor was asked to provide a cost for this additional work and he has done so. He provided a detailed explanation of the costs. He stated the Contractor's contract with the City to install the generator and ATS switchbox included a \$24,000 contingency. The total cost for the Contractor is \$55,820 so after deducting the contingency, the total amount due to the Contractor would be \$31,820. He stated because this change order will be using all contingency funds, he recommended increasing this amount to \$36,000 to allow for some funds in the purchase order to cover any unforeseen work that may be required to complete the project.

The Council discussion who designed the project and agreed it would have been better to know these costs upfront.

After discussion **Council Member Caraker moved Council to approve a change order in an amount not to exceed \$60,000 for Page Power Systems, \$24,000 of which is in the contractor's contract as a contingency and to authorize the City Manager to execute this change order, as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.**

14. Reports/Comments from Mayor and City Council Members:

- Council Member Caraker reported he will have a conversation with NCDOT about the Highway 64 West project.
- Council Member Miller congratulated Reporter Andrew Mundhenk for taking first place in education reporting for his article "Tough Decisions," about Henderson County educators working to meet the state's new class size mandate and for third place in news feature writing for his article "Eyesore gets a new purpose," about renovations at the former Tuxedo School.

15. Reports from Staff:

A. Report on Contingencies: Mr. Connet reported the following contingency appropriations in accordance with NCGS 15-13(b)(3):

- 1) Fund 10, \$8,120, Fire Department Bay Improvement
- 2) Fund 10, \$142, Insurance
- 3) Fund 60, \$540, Insurance
- 4) Fund 60, \$1,006, Insurance
- 5) Fund 10, \$13,192, Fire Department LED Lights

B. Change in Regular Meeting Date: Because both Mayor Volk and the City Manager will be traveling in January 2020, he requested the regular meeting be moved from January 2, 2020 to January 9, 2020. **There was no objection expressed by the Council to changing the regular meeting to January 9, 2020.**

C. Reminder of Special Meetings: Mr. Connet reminded the Council and the public of special meetings to discuss the budget on April 11, 2019 beginning at 3:45 p.m. and on May 3, 2019 beginning at 8:30 a.m.

16. Appointments to Boards/Commissions:

Board of Adjustment: Council Member Miller nominated Steve Smith for the alternate position on the Board of Adjustment. This term will expire June 2020. The Council voted unanimously to approve the nomination.

Mrs. Drake also reported a vacant position on the Walk of Fame Steering Committee.

17. New Business: There was no new business.

18. Closed Session: Council Member Caraker moved the City Council to enter Closed Session in accordance with NCGS 143-318.11(a) (5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property. A unanimous vote of the Council followed. Motion carried.

Upon exit of the Closed Session, Council Member Caraker moved the City Council to approve the Memorandum of Understanding, Option B, with the developer, providing a copy of the feasibility study to the City Council. A unanimous vote of the Council followed. Motion carried.

19. Adjournment: The meeting adjourned at 7:45 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk