

MINUTES
November 7, 2019
REGULAR MEETING OF THE CITY COUNCIL
ASSEMBLY ROOM – OPERATIONS CENTER
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, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Planner Daniel Heyman, Downtown Director Lew Holloway, Administrative Aid Pam Ludwig, Interim Fire Chief James Miller, Planner Tyler Morrow, Communications Director Allison Nock, Utilities Director Lee Smith

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 by Boy Scouts Troop 603 in attendance.

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

Donnie Garren, 307 Hyder Farm Road, stated he had an issue with the property line on the Clear Creek project, but it has been resolved. He expressed concerns about the amount of traffic on Howard Gap Road.

Bill Harper, Jr., voiced concerns about the number of houses proposed with the Clear Creek project close to Interstate 26 and noise. There is no exit from the project to the Interstate so the project will result in more traffic on Four Seasons Boulevard along with existing traffic from the asphalt plant, the concrete plant and the rock quarry without access to the interstate. He stated NCDOT should be involved and a plan for the traffic for the future should be made.

Robert Frank, 162 Azalea Way, Windsor Hills, agreed with the concerns of Mr. Harper and expressed concerns about the speed of the vehicles traveling on N. Main Street. He expressed concerns about the affects of the development on the ambience of Windsor Hills. Asheville is too crowded and the same will happen to Hendersonville.

4. Consideration of Agenda: Council Member Caraker moved approval of the agenda. A unanimous vote of the Council followed. Motion carried.

5. 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: September 25, 2019 Special Meeting and October 3, 2019 Regular Meeting

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

1. General Fund Quarter 1 Amendment | Fund 10 | Increase | \$70,736
2. Water/Sewer Quarter 1 Amendment | Fund 60 | Increase | \$89,599
3. MSD Transfer to Restroom | Fund 20 | Increase | \$12,500
4. 4th Ave Streetscape | Fund 305 | Increase | \$50,915
5. Stormwater Grant | Fund 370 | Increase | \$77,000
6. (Placeholder) Etowah | Fund 460 | Decrease | \$430,542

C. Consideration of a Proposal from PFA Architects, PA for the Completion of Design Options for the Operation Center Entrance Modification Project and the Associated Resolution Exempting the Project from the Provisions of N.C.G.S. 143-64.31: Public Works Director Tom Wooten reported City staff have been working with PFA Architects, PA to design options to secure the entrance of the City Operations Center and to provide a safe area for the receptionist. He stated staff requested PFA Architects to provide a proposal for design options.

Mr. Wooten explained the procurement of professional services performed by architects, engineers, surveyors, and construction managers at risk is governed by NCGS 143-64.31, also referred to as the "Mini-Brooks Act." The Qualifications Based Selection (QBS) process focuses on the qualifications of potential firms rather than their fees. This is often done by using a request for qualifications (RFQ) to solicit responses from interested firms.

Mr. Wooten provided a resolution for Council's consideration that will exempt the Operations Center entrance modification project from the QBS process. Staff are proposing this resolution due to the small size of the project and PFA Architecture's background with many similar projects at local schools. He also provided the proposal from PFA Architects.

Mr. Wooten requested Council approve the resolution and allow the City Manager to execute a contract with PFA Architect to perform the design options for the Operations Center entrance.

Resolution #19-1181

RESOLUTION EXEMPTING THE CITY OPERATION CENTER ENTRANCE DESIGN MODIFICATION PROJECT FROM G.S. 143-64.31

WHEREAS, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and designbuild services (collectively "design services") to be based on qualifications and without regard to fee;

WHEREAS, the City proposes to enter into one or more contracts for design services for work on City Operation Center Entrance Modification Project; and

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.31 if the estimated fee is less than \$50,000; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE RESOLVES:

Section 1. The above-described project is hereby made exempt from the provisions of G.S. 143-64.31.

Section 2. This resolution shall be effective upon adoption.

Adopted this seventh day of November 2019.

/s/Barbara G. Volk, Mayor

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

D. Consideration of a Contract Designating First Tryon Advisors as Financial Advisor for the 2019 Series Water and Sewer Revenue Bond: Budget Analyst Adam Murr explained First Tryon Advisors completed work to create a revenue bond structure and staff is recommending First Tryon Advisors to serve as financial advisor in the 2019 series revenue bond. He provided the contract with First Tryon Advisors to: provide bond recommendations, establish financing calendars, produce debt schedules, act as the point of contact between the City and Local Government Commission, assist in preparing LGC application(s), review and comment on all bond documents, advise the City on market conditions, be present at governing body meetings, act as liaison to the Bond Counsel, advise and assist in transactions, and provide ongoing support and responses to questions.

E. Consideration of a Lease Agreement with the Blue Ridge Literacy Council for Lease of the Former Recreation Department Administrative Office at Patton Park: City Manager John Connet informed the Council the Blue Ridge Literacy Council has expressed an interest in renting the former recreation department administrative offices at Patton Park. The offices have been mostly vacant for the last several years.

Mr. Connet reported the Literacy Council has agreed to rent the building for three years and have agreed to pay \$7,500 in year one and \$3,750 per year for years two and three. In exchange for the advanced rent the City will agree to replace the 20-year-old HVAC unit in the building and make other minor repairs. The cost of the HVAC units will be dependent on whether the new unit is electric or natural gas. The agreement was amended to clarify that repair of the main mechanical and electrical components are the responsibility of the City unless they are damaged through negligent action by the tenant. *[The contract is available in the office of the City Clerk.]*

F. Consideration of a Resolution of Intent to Consider Closing Unopened and Unimproved Rights-of-Way for Ivy Lane and Midway Street Located Between the Properties Currently Owned By Marianne Campbell, Charles Campbell, Jr. & Joseph Boothroyd, and an Unnamed Alley and Huger Street Located Across the Property Currently Owned by Marianne Campbell & Charles S. Campbell, Jr. and a Portion of an Unnamed 12-Foot Alley Located North of Walton Street Located Between the Properties Currently Owned by Marianne Campbell, Charles Campbell, Jr. & Joseph Boothroyd: Senior Planner Daniel Heyman reported the City received an application from Charles S. Campbell Jr., Marianne Ewbank Campbell, Joseph Boothroyd Ewbank, and Linda Ewbank to close unimproved rights-of-way for Ivy Lane, Midway Street, an unnamed alley and Huger Street located off Fifth Avenue. He reviewed the procedures set forth in NCGS 160A-299 permanently closing streets and alleys.

Mr. Heyman presented a resolution declaring the City's intent to close the street or alley and sets a date for a public hearing as January 9, 2019.

Resolution #19-1182

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing unopened and unimproved rights-of-way for Ivy Lane located on PINs 9568-18-8043, 9568-18-5388, and 9568-18-8429, Midway Street located on PIN 9568-18-8043, an unnamed alley located on PINs 9568-18-8429 and 9568-18-8043, and Huger Street located on PIN 9568-18-8429

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

WHEREAS, Charles S. Campbell Jr., Marianne Ewbank Campbell, Joseph Boothroyd Ewbank, and Linda Ewbank have petitioned the Council of the City of Hendersonville to close unopened and unimproved Rights-of-Way for Ivy Lane located on PINs 9568-18-8043, 9568-18-5388, and 9568-18-8429, Midway Street located on PIN 9568-18-8043, an unnamed alley located on PINs 9568-18-8429 and 9568-18-8043, and Huger Street located on PIN 9568-18-8429.

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing unopened and unimproved rights-of-way for Ivy Lane located on PINs 9568-18-8043, 9568-18-5388, and 9568-18-8429, Midway Street located on PIN 9568-18-8043, an unnamed alley located on PINs 9568-18-8429 and 9568-18-8043, and Huger Street located on PIN 9568-18-8429.

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 ninth day of January 2020, in the Council Chambers of City Hall to consider closing unopened and unimproved rights-of-way for Ivy Lane, Midway Street, and unnamed alley, and Huger 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 seventh day of November 2019.

/s/Barbara G. Volk, Mayor

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

G. Consideration of an Ordinance Granting a Franchise for the Operation of a Trolley Bike Tour Service (Pubcycle) Within the City (2nd Reading Required): City Clerk Tammie Drake explained NCGS 160A-76 requires the granting, renewing, extension, or amendment of any franchise must be passed at two regular meetings of the Council, and must be made by ordinance. She provided Ordinance #19-1072 Granting a Franchise for the Operation of a Trolley Bike Tour Service (Pubcycle) within the City approved by the Council at their October 3, 2019 for their adoption.

Ordinance #19-1072

AN ORDINANCE GRANTING A FRANCHISE FOR THE OPERATION OF A TROLLEY BIKE TOUR SERVICE (PUBCYCLE) WITHIN THE CITY OF HENDERSONVILLE

WHEREAS, the City of Hendersonville (herein "City") has the authority pursuant to G.S. 160A-296 to control the use of streets and sidewalks within the city; and

WHEREAS, the City of Hendersonville has the authority pursuant to G.S. 160A-76 to grant franchises; and

WHEREAS, HVL Pedal & Brews, LLC, a North Carolina limited liability company (Herein "the Franchisee"), proposes to operate a trolley bike tour service on the streets of the City; and

WHEREAS, the City has determined that it is in the public interest to permit the operation of said service on the City's streets, subject to certain terms and conditions; and

WHEREAS, the City considers the operation of a Pubcycle not in itself to be a violation of Hendersonville City Code Section 6-5; and

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

Section 1. HVL Pedal & Brews, LLC is hereby granted a franchise to operate a Trolley Bike Tour Service (herein "Pubcycle") on the streets of the City of Hendersonville subject to the following terms and conditions:

The Pubcycle is prohibited from operating on public streets where the speed limit is higher than thirty-five (35) miles per hour. The operation of the Pubcycle Service shall be designed so as to minimize traffic impacts upon the general circulation of vehicular and pedestrian traffic of the City.

1. Brewery Tour Route: The Pubcycle Service is allowed only in the areas highlighted on the map attached hereto as Exhibit A. The Brewery Route includes the following streets: 1st Avenue E, 5th Avenue E, 7th Avenue E, 8th Avenue E, Maple Street/Alley, Kanuga Road, Locust Street, Main Street, S. Washington Street, and W. Barnwell Street.
2. Downtown Tour Route: The Pubcycle Service is allowed only in the areas highlighted on the map attached hereto as Exhibit B. The Downtown Tour Route includes the following streets: 1st Avenue, 2nd Avenue, 3rd Avenue, 4th Avenue, 5th Avenue, 7th Avenue, 8th Avenue, Allen Street, Maple Street/ Alley, Barnwell Street, Buncombe Street, Grove Street, Locust Street, Main Street, Washington Street.
3. History/Cemetery Tour Route: The Pubcycle Service is allowed only in the areas highlighted on the map attached hereto as Exhibit C. The History/ Cemetery tour route includes the following streets: 4th Avenue, 5th Avenue W. Bearcat Boulevard, Barnwell Street, Charleston/Remax Alley, Main Street, N. Church Street, Oakdale Cemetery, Valley Street, Washington Street.

4. Special Events Tour Route: The Pubcycle Service is allowed only in the areas highlighted on the map attached hereto as Exhibit D. Special Events tour route includes the following streets: 1st Avenue E, 2nd Avenue E, 5th Avenue E, 7th Avenue E, 8th Avenue E, Edwards Alley, Maple Street/Alley, E. Caswell Street, Grove Street, Kanuga Road, Locust Street.

5. Stops and Parking: Pubcycle Service stops may not exceed three minutes on any public right-of-way, except as necessary to embark and disembark passengers, or with the written permission of the Development Assistance Director. Loading zones may be used for stops of this limited duration. All service stops shall be made in a way to minimize any possible disruption to the flow of vehicular traffic. It is anticipated that the Pubcycle Service will secure parking mainly in private lots when longer stops (i.e. waiting for passengers while they are in breweries) are required.

6. Operating times/frequency: The hours of operation shall be limited between 10:00 a.m. to 1:00 a.m. for nonalcoholic (historic) tours and 12:00 noon to 1:00 a.m. for alcoholic beverage consumption tours. City reserves the right to change these hours at its sole discretion, provided that the Franchisee is given a 30-day notice of such change. The Pubcycle is prohibited from operating in any City approved festival or event area where the roadways are blocked including, but not limited to, the Apple Festival, Garden Jubilee, and Art on Main except with written permission from the Development Assistance Staff.

7. Terms of Franchise/Renewal: The term of this Franchise shall be one year. The parties may consider the terms of a new franchise. This franchise is subject to the Revocation/Termination provisions of Paragraph 10 of this Ordinance.

8. Insurance: The Franchisee shall maintain Commercial General Liability insurance, including coverage for contractual liability, liability from independent contractors, property damage liability, bodily injury liability, and personal injury liability with limits of not less than \$1,000,000 per occurrence, and \$1,000,000 annual aggregate. The coverage shall be written on an occurrence basis. At all times during the term of this Franchise, The Franchisee shall maintain statutory Workers' Compensation insurance in accordance with the laws of North Carolina. The Franchisee shall also maintain Employers' Liability insurance with limits of not less than \$500,000 per accident and \$100,000 each employee for injury by disease. In the event of bodily injury or property damage loss caused by The Franchisee's negligent acts or omissions in connection with The Franchisee's services or operations associated with this franchise, The Franchisee's Liability insurance shall be primary with respect to any other insurance which may be available to the City, regardless of how the "Other Insurance" provisions may read. The Franchisee shall submit copies of all said policies and a certificate of insurance naming the City as an additional insured for the approval of the City's Attorney. Approval from the City's Attorney shall be obtained prior to beginning any operation in the City of Hendersonville. The Franchisee shall also submit copies of said insurance policy and a certificate of insurance for approval to the City's Development Assistance Director prior to starting operations in the City of Hendersonville.

9. Indemnity: By commencing operation under this Franchise, The Franchisee agrees to indemnify and hold harmless the City against any liability for personal injury, property damage or other damage or injury arising from or in connection with any of its operations, including operation of the Pubcycle Service under this Franchise, and its insurance policy shall name the City as an additional insured to this effect.

10. Pubcycle/Trolley Bike Equipment/Condition of Vehicle: The Pubcycle or trolley bike will be a pedal-assisted motorized vehicle and shall be licensed and plated by the NC Department of Transportation as a slow-moving vehicle. The vehicle's approximate speed is 7-10 mph but has the ability to travel at speeds up to 35 mph. The vehicle is approximately 16' long, 8' wide and 9' high. Safety features of the vehicle shall include headlamps, tail lamps, stop lamps, turn signals, a Type AS-1 or AS-5 glazing windshield with wiper, reflex bumpers, parking brake, rearview mirrors, a horn, and seatbelts. The Franchisee is responsible for ensuring that all Pubcycle/trolley equipment is maintained in a safe and operable condition in accordance with applicable laws. The City reserves the right to have the vehicle inspected by the Hendersonville Police Department, appointed pursuant to city Code Sec. 54-33, and to restrict operation of any vehicles that fail inspection.

11. Standards for Drivers/Conductors: The Pubcycle/trolley bike shall have a designated driver known as the Conductor and possibly another representative of The Franchisee known as the Watchman who will assist with tours and enforcement of rules. The Franchisee shall certify in writing to the City that each driver has a valid North Carolina driver's license, is medically fit to operate the Pubcycle/trolley bike and has submitted a complete criminal background check. The Franchisee shall keep these records on file and will supply them to the City upon request. Drivers with convictions for crimes of moral turpitude, driving while impaired, controlled substance offenses and sex offenses are prohibited from operating the Pubcycle/trolley bike within the City limits.

