

MINUTES
September 5, 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, Jerry Smith

Staff Present: City Manager John F. Connet, City Attorney Samuel Fritschner, City Clerk Tammie Drake, Police Chief Herbert Blake, Finance Director John Buchanan, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Planner Daniel Heyman, Downtown Director Lew Holloway, Engineering Director Brent Detwiler, Communications Director Allison Nock, Utilities Director Lee Smith, 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 five members in attendance.

2. Invocation and Pledge of Allegiance to the Flag: There was a moment of silence for prayer followed by the Pledge of Allegiance to the Flag led Mayor Barbara Volk.

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

Debbie Miller, 58 Northern Lights Lane, League of Women Voters, invited the Council and the public to attend a forum about immigration. She requested signage for the events.

Patricia Horn, 204 Applecross Lane, Hendersonville 28791, requested permission to stand on the sidewalk next to Hendersonville High School to distribute Christian literature. Mayor Volk responded discussions are continuing. She stated staff will speak with the Henderson County school system, the Police and the City Attorney and will notify her of the decision.

Ken Fitch, 1046 Patton Street, Hendersonville, voiced support of adding Hendersonville to the Asheville MSA stating the City is undervalued in the naming process.

4. Consideration of Agenda:

Removal from Consent Agenda:

G. Consideration of an Ordinance Amending Article VII – Parades and Processions of the Hendersonville Code of Ordinances (moved to October)

N. Consideration of a Resolution Accepting the Ownership and Maintenance of the public right-of-way within the Oak Haven Apartments Limited Partnership (moved to October)

Removal from Regular Agenda:

8. Consideration of An Ordinance Granting A Franchise for the Operation of a Trolley Bike Tour Service (Pubcycle) Within the City (moved to October)

Council Member Smith requested item #14 be removed from consideration. **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. August 1, 2019 Regular Meeting
- ii. August 15, 2019 Special Meeting

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

1. Fund 21, total expenditures: \$1,600

An amendment to reallocate lapsed salary from a delayed hire in the 7th Avenue Fund to fund professional arborist needs in the 7th Avenue district.

C. Consideration of the Certificate of Sufficiency and Petition of Justin Beach of Tri County Construction for the Contiguous Annexation of Parcel 9578-42-9164 Containing 0.360 acres Located on Old Spartanburg Road: Development Assistance Director Susan Frady presented the petition from Justin Beach of Tri County Construction for contiguous annexation of parcel 9578-42-9164 containing 0.360 acres located on Old Spartanburg Road. She reported this annexation petition is related to a sewer service request.

Mrs. Frady also provided the Clerk's Certificate of Sufficiency finding the petition is valid. The next step in the annexation process is to accept the Clerk's certificate and set a date for the public hearing on the question of adoption of an ordinance of annexation. She recommended the public hearing be held on October 3, 2019.

D. Consideration of the Purchase of the CST Storage Aquastore Ground Water Storage Tank to be Installed as part of the Northside Water System Improvements Project as Authorized by the Sole Source Exemption of NCGS 143-129(e)(6) and to Authorize the City Manager to Execute Documents Associated with the Purchase: City Engineer Brent Detwiler explained the Northside Water System Improvements Project includes the installation of a ground water storage tank. NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration...governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract.

Mr. Detwiler provided a recommendation from McKim & Creed to purchase the CST Storage Aquastore water storage tank from N/S Carolina Storage Systems, Inc. by the sole source method.

Mr. Detwiler recommended City Council resolve to approve the purchase of the CST Storage Aquastore ground water storage tank to be installed as part of the Northside Water System Improvements Project as authorized by the sole source exemption of NCGS 143-129(e)(6) and to authorize the City Manager to execute documents associated with the purchase.

E. Consideration of Awarding a Contract for the Water Storage Tank Maintenance

Program: Utilities Director Lee Smith stated staff requested proposals for its Water Storage Tank Maintenance Program. The 10-year program includes engineering and inspection services, rehabilitation, repair, painting, inspection, washout, and preventative maintenance of 21 water storage tanks in the City's water distribution system. He reported three proposals were received:

American Tank Maintenance, LLC: \$808,910/10 years or \$80,891/year
 Southern Corrosion, Inc.: \$885,600/10 years or \$88,560/year
 Suez: \$1,166,350/10 years or \$116,635/year.

Mr. Lee Smith reported staff have reviewed each proposal for completeness and accuracy and as a result recommends the City Council resolve to award the Water Storage Tank Maintenance Program to American Tank Maintenance, LLC and to resolve to authorize the City Manager to execute the Water Storage Tank Maintenance Program Contract.

F. Consideration of An Ordinance Amending Chapter 14, Article V, Division 2 of the Hendersonville Code of Ordinances Pertaining to Peddlers: City Attorney Fritschner presented amendments to Chapter 14, Article V, pertaining to peddlers. Because of recent issues with peddlers, staff are recommending the proposed amendments. The amendments allow staff with more certainty to determine the genuineness of the applicants and applications.

Ordinance #19-0960

AN ORDINANCE AMENDING CHAPTER 14 ARTICLE V DIVISION 2 PERTAINING TO PEDDLERS

WHEREAS, the City Council has determined that the current ordinance relating to peddlers is in need of revision, NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Chapter 14 Article V Divisions 1 and 2 of the Hendersonville Code of Ordinances is hereby amended to read in its entirety as follows:

ARTICLE V. - PEDDLERS; DIVISION 2. - PERMIT

Sec. 14-251. - Required. It shall be unlawful for any person to engage in business as a peddler within the city without first having applied for and obtained a permit so to do from the city.

Sec. 14-252. - Application. This section concerns applicants for a peddling permit. Its purpose is to protect the residents of and visitors to Hendersonville from injury to persons or property by ascertaining the identity and any potentially harmful history of applicants. Any person desiring a permit to engage in business as a peddler within the city shall make written application to the city, which such application shall show and contain the following:

- (1) The name and address of the applicant;
- (2) The name and address of the ~~person~~ entity, if any, that the applicant represents, along with a letter from such entity on such entity's letterhead confirming that the applicant is a duly appointed representative of such entity;
- (3) The kind of goods or services offered for sale;
- (4) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery;
- (5) The period of time such applicant wishes to engage in such business within the city;
- (6) Whether or not the applicant has ever been convicted of a felony within the prior ten years, and if so, the complete circumstances thereof;
- (7) The last five cities wherein the applicant has worked before coming to the city.

(8) A current and valid government-issued identification document (such as a driver's license or passport) containing a recent and recognizable photograph of the applicant.

The Hendersonville Police Department will be using the North Carolina Department of Justice Division of Criminal Information network to process background checks.

Criminal history record access is authorized.

Sec. 14-253. - Issuance.

(1) No permit shall be issued under the provisions of this article until the applicant shall have complied with all the provisions and requirements of this article and article II of this chapter.

(2) ~~The Clerk~~ Chief of Police (in this Division the term "Chief of Police" shall mean the Hendersonville Chief of Police or the designee thereof) shall refuse the application of any person who:

a. ~~Tenders to the Clerk~~ Chief of Police an application that is not materially complete, or that appears to contain a material falsehood unless the applicant demonstrates to the satisfaction of the ~~Clerk~~ Chief of Police that the falsehood was unintentional or otherwise not reasonably likely to hinder the due administration of this section; or

b. Has been convicted in North Carolina of any felony under the following Articles of Chapter 14 of the North Carolina General Statutes (or their successors), or in any jurisdiction of a felony reasonably equivalent to their North Carolina counterparts:

Article 6: Homicide;

Article 7: Rape and kindred offenses;

Article 7A: Rape and other sex offenses;

Article 8: Assaults;

Article 10: Kidnapping and abduction;

Article 10a: Human trafficking;

Article 14: Burglary and other housebreakings;

Article 16: Larceny;

Article 17: Robbery;

unless the applicant demonstrates to the satisfaction of the ~~Clerk~~ Chief of Police that such conviction does not support a reasonable conclusion that the applicant's activity as a peddler would constitute a danger to the public; or

c. Has been convicted of any crime in any jurisdiction if the ~~Clerk~~ Chief of Police can demonstrate that such conviction supports a reasonable conclusion that the applicant's activity as a peddler would constitute a danger to the public.

Sec. 14-254. - Duration. Every permit issued under the provisions of this article shall be valid through the end of the ~~fiscal~~ calendar year in which it is issued or the time requested in the application, whichever is earlier, at which time it shall expire.

Sec. 14-255. - Contents. Each permit issued under the provisions of this article shall be signed by the city ~~Clerk~~ Chief of Police, shall be dated as of the date of its issuance, and shall state the duration or term of such ~~license~~ permit on the face thereof. Any ~~license~~ permit not dated and signed as required by this section, or which was issued in violation of this section, shall be void.

~~Sec. 14-256. - Display. Every peddler licensed under the provisions of this article and doing business within the city shall display his permit upon the request of any person, and failure so to display such license shall be deemed a misdemeanor.~~

Every peddler issued a permit under the provisions of this article and doing business within the City shall, while such person (a) is upon the property of another for the purpose of peddling or (b) is otherwise engaged in peddling, display conspicuously upon such peddler's person a current and valid City-issued peddler identification tag along with the lanyard, if any, issued therewith.

Sec. 14-257. - Revocation. Any permit issued under the provisions of this article may be revoked for the violation by the permittee of any applicable provision of this Code, state law or city ordinance, rule or regulation. Any person who has had his permit revoked may, within 15 days of the date of revocation, appeal such decision to the city manager.

Sec. 14-258. - Penalty. Any person violating any provision of this article shall, upon conviction, be punished in accordance with section 1-6.

Sec. 14-259. - Appeal. Any person aggrieved by a decision herein revocation may appeal such decision within 10 days after the decision's issuance by presenting the grounds and evidence for such appeal in writing to the city manager. The city manager shall render a written decision with respect to the action within a reasonable time.

Appeal of the city manager's decision shall be to the Board of Adjustment, and notice of such appeal shall be delivered in writing to the city manager within 10 days of issuance of the city manager's decision.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fifth day of September 2019.

/s/Barbara G. Volk, Mayor

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

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

~~G. Consideration of an Ordinance Amending Article VII—Parades and Processions of the Hendersonville Code of Ordinance~~

H. Consideration of a Resolution of Intent to Close a Portion of an Unopened and Unimproved Right-of-Way for Park Street: Development Assistance Director Susan Frady presented the petition of Stephen Robertson to close a portion of an unopened and unimproved right-of-way for Park Street located on PINs 9568-44-6575 and 9568-44-5754. She provided a map, survey and legal description. are included.

Mrs. Frady reviewed the procedures set forth in North Carolina General Statute 160A-299 for permanently closing streets and alleys. She also provided the Resolution of Intent setting November 7, 2019 as the public hearing date.

Resolution #19-0961

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing a portion of an unopened and unimproved right-of-way for Park Street located on PINs 9568-44-6575 and 9568-44-5754

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and

WHEREAS, Stephen Robertson, has petitioned the Council of the City of Hendersonville to close a portion of an unopened and unimproved right-of-way for Park Street located on PINs 9568-44-6575 and 9568-44-5754.

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of an unopened and unimproved right-of-way for Park Street located on PINs 9568-44-6575 and 9568-44-5754.

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

1. A meeting will be held at 5:45 p.m. on the seventh day of November 2019, in the Council Chambers of City Hall to consider closing a portion of an unopened and unimproved ROW for Park Street.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the fifth day of September 2019.

/s/Barbara G. Volk, Mayor

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

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

I. Consideration of Special Event Permits:

i. Fiesta: Development Assistance Director Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council's approval of a special event permit for Fiesta. This event will be held Sunday, September 22, 2019 from 12 p.m.-6 p.m. at the Henderson County Tourism Development Authority (TDA) parking lot and on Main Street between Allen Street and Barnwell Street. The application is for Main Street to be closed between Allen Street and Caswell Street from 9am-8 pm. The Downtown Advisory Committee also recommended approval of this event.

ii. United Way – Small Business League Kickball Tournament: Development Assistance Director Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council's approval of a special event permit for the United Way Small Business League - Kickball Tournament. This event will be held Sunday, October 6, 2019 from 10:30 a.m.-8 p.m. at Berkley Mills Park. The concession window will be used for beverages and a food truck will be set up outside the field. This event will include alcohol.

J. Consideration of Approval of Contract Attorneys: City Attorney Fritschner provided a proposed resolution authorizing and directing the city manager to engage outside counsel on the E.A. Henderson Land Company property eminent domain action (new police station property) and on the recent Buncombe Street area wastewater lawsuit.

Resolution #19-0967

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENGAGE OUTSIDE COUNSEL IN CERTAIN CIVIL ACTIONS

WHEREAS, N.C.G.S. 160A-12 provides that "A power, function, right, privilege, or immunity that is conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the city council"; and

WHEREAS, the city council desires to engage outside council in two civil actions;

NOW, THEREFORE, be it resolved that the City Council does hereby authorize and direct the city manager to engage William Clark of the firm of Roberts & Stevens as outside counsel for the City in that Henderson County civil action designated "City of Hendersonville v. E. A. Henderson Land Company LLC"; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct the city manager to engage Andy Santaniello of the firm of Clawson & Staubes as outside counsel for the City in that Henderson County civil action designated "Laverna J. Cordova v. City of Hendersonville."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of Hendersonville, North Carolina, to be affixed this fifth day of September 2019.

This resolution shall be effective upon its adoption.

Adopted this fifth day of September 2019.
/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, City Clerk

K. Consideration of Tax Releases, Discoveries and Refunds: Mrs. Jennifer Musselwhite, Assistant Tax Collector, submitted for Council’s consideration and approval the tax bill adjustments occurring between January 26, 2019 and August 27, 2019. These adjustments include all discoveries, releases, refunds, and forgiven interest. These adjustments were provided by Henderson County Tax Department. *[The list is available in the office of the Assistant Tax Collector.]*

L. Consideration of a Resolution Accepting a Grant from the Governor’s Crime Commission in the amount of \$24,296: Police Chief Herbert Blake presented a resolution, grant project ordinance, and budget amendment to accept the Governor's Crime Commission Taser Transparency grant in the amount of \$24,296.00. These funds will be used to purchase 17 tasers and holsters, battery packs, cartridges and warranty. He stated this is a 0% no match grant.

Resolution #19-0962

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL

WHEREAS, North Carolina General Statutes 160A-12 Exercise of corporate power, provides: A power, function, right, privilege, or immunity that is conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the City Council, and

WHEREAS, the City is in receipt of a grant award from the Department of Public Safety Governor’s Crime Commission in the amount of \$24,296.00, and

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

WHEREAS, the grant will assist the City in purchasing seventeen (17) Taser's and holsters, battery packs, cartridges and 4-year warranty on each Taser for police officers. Having these tasers and equipment, police officers will have a less than lethal option to effectively make arrests with limited use of force, building trust within our community in Hendersonville, NC, and

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

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

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

To accept the Governor’s Crime Commission Grant offer of \$24,296.00.

Effective as of the date of adoption.

Adopted this the fifth day of September 2019, a regular meeting of the Council, held at 145 5th Avenue East, Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, City Clerk

Ordinance #19-0968

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

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

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

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

| Account Number | | Account Name | Total Budget |
|------------------------------|--------|-----------------------|------------------|
| Org | Obj | Proj | |
| 3210000 | 553000 | Non-Capital Equipment | \$ 24,296 |
| Total Project Revenue | | | \$ 24,296 |

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

| Account Number | | Account Name | Total Budget |
|------------------------------------|--------|---------------|------------------|
| Org | Obj | Proj | |
| 3210000 | 434991 | Grant Revenue | \$ 24,296 |
| Total Project Appropriation | | | \$ 24,296 |

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 fifth day of September, 2019.

/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, City Clerk
Approved as to form: /s/Samuel H. Fritschner, City Attorney

M. Consideration of a Resolution Accepting the Ownership and Maintenance of the public right-of-way within the Laurel Springs Subdivision: Public Works Director Tom Wooten presented the request of Jamin Kilpatrick, PLC, for the City to accept ownership and maintenance of Laurel Springs Lane.

Mr. Wooten reported staff have monitored the construction of the infrastructure is within the platted right of way for Laurel Springs Subdivision. Staff have also reviewed the materials testing documents provided by the developer and find no defects in this data. He stated staff are comfortable in recommending this infrastructure be brought into the city's maintenance programs and recommend adoption of the resolution.

Resolution #19-0963

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO ACCEPT THE OWNERSHIP AND MAINTENANCE OF THE STREETS OF
LAUREL SPRINGS SUBDIVISION**

WHEREAS, The City received a request from Jamin C. Kilpatrick, to accept the ownership and maintenance of the public right-of-way within the Laurel Springs Subdivision, and

WHEREAS, A signed Certificate of Dedication and Maintenance has been received by the City along with a copy of the recorded final plat for the development, and as shown on plat slide 11747 (1) Henderson County Registry, and

WHEREAS, Samples taken by Bunnell-Lammons Engineering, INC. and inspections found the roads were constructed in accordance with NCDOT Subdivision Standards, and

WHEREAS, North Carolina General Statutes 160A-12 Exercise of corporate power, provides: A power, function, right, privilege, or immunity that is conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the city council.

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

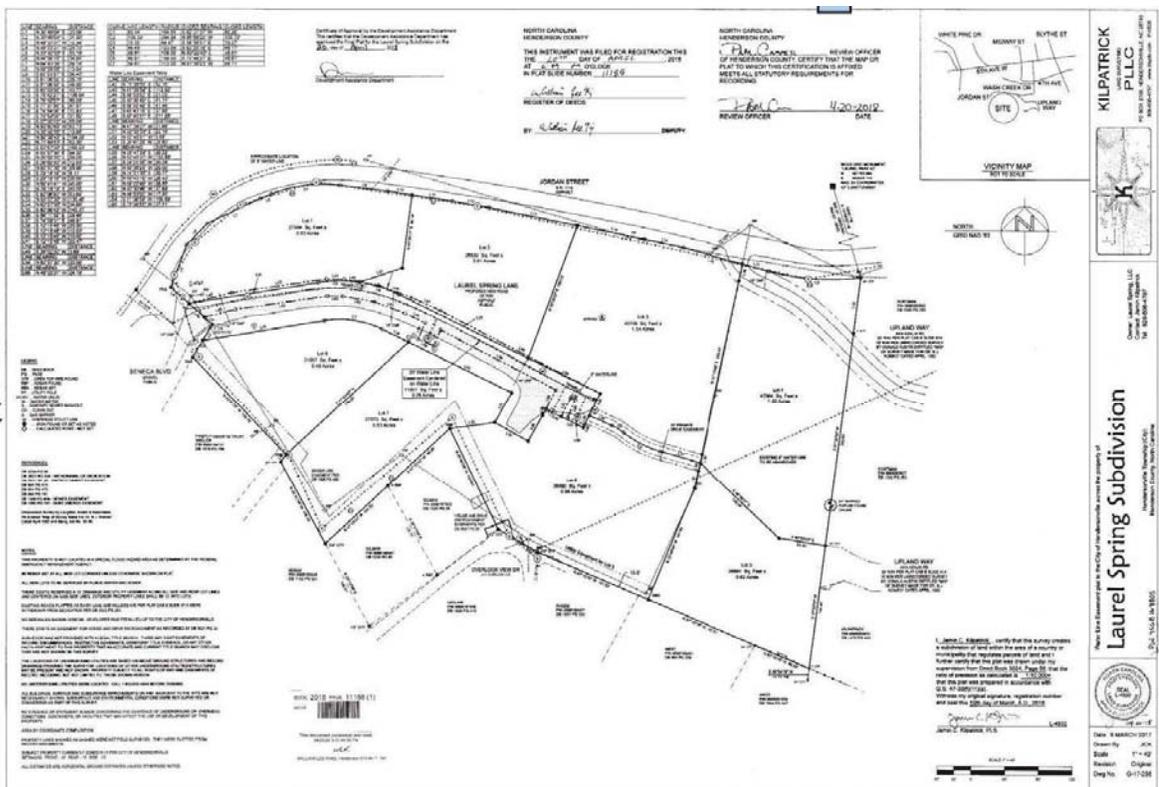
To accept the ownership and maintenance of the public right-of-way within the Laurel Springs Subdivision as a public City Street and begin maintaining the infrastructure within the public right-of-way associated with the City Street.

This resolution shall become effective as of the date of adoption.

Adopted this the fifth day of September 2019, a regular meeting of the Council, held at 145 5th Avenue East, Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor
Attest: /s/Tammie K. Drake, City Clerk

SLIDE 11188



~~N. Consideration of a Resolution Accepting the Ownership and Maintenance of the public right-of-way within the Oak Haven Apartments Limited Partnership~~

Council Member Caraker moved the City Council to resolve to approve the remaining items listed on the consent agenda. A unanimous vote of the Council followed. Motion carried.

6. Recognitions/Presentations/Proclamations/Introductions:

A. Introduction of Drew Finley, Local Government Fellow: City Manager John Connet introduced Drew Finley, our lead for North Carolina fellow. This program will introduce individuals to local government who may decide to consider it for their career.

B. Quarterly Service Excellence MVPs: Mayor Volk and City Manager John Connet recognized the following employees as Service Excellence MVPs: Andrew Jones - Water and Sewer Department, Police Officer Alan Bonanno and Police Captain Chris Leroy, Police Officer Rich Olsen, Police Officer Robert Cantwell and Monica Howard - Police Department.

7. Public Hearing - Consideration of an Ordinance Imposing a Moratorium on Animated and Illuminated Signs with a Duration of 60 days: Development Assistance Director Susan Frady presented an ordinance at the direction of the City Council imposing a moratorium on animated and illuminated signs and lasting until November 4, 2019. She stated during this time, a subcommittee of the Planning Board will review and prepare a recommendation for amendments to the sign ordinance to the full Planning Board. The Planning Board will then make recommendations for the ordinance. She stated this ordinance has been reviewed by City Attorney Fritschner.

At 6:09 p.m., Mayor Volk opened the public hearing in accordance with North Carolina General Statutes by notice published in the Times News. No one expressed a desire to speak. The public hearing was closed.

Council Member Caraker moved the City Council to adopt an ordinance imposing a moratorium with respect to animated and illuminated signs and that the duration be through November 4, 2019. A unanimous vote of the Council followed. Motion carried.

Ordinance #19-0964

AN ORDINANCE IMPOSING A MORATORIUM WITH RESPECT TO ANIMATED AND ILLUMINATED SIGNS

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 impose moratoria with respect to uses in its several zoning districts; and

WHEREAS, Animated and illuminated signs with excessive illumination have begun to appear in zoning districts in the City increasing the danger of distractions to motorist; and

WHEREAS, the City of Hendersonville is concerned about the harmful secondary effects of animated and illuminated signs and

WHEREAS, the City has considered the possibility of eliminating electronic signs entirely but at present considers this remedy too drastic, rendering a moratorium necessary; and

WHEREAS, a moratorium is necessary to permit the actions anticipated to review possible options for adoption of an animated sign ordinance, specifically two consecutive planning board meetings with an intervening meeting of a committee of the Planning Board and a subsequent meeting of the City Council; and

WHEREAS, a moratorium would apply to all animated signs, as defined, within the City's zoning jurisdiction; and

WHEREAS, the City Council is otherwise concerned about the effects of animated and illuminated signs on the health, safety and welfare of persons within its zoning jurisdiction,

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

1. For purposes of this ordinance, the term animated sign shall mean a sign that uses mechanical, electrical or illuminating devices that blink, flash, flicker, scintillate, scroll, vary in intensity, brightness or color that depicts or gives the appearance of action, motion, movement or rotation.
2. There is hereby imposed a moratorium on all animated and illuminated signs within the zoning districts within the City of Hendersonville zoning jurisdiction identified as districts C 2 Secondary Business District, C 2CZD, Secondary Business Conditional Zoning District, C-3, Highway Business District, C-3CZD, Highway Business Conditional Zoning District, I-1, Industrial District, I-1CZD, Industrial Conditional Zoning District, HMU, Highway Mixed Use and HMUCZD, Highway Mixed Use Conditional Zoning District, such moratorium to be effective upon the adoption of this ordinance and lasting through 4 November, 2019, unless sooner terminated. During this period no animated or illuminated sign shall be permitted that does not have a valid sign permit as of the time of the adoption of this ordinance.
3. This ordinance, for the period of its effectiveness, supersedes every other zoning ordinance respecting animated and illuminated signs existing at the time of the adoption hereof.
4. The City Manager and the City Attorney are directed personally or through a designee to present to the Planning Board a draft ordinance for study by the Board to determine the desirability of amending the Zoning Ordinance, with a request that the Board study particularly the appropriate standards for illuminated and animated signs including but not limited to the size, lumen limit and time between messages changing.

5. If any portion of this ordinance is declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of the remaining provisions of this ordinance.

6. This ordinance shall be effective upon its adoption.

Adopted this fifth day of September 2019.

/s/Barbara G. Volk, Mayor

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

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

~~8. Consideration of An Ordinance Granting A Franchise for the Operation of a Trolley Bike Tour Service (Pubcycle) Within the City~~

9. Consideration of a Request for Special Appropriations from the Henderson County

Education Foundation: Ms. Summer Stipe requested the Council consider a special appropriation for the Henderson County Education Foundation that was unintentionally omitted from consideration during the budget process.

Ms. Stipes reported the funds will be used for a new project "Letter Land Alive," a phonics program that builds skills for learning the alphabet and sounds. She introduced Shannon Marlowe who explained the Flat Rock Playhouse has joined and created a musical to take to every school.

Council Member Miller emphasized this is being considered by the City Council at this time because of a mistake and is correcting an error.

Council Member Smith moved the City Council to resolve to appropriate \$5,000 to the Henderson County Education Foundation. A unanimous vote of the Council followed. Motion carried.

10. Consideration of City Facility Security Improvements: City Manager John Connet stated in response to recent national events, City staff is proposing numerous security improvements for City facilities. He presented a plan for improving the security of City facilities for citizens and employees, to ensure all facilities are ADA compliant and improve working conditions.

Mr. Connet reviewed the changes planned in stages for City facilities. He noted City Hall address will be changed to 160 6th Avenue East, and will be the only entrance into City Hall. He stated panic buttons will be installed at all critical locations. Employees will be required to wear identification badges. He recommended the changes be implemented October 1, 2019.

Mr. Connet reviewed the changes for Phases II and II including: placing a police officer/security guard in City Hall lobby, implementing a visitor sign in/out program with identification badges. He stated additional safety measures could be implemented by City Council in the future.

Mr. Connet stated the payment window will remain open with limited access to the elevator and other floors. Access will be allowed to the public restrooms.

Council Member Smith asked that the City Hall door facing Fifth Avenue be unlocked for meetings because security is present. Council Member Caraker suggested expediting the officer position to Phase I. There was discussion of the number of visitors and who was involved with the plan. Mr. Connet stated employees of all facilities and law enforcement were involved in the plan. Council Member Miller asked whether it would be beneficial to have a professional review security plans for facilities. Mr. Pahle considered safety was considered during the space needs study. Council Member Miller urged staff to contact the professional to review security plans. Adjustments to City Hall will be needed when the Police vacate.

Council Member Caraker moved the City Council to resolve to approve and authorize City staff to move forward with facility security improvements as presented. A unanimous vote of the Council followed. Motion carried.

11. Consideration of a Resolution Authorizing the City Manager to Work with the Henderson County Partnership for Economic Development to add Hendersonville to the name "Asheville Metropolitan Statistical Area": Economic Development President Brittany Brady explained the purpose of this is to establish Hendersonville as a principal city within the Asheville MSA. Henderson County is the second most populous county in MSA, Hendersonville is second most populous City.

Ms. Brady reported since 2010, Henderson County has added more than 10,000 new residents and is expected to add an additional 16,000 residents over the next decade. She stated Henderson County is a strong contributor to the region's Gross Domestic Product (GDP), producing \$3.6B in real value GDP in 2018. Henderson County has seen strong employment growth since 1995, generating \$1.23B in new corporate investment and the creation of over 5,500 jobs.

Improving marketing efforts: Ms. Brady stated many times Henderson County is overlooked and this change will help elevate that Hendersonville as a significant city. She stated this will increase our competitiveness.

Ms. Brady stated there are 15 metropolitan statistical areas in the State and relayed concerns about their MSA names. She stated they are trying to accomplish the hyphenated names such as Asheville-Hendersonville.

Ms. Brady stated the US Office of Management and Budget establishes principal cities. She stated establishing the City of Hendersonville as a "principal city" in the Asheville MSA would substantially increase the visibility of both entities, enhance its competitiveness for future economic development and further promote tourism activity in Henderson County. She provided a path forward using Henderson County population numbers because Hendersonville serves and represents a larger population than the number who reside in the City.

The Plan: Ms. Brady stated the 2020 Census is approaching and the population count is important. She stated there is not a straight path forward. In December the Office of Management and Budget will release the new Federal Register with updated guidelines for MSA naming standards. She stated there will be a questionnaire for community feedback and the concerns will need to be addressed at that time. She stated there is a three-year window for consideration by the President who will hopefully change the MSA standards. Ms. Brady stated this is a federal issue and both state and federal support is needed.

After discussion, **Council Member Caraker moved the City Council to adopt the resolution authorizing the City Manager to work with Henderson County Partnership for Economic Development to add Hendersonville to the MSA name. A unanimous vote of the Council followed. Motion carried.**

Resolution #19-0965

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL

WHEREAS, North Carolina General Statutes 160A-12 Exercise of corporate power, provides: A power, function, right, privilege, or immunity that is conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the city council; and

WHEREAS, The City of Hendersonville is the second largest municipality within the Asheville Metropolitan Statistical Area (MSA); and

WHEREAS, Henderson County and its citizens, businesses and industries play a significant role in the economic vitality of the MSA; and

WHEREAS, Henderson County Partnership for Economic Development (Partnership) believes that adding Hendersonville to the MSA name would significantly increase Henderson County's awareness among prospect companies; and

WHEREAS, The City of Hendersonville fully supports the economic development efforts of the Partnership.

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

The City Manager be and [he] is hereby authorized and empowered to do the following act:

To assist the Partnership in working with the appropriate federal officials to establish the Asheville – Hendersonville Metropolitan Statistical Area.

Effective as of the date of adoption.

Adopted this the fifth day of September 2019, a regular meeting of the Council, held at 145 5th Avenue East, Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

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

12. Consideration of Acceptance of Pinnacle Falls Water System: City Utilities Director Lee Smith presented the request of the Pinnacle Falls Property Owners Association (POA) to accept their water system.

Mr. Lee Smith stated at the time the development was put in, there were two projects: inside and outside. He stated the outside project extended a 12-inch line with a tank. He stated the tank also feeds into Kenmore Subdivision. He stated the water distribution system was also built inside the development. The City chose not to accept it at that time. He stated master meters were installed in the subdivision. He stated because the City is the water utility provider in the area and believes homeowner and property owner associations do not need to be in the business, it would be in the best interest to assume the transfer of this system into the City's. He stated the entire system has been inspected by staff who recommends accepting the system.

Mr. Lee Smith stated as part of this transfer, the POA has agreed to pay 50% of the cost for the City to replace all meters, meter boxes and related appurtenance with components that comply with City standard specifications. He stated the City also received correspondence from the POA supporting the transfer of the Pinnacle Falls water system to the City.

There was discussion of the reason the system was not accepted previously. Mr. Lee Smith stated some of the system is plastic and some of it is ductile iron. He stated the City has accepted other plastic infrastructure since then.

After discussion, **Council Member Caraker moved the City Council to resolve to approve acceptance of the Pinnacle Falls water system, PWSID NC1045016, in its entirety, as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.**

13. Consideration of Awarding a Contract for the Etowah Water System Improvements

Project: City Engineer Brent Detwiler presented a contract with for the improvements of the Etowah Water system improvements. He reported the project was formally bid on August 19, 2019, but only one bid was received. Per NCGS 143-129, the bid was not opened, and the project was rebid on August 26, 2019.

Mr. Detwiler reported the project consists of the installation of approximately 14,800 linear feet of 12 and 8-inch water mains, construction of a booster pumping station (approximately 950 sf), an access road, and a 500,000-gallon ground level water storage tank, demolition of an existing elevated water storage tank and three existing booster pumping stations.

Mr. Detwiler provided the Engineer's Opinion of Probable Construction Cost for this project of approximately \$7,000,000. He stated on August 26, 2019, two bids were received with the following results.

Cooper Construction Company - \$6,569,458.00
Buckeye Bridge, LLC - \$7,681,496.00

Mr. Detwiler reported each of the bids received was reviewed for accuracy and completeness. As a result of this review, City staff and our consultant recommends the project award to Cooper Construction Company, the lowest responsive and responsible bidder, in the amount of \$6,569,458.00. He stated land has been acquired for the project.

After discussion, **Council Member Caraker moved the City Council to resolve to authorize the City Manager to award and execute the contract for the construction of the Etowah Area Water Improvements Project to Cooper Construction Company, the lowest responsive and responsible bidder, in the amount of \$6,569,458, as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.**

~~14. Discussion of Policy for Issuing Proclamations~~

15. Consideration of a Resolution Authorizing the Purchase of Property for the Etowah Water System Project:

City Attorney Sam Fritschner explained the engineers have identified a final route for the water distribution system from the tank. He stated the primary piece belongs to Tom and Laura Kirk. He stated an appraisal was not done but information shows the property is worth \$140,000 -160,000. He stated staff has worked with the owners and have tentatively agreed to a price of \$140,000 plus certain closing costs for purchase of the Kirk property.

Mr. Connet explained the Morgan property was purchased for the system, but it was a struggle to find a viable route for the construction equipment to get to top. He stated after looking at three routes, this was determined the most appropriate. He stated the City will build a road to the top of the hill. He stated it is a steep grade.

Council Member Caraker moved the City Council to adopt a resolution authorizing the city manager to purchase certain real property in Henderson County for the Etowah Water System Project. A unanimous vote of the Council followed. Motion carried.

Resolution #19-0966

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE CERTAIN REAL PROPERTY IN HENDERSON COUNTY FOR THE ETOWAH WATER SYSTEM PROJECT

WHEREAS the City Council finds it to the benefit of the City and its water customers to complete the construction of a water tank and adjoining system in the Etowah area and to do so at a reasonable price, and

WHEREAS there is some evidence that certain real property desirable for a portion of the said system, designated as Henderson County PIN 9528767025, has a current market value in the \$140,000.00-\$150,000.00 range, and

WHEREAS the city manager and city attorney have provisionally agreed with the owners of the said real property to purchase the said real property for the sum of \$140,000.00,

NOW, THEREFORE, BE IT RESOLVED that the city manager and the city attorney are hereby authorized and directed to purchase the said real property for the sum of \$140,000.00 plus reasonable closing costs.

Adopted this fifth day of September 2019.

/s/Barbara G. Volk, Mayor

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

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

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

17. Reports from Staff:

A. Contingency Report: In accordance with North Carolina General Statute 159-13 (b) (3), Mr. Connet provided the contingency appropriations:

1. Fund 10 | \$10,683 | Worker's Comp. Insurance Adjustment
2. Fund 20 | \$221 | Worker's Comp. Insurance Adjustment
3. Fund 21 | \$598 | Worker's Comp. Insurance Adjustment
4. Fund 60 | \$41,022 | Worker's Comp. Insurance Adjustment
5. Fund 67 | \$352 | Worker's Comp. Insurance Adjustment
6. Fund 68 | \$764 | Worker's Comp. Insurance Adjustment

7. Fund 10 | \$34,081 | Liability and Property Insurance Adjustment
8. Fund 60 | \$7,099 | Liability and Property Insurance Adjustment
9. Fund 60 | \$1,635 | Worker's Comp. Insurance Adjustment

The Council accepted the report as presented.

B. Investment Report: Per the City Investment policy, Finance Director/Investment Officer provided an investment report including a management summary with an analysis of the status of the current investment portfolio and a detail listing of the individual transactions executed as listed on the First Citizens Bank Statement. The summary follows.

As of June 30, 2019, the City's cash and investments consists of the following:

U.S. Treasuries \$1,928,131.25
Government Agencies: \$12,120,562.50
Municipal & NC: \$3,525,109.15
NCCMT (FCB Cash): \$56,723.54
Central Depository: \$3,356,229.83
Total \$20,930,032.73

Investment income for FY 2019 is \$448,477, an increase of \$84,447 over the prior year.

The Council accepted the report as presented.

B(i). A special meeting of the City Council to consider customer service proposed changes/policy review and ordinance amendments was scheduled for September 25, 4:00 p.m. at City Hall.

C. Board/Commission Vacancies Report: City Clerk reminded the Council of vacant positions on the boards and presented the applications of those interested in serving. **No action was taken.**

18. New Business: Council Member Miller invited the public and City Council to the September 21 Blue Ridge Honor Flight "Welcome Home" event for veterans returning from Washington DC, hosted by the Asheville Regional Airport.

19. Closed Session: At 7:08 p.m. Council Member Caraker moved the City Council enter closed session to:

- Consult with the City Attorney to consider or give instructions concerning a judicial action titled LaVerna J. Cordova Versus the City of Hendersonville as provided under NCGS §143-318.11(a)(3),
- Discuss matters relating to the location or expansion of industries or other businesses in the area served by this body as provided under NCGS §143-318.11(a)(4),
- Establish or instruct the staff (or negotiating agent) concerning the position to be taken by or on behalf of the City Council in negotiating the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange, or lease as provided under NCGS §143-318.11(a)(5), and to
- Consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee as provided under NCGS §143-318.11(a)(6). A unanimous vote of the Council followed. Motion carried.

No action was taken by the City Council upon exiting the closed session.

20. Adjournment: The meeting adjourned at 8:55 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk