



# MINUTES

November 3, 2022

## REGULAR MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

**Present:** Mayor Barbara G. Volk, Mayor Pro Tem Lyndsey Simpson and Council Members: Dr. Jennifer Hensley, Debbie O'Neal-Roundtree, and Jerry A. Smith Jr., J.D.

**Staff Present:** City Manager John F. Connet, Assistant City Manager Brian Pahle, City Clerk Jill Murray, City Attorney Angela Beeker, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

### 1. **CALL TO ORDER**

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

### 2. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**

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

### 3. **PUBLIC COMMENT** *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

John Liberatos addressed City Council requesting consideration of installation of a permanent radar sign.

Adam Johnson addressed City Council requesting consideration of support for climate action plans within the City's upcoming comprehensive plan.

Katril Davis addressed City Council requesting consideration of adoption of a climate action plan.

Sofia Fernandez addressed City Council requesting consideration of adoption of a climate action plan.

Steffie Rouche addressed City Council requesting consideration of adoption of a climate action plan and stated the plan would pay for itself through energy efficiencies.

Barbara Hughes addressed City Council requesting reconsideration of additional social districts in downtown stating she feels there is too much alcohol downtown now. Ms. Hughes further expressed concerns of DWI fatalities.

Crystal Cauley addressed City Council regarding the Sullivan Park Refresh Project stating the newly refurbished park has encouraged community volunteerism and appreciation. Ms. Cauley expressed thanks to City staff and Council for their support.

Lynne Williams addressed City Council via Zoom electronic software regarding Boyd Park and response times of the Fire Department. Council Member Dr. Jennifer Hensley clarified that there are no increased response times for calls for service.

### 4. **CONSIDERATION OF AGENDA**

***Council Member Jerry A. Smith Jr., J.D. moved that City Council approve the agenda as presented. A unanimous vote of the Council followed. Motion carried.***

Council Member Lyndsey Simpson requested to amend the agenda by removing Items 8A, Establishment of Social Districts in Downtown Hendersonville, and 8B, Continuation of American Rescue Plan Discussions from discussion at this time.

***Council Member Jerry A. Smith Jr., J.D. moved that City Council approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.***

### 5. **CONSENT AGENDA**

**A. Adoption of City Council Minutes** – Angela L. Reece, City Clerk

**B. Budget Amendments** – Adam Murr, Budget Manager

**C. Utility Extension Agreement for the Blue Ridge Commerce Center Development –**  
*Brendan Shanahan, Civil Engineer IV*

**Resolution #R-22-133**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH ASHEVILLE INDUSTRIAL OWNER, LLC. FOR THE BLUE RIDGE  
COMMERCE CENTER**

**WHEREAS**, the City of Hendersonville owns, operates and maintains a water and sewer system to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water service and sanitary sewer service as a part of their development projects; and

**WHEREAS**, the Developer extends public water lines and sanitary sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

**WHEREAS**, Asheville Industrial Owner, LLC., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer service to the Blue Ridge Commerce Center.

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

1. The Utility Extension Agreement with Asheville Industrial Owner, LLC., the “Developer” and “Owner” to provide water and sewer service to the Blue Ridge Commerce Center is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor

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

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

**D. Utility Extension Agreement for the Creekside Community Development –** *Brendan Shanahan, Civil Engineer IV*

**Resolution #R-22-134**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH THE WEST FAMILY LIMITED PARTNERSHIP AND AMBACH  
COMMUNITIES, LLC., FOR THE CREEKSIDE COMMUNITY DEVELOPMENT**

**WHEREAS**, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

**WHEREAS**, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water line extension process; and

**WHEREAS**, Ambach Communities, LLC., the “Developer” and The West Family Limited Partnership, the “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Creekside Community Development.

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

1. The Utility Extension Agreement with Ambach Communities, LLC., the “Developer” and The West Family Limited Partnership, the “Owner” to provide water service to the Creekside Community Development is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor

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

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

**E. Utility Extension Agreement for the Mills River Townhomes Development** – *Brendan Shanahan, Civil Engineer IV*

**Resolution #R-22-135**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH LONGBRANCH DEVELOPMENT, LLC., THE FRANKLIN  
FAMILY TRUST DATED THE 19<sup>th</sup> OF MAY 1994 AND CALVARY FELLOWSHIP OF  
WESTERN NORTH CAROLINA, INC., FOR THE MILLS RIVER TOWNHOMES  
DEVELOPMENT**

**WHEREAS**, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

**WHEREAS**, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water line extension process; and

**WHEREAS**, Longbranch Development, LLC., the “Developer” and The Franklin Family Trust Dated the 19<sup>th</sup> of May 1994 and Cavalry Fellowship of Western North Carolina, the “Owners”, will enter into a Utility Extension Agreement with the City to provide water service to the Mills River Townhomes Development.

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

1. The Utility Extension Agreement with Longbranch Development, LLC., the “Developer” and The Franklin Family Trust Dated the 19<sup>th</sup> of May 1994 and Cavalry Fellowship of Western North Carolina, the “Owners”, to provide water service to the Mills River Townhomes is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor

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

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

**F. French Broad River Intake Project Engineering Amendment 7** – *Brent Detwiler, City Engineer*

**Resolution #R-22-136**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO AN  
AGREEMENT WITH BLACK & VEATCH AS PART OF THE FRENCH BROAD RIVER  
INTAKE PROJECT**

**WHEREAS**, the French Broad River Intake Project (Project No. 16007) is under construction; and

**WHEREAS**, an engineering agreement with Black & Veatch was previously executed to complete the construction administration work associated with the project; and

**WHEREAS**, the construction of the project has been extended as a value engineering measure; and

**WHEREAS**, the construction timeline extension has resulted in the need to amend the agreement with Black & Veatch to cover the extended construction administration, construction observation, and postconstruction services.

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

1. The City Manager is authorized to enter into an Amendment to an Agreement with Black & Veatch for the French Broad River Intake Project, as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor

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

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

**G. Purchase of +/- 0.92 Acre Lot on Williams Street** – *John Connet, City Manager*

**Resolution #R-22-137**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE  
PURCHASE OF +/- 0.92 TRACT ON WILLIAMS STREET**

**WHEREAS**, the City is desirous of purchasing property, being a lot or parcel of land in the City of Hendersonville consisting of \_/ 0.92 acres, being identified as Tract II-B on that plat recorded in Plat Book 2015 at Page 9941 of the Henderson County Registry, having Tax Parcel ID# 9568-98-6135, and any appurtenances thereto (collectively the "Property"), and more specifically described in Exhibit "A", which is attached hereto and incorporated herein by reference; and

**WHEREAS**, an appraisal has been performed for the Property, indicating that it has a fair market value of \$240,000; and

**WHEREAS**, the City has offered to pay the fair market value as indicated, and the Property Owner is in agreement;

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

1. The Contract for Purchase and Sale of Real Property between the City of Hendersonville and Nelson & Company Investments, LLC, for the Property, having as the sale price the sum of \$240,000.00, is hereby approved as presented.

2. The City Manager is authorized to enter execute the contract, with such changes as he deems appropriate, in consultation with the City Attorney, provided such changes do not place any financial obligation on the City beyond that contemplated by the terms of the Contract as presented.
3. The Mayor, City Manager and City Attorney are authorized to execute such other contracts, and deeds and any and all other documents, and to take any and all actions, reasonably necessary to carry out the terms of the approved Contract, including but not limited to making conveyances and reasonable expenditures for costs and expenses for the purposes stated herein.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor

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

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

**H. Ordinance to Allow Electronic Meetings for Subcommittees** – *Angela Beeker, City Attorney*

**Ordinance #O-22-59**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES FOR THE CITY OF HENDERSONVILLE, ARTICLE V, BOARDS, COMMISSIONS AND COMMITTEES, TO PROVIDE FOR ELECTRONIC MEETINGS FOR SUBCOMMITTEES**

**WHEREAS**, City Council has been asked to permit subcommittees of City boards, commissions and committees to meet electronically; and

**WHEREAS**, City Council finds that with the advent of streaming and video-conferencing technology, access to electronic meetings is more readily available to the general public than in times past; and

**WHEREAS**, permitting electronic meetings of subcommittees will foster participation by volunteers by making subcommittees more convenient; and

**WHEREAS**, permitting subcommittees to meet electronically is in the best interest of the City at this time.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina that Chapter 2, Administration, Article V, Boards, Commissions and Committees, of the Code of Ordinances for the City of Hendersonville shall be amended to add new Sections 2-226 through 2-230 follows:

**CHAPTER 2 - ADMINISTRATION**

**ARTICLE V. BOARDS, COMMISSIONS AND COMMITTEES**

**Sec. 2-226 General Provisions**

*The provisions of this article shall apply to all boards, commission and committees created by City Council, provided, however, that where a board, commission or committee is created pursuant to specific enabling legislation of the North Carolina General Assembly, the specific enabling legislation shall preempt any provisions of this article, applicable to such board, commission or committee, where the terms of this article and such enabling legislation are in conflict. Where specific enabling legislation or other applicable law for a board, commission or committee grants discretion to the City Council to adopt different, additional, or more or less restrictive provisions to govern a board, committee or commission, the provisions adopted by City Council shall be deemed to control.*

**Sec. 2-227 Definitions.**

*(a) The following words shall have the meanings stated when used in this article.*

*(1) Board, commission or committee shall mean any appointed group of people, consisting of 2 or more members, appointed by City Council for a local government purpose, including but not limited to advisory, quasi-judicial, or administrative.*

*(2) Enabling legislation shall mean general, local, or special legislation adopted by the North Carolina General Assembly granting specific authority to the City Council for creating a particular board, commission or committee. As an example, N.C.G.S. § 160D-302 grants authority to the City Council to create a zoning board of adjustment.*

- (3) Electronic meeting shall mean a meeting where a quorum of the board, commission, or committee, or a subcommittee, is participating in the meeting through electronic means of communication, and not in person. Electronic means include any means of communication through the use of technology which enables two or more persons to engage in simultaneous communicate without being in the physical presence of one another, and includes, but is not limited to telephone conferences and video conferencing (e.g. Zoom meetings, or Microsoft Teams meetings). Email exchanges among a quorum of the members shall not be considered a electronic meeting under this article. As used herein, "electronic meetings" shall not be considered a "remote meeting" for purposes of N.C.G.S. 166A-19.24.
- (4) Quasi-judicial board, commission or committee shall mean a board, commission or committee carrying out a quasi-judicial function. Notwithstanding anything stated in this article to the contrary, except where specifically authorized by the Code of Ordinances for the City of Hendersonville, or the North Carolina General Statutes, a quasi-judicial board, commission or committee may not form a subcommittee to conduct or assist with conducting a quasi-judicial proceeding, or to provide a recommendation or perform any investigation, with respect a matter that may be the subject of a quasi-judicial proceeding before the quasi-judicial board, commission or committee.
- (5) Remote meeting shall mean a remote meeting defined by and held pursuant to the authority of NCGS § 166A-19.24, as amended, during declarations of emergency made under NCGS 166A-19.20. Nothing herein shall be deemed to impose greater requirements for remote meetings than the requirements of the North Carolina General Statutes, or to prohibit remote meetings permitted by NCGS § 166A-19.24.
- (6) Subcommittee shall mean a group of people, consisting of 2 or more members, appointed by a board, commission or committee, or by the chairperson of a board, commission or committee, for the purpose of acting in an advisory capacity to assist the board, commission, or committee in carrying out its authorized function or authority (ref. Sec. 2-228). Unless otherwise specifically authorized by City Council or specific enabling legislation, a board, commission or committee may not delegate its function or authority to a subcommittee. As an example, the Planning Board may not delegate its authority to approve a development plan to a subcommittee of the Planning Board. As another example, an advisory board to the City Council could not create a subcommittee to also be advisory to City Council. In both examples, the subcommittee would be permitted to make a recommendation to the board, commission or committee to assist the board, commission or committee in carrying out their advisory or administrative function.

#### **Sec. 2-228 Authority of Boards, Commissions and Committees**

Boards, commissions and committees shall have the only such authority and exercise only those functions specifically granted to them by City Council or by the North Carolina General Assembly through specific enabling legislation.

#### **Sec. 2-229 Charters and Rules of Procedure**

Except where specifically provided otherwise in the Code of Ordinances for the City of Hendersonville, City Council approval shall be required for all charters creating or organizing a board, commission or committee, and their rules of procedure or bylaws.

#### **Sec. 2-230 Meetings**

##### **(a) Electronic Meetings.**

##### **(1) Boards, Commissions and Committees - (Reserved).**

##### **a. (Reserved)**

##### **(2) Subcommittees**

##### **a. Electronic meetings are authorized for subcommittees. All electronic meetings held by a subcommittee must comply with the provisions of this article.**

##### **(b) Rules Governing Electronic Meetings.**

##### **(1) All electronic meetings must be conducted in accordance with the North Carolina Open Meetings Law, NCGS Chapter 143, Article 33C, as amended. Where these rules and the Open Meetings Law conflict, the most restrictive shall be complied with. In construing which is the most restrictive requirement, the requirement providing the greatest notice to the public, or greatest opportunity for attendance by the public, shall be deemed to be the most restrictive.**

##### **(2) All votes must occur by roll call of the members.**

##### **(3) Any documents being considered must have been provided to each member participating in the electronic meeting.**

##### **(4) All members must be able to hear what is said by the other members and by any member of the public permitted by the members to speak at the electronic meeting.**

- (5) The minutes of the electronic meeting must reflect that it was an electronic meeting, and must reflect the technological method used to conduct the electronic meeting. As an example, the minutes would reflect that the meeting was an electronic meeting held on Zoom.
- (6) The electronic meeting must be simultaneously available to the general public for streaming.
- (7) A physical location must be provided to allow members of the public to attend and listen to the meeting. The physical location must be stated in the notice of the meeting, required by the Open Meetings Law.
- (8) Members participating by electronic means and in person shall both be counted as present, and can vote.
- (9) During the meeting, a quorum of the membership shall not deliberate or communicate by text, email, group chat or by any other means in which a participant or member of the general public could not hear or listen to what is being communicated.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

I. **Clear Creek Greenway Professional Engineering Services Contract** Execution – *Brendan Shanahan, Civil Engineer IV*

*Council Member Lyndsey Simpson moved that City Council approve the consent agenda to include a correction to the minutes as noted. A unanimous vote of the Council followed. Motion carried.*

6. **PRESENTATIONS**

A. **Proclamation - Homeless Youth Awareness Month** - *Mayor Barbara G. Volk*

**Proclamation**

**Homeless Youth Awareness Month**

**WHEREAS**, the month of November is designated as National Homeless Youth Awareness Month as declared by the U. S. House and Senate in 2007 and serves as an outlet to increase public awareness of an ongoing issue occurring in every city across the United States; and

**WHEREAS**, the nation’s public schools report between 1.5 and 2.3 million homeless students grades pre-k through 12th grade; and

**WHEREAS**, we realize that when adolescents become homeless, being separated from their caregivers and homes for various reasons, which often places them in precarious situations; that school is often the most safe and stable environment for these youth; and

**WHEREAS**, we recognize in Henderson County that roughly 2.5 percent of our youth are identified as homeless; and

**WHEREAS**, Only Home WNC, Inc. is a local non-profit whose mission is to promote the value of education, honor individuality and diversity, nurture respect for self and others, and provide hope for young people in need in the community; and

**WHEREAS**, an effort is being made by the board members of Only Hope WNC, Inc. by hosting its 11<sup>th</sup> Annual Sleep Out on November 4- November 5 at the Historic Courthouse on Main Street in Downtown Hendersonville in an effort to draw attention and support for youth homelessness in Henderson County.

**NOW, THEREFORE**, the City Council of the City of Hendersonville does hereby proclaim the month of November 2022 as

**“Homeless Youth Awareness Month”**

in the City of Hendersonville and applaud the efforts of those who serve and help fight youth homelessness in Henderson County.

**PROCLAIMED** this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**B. Proclamation - American Indian Heritage Month - Mayor Barbara G. Volk**

## **Proclamation**

### **National American Indian Heritage Month**

**WHEREAS**, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

**WHEREAS**, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

**WHEREAS**, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

**WHEREAS**, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November, as National American Indian Heritage Month; and

**WHEREAS**, in honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational, and historical activities have been planned.

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim the Month of November 2022 as

#### **“American Indian Heritage Month”**

in the City of Hendersonville and urge all our citizens to observe this month with appropriate programs, ceremonies and activities.

**PROCLAIMED** this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**C. Proclamation - Retirement Appreciation for Dr. Janet Bull - Mayor Barbara G. Volk**

## **Proclamation**

### **In Appreciation of**

**Four Seasons Compassion for Life Foundation  
Dr. Janet Bull, Chief Medical Officer**

#### ***Upon the Occasion of Her Retirement***

**WHEREAS**, on the first day of October 2022, after serving the past twenty-two years as a Chief Medical Officer of the Compassion for Life Foundation, DR. JANET BULL departs leaving behind her an impressive legacy of service. We, the Governing Body of Hendersonville wish to publicly extend our congratulations to Dr. Janet Bull in her retirement and to acknowledge her contributions which were built on the foundation of knowledge she contributed throughout her career; and

**WHEREAS**, DR. JANET BULL began her career practicing obstetrician-gynecology and through her dedication to caring for patients with serious illnesses she began volunteering with hospice and eventually switched her specialty to hospice care; and



**WHEREAS**, DR. JANET BULL was instrumental in bringing palliative care to our community by providing serious illness care prior to patients needing hospice care; and

**WHEREAS**, during her two decades of service DR. JANET BULL has provided innovative clinical trial studies that have impacted the care of many patients within our community and nationally.

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville, and City Council Members wish to recognize the many years of service to our community by DR. JANET BULL on the occasion of her retirement and to thank her for her dedicated service to our community.

**PROCLAIMED** this 3<sup>rd</sup> day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**D. Certificate of Commendation - Mayor Barbara G. Volk**

The City of Hendersonville Mayor takes pleasure in presenting this

Certificate of Commendation

to

**Franklin Black**

for

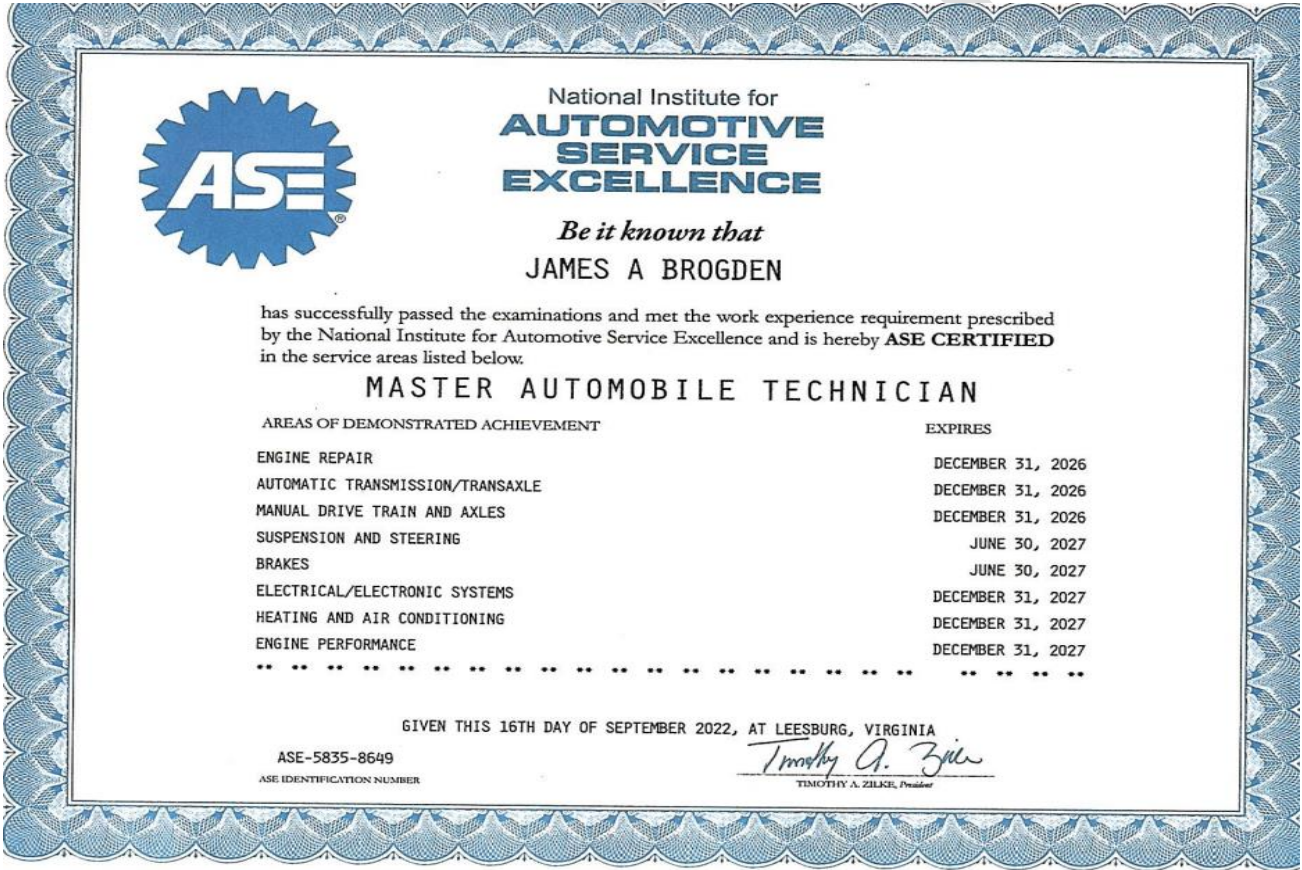
distinguishing himself through dedicated selfless service by giving of his time and talent in restoring and painting The Free Little Library #155314 box located in the City of Hendersonville's Sullivan Park. The natural talent of creatively painting the library to look like a tree house with diverse characters will encourage children and teens in this city to read more! Franklin has also helped dedicate countless hours to participate in the Sullivan Park Refresh project. His efforts and leadership are sincerely appreciated. Mr. Black's performance is in keeping with the highest standards and reflect distinct credit upon himself, and the City of Hendersonville. Thank you Franklin for being an advocate for improving literacy and positively impacting the Green Meadows Community.

Awarded this 3<sup>rd</sup> day of November, 2022.

/s/Barbara G. Volk, Mayor

**E. Recognition of Andy Brogden and Patrick Warren - Tom Wooten, Public Works Director**

Public Works Director Tom Wooten recognized Andy Brogden and Patrick Warren for their dedication and hard work in completing their ASE Vehicle Maintenance certifications.



F. Quarterly MVP Recipients – John Connet, City Manager

City Manager Connet explained that we have a Service Excellence Program that is part of our culture in our organization to provide excellent service and we recognize our employees quarterly who have gone above and beyond the call of duty to serve our citizens and our customers. This recognition is voted on by our entire team, so they have to impress our peers and we have several recognitions for tonight.

The first award was given to Savannah Tankersley for walking with an umbrella into the pouring rain to make sure a woman, who had her newborn grandson, didn't get cold. Also, an elderly customer who very unsteady on his feet came in to make a payment. Afterwards, Savannah walked him to the parking lot providing support until his ride pulled around. This shows exceptional customer service and thank you Savannah for all you do.

The next award went to Steven Alverson, Mike Huffman and Dustin Moffitt. A culvert recently collapsed under a City road and damaged a fence maintained by a homeowner's association. Once the culvert was repaired, Mike, Dustin and Steve took ownership of the fence damage, rebuilt it and recently painted it. All of this was outside of their normal responsibilities, and they resolved the situation and promoted excellent service.

Lastly, awards were given to Alan Bonanno, Diamond Wright, Sam Capps, and Robbie Baird. These four officers responded to a medical call and showed great care for the patient when they offered to finish the patient's delivery route. The patient was delivering orders for Walmart when he had the medical emergency, so the team took charge and delivered the groceries and sundries to the Walmart customers. They showed great attitude, ownership of the situation, teamwork and that they value everyone. They represented the City with professionalism and care.

#### **G. Fiscal Year 2022 Audit Presentation – John Buchanan, Finance Director**

John Buchanan introduced Tim Lyons from Mauldin and Jenkins to present the audit results for June 30, 2022. Mr. Lyon stated the independent audit firm concluded that they issued an unmodified, or clean, opinion on the basic financial statements for fiscal year ending June 30, 2022 in accordance with GAAS and GAS. The city did implement one new accounting standard regarding leases. The City's general fund balance minimum threshold should be 25% and the City has 30.12%.

### **7. PUBLIC HEARINGS**

#### **A. Zoning Text Amendment: Multi-Family in the 7th Ave MSD (P22-75-ZTA) – Matthew Manley, AICP – Planning Manager**

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:40 p.m.

Carrie Moers, who owns the building at 824 Locust Street, Suite 200, expressed support for the application and looks forward to the beautification, increased foot traffic and safety that I believe will come from what he has proposed.

Dan Mock, the applicant, introduced himself and addressed some of the concerns that had been brought up.

Lynn Williams of Chadwick Avenue addressed Council remotely via Zoom electronic software and spoke against this developer and asked that we honor the process that has been laid out for 7<sup>th</sup> Avenue.

Ken Fitch spoke against this text amendment and concern about displacement of workforce housing.

Elsa Tolls submitted digital comments and said she is in support of Dan Mocks text amendment in the 7th Avenue Municipal Service District.

Michal Bare submitted digital comments and said he is in support of the project text amendment in the 7<sup>th</sup> Avenue Municipal Service District.

Rodney Pepper asked if Mr. Mock has met any of the people who live across from where you're building that live in Green Meadows and said whatever you do on one side you have to do on the other. Talk to those people and try to make both sides better.

Dorothy Williams said we need to think about the price and what putting new housing up will do to the people who live there already and all the traffic that will be there.

The public hearing was closed at 7:39 p.m.

Council Member Jerry Smith moved that City Council deny an ordinance amending the official City of Hendersonville Zoning Ordinance, Article XVI. – Supplementary Standards for Certain Uses, Section 16-4-24 Residential dwelling, multi-family, based on the following:

**1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:**

The Future Land Use Designations of ‘Downtown Core’ and ‘Downtown Support’ call for recommended land uses and design guidelines that align with the proposed zoning text amendment.

**2. We do not find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:**

1. The reduction of front setbacks would permit a more distinctly urban form.
2. The allowance of additional density would be incompatible with commercial uses in the 7th Ave MSD.
3. The provision to permit 50% of first floor for residential uses for buildings fronting 7<sup>th</sup> Ave would result in the loss of viable commercial property.

***Council Members, Smith, Simpson and Roundtree were yays and Mayor Volk and Council Member Hensley were nays. Motion carried 3-2.***

**8. UNFINISHED BUSINESS**

- A. ~~REMOVED: Establishment of Social Districts in Downtown Hendersonville~~ – *Council Member Simpson*
- B. ~~REMOVED: Continuation of American Rescue Plan Discussions~~ – *Adam Murr, Budget Manager*

**9. NEW BUSINESS**

- A. **ADA Obstructions in Hendersonville** – *Amy Siegler, ADA Advocate*

Dr. Amy Siegler owns Limb Tech Mobile Seating and Positioning Clinic and said her plan is to make downtown more aware about ADA accessibility. She proposed to Council to bring awareness by forming a coalition, increase access to bathrooms and indoor space, increase downtown accessibility and make it more age friendly and redefining what accessibility is. She proposed that Council back a task force because we need to bring awareness through education, social media and pamphlets. Also, when you close downtown parking, we take away accessible parking and we need to be aware of that.

- B. **Electric Vehicle Infrastructure Discussion** – *Will Garvey, Environmental Sustainability Board Member*

Will Garvey said he is here to support the installation of electric vehicle charging infrastructure in Hendersonville. His recommendation would be to install Level 2 (208/240) volt service that provides 30-80 miles of range for every hour of charging. ESB is recommending that City Council adopt a resolution that will promote electric vehicle supply equipment at new development in Hendersonville and would also require EVSE at new and renovated City construction to support future City use of EV's. We believe this approach supports your continuing commitment to sustainability while providing flexibility to the development community and preparing city public works for future electrification opportunities. Over 80% of EV owners charge their vehicles at home or work and this plan will “future proof” new development in a cost-effective way. Significant funding has been allocated for the construction of high-speed EV charging infrastructure across North Carolina. For the City, EV's are a perfect choice for future fleet replacement due to mileage use and ability to charge overnight.

- C. **Recommendation for 2045 Comprehensive Plan Consultant** – *Matthew Manley, AICP – Planning Manager*

Matthew Manley said the Community Development Department under the leadership of Lew Holloway released an RFP for the 2045 Comp Plan and we received 5 proposals. Staff created an internal review team and created a sheet and reviewed each of those five proposals, graded them and compiled the scores. The scores were all very close, and the internal review team convened to discuss our thought processes behind how we scored and ranked each of the teams. We interviewed three companies in one day and afterwards it was unanimous that Bolton and Menk really stood out and we are bringing that recommendation to you.

Resolution #22-139

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A CONSULTANT TEAM TO PROVIDE PROFESSIONAL COMMUNITY PLANNING**



**SERVICES FOR THE 2045 COMPREHENSIVE PLAN PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM**

**WHEREAS**, the City of Hendersonville advertised a request for proposals for community planning services to complete the 2045 Comprehensive Plan for the City of Hendersonville and;

**WHEREAS**, the City included certain add-alternates to the request for proposals including the following: 1) Preparation of a Downtown Masterplan; 2) Preparation of a Comprehensive Transportation Plan; and 3) Rewrite of the City's Zoning Ordinance; and

**WHEREAS**, the Bolton Menk/Cole Jenest Stone team was determined, following internal review, to qualify for the interview round and further was the consensus top choice among the interview team; and

**WHEREAS**, the Planning Board reviewed the proposal review process and affirmed the results of the process recommending that the City Council pursue a contract with the Bolton Menk team for the completion of the 2045 Comprehensive Plan; and

**WHEREAS**, Staff supports the recommendation, and also recommends that 1) the initial scope of work for the contract include the Preparation of a Downtown Masterplan as part of the Comprehensive Plan scope of work, and 2) the contract includes the possibility of adding the Preparation of a Comprehensive Transportation Plan and Rewrite of the City's Zoning Ordinance to future scopes of work under the contract;

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

1. The City Manager is authorized to negotiate and enter into a contract in an amount not to exceed \$200,000 for the 2045 Comprehensive Plan community planning project with Cole Jenest Stone/Bolton and Menk on behalf of the City in consultation with the City Attorney, upon such terms and conditions as he deems appropriate, including but not limited to:
  - a. Determining the initial scope of work;
  - b. Breaking the scope of work into Phases if appropriate, and
  - c. Including, within the initial scope of work or as an amendment in the future, the ad alternates.
  - d. Amending the contract in the future to amend the scope of work or activate future phases, including the Preparation of a Comprehensive Transportation Plan and the Zoning Ordinance rewrite;

Provided, however, that the following conditions shall apply:

- a. The contract and any amendment(s) entered now or in the future shall only obligate the City to budgeted and available funds as of the date of the contract or any such amendment.
2. If negotiations fail, the City Manager is directed to negotiate a contract with the next most qualified firm based on the review and interview recommendations;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 3<sup>rd</sup> day of November, 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

***Council Member Jennifer Hensley moved that City Council adopt a Resolution directing the City Manager to negotiate a contract with Cole Jenest & Stone/Bolton Menk Inc. to provide Professional Community Planning Services for the 2045 Comprehensive Plan Project, based on their review as most qualified firm to perform the work and authorize the City Manager to negotiate with the next most qualified firm, based on the presented rankings, if the initial negotiations fail. Motion carried.***

**D. Consideration of Ordinance Amending Chapter 20, Article II, Noise of the Hendersonville City Code – Rodney Gilliam, VLGMF Intern**

After much discussion, Council agreed that although this ordinance is better than it previously was, there are still some changes that need to be defined before passing the ordinance.

**E. Discussion Regarding the Closing of 4th Avenue on Halloween – Jennifer Hensley, Council Member**

Council Member Jennifer Hensley said that for about four years she has been talking about the danger of trick-or-treating on 4<sup>th</sup> Avenue and then this year, more people contacted me after Halloween with concerns. I would like to have some discussion on changes we could make.

Consensus of Council was to direct staff to look into what we can do, not just on 4<sup>th</sup> Avenue but everywhere and maybe look at what other cities do.

**10. CITY COUNCIL COMMENTS**

Council Member Smith said the parking deck looks so good.

Council Member Lyndsey Simpson said she would like to continue to the discussion with Mr. Garvey regarding the EV infrastructure whether it by via resolution, but I would like to see it progress in some way. Mayor Barbara Volk said she thinks the Committee could make a recommendation to City Council.

**11. CITY MANAGER REPORT – John F. Connet, City Manager**

**A. Cash and Investment Report – John Buchanan, Finance Director**

For information.

**B. Cancellation of November 23, 2022 City Council Workshop - John Connet, City Manager**

*Council Member Jerry Smith made a motion to amend meeting schedule to cancel November 23<sup>rd</sup> meeting. Motion carried.*

**12. CLOSED SESSION**

**A. Closed Session – John Connet, City Manager**

*At 9:22 p.m. Council Member Jerry A. Smith Jr., J.D. moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (3), to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, to consult with an attorney retained or employed by the public body in order to preserve the attorney client privilege, between the attorney and the public body, to discuss the matter of O'Neill v. City of Hendersonville 22-CVS1738. A unanimous vote of the Council followed. Motion carried.*

*At approximately 10:30 p.m. Council Member Debbie O'Neal-Roundtree moved that City Council return to open session. A unanimous vote of the Council followed. Motion carried.*

**13. ADJOURN**

There being no further business, the meeting was adjourned at approximately 10:30 p.m. Upon unanimous assent of the Council.

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Barbara G. Volk, Mayor

ATTEST:

\_\_\_\_\_  
Jill Murray, City Clerk