12. Non-transferability/Amendment: This Franchise shall constitute a certificate of public convenience and necessity for the operation of the Pubcycle Service. This Franchise is not transferable, except to another entity owned by The Franchisee with written consent from the City and may not be amended except as provided in G.S. 160A-76 and G.S. 160A-304(b). This Franchise is not exclusive.

13. Revocation/Termination: The City may revoke this Franchise at any time for failure by The Franchisee to comply with any of the provisions hereof; provided, that The Franchisee shall receive 10 days' notice of said revocation during which time this franchise may only be suspended. The City may revoke this Franchise for any reason upon 30 days' notice to The Franchisee. The Franchisee shall be entitled to no compensation or payment as a result of the revocation of this franchise for any reason. The Franchisee may cease operations under this Franchise upon 30 days' notice to the City.

14. Notice: Any notices required or permitted pursuant to this franchise shall be first class mail or personal delivery to the parties as follows:

If to The Franchisee:
HVL Pedal & Brews, LLC
Attn: Adam Justus
PO Box 2652
Hendersonville NC 28793

If to City:
Hendersonville City Attorney

160 Sixth Avenue East
Hendersonville, 28792

Compliance with the formalities of this section may be waived.

The Franchisee shall designate an individual to be its agent for service of process in accordance with North Carolina law, and shall keep the City advised of any changes in said agent or its address.

15. Franchise Fee: The fee for the operation of this Franchise shall be \$1.00 per day for each day of the term of the Franchise, or \$365 annually; payable in a lump sum on or before the effective date of this Franchise and thereafter, due and payable annually on or before July 1 for the term of the Franchise. The City reserves the right to adjust this fee upon sixty (60) days' notice to The Franchisee.

Upon an increase of the fee by the City, The Franchisee shall have the right to cancel this franchise of the remainder of this term.

16. Temporary Suspension/Modification: This Franchise and any of the terms and conditions thereof, including those relating to route, stops, and scheduling are subject to temporary suspension or modification by the City as necessary for the City to exercise and maintain control over its streets and public ways. The reasons for such action may include (by way of example and not limitation), the following: (a) closing of streets for repairs; (b) closing of streets for parades and festivals; (c) change in direction of one-way streets;(d) Changes in parking configuration. Any such action shall be within the City's sole discretion without recourse by The Franchisee. The City will endeavor to provide advance notice of such action but shall not be bound to do so. Suspension or modification expected to be of more than 30 days duration will require amendment to this franchise.

17. Compliance with Laws: The Franchisee shall comply with all applicable federal, state, and local laws in the operation of its business including, but not limited to, the City of Hendersonville open container ordinance, and the State of North Carolina Alcoholic Beverage Control (ABC) laws (i.e. NCGS 188-401; NCGS 20-4.01 (27); NCGS 20-138.7; NCGS 138.2C). However, requirements of this ordinance must still be observed (i.e. passengers cannot leave the vehicle with an open container).The Franchisee shall also be responsible for obtaining all necessary licenses and permits including, but not limited to, ABC permits and licenses or permits from the NC Department of Transportation.

18. Acceptance of the terms hereof: The Franchisee's operation in substantial accordance herewith shall demonstrate the Franchisee's acceptance of all terms and conditions of this franchise, each of which shall become binding on the Franchisee as of the date hereof.

Section 2. All ordinances and clauses of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 3. That if any part of this ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance.

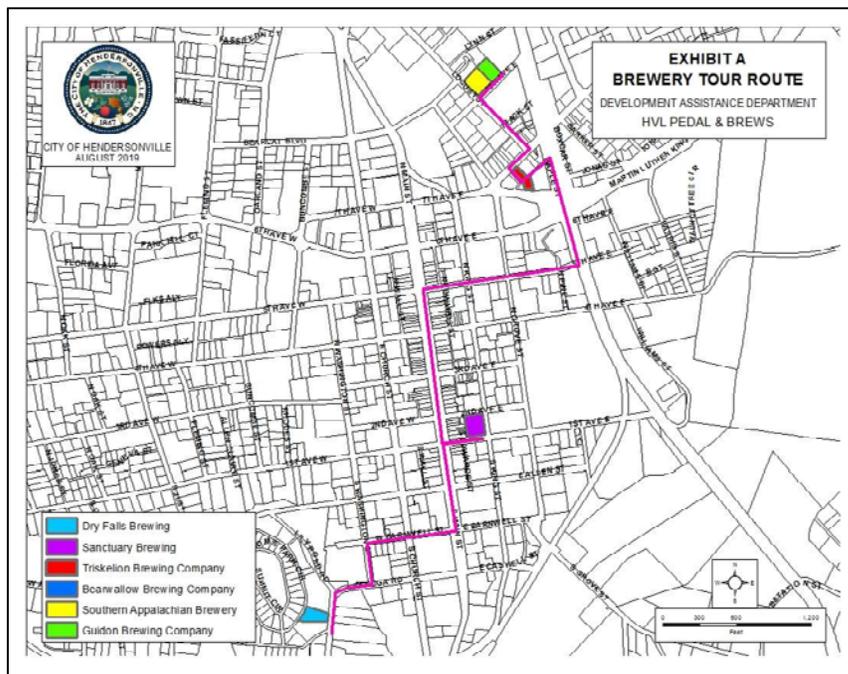
Section 4. This ordinance shall be effective upon its adoption.

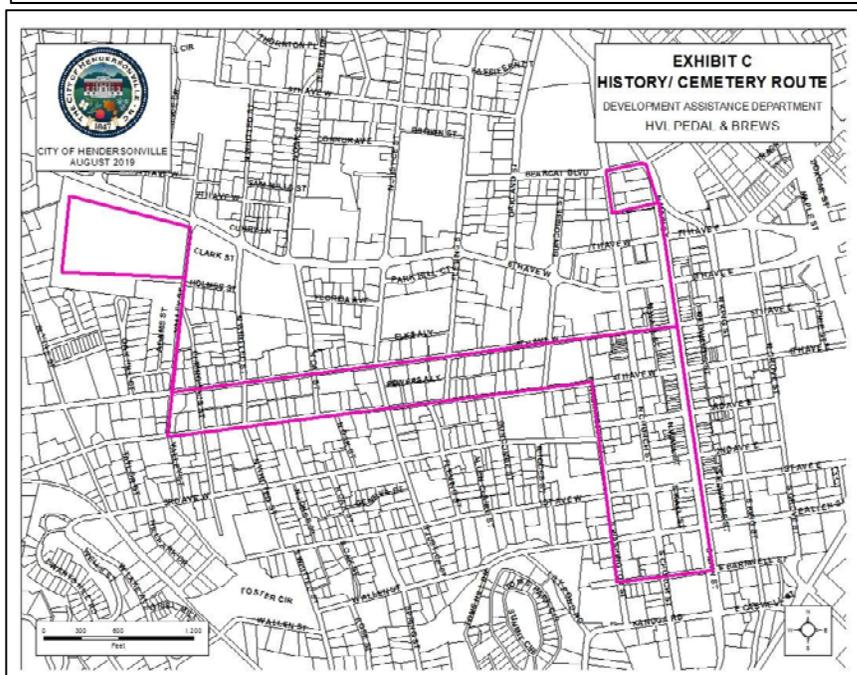
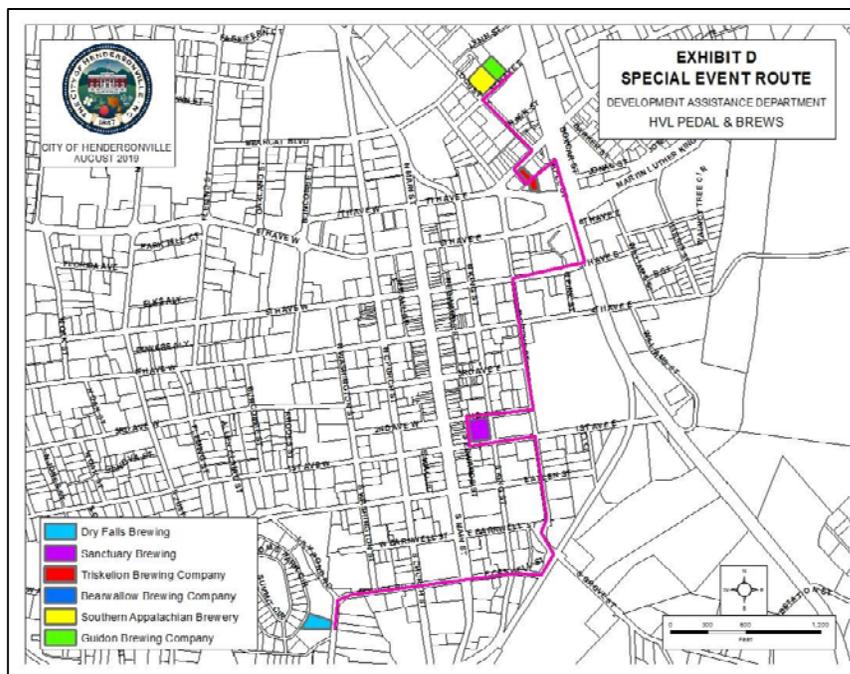
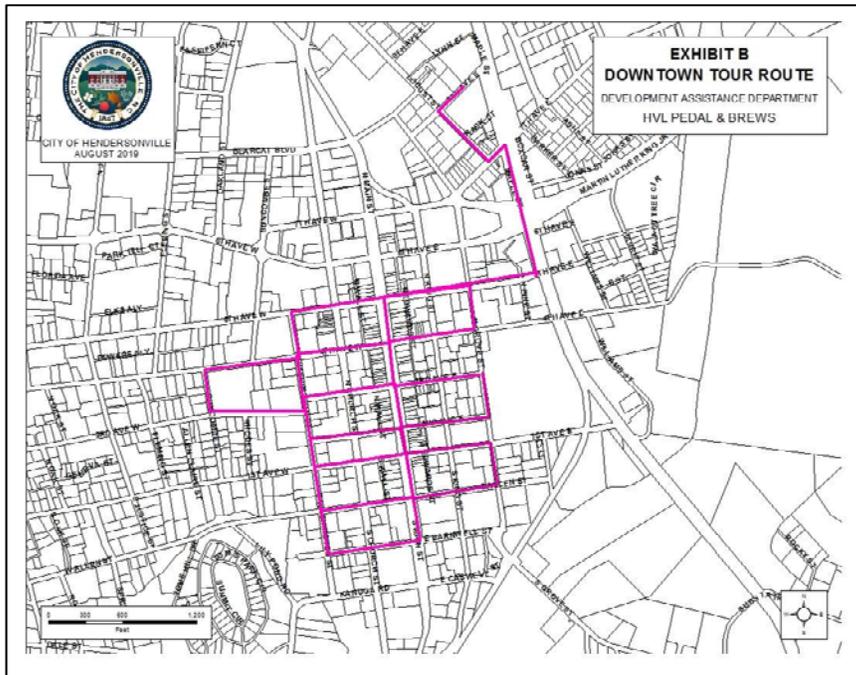
Adopted this third day of October 2019.

/s/Barbara G. Volk, Mayor

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

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





H. Consideration of Waterline Extension Agreements for:

i. Haywood Crossing: Mr. Lee Smith reported this project requires an extension of the City of Hendersonville's water system to provide service to a proposed residential development consisting of 20 single-family lots. This project is located along Haywood Road. The project consists of 661 linear feet of six-inch DIP, 922 linear feet of two-inch PVC, 811 linear feet of eight-inch DIP and two fire hydrants. Sewer service will be provided by the Cane Creek Sewer District. This project is within Henderson County's zoning and planning jurisdiction and was granted approval June 21, 2019. He reported the Water and Sewer Department has the capacity to support this additional connection. He recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

ii. Rugby Ridge: Mr. Lee Smith reported this project requires an extension of the City of Hendersonville's water system to provide service to a proposed residential development consisting of 26 single-family lots. This project is located along North Rugby Road. This extension consists of 2,500 linear feet of six-inch PVC and three fire hydrants. Sewer service will be provided by individual on-site septic systems. This project is within Henderson County's zoning and planning jurisdiction and was granted approval January 15, 2019. He reported the Water and Sewer Department has the capacity to support this additional connection. He recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

iii. Etowah Townhomes: Mr. Lee Smith reported this project requires an extension of the City of Hendersonville's water system to provide service to a proposed residential town home complex consisting of nine units. This project is located on Brickyard Road. Water service will be provided by and extension of an existing water line. This extension shall consist of 204 linear feet of six-inch DIP CL350, a new fire hydrant and the relocation of an existing hydrant. Sewer service for this project is provided by Etowah Sewer Company. This project is within Henderson County zoning and planning jurisdiction and was granted approval dated June 26, 2019. He reported the Water and Sewer Department has the capacity to support this additional connection. He recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

I. Consideration of Amendments to the Special Event Policy: At the request of the Downtown Advisory Committees, Mr. Lew Holloway presented revisions to the Special Event Policy and Special Event Application are submitted for Council's consideration.

Mr. Holloway explained changes to the Policy and Application revolve around the downtown stakeholder notification process required of event applicants. The recommendation is to move away from the petition process and identify a notification process that event coordinators must commit to using in sharing information with downtown stakeholders about event impacts.

Mr. Holloway explained the new proposed policy requires event coordinators to notify impacted residents, businesses, places of worship and schools affected by street and sidewalk impacts related to the event by formal notice. The formal "Event Impact Notice" must be submitted with the special event application and will be reviewed by the Special Event Committee. The "Notification Guarantee" must be signed by the Authorized Event Coordinator.

Mr. Holloway explained the formal Event Impact Notification must:

- a. Be completed by all event applicants.
- b. Be submitted to the Special Events Committee prior to distribution to impacted areas.
- c. Be distributed to impacted areas, at least 20 days prior to the event by either hand or mail delivery.
- d. Include the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact the organizers.

City of Hendersonville Special Events Policy

June 1, 2019

Executive Summary

The City of Hendersonville, NC is a vibrant community with a variety of municipal resources which lend themselves to use for special events. Special events require the coordination of a variety of city and event organizers' resources to come together successfully. Whether held downtown, in one of our many attractive public parks or elsewhere in the city, they have very specific impacts which are best considered and weighed prior to the event itself.

The following policy has been established to facilitate this planning process with the city. If you are planning a special event in the City of Hendersonville, it is essential that you review the policy well ahead of your planned event date to determine what you'll need to have in place for a successful event!

In this policy you will find information about:

1. What the City's definition of a "Special Event" is.
2. Fees, deposits and special conditions which may be applied to each event.
3. Application timelines and required special event permit documentation and information.
4. Grounds for application denial.
5. The Committees involved in the event approval process and their roles & responsibilities.

Special Event - Definitions

A special event is defined as a pre-planned event, whether publicly and/or privately sponsored, which is proposed to be held on public property, including but not limited to parks, streets and/or sidewalks. All special events require a Special Event Permit issued by the City of Hendersonville. There are two categories of Special Events listed below.

Park and/or Road Festival means an organized neighborhood or public gathering on a public right-of-way (street, sidewalk, parking lot or alley) or public park (Patton, Berkley, etc.) on a specified date at a specific time, and confined to a designated area that may or may not require an admission fee to enter and participate.

Procession/Parade/Organized Competitive Event: Procession/Parade means a public or private march, run, cortege, walk, cavalcade, autocade, parade of any kind, other gathering of persons that occurs upon public right-of-way, park or both in an area used for vehicular traffic. Organized Competitive Event means any planned race, walk, derby, or event that involves a contest of skill and/or strength and takes place upon public right-of-way or park.

Special Event Application: Timelines

The Special Events Committee hears all event applications within the city. The timeline below outlines minimum requirements for Special Event Permit Applications.

SUBMIT SPECIAL EVENT APPLICATIONS TO:

Susan Frady - Special Event Committee Chair

Phone #: 828.697.3010, Fax #: 828.698.6185

E-mail: sfrady@hvlnc.gov

Address: 100 N. King St. Hendersonville, NC 28792

Special Event Application

Submission & Approval Timeline

Minimum 90 Days Prior to Special Event Date – Application Submission

x Submission of Special Event Application Package

x Special Event Site Plan

x Street and/or Parking Closure Request(s)

Minimum 60 Days Prior to Special Event Date – Committee Review

(Applicant Attendance Required)

x Downtown Advisory Committee Review & Recommendation (where applicable)

x Special Events Committee Review & Recommendation – includes review by Police, Fire and Public Works

Minimum 30 Days Prior to Special Event Date – City Council Meeting

x Final Site Plan, Event Timeline & On-Site Contacts

x Proof of Insurance

x Vendor Permits

x Formal Event Notice

x City Council Review & Approval (Required)

Post-Event

Maximum 30 Days After Last Day of Event

x Final Payment as needed

x Reserve Future Dates

Special Event Application: Component Parts

1. Event Application Cover Page:

a. Event Organizer & Contact Information

b. Name of Event

c. Date(s) of Event

d. Past Attendance Trends & Predicted Attendance For Upcoming Event

e. Past Vendor Participation Trends & Predicted Vendor Participation for Upcoming Event

2. Event Description, Statement of Public Benefit and Public Services Required: A basic overview of the event and its impact on the community and city services. Provide an overview of the event and how it will benefit the community? In addition, include information about what you, as the event coordinator, will need in terms of city services? Examples might include additional trash pick-up, police support, etc.

3. Event Marketing Strategy & Budget: A snapshot of the people and places you are targeting in your effort to "get the word out" about your event and the budget you are employing to reach your target market. Reviewing this snapshot is an important component of understanding the public benefit.

4. Event Site Plan: A visual representation of all the operational elements of your proposed event. To properly assess the event, the site map should be submitted along with the Special Event Application and include the following elements:

A Direction North, indicated by directional arrow symbol.

B The overall event area including: any requested street closures and/or the location and number of any parking closures.

C The location and dimensions of all physical equipment being placed, including, but not limited to, any stage(s), vendors, booths, sponsors, tents, signs, barricades, portable toilets, vehicles, shelters and shelter numbers, etc.

D Location of temporary alcohol sales where both sales and consumption occur.

E Indicate 20' wide fire lane clearances in all areas and the location of all fire hydrants.

F Include electrical plans for vendors and stages, specifying how much each site requires, in terms of amps & volts.

G Any other details you think are helpful in the physical description of your event.

5. Event Impact Notification: All events must notify impacted residents, businesses, places of worship and schools that are affected by street and sidewalk impacts related to the event by formal notice. The formal "Event Impact Notice" must be submitted with the special event application and will be reviewed by the Special Event Committee. The "Notification Guarantee" must be signed by the Authorized Event Coordinator. The formal Event Impact Notification must:

a. Be completed by all event applicants.

b. Be submitted to the Special Events Committee prior to distribution to impacted areas.

c. Be distributed to impacted areas, at least, 20 days prior to the event by either hand or mail delivery.

d. Include the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact your organization about the event.

IMPORTANT NOTE: New street closure requests, whether for an existing event or new event, require additional review and time for notification. Please consult with Special Events Committee Chair about the City's policy to provide impacted stakeholders a minimum 90-day notification for new major street closure requests.

6. Vendor Applications & Electrical Requirements Form (when applicable): If your event includes food or retail vendors and any of those vendors or you as the event coordinator require electric, you must submit the vendor permit & electrical requirements form. The form will help you to calculate your total "Event Fees," while providing city staff with a clear picture of your electrical needs. Event Fees must be submitted prior to the event at 160 Sixth Avenue East, Hendersonville, NC 28792.

7. Insurance: The event organizer must furnish a current general liability insurance policy which names the City of Hendersonville as a co-insured on the policy. Insurance requirements are as follows:

a. Commercial General Liability:

- i. Per occurrence \$1,000,000
- ii. Personal & Advertising Injury \$1,000,000
- iii. Products/Completed Ops. \$1,000,000
- iv. General Aggregate \$1,000,000

In addition to these minimum requirements certain events may require additional coverage, based upon the type of event. Examples of additional coverage could include Automobile Liability, Workers Compensation and Liquor Liability. Additional requirements will be conveyed to the event organizers.

8. Police Support: Events which exceed the attendance threshold established below and/or operate with an ABC special event permit are required to hire off-duty City of Hendersonville police officers. Hourly rates for off duty officers are included for budgeting purposes. Please note the Special Event Committee may require a larger or smaller number of officers depending on event specific conditions.

Attendance Range Officers Required - NON-ABC EVENT Officers Required - ABC EVENT

0 to 5,000 Zero 2 to 3

5,000 to 10,000 Zero 3 to 4

10,000 (plus) # determined by Police Chief # determined by Police Chief

Hourly Rate for Off Duty Officer \$25.00 \$40.00

Special Event Application: Additional Considerations & Interpretations

1. Special Event Applicant Priority Ranking: The Special Event Committee will use the following priority list if there are conflicting requests for a particular time and date.

Priority will be given in the following order:

- a. Events that have established historic precedence and are in good standing.
 - b. Events organized by the City of Hendersonville.
 - c. Events organized by Henderson County Schools.
 - d. Events organized by Henderson County Governmental Units.
 - e. Events organized by Hendersonville based non-profit organizations with proceeds providing assistance to the organizer or another Hendersonville based non-profit organization (requires proof of 501c(3) status).
 - f. Events organized by private businesses, non-profit organizations; without or pending 501c(3) status, not based in Hendersonville, and/or individuals for the purpose of profit, personal gain, and/or proceeds that will be used to benefit other than those Hendersonville based non-profit organizations.
2. Criteria Considered for All Street Closures & Other Event Impacts: The following factors are carefully considered prior to recommending approval of proposed events, in particular those which require street closure (whether lane closures, local streets or major/secondary streets.) Organizers wishing to close any portion of a street will need to justify that need with a compelling case composed of information in the following categories.
- a. Total number of event attendees, both historical trends and predicted increases.
 - i. These numbers will be considered both in terms of total attendance and attendance over time, i.e. a smaller total may still warrant closure if concentrated over a short period of time.
 - ii. Unless an event attracts more than 50,000 visitors per day it would typically not warrant the closure of a majority of Main Street.
 - iii. Smaller events may with fewer than 50,000 visitors per day may warrant the closure of one or more blocks of Main Street.
 - b. Total number of event vendors, both historical trends and predicted increases.
 - i. Unless an event hosts more than 125 vendors it would typically not warrant the closure of a majority of Main Street.
 - ii. Smaller events with fewer than 125 vendors may warrant the closure of one or more blocks of Main Street.
 - c. Event Marketing Strategy & Budget
 - d. Verification that the event applicant or sponsor has committed to completing the "Event Impact Notification."
 - e. Impact of the proposed event on residents, occupants or businesspersons of the block.
 - f. Impact of the proposed event on the accessibility of emergency vehicles in the closure areas.
 - g. Impact of the proposed event on vehicular traffic such as circulation, traffic movement and availability of alternate routes for traffic.
 - h. Potential interference with commercial and business activities in the immediate vicinity.
 - i. Conditions existing in the surrounding area that, when occurring in conjunction with a street closure, might create a hardship or an unnecessary inconvenience to the general public or persons residing in the area.
 - j. Relationship in regard to timing of proposed closure to other approved or proposed closures.

3. Portable Toilets: An essential but sometimes overlooked element of special event planning portable toilets are particularly important in downtown Hendersonville as the availability of public restrooms is limited. The guidelines included below are provided as a recommendation and reference. They are based on a four-hour long event. Longer or shorter duration events should consider modification to these numbers.

Attendance Range Portable Toilets Recommended

NON-ABC EVENT

Portable Toilets Recommended

ABC EVENT

0 to 5,000 1 to 10 2 to 15

5,000 to 15,000 10 to 25 15 to 40

15,000 to 50,000 25 to 50 40 to 75

50,000 (plus) 50 plus 75 plus

Special Event Application: Grounds for Denial

The Special Event Committee may recommend that City Council deny a permit application on one or more of the following grounds:

- x The event applicant does not generate a compelling case for the event's public benefit.
- x Failure to submit an application within the time periods outlined herein.
- x Failure to submit a complete application. A complete application is one which addresses all "required" elements of the application.
- x The applicant owes the City of Hendersonville money from another event for services provided or as a result of damages to city property.
- x The Special Events Committee has already received a completed application for the same date and/or space.
- x The event would conflict with previously planned programs organized and conducted by the city or non-governmental agencies scheduled for the same time and/or place.
- x An event requiring significant street closures, i.e. 3 or more blocks, occurs within ten (10) days of an existing event which also requires significant street closures.
- x The applicant does not comply with all applicable city ordinances, traffic rules, park rules and regulations, state health laws, fire codes and/or ABC licensing regulations.
- x The use or event proposed by the applicant would present an unreasonable danger to the health or safety of the public.
- x The applicant cannot comply with applicable local, state and federal license requirements for all or part of the planned event.
- x The use or event is prohibited by law.
- x The application contains material misrepresentation or fraudulent information.

Special Events Committee – Roles & Responsibilities

This Committee is established to assure that all special event applicants follow the procedures outlined in this document and to provide assistance in event logistics as it relates to the health and safety of organizers and attendees at special events conducted within the City of Hendersonville.

Special Event applicants will submit their applications to the Committee Chair; Development Assistance Director Susan Frady, who will distribute copies to the committee according to the timeline outlined on page 4. The applicant will then meet with the Special Events Committee at least 60 days prior to their event; event coordinators are encouraged to schedule this even earlier if possible. For events within the Downtown Municipal Service Districts, the Downtown Economic Development Director will distribute copies to the Downtown Advisory Committees.

The Special Events Committee is made up of the following individuals:

1. Development Assistance Director – Committee Chairperson
2. Police Chief (or representative)
3. Fire Chief (or representative)
4. Public Works Director (or representative)
5. Downtown Economic Development Director (Ex-Officio Member)

The Special Event Committee's primary role is to coordinate the variety of special events which take place in the City of Hendersonville and to protect the health and safety of the community. To do so the Committee:

1. Maintains a running list of events that includes those that have:
 - a. Received City Council approval.
 - b. Received Special Events and Downtown Advisory Committee (as applicable) review and recommendation.
 - c. Requested an annually recurring date and which have established historic precedent for this request. Example, The Apple Festival occurs over Labor Day weekend each year.
2. Provides a comprehensive review of the event site plan, identifying and providing event organizers with cost estimates for any city services and personnel that their event will require.
3. Reviews the event site plan and application to identify any life safety issues that the proposed event presents the community.
4. May approve recurring events which have no material changes to the event proposal.
5. May approve events which have no impact on the streets or sidewalks of the City of Hendersonville and do not require more than \$1,000 in city resources.

J. Consideration of Amendments to the Fee Schedule Regarding Customer Service

Policies: Mr. Murr explained City Council approved changes to the customer service policy at the October 3, 2019 regular meeting. Following the adoption of customer service policy changes, staff reviewed the Schedule of Rates and Fees for accuracy. To ensure the City is properly advertising rates and fees as adopted in our various policies, staff have made clarifications. He provided the proposed changes to more accurately reflect policies adopted by the City Council.

Sanitation Service Deposit \$60.00

Tier 1 \$60.00

Tier 2 \$80.00

Tier 3 \$120.00

Water

Customer unable to perform utility credit check - Residential \$240.00

Residential - Rental Water & Sewer Deposit

Tier 1 \$60.00

Tier 2 \$80.00

Tier 3 \$120.00

Customer unable to perform utility credit check – Commercial/Industrial \$500.00

Meters

Meter Drop Charge - \$300.00

Meter Replacement Charge - Cost plus 10%

Water Conservation Incentives Program Rebate Schedule

Customer-Side Shut-Off Valve - Limit one per account ~~\$250.00~~ up to \$300.00

Sewer

Customer unable to perform utility credit check - Residential \$240.00

Residential - Rental Water & Sewer Deposit

Tier 1 \$60.00

Tier 2 \$80.00

Tier 3 \$120.00

Customer unable to perform utility credit check - Residential Rental \$240.00
Customer unable to perform utility credit check - Commercial/Industrial \$500.00

K. Consideration of Regular Meeting Schedule for 2020: City Clerk Tammie Drake presented the regular meeting schedule for 2020.

L. Consideration of Discoveries, Releases, Refunds, and Forgiven Interest for August 27, 2019 and October 21, 2019: Deputy Tax Collector, Jennifer Musselwhite, submit the tax bill adjustments occurring between August 27, 2019 and October 21, 2019. She explained these adjustments include all discoveries, releases, refunds, and forgiven interest. These adjustments were provided by Henderson County Tax Department. Documentation is available in the Tax Office.

SUMMARY TOTAL OF DISCOVERIES, RELEASES, REFUNDS, AND FORGIVEN INTEREST

FOR TRANSACTIONS AS OF 10/21/2019

VALUE CHANGE	\$	(1,478,238.00)
RELEASES		(8,620.21)
REFUNDS		-
FORGIVEN INTEREST		-
TOTAL TAX BILL ADJUSTMENTS	\$	<u>(8,620.21)</u>

Discoveries and Refunds are provided by Henderson County Tax
 Interest is forgiven when payment is postmarked prior to beginning of month but processed after the beginning of month
 Refunds are given for overpayment of tax bill or for changes in tax value provided by the Henderson County Tax

Adjustment Descriptions
<i>Clerical error G.S. 105-381(a)(1)(a): e.g. when there is an actual error in mathematical calculation.</i>
<i>Illegal tax G.S. 105-381(a)(1)(b): e.g. when the vehicle should have been billed in another county, an incorrect name was used, or an incorrect rate code was used.</i>
<i>Tax levied for an illegal purpose G.S. 105-381(a)(1)(c): e.g. charging a tax that was later deemed to be impermissible under State law.</i>

M. Consideration of a Petition from D2/Dairi-O, LLC for the Satellite Annexation of Parcels Totalling Approximately 2.61 acres Located on Upward Road: Senior Planner Daniel Heyman presented the petition from D2/Dairi-O, LLC for a satellite annexation of PINs 9577-89-1783, 9577-89-3603, 9577-89-3576, 9577-89-4851, and 9577-89-6845 located on Upward Road which is approximately 2.61 acres. He also provided the Clerk's Certificate of Sufficiency finding that 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. The public hearing is set for the December 6, 2019 meeting.

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

6. Recognitions/Presentations/Proclamations/Introductions:

A. Proclamation for “National American Indian Heritage Month”: Mayor Volk presented a proclamation for “National American Indian Heritage Month in Hendersonville to a member of the DAR, Mary Stephens.

B. Proclamation for “Homeless Youth Awareness Month”: Mayor Volk presented a proclamation for “Homeless Youth Awareness Month” to Michael Absher, President/CEO, Only Hope WNC, Inc.

C. Recognition of Service Excellence MVPs: Mayor Volk and City Manager John Connet recognized the following employees as Service Excellence MVPs: Kimberly Jackson – Public Works, Firefighter Jacob Thompson, and Austin Williams, Brentley Orr, Matthew Keener, Caleb Smathers, Kevin Albertson, Bo Stepp, Brad Duncan of the Water Department.

7. Public Hearing - Consideration of an Application from Marilyn Gordon of Miken, LLC to Rezone Parcel #9568-64-8536 and #9568-64-8783 from R-15 Medium Density Residential to C-2 Secondary Business District: At the request of the applicant, Council Member Caraker moved the City Council continue the public hearing for consideration of a rezoning from Miken, LLC, to the December 5, 2019 regular City Council meeting. A unanimous vote of the Council followed. Motion carried.

8. Public Hearing - Consideration of a Petition from Stephen Robertson 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, unimproved right-of-way for Park Street located on PIN numbers 9568-44-6575 and 9568-44-5754. She stated the City Council adopted a Resolution of Intent to close this unopened right-of-way at their September 5, 2019 meeting.

Mrs. Frady stated 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 four times in the legal notice section of the Times News.

Mrs. Frady reviewed the procedures contained in North Carolina General Statute 160A-299 for permanently closing streets and alleys.

At 6:10 p.m., Mayor Volk opened the public hearing in accordance with North Carolina General Statutes by notice published in the Times News. The following spoke in favor of the street closing:

Mr. Stephen Robertson stated they own the property on both sides of the rights-of-way. He stated the area has not been maintained.

No one spoke in opposition to the closing. The public hearing was closed at 6:11 p.m.

Mayor Pro Tem Caraker moved Council to adopt the Order to Permanently Close a portion of an unopened and unimproved right of way for Park Street located on PIN numbers 9568-44-6575 and 9568-44-5754 as petitioned by Stephen Robertson. A unanimous vote of the Council followed; motion carried.

ORDER #19-1183

**ORDER TO PERMANENTLY CLOSE PARK STREET
(Petition by Stephen Robertson)**

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, Stephen Robertson has petitioned the City of Hendersonville to close Park Street; and

WHEREAS, on the fifth day of September 2019, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the seventh day of November 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 seventh day of November 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:

Beginning at a set iron, said pin being the Southeast corner of that 0.15 acre tract as shown on a plat recorded at Plat Slide 11942, Henderson County Registry; thence along the South line of aforesaid 0.15 acre tract the following two (2) courses to wit: (1) S41°27'58"W for 54.76 feet to a point; (2) S37°31'12"W for 52.87 feet to a set iron pin in the intersection of the North right of way line of Park Street and the East right of way line of Bryan Avenue (Formerly Oak Street); thence S05°45'56W for 55.55 feet to a found iron pipe on the East right of way line of aforesaid Bryan Avenue (Formerly Oak Street) on the Northwest corner of the lands now or formerly of Stephen and Dawn Robertson as described in Deed Book 3205, page 250, Henderson County Registry; thence with the North line of the lands of Stephen and Dawn Robertson the following three (3) course to wit: (1) N29°12'00"E for 49.90feet to a found iron pipe; (2) N37°31'12"E for 50.05 feet to a found iron pipe; (3) N41°07'58"E for 50.17 feet to a found iron pin on the West right of way line of West Pine Street; thence along the West right of way line of West Pine Street N38°50'05"E for 22.34 feet to the Point of Beginning. Containing 0.07 acres (2,837 square feet), more or less.

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 seventh day of November 2019.

/s/Barbara G. Volk, Mayor

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

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

is provided for vehicular use areas and additional trees along the internal streets and around the common amenities and exceed ordinance requirements.

Stormwater/Flood Hazard Area: The applicant will be providing stormwater management plans as part of the final site plan submittal requirements. No land disturbance or development is proposed within the areas designated as flood hazard areas.

Sidewalks are provided along one side of all internal streets and along the south side of Clear Creek Road as required by the Zoning Ordinance.

The proposed density is approximately 4.63 units per acre.

Traffic Impact Analysis: The applicant provided a Traffic Impact Analysis conducted by Ramey Kemp and Associates that studied the proposed development's impact on the roadway and nearby intersections. The study considered a proposed development of 210 single-family homes and 150 townhomes, which is greater than shown on the site plan. The analysis recommends the following mitigation measures for the proposed development:

Intersection of Howard Gap Rd and Clear Creek Rd

- Construct an exclusive right turn lane on the eastbound approach of Howard Gap Road with a minimum of 100 feet of full storage and appropriate taper lengths.
- Widen the northbound approach of Clear Creek Road to provide exclusive left and right turn lanes. Provide a minimum of 150 feet of full storage and appropriate taper lengths for the proposed right turn lane.

Intersection of Clear Creek Road and Single-Family Main Access/Townhome Northern Access

- Construct an exclusive left turn lane on the northbound approach of Clear Creek Road with a minimum of 100 feet of full storage and appropriate taper lengths. Symmetric widening on the southbound approach of Clear Creek Road to provide an exclusive left turn lane with a minimum of 100 feet of full storage and appropriate taper lengths.
- x Construct an exclusive right turn lane on the southbound approach of Clear Creek Road. Provide a minimum of 100 feet of full storage and appropriate taper lengths.
- x Provide three-lane cross-sections for the Tract 1 and Tract 2 site accesses including one ingress and two egress lanes [to be striped as a shared left-through lane and right turn lane]. Per NCDOT's "Policy on Street and Driveway Access to North Carolina Highways", "a minimum storage of 100 feet measured from the near edge of the right-of-way will be required before any crossing or left-turning conflicts are allowed".

Intersection of Clear Creek Rd and Townhome Southern Access

- x Restrict the proposed access to right-in/right-out movements only.
- x Provide a two-lane cross-section for the proposed site access including one ingress and one egress lane, a minimum storage of 100 feet measured from the near edge of the right-of-way will be required before any crossing or left-turning conflicts are allowed.

Intersection of Hyder Farm Road and Single-Family Northern Access

- x Provide a two-lane cross-section for the proposed site access including one ingress and one egress lane.

Mr. Heyman stated all of these mitigation measures are shown on the site plan. He stated the TIA was reviewed and accepted by the City's consultant.

Neighborhood Compatibility: A neighborhood compatibility meeting concerning the application was held on July 10, 2019. Approximately 41 people representing the public attended the meeting. Attendees asked questions regarding the price of the homes, proposed restrictive covenants, and construction timelines. Attendees raised concerns about increased traffic, current traffic conditions on Clear Creek Road, and impacts to wildlife in the area. He provided a copy of the neighborhood compatibility report.

Tree Board Recommendation: The tree survey shows 1,177 trees over 12-inches in diameter on the property. The submitted landscaping plans show 807 proposed new trees to be planted. The Tree board made the recommendation at their September 3 meeting that the developer replace each tree over 12-inches in diameter that is removed from the property, and that replacement trees be the same species or their equivalent to existing trees. He stated if this recommendation is to be a condition of the rezoning it will need to be stated in the motion.

Environmental Sustainability Board Recommendation: The Environmental Sustainability Board submitted a memo concurring with the Tree Board's recommendation and stating support for "the implementation of constructed wetlands for stormwater management and other green infrastructure improvements." If this recommendation is to be a condition of the rezoning it will need to be stated in the motion as well.

Planning Board Recommendation: The Planning Board voted unanimously to recommend City Council approve the request for the rezoning designation because additional housing is needed in the community.

Zoning Ordinance Guidelines: Mr. Heyman reviewed the factors contained in Section 11-4 of the Zoning Ordinance that must be considered prior to adopting or disapproving an amendment to the City's Official Zoning Map.

Council Member Caraker asked if the developer is responsible for the Clear Creek Road alterations. Mr. Heyman stated it is the responsibility of the developer because of the increased traffic and will be done by the contractor who is doing work on the bridge on I-26.

At 6:21 p.m., Mayor Volk opened the public hearing in accordance with North Carolina General Statutes by notice published in the Times News. The following spoke in favor of the rezoning request:

Will Buie, WGLA Engineering, representing the applicant. He introduced their team members and provided a description of the project. The developer is Bob Grimsley and partners Ken and Kevin Jackson were in attendance. He also introduced Susanne Godsey with Site Works Studios, Jay Clapp from Ramey Kemp and Associates and a traffic engineer and his partner, Jerod Deridder.

Mr. Buie reviewed the existing zoning and the allowed uses in those districts. This property was identified as a development opportunity in the Comprehensive Plan and targeted as a priority growth area. The area was also identified as a business center probably because of the plan for the Balfour Parkway which is no longer proposed by NCDOT which changed the complexion of the property. He stated the property has been for sale for many years because of the unknowns associated with the future highway work.

Mr. Buie reviewed a rendering of the proposal for the property. He stated the 2030 Comprehensive Plan talks about medium intensity resident development with 2-8 units per acre with 60% open space. He stated the density of the proposed development is 4.34 – 4.83 units per acre with 68% open space.

Mr. Buie reported they have had many meetings with the neighbors including Cumberland Village and Carolina Village. They were consistently asked what they plan to build and the price point. The square footage of the single-family homes will be 1,600-1,900 square feet. The starting asking price will be the low to mid \$300,000. The 1,600 – 1,800 square foot townhomes will likely be in the low to mid \$200,000 range.

Mr. Buie stated the developers will be completing all the infrastructure including improvements in the TIA. He stated they will sell the lots to builders they select.

Jared Deridder, WGLA Engineering, addressed the Council. He provided the following information: They began their due diligence with a boundary survey, topographic survey and a tree survey. They also had a stream and wetland delineation. Approximately a half-acre of wetlands was identified and verified by the Army Corp. There is approximately 3,000 linear feet of stream on both parcels which have also been verified by the Army Corp. He stated they are not proposing any impacts to the wetlands or stream as part of this project.

Mr. Deridder provided specifics of the project stating there is approximately 24 acres on the townhome side of the project. Approximately 4.2 acres is a conservation easement; approximately 4.3 acres is in the 100-year floodplain area and borders the conservation easement. They are proposing townhome units split into 29 building clusters ranging from two to six-unit clusters.

Mr. Deridder stated they have two entrances from Clear Creek Road. The first entrance is right-in and right-out. There is another full movement intersection toward I-26 with a designated turn lane into the development. The entrance has a divided median with signage. He stated all roads will be built by the developer then turned over to the City for ownership and maintenance. They have worked with the Public Works Department for a satisfactory typical section. The typical section consists of two 11-foot asphalt lanes with two-foot curb. They have three approved road names. They have approximately 3,200 linear feet of roads.

Mr. Deridder stated they will have sidewalks on one side of each road in the development for a total of 3,100 linear feet on the townhome side. Each of the townhomes will have a garage and a designated parking space. They will have six overflow areas throughout the community which comprises 72 additional parking spaces. They will have four mailbox kiosk locations and a pool area with a cabana near the I-26 interchange.

On the west side of the road where the single-family structures will be located, Mr. Deridder stated the area is comprised of 48 acres, 192 single-family homes with typical lot sizes of 50 feet by 120 feet which is 6,000 square feet or .137 acres. They are proposing two entrances: one off Clear Creek Road into the site and the other off Hyder Farm Road. He stated all roads will be built by the developer then turned over to the City for ownership and maintenance. This road section will have two 11-foot lanes with 18-inch curb and gutter. Four separate road names have been approved by Henderson County for a total linear footage of 6,500.

Mr. Deridder stated they are proposing more than 6,200 linear feet of sidewalk within this development to provide a walkable community. They are proposing three mailbox kiosk locations and one pool area with a cabana at the entrance to the site.

Mr. Deridder stated this project will be served by public utilities. There is an existing gravity sewer line on the southside of Clear Creek that will be extended to the project site and will work with City Engineering to do that. An existing waterline along Clear Creek that serves Cumberland Village and they will tie to that waterline. He stated they have 9,300 linear feet of waterline and 9,800 linear feet of gravity sewer planned.

Stormwater: Mr. Deridder stated they have designated three stormwater wet pond BMPs. They plan to use a wet pond for their BMP. The review and permitting will go through the City Engineering staff. The Environmental Sustainability Board recommended the construct of stormwater wetlands. He researched the request and found it would take three times the land area to complete that as opposed to the wet pond. He stated in the nature of preserving trees to the extent possible, not impacting existing wetlands and stream, they are requesting approval of a stormwater wet pond. He stated stormwater wet ponds are a BMP allowed by the State of NC and is a widely accepted use in Henderson County.

Project construction and timeline: Mr. Deridder stated infrastructure and sitework could begin spring 2020, vertical construction could begin in fall 2020, and first occupancy as early as spring 2021.

Suzanne Godsey, Sitework Studios, presented the following information about the proposed landscape plan. They looked at four areas: 1. City requirements: they only have to landscape the overflow parking areas and parking areas at the amenity spaces and those are incorporated in their plans. 2. Buffering – they are proposing hefty evergreen buffers between the project and their neighbors to the south in Cumberland Village and along I-26. They are proposing buffering between the back side of the townhomes and Clear Creek Road. 3. Creating a streetscape pallet to create rhythm by different species selection for street trees using large deciduous plant material. They are incorporating small deciduous plants for the townhomes, e.g., the difference between an Oak and a Dogwood. They are proposing enhanced landscaping at the entrances and islands as well as some of the green open space and at the amenity spaces at the pools.

Ms. Godsey recognized the memo from the Tree Board and stated the developer will provide the additional tree plantings to meet the recommendation: 221 additional large deciduous trees. The developer is comfortable with a condition being placed on the permit: replacing a deciduous tree with a deciduous tree and an evergreen tree with an evergreen tree. She stated they will be overplanted for evergreen species so they will be adding even more plant material. She stated as the single-family lots come on-line, it is reasonable to expect homeowners will also landscape their yard with possible planting at least one tree in their yard.

Because the project will be occurring in phases, Council Member Smith asked if the interior landscaping will occur when lots are sold and built. Mr. Buie stated they expect the project to be built in phases and the landscaping will be phased as well as areas are completed. Council Member Smith asked if the landscaping requirement is on the developer instead of the builder. Mr. Buie stated the landscaping is the responsibility of the developer.

Council Member Miller asked when the buffering will be planted around the perimeter of entire project. Mr. Buie stated that will likely take place early in the project - as the area is developed. He stated the developer is agreeing to plant the perimeter buffering early in the first phase of the project.

Mayor Pro Tem Caraker asked if the townhomes will be completed first. Mr. Buie stated yes, the grading and earthwork will have some impact on the schedule but that is a good assumption. Council Member Smith asked if the buffering will happen in phase 1. Mr. Buie stated yes, they are committing to planting the buffering in phase 1 for both the townhomes and single-family area. All of the buffering will be in phase 1. Mayor Volk asked if any of the large trees on the property be saved. Ms. Godsey stated there is plant material that will be saved that is outside of the limits of disturbance on WGLA's plans. She stated they are preserving some plant material.

Traffic: Mr. Buie stated the developer hired Jay Clapp with Ramey Kemp and Associates. The traffic study begins with proposing a scope – identifying intersections, capacities of roads, etc. The scope has to be approved by NCDOT and the City. He stated the scope has been reviewed and approved by both parties. The study then analyzes existing conditions and background traffic, then apply anticipated traffic generated from the development. He stated the results of the study identifies potential mitigations.

Mr. Deridder stated the I-26 project was let and NCDOT informed him the bridges will be first part of the widening. He stated they are working with the developers to include the traffic mitigation measures into NCDOT's scope of the I-26 widening. He stated there will be improvements to Clear Creek Road. He stated an interchange is not in widening plans. He stated they are working within an interlocal agreement to have NCDOT construct the improvements.

Mr. Deridder stated another mitigation measure is a designated right turn lane off of Howard Gap Road, and a designated left and right turn lanes onto Howard Gap Road from Clear Creek Road and they are working with NCDOT and property owners to acquire the right-of-way to accomplish this. Council Member Smith asked if Henderson County has to approve the improvements. Mr. Deridder stated no because this is NCDOT right-of-way. They will widen the asphalt (as shown with red lines on the plan). Council Member Miller asked how many vehicles will fit in 100 feet of storage. Mr. Deridder stated approximately five cars.

Mr. Deridder stated the TIA suggests turn lanes as shown on the plan but in order to build the turn lanes, they will have to acquire right-of-way from a private property owner. The property owners have been approached and they are working through the process. He stated if they cannot acquire the right-of-way, they will approach NCDOT who can take measures such as signalization of an intersection or other alternatives. He stated they would have to coordinate with NCDOT to find a solution. He stated NCDOT does not get involved in the transaction with the private property owners, that is the responsibility of the developer.

Council Member Caraker asked if there is any signalization proposed for the opposing exits. Mr. Deridder stated there are three lanes. He stated one lane will not stop and in order to reduce conflict we have designated turn lanes. Traffic leaving the townhomes will be stopped but others will move continuously.

Mr. Buie stated the project lines up with the six conditions Council must consider.

He reiterated the consistency with the 2030 Comprehensive Plan: the area is identified as a priority growth area, they are creating a walkable neighborhood and providing a mixture of housing types and price points.

Compatibility with surrounding neighborhood: This property will have covenants and restrictions in place for both the townhomes and the single-family units. These covenants will require upkeep and maintenance with homeowners' associations in place to enforce those covenants. He stated Carolina Village was identified in 2030 Comprehensive Plan as high intensity residential. This project is considered medium intensity residential. They believe it is compatible.

Changed conditions: This is a change in conditions because the Balfour Parkway is no longer planned but also shows compliance with the Comprehensive Plan.

Public Interest: They believe there is a need for this project in the community. He quoted from a market report by Beverly Hanks from Quarter 2 of 2019. He stated the reports cites the inventory for houses priced under \$400,000 is critically low. Housing is a need in the community. He stated they believe the costs meet the definition of workforce housing which is 80 to 140 percent of the average median income of the community. He stated most if not all of the homes in this community will meet that standard.

Public facilities: He stated water and sewer is adjacent and can be connected.

Effect on Natural Environment: He stated they are avoiding the streams, wetlands and flood hazards within this project.

Mr. Buie stated there have been a number of concerns voided:

Density: This plan is less dense than the original plan. It was reduced by 43 units.

Traffic and speed on Clear Creek Road: Mr. Deridder stated the developer approached NCDOT about options: lowering the speed limit and replacing speed limit signs.

Tree Board Recommendation: Mr. Deridder stated they will incorporate those recommendations.

Mr. Buie stated at build-out they anticipate the taxable value at more than \$100 million which will have a positive impact on the tax base of the City. It is possible City employees could live there.

Council Member Caraker asked if natural gas will be brought into the development. Mr. Buie stated yes, it is their intent to bring natural gas into development.

Council Member Miller asked the developers to be very considerate of their neighbors so they may continue their lifestyle. Mr. Buie stated they heard that.

Council Member Smith asked for renderings of the proposed houses. A typical model of what may be built was provided. Mr. Deridder stated there will be design requirements and styles.

Also speaking in favor of the request was:

Steve Dozier, Beverly Hanks, reiterated the shortage of housing in Henderson County and provided the results of the market research. He also discussion the costs for rent in the area. He asked the Council to consider approval to allow more workforce housing.

The following spoke in opposition to the rezoning request. Because of the number of speakers, Mayor Volk asked speakers to keep their remarks concise and to the point.

Donnie Garren, 307 Hyder Farm Road, asked Council to ensure there is no development on his boundary line. He also asked about the location of the turning lane. He asked if a study could be done on Nix Road. He also asked if the school system can handle the additional students resulting from this development. Council Member Miller stated yes, he asked.

Robert R. Frank, 164 Azalea Way, opposed the project because there is not going to be housing for low-income families at a cost of \$300,000, the same with the townhomes. He stated this is not affordable and there is not enough low-income housing. This project will affect him, his house and his property. He has had problems selling his home.

Ralph Hammond-Green: 1232 Hyman Avenue, did not oppose the development but raised questions about flooding of Clear Creek Road, traffic impact and the size of utility lines serving the area and the cost of any needed extensions and size increases. Council Member Caraker noted the developer will have to supply water to the property and they have to pay for that. There was discussion of the size of the lines to Cumberland Village. Mr. Deridder stated there is a 16-inch line on the opposite side of I-26. He stated the 16-inch is planning for the future and as a part of the I-26 project, NCDOT will install the 16-inch line beneath I-26 for the City at a future date. He stated the size is a discrepancy but is part of the City's water master plan. There was also discussion of the sewer main. Mr. Deridder stated there is an 18-inch gravity main on the south side of Clear Creek. Cumberland Village is served by septic. They will be providing an extension of gravity sewer along Clear Creek Road to the development. Council Member Smith stated the project will take 1,600 linear feet of water line and 1,300 linear feet of sewer line and that will not be charged to the City.

Mary Schwendinger, 625 Kanuga Road, stated she is taking issue with housing affordability because most of the workforce cannot afford \$300,000 homes. Housing affordability is one of the top concerns in the City.

Ken Fitch, 1046 Patton Street, stated the complexity of the project needs Council's full review. He expressed concerns about replacing the trees stating it will be many generations before the new trees attain a similar size as those present. He also expressed a concern about the clear cutting of a densely forested habitat for birds, bees and wildlife being replaced by development. He asked the Council to consider the effect on the natural environment. At the Planning Board meeting, he asked what actions or mitigations could be improved to address the severe environmental impacts and there was no answer. He stated the action is a clear cut with severe and irreversible impacts to the character of the area. He stated these issues could be appropriately addressed by an updated Comprehensive Plan.

Lyndsey Simpson expressed a concern about the cost of the units for workforce housing. She stated the base price may fall in the cost of rent now but there are many additions to that: homeowner dues. She is in favor of workforce housing, but this project needs more planning. She also expressed concerns about development in the flood plain.

No one else expressed a desire to speak. The public hearing was closed at 7:16 p.m.

Council Member Smith commented he does not feel the development or Mr. Buie is being disingenuous in their comments and recognized statistics for median household income. He stated practically, \$250,000 for a home is not workforce housing. He stated real estate is expensive here. He stated the high end of workforce housing is probably \$200,000 or less especially with HOA dues, taxes, etc. He stated the definitions of workforce vary but this development does not necessarily fall into workforce housing. He stated the market will drive the cost. There was discussion of teachers' salaries. Council Member Caraker commented there is not a requirement to provide workforce housing. He agreed HOA fees, upkeep of the property, adds costs to homes. He stated workforce or low income may have to be subsidized. He stated the project does not meet the affordable housing criteria, but it meets a need in the housing market.

Council Member Miller stated the Council does not set the price range of homes or what can be built. He stated the developer has not asked for any assistance. He stated the developer accepted the Tree Board recommendations, buffers, roads, etc. He suggested the City come up with ways to assist with true workforce housing, but he does not consider this development workforce housing. He stated the City Council should not dictate who can build what.

Council Member Smith questioned whether the City Council should mandate prices on homes be within a certain range. He stated economists agree a quota like that is a bad idea because it can create a surplus in one area and a shortage in another. He stated if the builder cannot get a buyer, they will have to lower the price. He suggested the builder be a part of the process. He is not in favor of mandating the price of homes.

Council Member Caraker asked for the financial scope of the project. Mr. Ken Jackson stated the development costs (without bids) is approximately \$18.5 million including land, engineering and development costs. He stated they do have to make a profit and if they cannot meet a minimum rate of return, they cannot get a loan. He stated they are also putting their money into the project. Development costs include grading, water and sewer line extensions, the road work, sidewalks, and off-site improvements. He stated they are at the limit of what the lots can sell for as far as market value. He stated other costs will reduce the profitability. Mayor Pro Tem Caraker stated the developer has a lot of due diligence before a loan can be requested. Mayor Pro Tem Stephens commented this project is a compliment and shows the viability of this community.

Regarding the effects on the environment, Council Member Smith commented it is a clear cut. He expressed appreciation to the developer for his willingness to meet the Tree Board's recommendations. He agreed it is years away from the trees having the same power as fully developed trees. He stated it is difficult to build anywhere where trees won't come down but believes there is a good attempt to replace as many as possible. Council Member Miller commented an alternative is to build on agricultural land which he doesn't want to see. Council Member Smith commented the Council is trying to deal with a need in the community. Regarding stormwater, the potential property owners need to know the road will flood during heavy rains and will go into the marketability of the homes. He is hopeful the stormwater retention ponds will work. He stated Clear Creek Road will continue

to flood whether this project is built or not and it may affect the value of the property, but the developer has tried to mitigate that. He stated it is difficult to build if not in the flood plain.

Mayor Volk commented the developers did not try to convince the Council they are building low income or workforce housing. She stated they presented their project, reduced the number of lots and upon request will abide by the request of the Tree Board. She stated based on their presentation they have done a good job. She stated although it may not be what the Council would like to see, it will enhance the area.

Mayor Pro Tem Caraker moved City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel # 9660-90-2975 and parcel # 9660-90-7491 from C-3 Highway Business, parcel # 9660-81-8633 from Henderson County R-1 Residential and C-3 Highway Business, and a portion of parcel # 9660-82-5607 from Henderson County R-1 Residential to PRD Planned Residential Development Conditional Zoning District with the additions of the Tree Board recommendations and the perimeter buffering in the first phase, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the Published List of Uses and Conditions, finding that the rezoning is consistent with the Comprehensive Plan’s Future Land Use map, and that the rezoning is reasonable and in the public interest for the following reasons: it addresses a housing inventory shortage in Henderson County. Council Member Smith reiterated all perimeter buffering will be done in Phase 1. A unanimous vote of the Council followed; motion carried.

Ordinance #19-1184

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

IN RE: Clear Creek Project (File # P19-19-CZD)

Be it ordained by the City Council of the City of Hendersonville:

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

Parcels 9660-90-2975 and 9660-90-7491 from C-3 Highway Business, parcel 9660-81-8633 from Henderson County R-1 Residential and C-3 Highway Business, and a portion of parcel 9660-82-5607 from Henderson County R-1 Residential to PRD Planned Residential Development Conditional Zoning District.

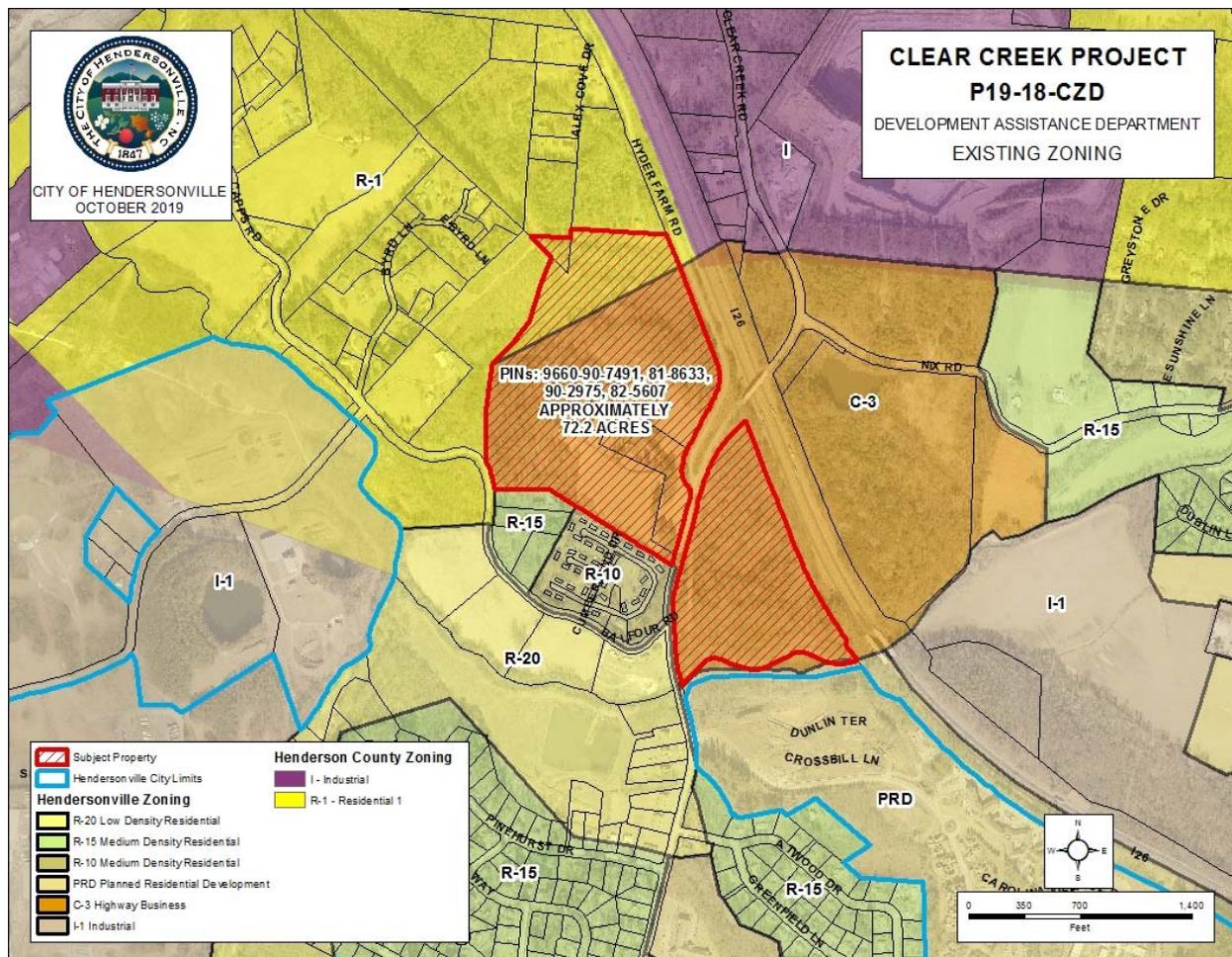
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this seventh day of November 2019.

/s/Barbara G. Volk, Mayor

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

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



There was a brief recess.

10. Public Hearing - Consideration of an Application from Clear Creek Investment Group, LLC for the Satellite Annexation of 72.2 acres located on Clear Creek Road: City Planner Daniel Hyman presented the petition from Clear Creek Investment Group, LLC for a satellite annexation of 72.2 acres of property identified as PINs 9660-90-7491, 9660-9-2975, 9660-81-8633, and 9660-82-5607 located on Clear Creek Road. He stated the annexation application is related to a sewer service request.

Mr. Heyman stated the map distance from the proposed satellite corporate limits is 29.5 feet from the primary corporate limits. The total area within the satellite corporate area within the satellite corporate areas, including land involved in this petition, constitutes 5.8 percent of the area within the primary corporate limits.

Mr. Heyman stated the Council accepted the Clerk's Certificate of Sufficiency at their meeting of October 3, 2019 and recommended a public hearing for the annexation. He reviewed the standards for the hearing and annexation as set forth in G.S. 160A-31.

At 7:51 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.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance annexing the property included in the petition from Clear Creek Investment Group, LLC, effective November 7, 2019. A unanimous vote of the Council followed. Motion carried.

Ordinance #19-1185

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA CLEAR CREEK INVESTMENT GROUP, LLC

Adopted date:	11.07.19
Effective date:	11.07.19
Total Acreage:	72.2 acres
Petitioner:	Clear Creek Investment Group, LLC

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

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall, Hendersonville, N.C. at 5:45 p.m., on the seventh day of November 2019, after due notice by publication as by law provided; and,

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

- a. All of the proposed satellite corporate limits are less than three miles from the primary corporate limits of Hendersonville. The map distance is 29.5 feet.
- b. No point on the proposed satellite corporate limit is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
- c. The area is situated so that the City of Hendersonville, if City Council so determines, will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- d. The area proposed for annexation is not a subdivision as defined in NCGS 160A-376.
- e. The area within the proposed satellite corporate limits when added to the areas within all other satellite corporate limits does not exceed 10 percent (10%) of the area within the primary corporate limits of the City of Hendersonville. The total area within the satellite corporate areas, including land involved in this petition, constitutes 5.8 percent of the area within the primary corporate limits.

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

Section 1. By virtue of the authority granted by N.C.G.S. 160A-58.1, as amended, the following described area is hereby annexed and made part of the City of Hendersonville as of the seventh of February 2019.

DESCRIPTION OF PROPERTY

Being located within the Hendersonville Township – Henderson County, North Carolina and being more particularly described as follows:

PARCEL IDENTIFICATION NUMBER 9660-90-7491:

BEGINNING AT A CONCRETE RIGHT OF WAY MONUMENT LOCATED AT THE SOUTH-EASTERN MARGIN OF THE RIGHT OF WAY FOR CLEAR CREEK ROAD (S.R. 1503) AND THE SOUTH-WESTERN MARGIN OF THE CONTROLLED-ACCESS RIGHT OF WAY FOR INTERSTATE 26, THE SAME BEING LOCATED AT THE FOLLOWING NORTH CAROLINA GRID COORDINATES: NORTHING=601,422.01, EASTING=969,788.02;

RUNNING THENCE, FROM SAID BEGINNING POINT AND ALONG THE SOUTH-WESTERN MARGIN OF THE CONTROLLED ACCESS RIGHT OF WAY FOR INTERSTATE 26, THE FOLLOWING SIX CALLS: S21°26'31"E A DISTANCE OF 569.40' TO A POINT; THENCE S21°56'51"E A DISTANCE OF 203.53' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 720.97', WITH A RADIUS OF 3954.72', WITH A CHORD BEARING OF S28°11'37"E, WITH A CHORD LENGTH OF 719.97' TO A CONCRETE RIGHT OF WAY MONUMENT; THENCE S11°14'06"E A DISTANCE OF 42.59' TO AN UN-MARKED POINT LOCATED AT THE NORTHEAST CORNER OF THE CONSERVATION EASEMENT DESCRIBED IN DEED BOOK 1076 PAGE 430, THE SAME BEING LOCATED N87°12'50"W A DISTANCE OF 4.97' FROM A #5 REBAR; THENCE S11°14'06"E A DISTANCE OF 71.21' TO A CONCRETE RIGHT OF WAY MONUMENT; THENCE S36°55'02"E A DISTANCE OF 89.35' TO A POINT IN CLEAR CREEK; THENCE, WITH CLEAR CREEK, THE FOLLOWING TWENTY-ONE CALLS: S79°56'57"W A DISTANCE OF 101.23' TO A POINT; THENCE N85°49'40"W A DISTANCE OF 45.06' TO A POINT; THENCE N75°01'04"W A DISTANCE OF 63.46' TO A POINT; THENCE N62°34'30"W A DISTANCE OF 63.65' TO A POINT; THENCE N71°43'32"W A DISTANCE OF 64.83' TO A POINT; THENCE N87°59'21"W A DISTANCE OF 63.44' TO A POINT;

THENCE S62°07'42"W A DISTANCE OF 136.22' TO A POINT; THENCE S69°06'24"W A DISTANCE OF 61.99' TO A POINT; THENCE S62°43'49"W A DISTANCE OF 46.89' TO A POINT; THENCE S82°01'50"W A DISTANCE OF 36.12' TO A POINT; THENCE N72°51'07"W A DISTANCE OF 157.93' TO A POINT; THENCE N63°23'05"W A DISTANCE OF 48.49' TO A POINT; THENCE N78°01'59"W A DISTANCE OF 52.95' TO A POINT; THENCE S74°05'20"W A DISTANCE OF 46.81' TO A POINT; THENCE S47°58'08"W A DISTANCE OF 60.43' TO A POINT; THENCE S51°17'09"W A DISTANCE OF 32.19' TO A POINT; THENCE S37°59'49"W A DISTANCE OF 29.58' TO A POINT; THENCE S41°56'07"W A DISTANCE OF 45.84' TO A POINT; THENCE S44°06'30"W A DISTANCE OF 37.16' TO A POINT; THENCE S38°05'02"W A DISTANCE OF 29.02' TO A POINT; THENCE S57°31'59"W A DISTANCE OF 25.92' TO A POINT AT THE CENTER OF THE BRIDGE ON CLEAR CREEK ROAD AT ITS INTERSECTION WITH THE CENTER OF CLEAR CREEK; THENCE, WITH THE CENTER OF CLEAR CREEK ROAD, THE FOLLOWING FIVE CALLS: N16°01'51"W A DISTANCE OF 28.46' TO A POINT; THENCE N14°29'59"W A DISTANCE OF 16.49' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 164.52', WITH A RADIUS OF 887.48', WITH A CHORD BEARING OF N09°11'21"W, WITH A CHORD LENGTH OF 164.28' TO A POINT; THENCE N03°52'42"W A DISTANCE OF 252.44' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 98.47', WITH A RADIUS OF 680.00', WITH A CHORD BEARING OF N00°16'12"E, WITH A CHORD LENGTH OF 98.38' TO A P.K. NAIL SET IN THE ASPHALT BY McABEE & ASSOCIATES, P.A.; THENCE, LEAVING CLEAR CREEK ROAD AND RUNNING N32°49'28"E A DISTANCE OF 196.52' TO A ½" IRON PIPE; THENCE N58°35'11"W A DISTANCE OF 105.26' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A., THE SAME BEING LOCATED AT THE WESTERN MARGIN OF THE RIGHT OF WAY FOR CLEAR CREEK ROAD (S.R. 1503); THENCE, WITH THE WESTERN MARGIN OF SAID RIGHT OF WAY, THE FOLLOWING TWO CALLS: N15°31'40"E A DISTANCE OF 62.43' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A.; THENCE N15°31'40"E, PASSING A CONCRETE RIGHT OF WAY MONUMENT AT A DISTANCE OF 416.23', FOR A TOTAL DISTANCE OF 427.75' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A.; THENCE S74°26'09"E A DISTANCE OF 60.70' TO A POINT AT THE EASTERN MARGIN OF THE RIGHT OF WAY FOR CLEAR CREEK ROAD (S.R. 1503); THENCE, WITH THE SOUTH-EASTERN MARGIN OF SAID RIGHT OF WAY THE FOLLOWING FIVE CALLS: N15°26'34"E A DISTANCE OF 17.49'; THENCE S77°27'08"E A DISTANCE OF 19.55' TO A CONCRETE RIGHT OF WAY MONUMENT; THENCE N16°50'32"E A DISTANCE OF 145.98' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 215.85', WITH A RADIUS OF 904.93', WITH A CHORD BEARING OF N28°04'43"E, WITH A CHORD LENGTH OF 215.34' TO A POINT; THENCE N36°15'38"E A DISTANCE OF 168.31' TO THE POINT AND PLACE OF BEGINNING.

HAVING AN AREA OF 23.922 ACRES. SUBJECT PROPERTY IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY AS SHOWN ON, BUT NOT LIMITED TO, PLAT SLIDE 11670 (HENDERSON COUNTY REGISTER OF DEEDS), AS WELL AS THE RIPARIAN RIGHTS OF OTHERS IN THE FREE FLOW OF WATER ALONG CLEAR CREEK.

BEGINNING AT A ½" IRON PIPE, THE SAME BEING THE TERMINUS OF "L31" AS SHOWN ON THE PLAT RECORDED IN PLAT SLIDE 11670; THENCE, FROM SAID BEGINNING POINT, S32°49'28"W A DISTANCE OF 196.52' TO A P.K. NAIL SET BY McABEE & ASSOCIATES, P.A. IN THE CENTER OF CLEAR CREEK ROAD (S.R. 1503); THENCE, WITH THE CENTER OF SAID ROAD, THE FOLLOWING FIVE CALLS: N07°06'53"E A DISTANCE OF 26.28' TO A POINT; THENCE N08°51'37"E A DISTANCE OF 31.79' TO A POINT; THENCE N11°22'23"E A DISTANCE OF 28.00' TO A POINT; THENCE N14°33'09"E A DISTANCE OF 24.05' TO A POINT; THENCE N15°06'12"E A DISTANCE OF 97.76' TO A POINT; THENCE, LEAVING THE CENTER OF THE ROAD AND RUNNING S58°35'11"E A DISTANCE OF 71.87' TO THE POINT AND PLACE OF BEGINNING.

HAVING AN AREA OF 7,665 SQUARE FEET. THE ABOVE-DESCRIBED "TRACT TWO" IS SUBJECT TO, BUT NOT LIMITED TO, EASEMENTS AND RIGHTS OF WAY SHOWN ON PLAT SLIDE 11670.

PARCEL IDENTIFICATION NUMBER 9660-90-2975:

BEGINNING AT A ¾" IRON PIPE, THE SAME BEING LOCATED AT THE WESTERN MARGIN OF THE RIGHT OF WAY FOR HYDER FARM ROAD (S.R. 1635) AND HAVING THE FOLLOWING NORTH CAROLINA GRID COORDINATES: NORTHING=601,201.23, EASTING=969,446.14 (NAD '83 2011); THENCE, RUNNING WITH THE WESTERN MARGIN OF SAID RIGHT OF WAY, THE FOLLOWING TWO CALLS: S22°14'13"W A DISTANCE OF 57.89' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 201.62', WITH A RADIUS OF 180.00', WITH A CHORD BEARING OF S11°35'53"E, WITH A CHORD LENGTH OF 191.24' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A. AT THE WESTERN MARGIN OF THE RIGHT OF WAY FOR CLEAR CREEK ROAD (S.R. 1503); THENCE, RUNNING WITH THE APPROXIMATE WESTERN MARGIN OF SAID RIGHT OF WAY S15°31'40"W, PASSING A CONCRETE RIGHT OF WAY MONUMENT AT A DISTANCE OF 11.52', FOR A TOTAL DISTANCE OF 427.75' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A.; THENCE, LEAVING SAID RIGHT OF WAY AND RUNNING N58°35'11"W A DISTANCE OF 167.04' TO A ¾" IRON PIPE; THENCE N12°34'16"E A DISTANCE OF 419.67' TO A ¾" IRON PIPE; THENCE N65°32'24"W A DISTANCE OF 460.45' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A.; THENCE N26°16'40"E A DISTANCE OF 288.34' TO A ¾" IRON PIPE; THENCE S56°23'49"E A DISTANCE OF 529.07' TO THE POINT AND PLACE OF BEGINNING.

HAVING AN AREA OF 4.762 ACRES.

PARCEL IDENTIFICATION NUMBER 9660-81-8633:

BEGINNING AT A 2" IRON PIPE, THE SAME BEING LOCATED S21°27'26"E A DISTANCE OF 24.78' FROM A CONCRETE MONUMENT WITH THE FOLLOWING NORTH CAROLINA GRID COORDINATES: NORTHING=602,553.85, EASTING=969,320.89 (NAD '83 2011); RUNNING THENCE, FROM SAID BEGINNING POINT, S85°19'29"E A DISTANCE OF 0.66' TO A POINT AT THE WESTERN MARGIN OF THE RIGHT OF WAY FOR HYDER FARM ROAD (S.R. 1635); THENCE, ALONG AND WITH THE WESTERN MARGIN OF SAID RIGHT OF WAY THE FOLLOWING FOUR CALLS: S21°27'26"E A DISTANCE OF 805.22' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 286.84', WITH A RADIUS OF 328.10', WITH A CHORD BEARING OF S03°35'16"W, WITH A CHORD LENGTH OF 277.79' TO A POINT; THENCE S28°37'57"W A DISTANCE OF 251.97' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 91.40', WITH A RADIUS OF 1074.93', WITH A CHORD BEARING OF S26°06'59"W, WITH A CHORD LENGTH OF 91.37' TO A ¾" IRON PIPE; THENCE, LEAVING THE RIGHT OF WAY AND RUNNING N56°23'49"W A DISTANCE OF 529.07' TO A ¾" IRON PIPE; THENCE S26°16'40"W A DISTANCE OF 288.34' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A.; THENCE S65°32'24"E A DISTANCE OF 460.45' TO A ¾" IRON PIPE; THENCE S12°34'16"W A DISTANCE OF 419.67' TO A ¾" IRON PIPE; THENCE S58°35'11"E A DISTANCE OF 167.04' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A. AT THE WESTERN MARGIN OF THE RIGHT OF WAY FOR CLEAR CREEK ROAD (S.R. 1503); THENCE, RUNNING WITH THE WESTERN MARGIN OF SAID RIGHT OF WAY, S15°31'40"W A DISTANCE OF 62.43' TO A #4 REBAR SET BY McABEE & ASSOCIATES, THE SAME BEING LOCATED N58°35'11"W A DISTANCE OF 105.26' FROM A ½" IRON PIPE; THENCE LEAVING THE RIGHT OF WAY AND RUNNING N58°35'11"W, PASSING A ¾" IRON PIPE AT A DISTANCE OF 75.70', PASSING A ¾" IRON PIPE AT A DISTANCE OF 427.54', FOR A TOTAL DISTANCE OF 713.61' TO A #5 REBAR WITH A "PARKER" CAP; THENCE N59°01'31"W A DISTANCE OF 172.52' TO A MAPLE STUMP; THENCE N89°06'00"W A DISTANCE OF 381.84' TO A P.K. NAIL AT THE CENTER OF BALFOUR ROAD; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 103.35', WITH A RADIUS OF 444.44', WITH A CHORD BEARING OF N12°16'12"W, WITH A CHORD LENGTH OF 103.12' TO A P.K. NAIL; THENCE, LEAVING BALFOUR ROAD AND RUNNING N01°33'51"W A DISTANCE OF 374.44' TO A ¾" IRON PIPE; THENCE N09°26'48"E A DISTANCE OF 297.09' TO A ¾"

IRON PIPE; THENCE N43°55'23"E A DISTANCE OF 198.00' TO A #4 REBAR SET BY McABEE & ASSOCIATES, P.A.; THENCE N34°10'13"E A DISTANCE OF 164.91' TO A ¾" IRON PIPE; THENCE N19°26'45"E A DISTANCE OF 424.83' TO A ¾" IRON PIPE, THE SAME BEING LOCATED S46°50'12"W A DISTANCE OF 239.46' FROM A ¾" IRON PIPE; THENCE S46°50'12"E A DISTANCE OF 146.96' TO A 1" SQUARE BOLT; THENCE N05°23'22"E A DISTANCE OF 280.68' TO A 1" IRON PIPE; THENCE S85°19'29"E A DISTANCE OF 617.66' TO THE POINT AND PLACE OF BEGINNING.

HAVING AN AREA OF 42.799 ACRES.

A PORTION OF PARCEL IDENTIFICATION NUMBER 9660-82-5607:

BEGINNING AT A #4 REBAR SET BY McABEE & ASSOCIATES, P.A., THE SAME BEING LOCATED S05°23'22"W A DISTANCE OF 84.00' FROM A 1" IRON PIPE WITH THE FOLLOWING N.C. GRID COORDINATES: NORTHING=602,581.12, EASTING=968,714.49 (NAD '83 2011); THENCE, FROM SAID BEGINNING POINT, S05°23'22"W A DISTANCE OF 196.68' TO A 1" SQUARE BOLT; THENCE N46°50'12"W PASSING A ¾" IRON PIPE AT A DISTANCE OF 146.96' FOR A TOTAL DISTANCE OF 315.99 TO A #4 REBAR SET BY McABEE & ASSOCIATES P.A., THE SAME BEING LOCATED S46°50'12"E A DISTANCE OF 70.44' FROM A ¾" IRON PIPE; THENCE S85°19'38"E A DISTANCE OF 249.79' TO THE POINT AND PLACE OF BEGINNING.

HAVING AN AREA OF 0.564 ACRES (24,563 SQ. FT.).

Section 2. Upon and after the seventh day of November 2019, the above described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville, and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-31, as amended.

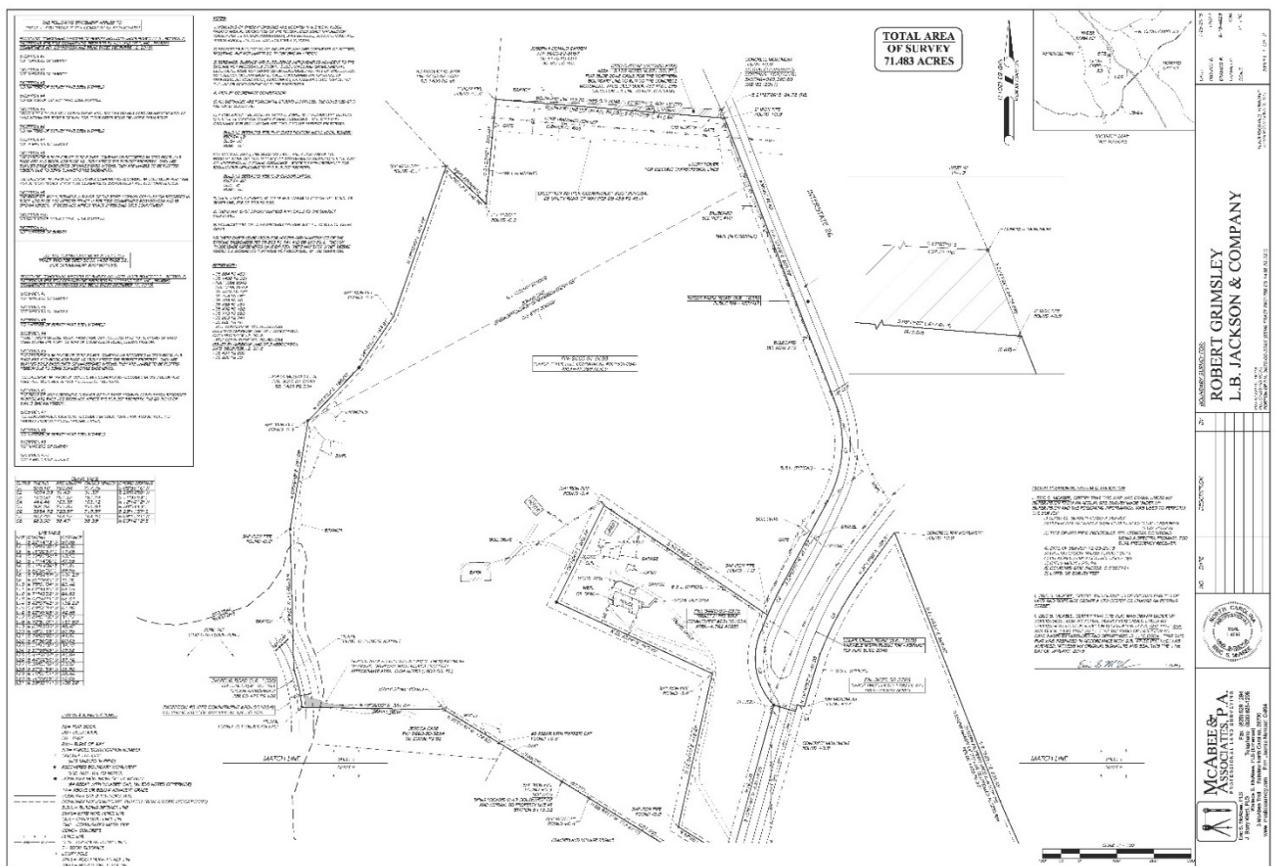
Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with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

ADOPTED this seventh day of November 2019.

/s/Barbara G. Volk, Mayor

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

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



11. Public Hearing – Consideration of a Zoning Ordinance Text Amendment to Article XIII Sign Regulation Maintenance and Enforcement, Section 13-1-5 Animated and Illuminated Signs, Section 13-3-1 Maintenance Requirements and Article XII Definition of Terms, Section 12-2 Definition of Commonly Used Terms: Council Member Smith requested the Council postpone this hearing until the December meeting. He asked to hear feedback from the City’s Business Advisory Committee on these requirements. Council Member Miller agreed the Council should get input from the business standpoint. Council Member Smith stated the moratorium ended November 4 but input will be helpful on these regulations. He stated these are a serious capital expense. Council Member Miller requested the city manager call a special meeting of the Business Advisory Committee.

At 7:55 p.m., Mayor Volk opened the public hearing in accordance with North Carolina General Statutes by notice published in the Times News. **Council Member Smith moved to continue the public hearing until the December 5, 2019 meeting of the City Council. A unanimous vote of the Council followed; motion carried.**

12. Presentation by Mr. Lonnie Watkins, NCDOT District Engineer: Mr. Lonnie Watkins provided a presentation to the City Council. Mayor Volk stated the Council has had a number of questions and concerns on transportation issues.

Mr. Watkins expressed appreciation for the opportunity to provide input and address concerns. He addressed these major points:

Dull pavement markings on Church and King Street: The pavement markings have been done.

Poor pavement conditions on primary routes in City: King and Church Streets. NCDOT has a resurfacing contract and this will be completed by October 2021. Mr. Connet clarified the long lead time is necessary because the City's utility department will upgrade the water and sewer lines before the resurfacing. He stated staff is working in conjunction with NCDOT. Council Member Smith mentioned avoiding resurfacing during Apple Festival if possible.

Request for a signalized intersection at Whitted and/or Oak Street and US 64 West: NCDOT has severe budget constraints at this time. He stated they can get information and data from the City. The existing traffic volume counts and crash data can provide preliminary assessment for signal warrant study. He stated the City may have to participate in the funding. Council Member Smith asked what the City can do to speed up the process so neighbors will know if signal is warranted at Oak or Whitted Streets. Mr. Watkins stated the next step is to get traffic count data, accident history, etc. from the City. He stated this will be handled by NCDOT Division Traffic and he will help coordinate with them. Mr. Watkins stated the public can contact his office or the Division Traffic Engineer with their concerns.

Council Member Caraker asked if funding from the safety projects could be used for this project. Mr. Watkins stated those funds are also in constraints. Council Member Caraker asked if the City could possibly share the cost. Mr. Watkins stated it is possible NCDOT will entertain that.

Request for an additional pedestrian signal on S. Main Street at Fresh Market/NC 225/NC 176 Intersection: Currently there are pedestrian crossings for three of the four legs at that intersection which allows pedestrians to cross to all four corners. This can be analyzed. He stated a fourth pedestrian crossing significantly increases the intersection delay. The White Street project will be let October 2020 and this intersection is part of that project.

Installation of plastic lane bollards at Buncombe Street and U.S. Highway 64: The thermoplastic shield project will continue through this section of roadway and is underway. Mr. Watkins stated there is a draft plan for restriping to channel traffic. Mr. Watkins stated once this is installed and evaluated before more extensive work is done. He stated the bollards are expensive to maintain and impact traffic more.

The Council expressed appreciation to Mr. Watkins for this presentation. **No action was required or taken by the Council.**

13. Consideration of an Ordinance designating the Grey Hosiery Mill, located at 301 Fourth Ave. East, as a Local Historic Landmark: Senior Planner Daniel Heyman explained NC General Statutes 160A-400.5 and 160A-400.6, the Historic Preservation Commission has the ability to recommend individual properties as "local landmarks". These properties lie outside of historic districts but warrant such consideration based on the historical, prehistorical, architectural, or cultural importance and possess integrity of design, setting, workmanship, materials, feeling and/or association.

Mr. Heyman stated landmark status gives the property owners a 50 percent tax deferral on local property taxes and requires exterior changes to follow the Certificate of Appropriateness review process. The City has three local landmarks that are private homes: Erle Stillwell House 1 located at 1300 Pinebrook Street, Erle Stillwell House 2 located at 541 Blythe Street, and the Brookland Manor at 299 Balsam Road.

Mr. Heyman reported this local designation comes as a request from Ken Reiter of Grey Mill Ventures, LLC, owner of the Grey Hosiery Mill. MacRostie Historic Advisors were hired to prepare a local historic landmark report. He reported staff reviewed the report and finds it meets the criteria of Section 28-77(c) of the City of Hendersonville Historic Preservation Ordinance. He noted the following from the report:

Summary Statement of Significance: Grey Hosiery Mill is significant under industry as an early 20th century textile facility in the City. At the time of construction, the Mill added jobs and investment to an economy that was in need of diversification. The Mill was spearheaded by Captain James P. Grey and his son James P. Grey, Jr. The Mill is also significant under architecture as an example of an early twentieth century industrial structure and may be the last early twentieth century mill in Henderson County. The Mill was constructed in 1915 with significant additions in 1919, 1926, and 1947. The timber framing, glass and steel windows and clerestory exemplify industrial architecture during this period. He provided photos from the report.

Mr. Heyman also reviewed the dates of construction for the Mill. He stated the Grey Mill is mostly intact and the character defining features that make it historic are still there: steel frame, multi-pane windows, hardwood floors, circulation patterns, etc.

Mr. Heyman stated the State Historic Preservation Office reviewed the designation report and provided nonbinding, advisory comments. MacRostie Historic Advisors revised the report to reflect the SHPO's recommendations as to amend the report to include a more legally defensible argument for special significance. The revisions addressed local significance to the City of Hendersonville. Recommendations also included differentiating changes that have occurred to the property that are character defining. The boundary has also been clarified.

Mr. Heyman reported the Historic Preservation Commission voted unanimously to recommend the City Council adopt an ordinance designating the Grey Hosiery Mill, located at 301 4th Ave E, as a local historic landmark.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance designating the Grey Hosiery Mill located at 301 4th Ave E., as a local historic landmark. A unanimous vote of the Council followed; motion carried.

Ordinance #19-1186

**AN ORDINANCE DESIGNATING PROPERTY KNOWN AS
GREY HOSIERY MILL AND LOCATED AT 301 4TH AVENUE EAST
AS A LOCAL HISTORIC LANDMARK**

WHEREAS, pursuant to N.C. General Statutes Sections. 160A-400.5 and 160A-400.6 and Chapter 28 of the Code of Ordinances of the City of Hendersonville, the City has the authority for designation of a local historic landmark; and

WHEREAS, Henderson County Tax Records for Parcel # 9568-88-7494, located at 301 4th Avenue East and known as Grey Hosiery Mill, lists Grey Mill Ventures, LLC as the property owners; and

WHEREAS, The property owners have caused to be made an investigation and report on the historic, architectural, and cultural significance of the buildings and property proposed for designation located at 301 4th Avenue East; and

WHEREAS, the North Carolina Department of Cultural Resources has reviewed and commented on the proposed designation; and

WHEREAS, a public hearing on the designation of Grey Hosiery Mill as a local historic landmark was held by the Hendersonville Historic Preservation Commission on September 18, 2019, and the following findings were made:

- a. First constructed in 1915, the Grey Hosiery Mill is the only remaining early twentieth century industrial structure in Hendersonville.
- b. The Grey Hosiery Mill is significant for its association with Hendersonville's industrial and social history.
- c. The Grey Hosiery mill is significant in the area of architecture for being representative of early twentieth century mill design in the area: one-to-two story brick buildings with minimalist, unadorned facades characteristic of International Modernism architecture.

WHEREAS, the Hendersonville City Council has taken into full consideration all statements and information presented at its public hearing on November 7, 2019, and considered the recommendation of the Hendersonville Historic Preservation Commission after its public hearing held on September 18, 2019, on the question of designating the property known as Grey Hosiery Mill, 301 4th Avenue East, a local historic landmark.

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

Section 1. The findings set out above are hereby adopted, and all of the property known as Grey Hosiery Mill and located at 301 4th Avenue East, and further described in Exhibit A, is hereby designated as a local historic landmark pursuant to Part 3C of Article 19 of Chapter 160A of the North Carolina General Statutes and Section 28 of the Code of Ordinances of the City of Hendersonville, and is subject to the conditions and restrictions set forth therein and below:

- a. The interior and exterior of the mill building, all of the historic acreage currently associated with the parcel (1.09 acres), and all contributing outbuildings or additions shall not be demolished, materially altered, restored, or removed, nor any new structure built upon the lot without a Certificate of Appropriateness issued by the Hendersonville Historic Preservation Commission.
- b. The Certificate of Appropriateness shall reference the Historic Preservation Commission Design Guidelines.
- c. Any application for demolition of the mill building or its additions shall require the waiting period set forth in Part 3C of Article 19 of Chapter 160A of the North Carolina General Statutes.

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 4. This ordinance shall be in full force and effect on the date of adoption.

Section 5. Violation of this ordinance shall be subject to the remedies set forth in Section 1-6 of the City Code, in addition to other remedies provided by law.

Adopted by the City Council at a meeting held on the sixth day of November 7, 2019.

/s/Barbara G. Volk, Mayor

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

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



14. Consideration of Memorandum of Understanding (MOU) between the City and Housing Assistance Corporation to Develop Additional Workforce Housing in Hendersonville: City Manager John Connet recognized Sarah Grymes and Ashland Landreth with the Housing Assistance Corporation. He presented a MOU between the City and the Housing Assistance Corporation to formalize the relationship/partnership on grant applications and other projects for workforce and affordable housing. He stated they will be looking for areas with existing infrastructure to reduce the cost.

Mr. Connet explained the MOU commits the City and the Housing Assistance Corporation to work together using the City's authorization under various North Carolina General Statutes and their ability as a non-profit to identify ways to provide affordable housing in the community. An affordable housing plan will be developed for consideration by the Council in the future.

Ms. Sarah Grymes stated the Housing Assistance Corporation has enjoyed the partnership with the City and they would like to be a part of the affordable housing plan. She reported the local consortium and the City of Asheville is commissioning an affordable study for the four-county region. New data is forthcoming.

Ms. Gryme requested \$1,500/year for training on revitalization. She stated they have been working in affordable housing for 32 years in Henderson County, have experience in home repair, rehabilitation, multi-family and single-family affordable projects. She stated the partnership will be great and make grant applications more competitive.

There was discussion of the cost of the training on an annual basis and internal equity with other City departments.

Council Member Smith moved the City Council resolve to enter into a Memorandum of Understanding with Housing Assistance Corporation and provide \$2,500 annual stipend for training. A unanimous vote of the Council followed; motion carried. [The Memorandum of Understanding is on file in the office of the City Clerk.]

15. Presentation by Dr. Bill Hiatt on Sanitary Sewer Overflows: Dr. Hiatt was not in attendance. No action was taken.

16. Consideration of a Resolution Directing the Application to the Local Government Commission for Approval of a Water and Sewer System Revenue Bond and Certain Related Matters: Budget and Management Analyst Adam Murr explained if approved, the revenue bond will provide an additional funding mechanism for the water and sewer system projects. He stated adopting a debt structure conducive to revenue bonds will increase the utility system's discipline for debt management while creating the opportunity to obtain lower interest rates on debt.

Mr. Murr reported the City's water and sewer infrastructure current debt is approximately \$16.57 million. Of that, approximately \$7 million has been issued as installment financing for the Automated Metering Infrastructure (AMI). The remaining debt was obtained from the State Revolving Fund (SRF) for various improvements throughout the system.

Mr. Murr stated the City has received fair interest rates on its current debt averaging 2.35 percent for the AMI system and 2.27 percent for the various SRF projects. He stated through the Revenue Bond structure, the City will have the opportunity to receive a more beneficial interest rate on current and future debt. He reviewed the City's projected debt service requirements.

Mr. Murr stated the following special projects will be funded through the revenue bond:

Etowah Water Project: bid amount: \$6,569,458 in construction costs with an estimated completion date of March 2021. Additionally, the City has approximately \$1.15 million in pre-development costs incurred to date for land, permits/fees, design, and construction administration which it does not expect to finance.

2012 Installment Financing: Assets were pledged for the water and sewer system. To move forward with the revenue bond structure whereby the City pledges revenue as security, the debt will need to be transferred to the new bond. He stated the AMI debt obligates meter readers as security to lenders and because those meter readers affect the system's capacity to generate revenue, we cannot issue a bond with revenue as a security unless the debt is restructured. He stated staff and Frist Tryon Advisors have worked to identify options for the new revenue bond debt.

Mr. Murr reported staff reviewed bank bids on November 5, 2019 with First Tryon Advisors and bond counsel Parker Poe. He provided the following results:

Bank	Term	Rate	Total D/S ¹	Max Ann. D/S ¹
SunTrust	15 Years	1.870%	\$14,356,121	\$1,435,933
	20 Years	-	-	-
TD Bank	15 Years	2.09% / 2.24% ²	\$14,546,993	\$1,451,744
	20 Years	2.10% / 2.25% ^{2,3}	\$14,942,503	\$1,327,953
Zions Bank	15 Years	2.130%	\$14,563,151	\$1,453,283
	20 Years	2.130% / 2.110% ⁴	\$14,948,734	\$1,328,882
Key Government Finance	15 Years	2.301%	\$14,704,291	\$1,465,984
	20 Years	-	-	-
Pinnacle Public Finance	15 Years	2.360%	\$14,761,810	\$1,470,300
	20 Years	2.510%	\$15,358,323	\$1,357,459
BB&T	15 Years	2.380%	\$14,776,957	\$1,472,694
	20 Years	2.730%	\$15,587,957	\$1,373,084
Hancock Whitney	15 Years	2.449% ⁵	\$14,830,771	\$1,476,986
	20 Years	2.699% ⁵	\$15,551,260	\$1,371,255
Capital One	15 Years	2.490%	\$14,861,691	\$1,479,867
	20 Years	2.680%	\$15,528,234	\$1,368,878
Sterling National Bank	15 Years	2.530%	\$14,895,032	\$1,482,725
	20 Years	2.690%	\$15,538,171	\$1,370,087

¹ Assumes a project fund of \$6,569,458, refunding payoff of \$6,283,064, cost of issuance of

² TD Bank provided two interest rate options for each term depending upon the prepayment o

³ Subject to mandatory tender on 6/1/34. TD Bank may elect to waive the mandatory tender

Sun Trust is the low bidder at 1.87% on a 15-year loan. Mr. Murr stated should Council direct staff to pursue the load with Sun Trust, the City can reasonably expect to decrease our debt service payment on existing debt approximately \$10,000/year for seven years.

Mr. Murr reported Zions Bank provided the most desirable interest rate for a 20-year loan. He reported at this time staff and First Tryon Advisors are comfortable with the 15-year loan but presented this as an option. He reviewed the debt service payments for the 15 and 20-year loans. He stated the City will pay approximately \$.5 million less with the 15-year loan. Council Member Smith asked if the additional debt service will be a problem. Mr. Murr stated no.

Mr. Murr also reviewed the refunding of the 2012 Installment Financing for AMI. He stated the City will realize a savings of \$74,000 for the 15-year loan. The City's savings with the 20-year loan will be approximately \$11,679 over that period.

Revenue Bond Structure: Mr. Murr stated to operate using a revenue bond, the City must follow a general indenture which governs all parity debt, and a Series Indenture. He stated it will set rate covenants which must be followed to place a lien on the system's revenues. He stated the general indenture remains in effect for as long as the City considers revenue bond options.

Mr. Murr stated in addition to the general indenture, there will be a series of indentures included that contain more detailed information related directly to the projects to be funded and could change from project to project.

Mr. Murr provided the rate covenants. He stated additional bonds tests are available and may be used.

Mr. Murr stated the City and First Tryon worked together to re-create a historical debt service coverage chart assuming a revenue bond structure. The average debt service coverage ratio is 1.53 percent which exceeds the requirements set by the general bond indenture. He stated staff will continually monitor the debt service coverage ratio as debt is considered in the future.

Mr. Murr stated the City must adopt a preliminary resolution and submit other items to Local Government Commission for consideration and approval. He stated the Council may adopt the bond order at the December 5 meeting which will secure the revenue bond for the Etowah project and the AMI refunding.

Council Member Caraker stated there was support of the bond at the Water Sewer Advisory Committee meeting because it forces discipline and is a guaranteed repayment to the lender. He stated it may be a first step toward rate parity.

Mayor Pro Tem Caraker moved the City Council adopt a resolution directing the application to the Local Government Commission for approval of a water and sewer system revenue bond and certain related matters. A unanimous vote of the Council followed; motion carried.

Resolution #19-1187

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A WATER AND SEWER SYSTEM REVENUE BOND AND CERTAIN RELATED MATTERS

WHEREAS, the City Council (the "City Council") of the City of Hendersonville, North Carolina (the "City") hereby determines that it is desirable to finance certain improvements to its water and sewer system (the "Water and Sewer System");

WHEREAS, the City Council is considering the issuance of a not to exceed \$13,000,000 Water and Sewer System Revenue Bond, Series 2019 (the "2019 Bond") to (1) finance improvements to the City's water system identified in the City's water system master plan, including water line and tank replacements (the "2019 Project"), (2) prepay a lease-purchase agreement, the proceeds of which were used by the City to advance funds to acquire and install automated meters and related technology for the City's water system (the "2012 Project" and collectively with the 2019 Project, the "Revenue Bond Projects") and (3) pay the costs of issuing the 2019 Bond; and

WHEREAS, the City has retained (A) Parker Poe Adams & Bernstein LLP, as bond counsel for the 2019 Bond, (B) First Tryon Advisors, as financial advisor for the 2019 Bond and (C) The Bank of New York Mellon Trust Company, N.A., as trustee for the 2019 Bond and (D) Raftelis Financial Consultants, Inc., as feasibility consultant (collectively, the "Financing Team"); and

WHEREAS, on approval by the Local Government Commission of North Carolina (the "Commission") of the City's application for the 2019 Bond, the Commission will sell the 2019 Bond on behalf of the City to a financial institution to be selected by the City through a request for proposal process (the "Lender");

WHEREAS, the City Council wants the Finance Director of the City to file with the Commission an application for its approval of the 2019 Bond, on a form prescribed by the Commission, and (1) request in such application that the Commission approve (A) the negotiation of the sale of the 2019 Bond to the Lender, (B) the City's use of the Financing Team in connection with the issuance of the 2019 Bond; and (2) state in such application such facts and to attach thereto such exhibits in regard to the 2019 Bond and to the City and its financial condition, as may be required by the Commission, and to take all other action necessary to the issuance of the 2019 Bond.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, AS FOLLOWS:

Section 1. That the 2019 Bond is to be issued by the City in an aggregate principal amount not to exceed \$13,000,000 for the purpose of providing funds to (1) finance the 2019 Project, (2) prepay a lease-purchase agreement related to funds advanced by the City for the 2012 Project and (3) pay the costs of issuing the 2019 Bond, all as will be set out fully in the documents attached to the City's application to the Commission. The Revenue Bond Projects are necessary to meet the needs of the users of the Water and Sewer System and to assure that the Water and Sewer System remains in full compliance with all state and federal requirements for the provision of water and sewer services.

Section 2. That the City Manager of the City, with advice from the City's financial advisor and bond counsel, is hereby authorized and directed to select the Lender through the request for proposal process.

Section 3. That the Financing Team is hereby approved in connection with the issuance by the City of the 2019 Bond, and the Mayor, the City Manager, the Assistant City Manager and the Finance Director, in consultation with the Commission, are each hereby authorized to retain other persons or organizations as may be necessary and appropriate to carry out the intention of this Resolution.

Section 4. That the Finance Director of the City with advice from the City Manager, the Assistant City Manager, the City Attorney and bond counsel, is hereby authorized, directed and designated to file an application with the Local Government Commission of North Carolina for its approval of the issuance of the 2019 Bond.

Section 5. That the City Council finds and determines and asks the Commission to find and determine from the City's application and supporting documentation:

- (a) that the issuance of the 2019 Bond is necessary or expedient;
- (b) that the not to exceed stated principal amount of the 2019 Bond will be sufficient but is not excessive, when added to other money available to the Water and Sewer System, to finance the Revenue Bond Projects;
- (c) that the Water and Sewer System as now constituted, and as it will be constituted after the completion of the Revenue Bond Projects, is feasible;
- (d) that the City's debt management procedure and policies are good; and
- (e) that the 2019 Bond can be marketed at a reasonable interest cost to the City.

Section 6. That the City Council requests that the Commission sell the 2019 Bond through negotiation to the Lender on such terms as may be agreed on but at an interest rate not exceeding 2.70%.

Section 7. That the Mayor, the City Manager, the Assistant City Manager, the City Attorney, the Finance Director and the City Clerk, as their respective designees, individually or collectively, are each hereby authorized to do any and all other things necessary to complete the steps necessary for the authorization and sale of the 2019 Bond.

Section 8. That this Resolution is effective on the date of its adoption.

PASSED, ADOPTED AND APPROVED this seventh day of November 2019.

/s/Barbara G. Volk, Mayor

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

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

17. Consideration of the Waiving the Competitive Bidding Process as provided in NCGS 143-129 for the Purchase of a Fire Engine and Consideration of the Purchase Contract through the Houston-Galveston Area Council Bidding Group Purchase Program:

Deputy Fire Chief D. James Miller requested Council's authorization to purchase an apparatus through the Houston-Galveston Area Council Bidding Group.

Deputy Fire Chief Miller noted this apparatus will meet current and future needs of the department. He stated the cost is \$38,115 less than the apparatus purchased in 2016 through the hard work of the command staff. He stated this purchase will allow them to prepare for responses on the south side of the City in the future.

Mr. Connet explained this will move away from the competitive bidding process and to a cooperative purchase organization so the apparatus can be shopped nationally which realized significant savings.

Council Member Caraker moved the City Council resolve to authorize the Fire Chief, or designee, to execute the purchase of the Smeal Fire Engine through the Houston-Galveston Area Council bidding group purchase program in the amount of \$606,506 in accordance with NCGS 143-129(e)(3). A unanimous vote of the Council followed; motion carried.

18. Presentation on Bradley Creek Reservoir Dredging Project: Water Treatment Facilities Manager Ricky Levi gave a presentation and details on this recent project at the Bradley Creek Reservoir that expanded the capacity and longevity of the reservoir. He stated their work was praised by the Forest Service. He expressed appreciation for the support of staff and the Council.

Mr. Connet stated this was a great project by our team and saved our customers a great deal of money. He congratulated them on a job well done. **No action was required or taken by the Council.**

19. Reports/Comments from Mayor and City Council Members: There was none.

20. Reports from Staff:

A. January Meeting of the City Council: Mr. Connet announced the moving of the Regular City Council Meeting in January 2020 to January 9, 2020.

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

1. Fund 60 | \$140 | Workers Comp Insurance
2. Fund 60 | \$1,770 | Workers Comp Insurance
3. Fund 10 | \$8,750 | Fire Assessment
4. Fund 10 | \$40,000 | City Hall Boiler Replacement
5. Fund 60 | \$40,000 | City Hall Boiler Replacement

The Council accepted the report as presented.

B. Dedication of Downtown Restrooms: The dedication of the downtown restrooms will be held Monday, November 25, at 4:30 p.m. at the new downtown restrooms.

C. Small Business Week Proclamation: Mr. Connet requested Mayor Volk to present a proclamation for Small Business Week. He encouraged Council members to pick a small business to recognize and help promote Small Business Saturday.

D. Manager's Report on ICMA Conference: Mr. Connet provided information on a session from the ICMA conference about opportunities for sustainability: e.g., promoting the use of solar power. He reported on a program "Sole Smart", a national program that awards communities with bronze, silver, gold level community. He requested Council move forward with the program and seeking designation to promote solar energy use in our community. He stated a challenge could be offered to the Environmental Sustainability Board to work with City departments to accomplish. This will be presented a future meeting.

- E. Water Conservation Update:** Mr. Connet stated because of recent rain events, the Voluntary Drought Conservation will be lifted at midnight. He encouraged customers to continually be conscious of water usage.

21. Board/Commission Appointments:

Planning Board: Council Member Smith nominated Hunter Jones to serve on the Planning Board. Council Member Miller also nominated Neil Brown. A unanimous vote of the Council followed; motion carried.

Historic Preservation Commission: Mayor Pro Tem Caraker nominated Ralph Hammond Green to a three-year term on the Historic Preservation Commission. A unanimous vote of the Council followed; motion carried.

Mrs. Drake reported vacancies on the following board and presented the applications on file: Historic Preservation Commission, Business Advisory Committee and the Planning Board. **No action was taken.**

22. New Business: There was none.

23. Closed Session to discuss personnel issues: At 9:14 p.m., Council Member Caraker moved the Council to enter a closed session 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.

The Council discussed a personnel issue with management staff. **No action was taken by the City Council upon exiting the closed session.**

24. Adjournment: The meeting adjourned at 9:30 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk