



MINUTES

August 9, 2023

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, Jerry Smith and Debbie O'Neal-Roundtree

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

1. CALL TO ORDER

Mayor Volk called the meeting to order at 5:46 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.*

General Public Comment

Lyra Prickett of Hendersonville spoke against DEI;

Daryl Waldrop who owns Pisgah Forest Gem Mine addressed City Council regarding parking and said its killing the businesses. He also mentioned homelessness and said he has people coming to and around his store harassing employees and customers every day. They are defecating and urinating in his parking space behind his store and are doing drug deals in the parking lot. I don't know if you know but Asheville is working on their laws to fight this and now they're all coming here. You need to put some ordinances in place that will allow the police to take care of this and help them or if they don't want to be helped, to move them out of our county. They are a danger to my employees, my patrons and my family and I would appreciate it if you would look into this and enforce safety downtown;

Jeff Groh of Fletcher address City Council regarding DEI and is against it;

Clifford Meek of Hendersonville spoke about getting passenger transportation in Hendersonville and asked that the City of Hendersonville issue a proclamation regarding such;

Mike Taylor & Kim Burel of Hendersonville addressed City Council regarding Pops Diner in Hendersonville and raised concerns over the new traffic pattern that is affecting them. They are losing their parking and would like to get some answers.

Lynne Williams spoke via Zoom electronic software regarding 1202 Greenville Highway and is not happy with the project and the amount of trees that will be coming down. Preservation of the forest canopy is needed now. Secondly, the comp plan vote is scheduled for Spring of 2024 and her concern is that Council Members Simpson and Hensley will not be elected at that time and they will just be grandfathered in and this vote will determine the next 20 years. She asked Council to wait on voting for that until 2025 or prior to the end of your actual term. Lastly, she is concerned with committee appointments and urged council to bring balance to the Planning Board. Also, regarding the Tree Ordinance Revision Committee, you're about to appoint Ken Gordon who told her that he is against the tree ordinance which is what the Tree Ordinance Committee is all about. She thought the DEI meetings were great.

Digital Public Comments

Daniel Bradford said The Patton pool needs some TLC. It's the only public pool in the county. It's old. The kiddie pool is closed for the summer and there is no diving board. The old pump broke

from a normal thunderstorm and now it's closed. I propose we spend some money restoring our beloved aging pool. I would go so far as to recommend the construction of a new pool as well, but let's at least fix up the one we already have first.

William Cumming said we are residents of Tryon but get all of our medical care in Hendersonville so are there about 3 times a week. We have to use handicapped parking and are shocked to see that we will have to start paying to park downtown! This will limit our ability to shop and dine on and around Main Street when we are in town. This is going to force us to do our shopping outside town and even in more visitor-friendly towns like Greer and Spartanburg. We stopped going to Asheville several years ago due to the negative changes in that town toward visitors, and sadly, we are starting to see a similar approach being taken in Hendersonville. It seems that growth and greed combine to destroy the very things that make a city vital and interesting to visitors.

Melodye Campbell said earlier in the spring, City Council rejected the development at 1202 Greenville Highway in order to protect the 6 acre urban forest. I have heard that the development has now been decreased to 50 units. How does that still protect the urban forest? It would behoove the city to purchase that property and preserve it as an urban oasis.

CONSIDERATION OF AGENDA

City Manager John Connet suggested that Council remove Item 7A (Street Closure between City Hall and N. Edwards Street) as the petition was withdrawn.

Council Member Lyndsey Simpson moved that City Council approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.

4. CONSENT AGENDA

Council Member Debbie O'Neal-Roundtree moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

A. Adoption of City Council Minutes – Jill Murray, City Clerk

June 28, 2023

July 6, 2023

July 26, 2023

B. Resolution Authorizing the Sale of Two Police Cruisers Equipped for K-9 Use to the Town of Sparta, NC – Blair Myhand, Chief of Police

Resolution #R-23-83

RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SALE OF TWO POLICE K9 CRUISERS TO THE TOWN OF SPARTA, NC

WHEREAS, the Hendersonville Police Department owns two police cruisers equipped for K-9 use; and;

WHEREAS, the vehicles are no longer used by the Department and are in need of repair; and

WHEREAS, the Town of Sparta, North Carolina desires to purchase the two vehicles; and

WHEREAS, North Carolina General Statute §160A-274 authorizes the sale of personal property to other governmental units with or without consideration; and

WHEREAS, the Hendersonville Police Department wishes to sell the 2019 Chevrolet Tahoe to the Sparta Police Department at a value of \$25,000; and

WHEREAS, the Hendersonville Police Department wishes to sell the XXXX Ford Expedition to the Sparta Police Department at a value of \$6,000.

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

1. The 2019 Chevrolet Tahoe identified by VIN 1GNSKDEC5KR145764 and the 2016 Ford Expedition identified by VIN 1FMJU1GTXGEF24537 are deemed surplus and approved to be sold.
 2. The City Council Councils authorizes the sale of the two vehicles to the Town of Sparta in accordance with §160A-274 as follows:
 - a. 2019 Chevrolet Tahoe: \$25,000
 - b. 2016 Ford Expedition: \$6,000
 3. The City Manager is authorized to execute the Bill of Sale with the Town of Sparta.
- Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.
- /s/Barbara G. Volk, Mayor
Attest: /s/Jill Murray, City Clerk
Approved as to form: /s/Angela S. Beeker, City Attorney

C. Amendments to Chapter 10 - Animals—*Daniel Heyman, Staff Attorney*

Ordinance #O-23-47

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO READOPT AND AMEND CHAPTER 10 OF THE CODE OF ORDINANCES FOR THE CITY OF HENDERSONVILLE WITH RESPECT TO THE WELFARE OF ANIMALS

WHEREAS, The Hendersonville City Council established the Animal Services Advisory Committee to provide input on the operations and policies of the Hendersonville Police Department regarding the enforcement of the Animal Ordinance; and

WHEREAS, The last significant amendment to Chapter 10 of the Code of Ordinances included the establishment of the Animal Services Advisory Committee and local enforcement of animal services; and

WHEREAS, The Animal Services Advisory Committee has spent significant time auditing and revising Chapter 10 of the Code of Ordinances to better reflect some of the unique needs of Hendersonville; and

WHEREAS, It is the intent of the City of Hendersonville to align its animal related regulations with applicable state laws in order to ensure the effective enforcement thereof.

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

SECTION 1. Chapter 10 – ANIMALS of the Code of Ordinances of the City of Hendersonville is hereby readopted and amended to read as follows:

ARTICLE I. - GENERAL PROVISIONS

Sec. 10-1. Animal Control Ordinance Purpose

- (a) Pursuant to authority granted by the general assembly, this chapter is enacted to:
- (b) Regulate, restrict or prohibit, if necessary, animals;
- (c) Protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals;
- (d) Make unlawful the acts of animals that interfere with the enjoyment of property or the peace and safety of the community;
- (e) Protect animals from abuse or conditions harmful to their well-being;
- (f) Carry out any other lawful duties authorized by state laws and applicable ordinances;
- (g) Provide peace and dignity of residents; and
- (h) The city council hereby finds that animals kept or allowed to be in violation of any of the sections of this chapter are detrimental to the health, safety, and welfare of the citizens of the city and jeopardize the peace and dignity of the town.

Sec. 10-2 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Adequate food means the provision of and access to food that is sufficient in quantity, prepared and provided so that the animal can consume it, and provided in a manner that is sanitary for the animal.

Adequate shelter means shelter which meets all the following requirements:

- (a) Is constructed of solid wood or weather resistant material, with solid walls on all sides, that is wind and moisture proof, with a dry floor, a solid, water-proof roof sloped away from the entrance to protect from weather and extreme cold, and a covered entrance by flexible windproof material or a self-closing swinging door;

- (b) Has suitable bedding (hay, straw, cedar shavings, blankets, or the equivalent that is routinely changed to avoid the growth of bacteria) for insulation and protection against cold and damp sufficient for an animal to burrow to promote retention of body heat,
- (c) Is out of the direct path of wind;
- (d) Is free of waste or debris and is otherwise clean and sanitary;
- (e) Gives the animal the ability to walk, stand, turn, and lie down comfortably; and
- (f) Provides drainage to eliminate excess water and moisture, protection from rain, sleet, snow, hail, sun, and the adverse effects of heat and cold.
- (g) The following shall not constitute adequate shelter:
 - (1) Inside of vehicles; or
 - (2) Underneath vehicles; or
 - (3) Inside metal or plastic barrels or cardboard boxes; or
 - (4) Rooms, sheds or other buildings without windows or proper ventilation.

Adequate water means constant access to clean, fresh water provided in a sanitary manner and so that the animal can consume it. During extreme cold weather, the water must be changed frequently to prevent freezing. During extreme hot weather, the water must be changed frequently and served in a no-tipping, non-metal container to prevent heat-related injuries or death.

Animal means every non-human, animate being that is endowed with the power of voluntary motion, including, but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians, and fish.

Animal Services Center means any holding place or other facility designated by the City of Hendersonville for the detention of animals.

Animal Services Officer means any person properly appointed either by the City of Hendersonville, or any officer authorized to act within the City’s jurisdiction due to an inter-local agreement, to enforce all sections of this chapter and applicable state laws and who are responsible for discharging such other duties and functions as may be prescribed by the City Council as set forward by this chapter or any other applicable ordinance or state law or pursuant to inter-local agreements.

Animal at large means any animal off the premises of its owner and not under sufficient physical restraint such as a leash, cage, bridle, or similarly effective device allowing the animal to be controlled. For purposes of this article, voice command is not recognized as sufficient physical restraint. This definition does not apply to any areas in the City that have been delineated by the City Council, such as dog parks.

Animal under restraint means any animal confined within a vehicle, confined within the real property limits of its owner, or secured by leash or lead.

Cat means a domestic feline of either sex.

Dangerous dog means any dog that:

- (a) Without provocation has killed or inflicted serious injury on a person; or
- (b) Is determined by the Chief of Police, their designee, or the Animal Services Advisory Committee to have engaged in one or more of the following behaviors:
 - (1) inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, or
 - (2) has killed or inflicted severe injury upon a domestic animal when not on the owner's real property, or
 - (3) has approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or
- (c) Is owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

This definition shall not apply to: (1) a dog that has been subject to provocation, (2) any dog responding to a trespass upon the animal owner's premises, if the victim is the trespasser, or (3) dogs used by law enforcement agencies to carry out official law enforcement duties. Provocation must be clearly established.

Dog means a domestic canine of either sex.

Domesticated means those species of animals that normally and customarily share human habitat and are normally dependent on humans for food and shelter, such as, but not limited to, dogs, cats, cattle, horses, swine, fowl, sheep, goats, reptiles, amphibians, rabbits, and fish.

Harboring an animal means feeding or sheltering and animal for 14 days or more unless the animal is being boarded for a fee.

Holding facility means any pet shop, kennel, cattery, boarding facility, veterinary office, animal shelter, or combination thereof.

Owner means any person owning, keeping, harboring, possessing, or acting as custodian, however temporarily, of an animal; provided, however, that a person having temporary custody or possession of an animal for the sole purpose

of turning over such animal to a member of the animal services division or other peace officer shall not be deemed the owner of the animal.

Pet means a domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, reptiles, domesticated wild animals and other animals associated with man's environment.

Pet shop means a commercial establishment, which offers for sale two (2) or more species of live animals with the intent that they be kept as pets.

Provocation means conduct or actions on the part of any person or animal that is likely to arouse a violent or aggressive response by an animal. This term does not include any action on the part of an individual or animal that pertains to reasonable efforts of self-defense.

Public nuisance animal means any animal or group of animals which:

- (a) Is found at large three or more times in a 12-month rolling period; or
- (b) Damages the property of anyone other than its owner; or
- (c) Is a Vicious Animal; or
- (d) Causes unsanitary condition of enclosures or surroundings; or
- (e) By virtue of number or type is offensive or dangerous to the public health, safety, or welfare; or
- (f) Is diseased and dangerous to the public health.

Serious injury means a physical injury resulting in broken bones, disfiguring lacerations, or requires cosmetic surgery or hospitalization.

Tether means tying out or fastening a dog outdoors on a rope, chain, or other line for restraining a dog. The term does not mean the restraint of a dog on an attended leash.

Vicious animal means any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause property damage or physical injury.

Secs. 10-3—10-30. – Reserved.

ARTICLE II. – ANIMAL SERVICES

Sec. 10-31 General Duties of Animal Services Officer.

The animal services officer shall be charged with the responsibility of:

- (a) Taking up and delivering any animal at large in violation of this chapter to the animal shelter.
- (b) Issuing appropriate permits, civil penalties, and notices required for the enforcement of this chapter.
- (c) Declaring an animal as a potentially dangerous animal, as defined in this chapter, if they determine such. Upon determining that an animal is a potentially dangerous animal, the Chief of Police shall notify the owner of the animal in writing, giving the reasons for the determination. The owner may appeal the determination by filing written objections with the Animal Services Advisory Committee established in this chapter.
- (d) Canvassing the city, including homes and businesses utilizing security animals as necessary to ascertain that all animals are currently vaccinated against rabies; to organize and carry out any such canvas, having sole and exclusive authority, control, and responsibility for such actions; and to ensure that the provisions of this chapter and state law related to animal control are adhered to.
- (e) Investigating complaints regarding animals.
- (f) Protecting animals from neglect or abuse and assist animal cruelty investigators as needed in enforcing state laws regarding cruelty.
- (g) Enforcing the laws regarding remedies for an owner's failure to obtain proper vaccination of animals against rabies.
- (h) Investigating all reported animal bites or other human physical contact with suspected rabid animals and submit bite reports and reports of human contacts to the county health director.

Except as may be otherwise provided by statute or local law or ordinance, no officer, agent, or employee of the city charged with the duty of enforcing the provisions of this chapter or other applicable law shall be personally liable for any damage that may accrue to persons or property because of any act required or permitted in the discharge of such duties.

Sec. 10-32. Animal Enforcement Authority

The animal services officer is hereby authorized to enforce the provisions of this chapter and any other regulation adopted in accordance with the provisions of this chapter.

Sec. 10-33. Inspection, interference, or concealment.

- (a) Inspections: Whenever necessary, inspections will be used to enforce the provisions of this chapter, or whenever the animal services officer has reasonable cause to believe that there exists in any household or upon any premises any violation of this chapter, the animal services officer is hereby empowered to enter

and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter as follows:

- (1) If such property is unoccupied, the animal services officer shall first make a reasonable effort to locate the owner or other person having control of the property;
 - (2) If such property is occupied, the animal services officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefore; and
 - (3) If such entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be located after due diligence, the animal services officer may seek an administrative search warrant.
- (b) Interference: It shall be unlawful for any person to interfere with, hinder, assault, molest, resist, or obstruct the animal services officer while the animal services officer is carrying out any duty created under this chapter.
- (c) Concealment of animal: It shall be unlawful for any person to conceal, for the purpose of evading the rabies inoculation requirement of state law, any uninoculated animal from the animal services officer, or to evade any other provision of this chapter.
- (d) In addition to any other remedy available, violation of this section shall constitute a misdemeanor as provided in Section 1-6.

Sec. 10-34. Animal Services Advisory Committee

The Animal Services Advisory Committee shall make recommendations to the City Council regarding animal-related ordinances, policies, and procedures. The Animal Services Advisory Committee may undertake the study of areas under their authority to advise City of Hendersonville staff and City Council.

The Animal Service Advisory Committee, or a duly appointed subcommittee thereof, shall act as the Animal Services Appellate Board and hear all appeals under this chapter when permitted by State law, including appeals of dangerous dog determinations.

The composition, rules of procedure, and all other matters shall be governed by the Animal Services Advisory Committee Charter and Rules of Procedure, as amended.

Secs. 10-34—10-60. – Reserved.

ARTICLE III – KEEPING ANIMALS

Sec. 10-61. – Keeping of certain animals prohibited

It shall be unlawful for any person to keep or maintain any oxen, bison, roosters, or wolf hybrids within the City.

Sec. 10-62. – Swine

It shall be unlawful for any person to keep any hogs or other swine within the city with the exception of miniature pigs weighing not more than 100 pounds kept as household pets. Only one such miniature pig shall be kept in any household. Such pigs shall be kept in a restrained area and shall not be permitted to run at large. Such pigs shall also be kept in accordance with Article V of this Chapter. Any outside area occupied by a miniature pig shall be regularly sanitized and kept free from waste. No such area shall be allowed to become muddy or unsanitary.

Sec. 10-63. – Keeping of other farm animals

Other farm animals may be kept within the City subject to applicable health statutes and regulations, and provided that: (1) none of the foregoing animals may not be kept or maintained within 150 of any building occupied or designated as a residence, except the residence of such animals owner; and (2) the forgoing animals shall be kept in accordance with Article V of this Chapter.

Sec. 10-64. – Keeping of poultry

- (a) It shall be unlawful to maintain a poultry flock of greater than 20 birds.
- (b) In accordance with Sec. 10-61 above, the keeping of roosters is prohibited.
- (c) The keeping of poultry shall be subject to all applicable health statutes and regulations.

Sec. 10-65. – Requirements for construction and maintenance of poultry enclosures.

In addition to the requirements of Article V of this Chapter, each person keeping poultry within the city shall comply with the following rules and regulations:

- (1) The poultry house and run must be fenced, and the birds shall kept within it at all times.
- (2) The poultry house must be used for poultry only and it must be well ventilated, with at least one square foot of window to 15 square feet of floor space.
- (3) The run must be well drained so there will be no accumulation of moisture.

Sec. 10-66. – Disposal of dead chickens and other poultry.

It shall be unlawful for any person to allow any dead chicken or poultry to remain on the premises, and disposal of any dead chicken or fowl may not be contrary to any methods approved by the county health department.

Secs. 10-67—10-90. – Reserved.

ARTICLE IV – OFFENSES AND MISCELLANEOUS

Sec. 10-91. – Animals at large

- (a) It shall be unlawful for the owner of any domesticated animal to allow or permit such animal to be at large within the corporate limits of the city at any time upon any property not his own without the written permission of the owner of such property.
- (b) In addition to any other remedy available, permitting a dog that has been deemed dangerous to run at large is a misdemeanor as provided by Section 1-6.

Sec. 10-92. – Protection of Birds

- (a) The area embraced within the corporate limits of Hendersonville and all land owned or leased by the Hendersonville outside the corporate limits is hereby designated as a bird sanctuary.
- (b) It shall be unlawful intentionally to trap, hunt, kill, or otherwise take, within the sanctuary hereby established, any native wild bird except pursuant to a valid permit issued by the North Carolina Wildlife Resources Commission; provided, however, that this section shall not be deemed to protect any birds classed as a pest under Article 22A of Chapter 113 of the North Carolina General Statutes and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971.
- (c) In addition to any other remedy available, violation of this Section is also a misdemeanor as provided in Sec. 1-6.

Sec. 10-93. – Protections of Squirrels

- (a) The entire area embraced within the corporate limits of the city is hereby designated as a sanctuary for all species of squirrel (family Sciuridae), especially the Brevard White Squirrel.

It shall be unlawful for any person to hunt, kill, trap, or otherwise take any protected squirrels within the city limits except pursuant to a valid permit issued by the North Carolina Wildlife Resources Commission. This section shall not be deemed to protect any squirrels classified as a pest by the North Carolina General Statutes, except that the Brevard White Squirrel shall always be protected by this section.

Sec. 10-94. – Fouling public grounds.

It shall be unlawful for any owner, keeper, or walker of any animal to permit the discharge such animal's excreta upon any public or private property, other than the property of the owner within the city, if such owner, keeper, or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property.

Sec. 10-95. – Restraint of animals.

- (a) Physical restraint: It shall be unlawful for any Owner of any animal, excluding cats, to keep such animal on their own premises or off the premises, unless such animal is under sufficient physical restraint, such as a leash, cage, bridle or similar effective device which restrains and controls the animal, or within a vehicle or adequately contained by a fence on the premises or other secure enclosure. If the physical restraint used is a leash, bridle, or other device requiring a person to control the animal, the person using such restraint must be of sufficient age and physical size or ability to reasonably restrain the animal. If the secure enclosure is an invisible fence system, then all components of the system must be in working order and in proper place. Additionally, there must be a visible, permanent sign on the premises stating that there is an invisible fence.
- (b) Tethering: Dogs may not be tethered to a stationary object unless a competent adult is in the immediate presence of the dog and the following conditions are met:
 - (1) A tether shall be equipped with a swivel on both ends.
 - (2) A tether shall be a minimum of ten feet in length and shall be made of either metal chain or coated steel cable.
 - (3) Tethers shall be attached to a buckle type collar or harness and under no circumstances shall the tether itself be placed directly around a dog's neck. Tethers shall not be used in conjunction with training collars such as choke or pinch-style collars.
 - (4) The weight of the tether shall not exceed ten percent of the total body weight of the dog but shall be of sufficient strength to prevent breakage.
 - (5) The tether by design and placement shall allow the dog a reasonable and unobstructed range of motion without the possibility of entanglement, strangulation, or other injury. The tether shall allow the dog access to adequate food, water, and shelter.
 - (6) A dog must be four months of age or older to be tethered.
 - (7) Only one dog shall be attached to a single tether.
 - (8) Pulley systems, running lines and trolley systems may be used in conjunction with a tether.
 - (9) Pulley systems, running lines or trolley systems shall be at least ten feet in length. and no more than seven feet above the ground.
 - (10) The line of the pulley system, running line or trolley system to which, the tether is attached shall be made of coated steel cable.
 - (11) No tether shall be affixed to a stationary object which would allow a dog to come within five feet of any property line.

Sec. 10-96. – Giveaways in Public Spaces.

It shall be unlawful to display any animal in a public place for the purpose of selling, trading, or giving the animal away or used as a prize or inducement. For this section, public place shall be defined as any place open to the public including but not limited to malls, supermarkets, parking lots, flea markets, farmers markets, road rights-of-way, and parks. This section does not apply to state regulated pet shops, commercial kennels, licensed animal shelters, veterinarian offices, licensed stockyards, or livestock auctions or 501(c)(3) non-profits who adopt out animals with proof of rabies vaccination and alteration

Sec. 10-97. – Excessive noises.

It shall be unlawful for any Owner to allow any Animal to excessively bark, howl, or make other loud noises continuously or intermittently for more than 30 minutes.

The Animal Services Officer shall only be required to investigate an alleged violation of this section upon the receipt of a complaint from two individuals.

Secs. 10-98—10-120. – Reserved.

ARTICLE V. – ANIMAL CRUELTY

Sec. 10-121. – Unlawful treatment.

It shall be unlawful for any Owner to fail to provide an animal with adequate food, water, shelter, necessary medical attention, and humane care and treatment.

Nothing in this section shall be construed to require a standard of care otherwise prohibited by G.S. 160A-203.1.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-122. – Abandonment.

No owner of an animal shall abandon such animal except to relinquish the animal to the animal shelter during normal business hours. If the Animal Services Officer finds that an animal has been abandoned, the animal may be impounded. If an animal has been abandoned in a house or within a fenced area, the Animal Services Officer must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then the Animal Services Officer shall secure permission to remove the animal. If the property owner is also the animal owner and this individual cannot be located, the Animal Services Officer shall secure an appropriate warrant to seize the animal. An animal seized pursuant to this section shall be impounded for a period of ten days. If the animal is unclaimed by its owner after being held ten days, the animal shall be disposed of by adoption or humane euthanasia, or transferred to an Animal Services Center or other appropriate facility.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-123. – Transport of Animals.

Animals transported in open truck beds on public roads shall be secured by cross tethering suitable and acceptable for the size of animal in such a manner that such animal cannot fall or jump over the side or contained in a properly secured and ventilated cage. This provision shall not be applicable to:

- (1) Law enforcement dogs, while being used for investigation, tracking and similar duties under the supervision of a certified law officer;
- (2) Search and rescue dogs, while being used for their intended purpose and under the control of a trained handler;
- (3) Hunting dogs, while being used in a legal hunt on private property, private roads or public secondary roads;
- (4) Farm dogs, while being used for agricultural purposes on private property or private roads; or
- (5) Farm dogs, while being used for agricultural purposes on secondary roads within one mile of property owned, leased, or otherwise used for farm purposes.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-124. – Confinement of Animals in Motor Vehicles.

It shall be unlawful for any person to place or confine an animal or allow an animal to be placed or confined in a vehicle, building, car, boat, or vessel of any kind under such conditions or for such a period as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability, or death.

- (1) When an animal is confined in violation this section, after making a reasonable effort to find the driver of a vehicle in which an animal is confined, the animal services officer, in the presence of a law enforcement officer, may use the least intrusive means to enter the vehicle if necessary to remove the animal, where reasonable cause exists to believe the animal may die if not immediately removed.
- (2) The animal services officer removing the animal shall then impound the animal and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-125. – Animals used in entertainment, shows, and for exhibition.

It shall be unlawful for any person to sponsor, promote, or train a wild or domestic animal to participate in any unnatural behavior in which the animal is wrestled, fought, harassed, or displayed in such a way that the animal is

abused or stressed. This prohibition applies to events and activities taking place in either public or private facilities or property in the town and applies regardless of the purpose of the event or activities and whether a fee is charged to spectators.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Secs. 10-126—10-150. – Reserved.

ARTICLE VI. – RABIES CONTROL

Sec. 10-151. – Vaccination of dogs and cats required.

It shall be unlawful for an Owner of any dog or cat four months of age or older to fail to provide current vaccination against rabies for such dog or cat.

Sec. 10-152. – Vaccination tag and certification.

- 1) Dogs are required to wear a rabies vaccination tag at all times.
- 2) Cats are not required to wear rabies vaccination tag, but the owner of a cat shall maintain the tag, or the rabies vaccination certificates as written evidence to prove the cat has a current rabies vaccination.
- 3) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.
- 4) Enforcement: If an animal is found without a rabies tag, the owner shall have 5 calendar days to obtain proper proof of vaccination and present to the Animal Services Officer.
 - a. If after 5 days, there is still no proof of rabies vaccination, the Animal Services Officer may take any of the enforcement actions provided in this Chapter.
 - b. If an animal is found without a rabies tag off the owner's property, the animal shall be impounded for 72 hours for owner reclaim. Prior to release, the animal's vaccination history shall be verified, and rabies vaccine voucher shall be purchased if required.

Sec. 10-153. – Bite Notification

- (a) Reporting requirement: It shall be unlawful for: (1) any person bitten by a dog or cat, (2) their parent or guardian if such person is a minor, and (3) the person owning such animal or having such animal in his possession or under his control to fail to report, within 24 hours of a bite, to the Animal Services Officer that such animal has bitten a person. It shall be unlawful for any person to fail to inform the Animal Services Officer where an animal is located if the owner has given the animal away or caused in any way the animal to be taken from the owner's premises.
- (b) Confinement: All dogs or cats that bite human beings shall be immediately confined for ten days in a place designated by the Henderson County Health Director. If the Owner refuses to confine the animal as required by this section, the Animal Services Officer or the Henderson County Health Director may order the seizure of the animal and its confinement for ten days at the expense of the owner. Following such ten-day confinement, the dog or cat may be released with the written permission of the Animal Services Officer or the Henderson County Health Director.

As provided in N.G.C.S. 130A-196(b), failure to comply with confinement requirements is a Class 2 misdemeanor.

Secs. 10-154—10-180. – Reserved.

ARTICLE VII. – PUBLIC NUISANCE AND DANGEROUS DOGS

Sec. 10-181. – Public Nuisance.

- (a) The keeping of a Public Nuisance Animal, as defined in this Chapter, is hereby prohibited.
- (b) Complaint and notice: Upon receipt of a complaint being made to the Police Department by any resident or residents that any person is keeping a Public Nuisance Animal as defined in this chapter, the Chief of Police shall cause the owner of the animal or animals in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating Animal Services Officer.
- (c) Abatement. If the written findings of the investigating officer indicate that the complaint is justified, then the Chief of Police shall cause the Owner of the animal or animals in question to be so notified in writing, by registered mail, return receipt requested, or by personal delivery, ordered to abate such nuisance within five days after notification, and issued a citation for the violation. In the event the Owner of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be published within a local newspaper. In addition, any animal determined to be a nuisance under this section must be micro chipped at the owner's expense within ten days of the Public Nuisance Animal determination or appeal determination. Failure to comply within this time frame shall constitute a separate offense for each day thereafter.
- (d) Impoundment upon failure to abate. If any person receiving notice in the manner hereinabove described shall fail or refuse to abate the nuisance upon order of the Chief of Police within the specified time, the Chief of Police may cause the animal or animals in question to be apprehended and impounded.
- (e) Civil penalties. Additionally, if any person receiving notice in the manner hereinabove described shall fail or refuse to abate the nuisance upon order of the Chief of Police within the specified time, the Chief of Police may assess a civil penalty as provided in Section 1-6.

(e) Right of appeal. Within seven days from receipt of their notification, the owner of the nuisance animal may appeal the findings of the Chief of Police by giving written notice of appeal to the Chief of Police. An appeal shall stay the abatement of the Public Nuisance Animal determination until a final determination by the Animal Services Advisory Committee.

(f) Inspection. The Animal Services Officer is hereby permitted to make periodic inspections of animals deemed to be Public Nuisance Animals to ensure compliance with this Chapter.

Sec. 10-182. – Declaration of dangerous dogs.

The Chief of Police shall have the authority to declare a dog to be a dangerous dog. Any determination that a dog is a dangerous dog shall be made in writing, summarizing the available evidence. The letter shall be served by personal delivery or by certified or registered mail to the Owner. The written determination shall order compliance with the appropriate provisions of this chapter and may impose reasonable conditions to maintain the public health and safety.

Sec. 10-183. – Dangerous dogs restricted.

It shall be unlawful for any person to own or in any way maintain or harbor a dog that has been deemed dangerous, except as provided in this chapter. Notwithstanding any enumerated exception in listed in Sec. 10-2, any dog which has killed a person shall be immediately euthanized.

Sec. 10-183. – Appeal.

Any person who owns a dog that has been declared a dangerous dog shall have the right to appeal the declaration to the Animal Services Advisory Committee as provided herein:

- (a) Manner of appeal. The Owner of a dangerous dog may request an appeal of the determination in writing. The written appeal must be submitted to the Chief of Police, must state the Owner's address, and must be received or postmarked within seven calendar days of the receipt by the Owner of notice of the declaration.
- (b) Pending the appeal, the Owner of a dangerous dog shall comply with the provisions of Section 10-184 herein.
- (c) Hearing procedures. Once properly appealed, the Animal Services Advisory Committee shall conduct a quasi-judicial hearing to determine whether the declaration of the dog as a dangerous dog should be upheld.
- (d) Outcome. If the dog is affirmed by the animal services advisory board as being a dangerous dog, then the Owner shall comply with the provisions of this Chapter. Any person who owns a dog upheld as a dangerous dog by the Animal Services Advisory Committee has the right to appeal this determination to the Henderson County Superior Court.

Sec. 10 –184. – Enclosures and control measures.

- (a) If a dog has been determined to be a dangerous dog, as specified in this section, the dog may be retained upon the Owner satisfying the following conditions:
 - (1) The Owner must always ensure that the dog on and off the Owner's property remains securely enclosed as per the ordinance or controlled and muzzled as described below.
 - a. Confine the dog within the owner's residence; or
 - b. Erect and confine the dog (except when muzzled and controlled as required below), within 30 days in a securely enclosed and padlocked pen with a concrete bottom and secure top. The structure must be at least 10x10 feet and be secured by a tamper-proof lock. Pending construction of such pen, the dog must be confined within the owner's residence; or
 - c. The animal must be muzzled and under restraint by a competent person who, by means of a leash, always has such animal firmly under physical restraint when not in a secure building or enclosure. The muzzle must be a basket muzzle.
 - d. Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks, or greenways.
 - (2) The owner must post one or more warning signs provided by the city, which are to be visible to any adjoining property from each exposure of the residence or the structure in which the dangerous dog is confined. The city may charge a fee for each sign provided.
 - (3) The owner of a dangerous dog must maintain in full force and effect a liability insurance policy of at least \$100,000 for personal injury or death of any person resulting from an attack by such dangerous dog. The owner shall provide the Animal Services Officer with a certificate of insurance which shall require 30 days written notice by the insurer or owner in the event of cancellation, reduction or other modifications of coverage. In addition to the notice requirement above, owner shall provide the Animal Control Officer with immediate written notice of cancellation, reduction, or other modification of coverage of insurance.
 - (4) Within ten days of the determination or appeal determination, the owner of a dangerous dog must demonstrate to the Animal Services Officer that such dog had a microchip implanted.

- (5) The Animal Services Officer may periodically inspect the premises where a dangerous dog is kept verifying compliance with the provisions of this chapter. The Owner must permit these inspections at any reasonable time without notice to the Owner from the Animal Enforcement Officer.
- (6) All dogs deemed dangerous must be altered within 30 days of the determination.
- (7) Control measures.
 - a. All control measures required by this section must be met immediately upon the determination that the dog is dangerous except for the construction of the enclosure discussed in the subsection of this provision. The owner has 30 days to construct the enclosure during which time the animal must be confined indoors and may only be permitted outside under the control of a competent person by leash and the animal must be muzzled.
 - b. If the owner has no place to keep the animal while the structure is being constructed, the animal may be kept at the Henderson County Animal Services Center or at a private establishment approved by the Animal Services Officer and Henderson County Animal Services at the owner's expense.
- (b) Notification within 24 Hours:
 - (1) Change of address or ownership of a dangerous dog, the owner shall provide written notification of the change of address or ownership to the Chief of Police, stating the full name if there's a new owner, address, and location of the new owner of the dog.
 - (2) Of the death of a dangerous dog, the owner shall provide written notification of the dog's death to the Chief of Police.
- (c) Notification Prior to Transfer. Prior to any transfer to a new Owner (with or without consideration) of a dangerous dog, the owner must provide to the Chief of Police a written statement, signed before a notary by the transferee, indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous dog. If the dangerous or dog is being transferred out of the City of Hendersonville, or out of North Carolina, the owner of the animal must notify the Chief of Police of the new jurisdiction to which the animal is being moved that this dog has been deemed a dangerous dog. The Chief of Police also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case. The Owner must comply with any local regulations regarding dangerous dogs in the new location. No dog deemed dangerous may be adopted pending the outcome of quasi-judicial hearing.
- (d) In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-185. – Impoundment Authorized.

- (a) Immediate impoundment: Any dangerous dog may be immediately impounded if the animal is kept in violation of this section. Civil penalties may be imposed.
- (b) Cost of impoundment: Costs of impoundment shall be paid by the owner for the animal at a daily rate as determined by the impoundment facility. In instances where the animal must be impounded at a private facility or kennel, the person liable for the animal will pay the rate established by those facilities.
- (c) Release from impoundment:
 - (1) Dog deemed dangerous/potentially dangerous may only be released to owner if the following requirements have been satisfied
 - a. Proof of compliance submitted to Chief of Police, or
 - b. Approval of proof by the Chief of Police is submitted in writing to the impoundment facility.
 - (2) If criminal charges have been brought against the Owner for failure to comply with this Chapter, for interference with the operations of the Animal Services Officer, or criminal charges under N.C.G.S. Chapter 67 Article 1A, no dog deemed dangerous/potentially dangerous shall be released from the impoundment until determined by a court of competent jurisdiction. During this time while the dog is impounded, costs of impoundment shall continue to be charged to the Owner.

Sec. 10-186 – Destruction of animals that cannot be seized or confined by reasonable means.

- (a) Notwithstanding any other provision of this Chapter, an animal that cannot be seized by reasonable and normal means, trapped in a humane, live-capture animal trap, or tranquilized, alternative resources being exhausted, may be humanely destroyed in the field by animal services or other law enforcement officers.
- (b) Vicious, dangerous animals so designated, or wild animals, or an animal attacking a human being, domestic animal, livestock, or fowl another pet, or livestock may be immediately destroyed in the field, if such destruction is necessary for the protection of the public health and safety or that of city staff.

Secs. 10-187—10-210. – Reserved.

ARTICLE VIII. – ENFORCEMENT

Sec. 10-211. – Violations and penalties.

The following penalties shall pertain to violations of this chapter:

- (a) This chapter may be enforced by criminal penalty where specifically provided.
- (b) Enforcement may include any appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction pursuant to N.C.G.S. §160A-175(d) and (e).
- (c) Civil penalties. In addition to and independent of any criminal penalties and other sanctions provided in this article, violations of this article may also subject the offender to the civil penalties hereinafter set forth.
- (d) A combination of the forgoing and/or any other remedy available by law.

Sec. 10-212. – Civil Penalties

- (a) Generally: Any person who violates any provision of this chapter shall be subject to a civil penalty for each level of violation in accordance with subsection (d) of this section and the corresponding civil penalty in the Civil Penalty Schedule, Section 10-213. If the violation is continued, each day's violation shall constitute a separate offense. For the purposes of this chapter, repeat violations occur where the City has issued a civil penalty for the same offense within a 12-month period. Nothing in this section shall prevent the City from issuing warning violations.
- (b) Issuance of a citation: Issuance of a citation for violation of this chapter is directed toward and against the known owner. The purpose of the issuance of a citation is to affect the conduct of the owner by seeking to have the owner ensure compliance with this chapter. The issuance of a citation hereunder shall not affect the prosecution of a violation hereof as a misdemeanor as provided above. A citation shall:
 - (1) Give notice of the violation(s) alleged of the owner;
 - (2) State the civil penalties for such violation(s);
 - (3) State the date by which any penalties for such violation(s) must be paid; and
 - (4) State that the city may initiate after such date a civil action to collect the civil penalties which are and may become due.
- (c) If the owner of an animal or other alleged violator does not respond to the above-described citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty. The city manager or his designee are expressly authorized to initiate and prosecute small claims actions in district court to collect civil penalties and fees due to the city under this Chapter.
- (d) Penalty severity: The severity of violations of the provisions of this chapter shall be as follows:
 - (1) Violation of the following shall constitute a level I violation:
 - a. Section 10-61. – Keeping of certain animals prohibited.
 - b. Section 10-62. – Swine.
 - c. Section 10-63. – Keeping of other farm animals.
 - d. Sec. 10-64. – Keeping of poultry.
 - e. Sec. 10-65. – Requirements for construction and maintenance of poultry enclosures.
 - f. Sec. 10-91. – Running at large.
 - g. Sec. 10-94. – Fouling public grounds.
 - h. Sec. 10-95. – Restraint of animals.
 - i. Sec. 10-97. – Excessive noises.
 - j. Sec. 10-123. – Transport of animals.
 - k. Sec. 10-151. – Vaccination of dogs and cats required.
 - l. Sec. 10-152. – Vaccination tag and certification.
 - m. Violation of any provision of this Chapter not otherwise provided for in this subsection (d).
 - (2) Violation of the following shall constitute a level II violation:
 - a. Section 10-66. – Disposal of dead chickens and other poultry.
 - b. Sec. 10-92. – Protection of birds.
 - c. Sec. 10-93. – Protection of squirrels.
 - d. Sec. 10-96. – Giveaways in public spaces.
 - e. Sec. 10-122. – Abandonment.
 - f. Sec. 10-153. – Bite notification.
 - g. Sec. 10-181. – Public nuisance.
 - (3) Violation of the following shall constitute a level III violation:

- a. Sec. 10-33. – Inspection, interference, or concealment.
- b. Sec. 10-121. – Unlawful treatment.
- c. Sec. 10-124. – Confinement of animals in motor vehicles.
- d. Sec. 10-125. – Animals used in entertainment, shows, and for exhibition.
- e. Sec. 10-184. – Enclosures and control measures.

Sec 10-213. – Civil penalty schedule

Civil Penalty Schedule				
	First Violation	Second Violation	Third Violation	Additional Violations
Level I	Warning	\$50	\$100	\$200
Level II	\$100	\$150	\$200	\$400
Level III	\$200	\$300	\$500	\$500

SECTION 2. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 3. It is the intention of the city council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 4. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

D. August 2023 Budget Amendments – Adam Murr, Budget Manager

TO MAYOR & COUNCIL

APPROVAL: August 09, 2023

FISCAL YEAR 2023

FORM: 08092023-01

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-1400-501001	Salaries- Regular	2,249,678	41,000	-	2,290,678
010-1400-521110	Protective Clothing	80,000	-	11,000	69,000
010-1400-524030	R&M Trucks	102,000	-	30,000	72,000
FUND 010	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	2,431,678	41,000	41,000	2,431,678

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 08092023-01 was approved by City Council on August 09, 2023.

TO MAYOR & COUNCIL

APPROVAL: August 09, 2023

FISCAL YEAR 2023

FORM: 08092023-02

BUDGET AMENDMENT

FUND 010/410

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	1,186,525	-	100,000	1,086,525
010-0000-598901	Transfer Out (to 410 Project #23001)	3,547,053	-	100,000	3,447,053
FUND 010	TOTAL REVENUES	4,733,578	-	200,000	4,533,578
	TOTAL EXPENDITURES	-	-	-	-
410-0000-470100-23001	Transfer In (From 010)	-	-	100,000	(100,000)
410-1502-519200-23001	Contract Services	-	-	100,000	(100,000)
FUND 410	TOTAL REVENUES	-	-	100,000	9,067,156
	TOTAL EXPENDITURES	-	-	100,000	(200,000)

An amendment decreasing fund balance appropriation in the General Fund (010) and Transfer In (410) to project #23001.

The City Manager and City Clerk certify budget ordinance amendment 08092023-02 was approved by City Council on August 09, 2023.

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-03

BUDGET AMENDMENT

FUND 410 460 468					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	403,000	30,250	-	433,250
410-0000-460090-VE024	Contributions/Donations	-	30,250	-	30,250
410-1300-554002-VE024	C/O-Vehicles (14-47, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-53, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-52, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-55, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-48, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-49, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-50, Un-marked)	40,000	-	-	40,000
410-1300-554002-VE024	C/O-Vehicles (New BGC Vehicle)	-	60,500	-	60,500
FUND 410 (Police)	TOTAL REVENUES	403,000	60,500	-	463,500
	TOTAL EXPENDITURES	403,000	60,500	-	463,500
410-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	430,000	-	-	430,000
410-1400-554001-VE024	C/O-Equipment (SCBAs)	325,000	-	-	325,000
410-1400-554002-VE024	C/O-Vehicles (14-61, SUV)	65,000	-	-	65,000
410-1400-554002-VE024	C/O-Vehicles (14-84, Truck)	40,000	-	-	40,000
FUND 410 (Fire)	TOTAL REVENUES	430,000	-	-	430,000
	TOTAL EXPENDITURES	430,000	-	-	430,000
410-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	469,000	-	-	469,000
410-1502-554002-VE024	C/O-Vehicles (Sustainability Vehicle)	50,000	-	-	50,000
410-1523-554002-VE024	C/O-Vehicles (16-03, 2500 Series)	63,000	-	-	63,000
410-1525-554002-VE024	C/O-Vehicles (14-30, 2500 Series)	53,000	-	-	53,000
410-1525-554002-VE024	C/O-Vehicles (14-58, 2500 Series)	53,000	-	-	53,000
410-1525-554001-VE024	C/O-Equipment (43-03 Ventrac)	100,000	-	-	100,000
410-1555-554001-VE024	C/O-Equipment (20-01 Dump)	150,000	-	-	150,000
FUND 410 (Public Works)	TOTAL REVENUES	469,000	-	-	469,000
	TOTAL EXPENDITURES	469,000	-	-	469,000
460-0000-470100-VE024	Transfer In (from 060)	589,000	-	-	589,000
460-7002-554002-VE024	C/O-Vehicles (All W&S Vehicles)	205,000	-	-	205,000
460-7002-554001-VE024	C/O-Equipment (42-06, Skid Steer)	100,000	-	-	100,000
460-7002-554001-VE024	C/O-Equipment (44-08 Excavator)	82,000	-	-	82,000
460-7002-554001-VE024	C/O-Equipment (LSL Crew Dump)	120,000	-	-	120,000
460-7002-554001-VE024	C/O-Equipment (LSL Crew Excavator)	82,000	-	-	82,000
FUND 460 (Water & Sewer)	TOTAL REVENUES	589,000	-	-	589,000
	TOTAL EXPENDITURES	589,000	-	-	589,000
468-0000-470100-VE024	Transfer In (from 010)	49,065	-	-	49,065
468-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	500,000	-	-	500,000
468-7855-554002-VE024	C/O-Vehicles (14-18, 3500 Series+Refuse Bed)	75,000	-	-	75,000
468-7855-554001-VE024	C/O-Equipment (61-17 Leaf Machine)	174,065	-	-	174,065
468-7855-554001-VE024	C/O-Equipment (Waste Truck)	300,000	-	-	300,000
FUND 468 (Env. Services)	TOTAL REVENUES	549,065	-	-	549,065
	TOTAL EXPENDITURES	549,065	-	-	549,065
An amendment increasing the FY24 Vehicle and Equipment CPO, #VE024 to reflect the acquisition of a Boys' and Girls' Club (BGC) Police Officer Vehicle. The vehicle acquisition will be funded 50% by a contribution from the BGC and 50% by the City through the FY24 vehicle and equipment loan.					

The City Manager and City Clerk certify budget ordinance amendment 08092023-03 was approved by City Council on August 09, 2023.

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-04

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-460090	Contributions/Donations	-	50,000	-	50,000
010-1200-519200	Contracted Services	225,000	50,000	-	275,000
FUND 010	TOTAL REVENUES	-	50,000	-	-
	TOTAL EXPENDITURES	-	50,000	-	-
An amendment increasing budget appropriations following the receipt of a \$50,000 a contribution for work on the City's Comprehensive Plan. The addition of the \$50,000 contribution brings the FY24 comp plan appropriation to a total of \$200,000.					

The City Manager and City Clerk certify budget ordinance amendment 08092023-04 was approved by City Council on August 09, 2023.

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-05

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470030	Insurance Proceeds	-	1,368	-	1,368
010-1525-524030	R&M Trucks	14,500	1,368	-	15,868
FUND 010	TOTAL REVENUES	-	1,368	-	1,368
	TOTAL EXPENDITURES	14,500	1,368	-	15,868
An amendment for an insurance reimbursement related to a vehicle accident					

The City Manager and City Clerk certify budget ordinance amendment 08092023-05 was approved by City Council on August 09, 2023.

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-06

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	2,716,519	100,000	-	2,816,519
010-1502-519200	Contract Services	22,800	100,000	-	122,800
FUND 010	TOTAL REVENUES	2,716,519	100,000	-	2,816,519
	TOTAL EXPENDITURES	22,800	100,000	-	122,800
An amendment increasing fund balance appropriation in the General Fund (010) for the Parks Master Plan					
The City Manager and City Clerk certify budget ordinance amendment 08092023-06 was approved by City Council on August 09, 2023.					

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2023
FORM: 08092023-07

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
080-0000-435001	H&W Charges	292,025	20,001	-	312,026
080-3101-519200	Contract Services	73,525	20,001	-	93,526
FUND 010	TOTAL REVENUES	-	20,001	-	312,026
	TOTAL EXPENDITURES	-	20,001	-	93,526
An amendment correcting the Health & Wellness Fund (080) in preparation for the FY23 audit.					
The City Manager and City Clerk certify budget ordinance amendment 08092023-07 was approved by City Council on August 09, 2023.					

E. Annexation: Certificate of Sufficiency – 2203 & 2205 N. Stoney View Court (Bullets Contracting, LLC) (C23-61-ANX) – Tyler Morrow, Planner II

Resolution #R-23-84

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made;

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

Section 1. A public hearing on the question of annexation of the contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. September 7th, 2023, or as soon thereafter as it may be heard.

Section 2. The area proposed for annexation is described as follows:

Being all of that real property consisting of PINs 9569-47-1183 and 9569-47-2203 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9569-47-1183 and 9569-47-2203 being described by metes and bounds as follows:

Being Lots 3 & 4 of Block A of Stoney Crest Subdivision, as shown on the plat thereof recorded in Plat Cabinet C at Slide 23, in the Office of the Register of Deeds for Henderson County, North Carolina, and being more particularly described as follows:

Beginning at a point on the northwestern right of way line of North Stone View Court at the common corner of Lots 4 & 5 of the aforementioned subdivision; thence along the common line between Lots 4 & 5 running North 74°31’01” West for 141.80 feet to a point on the southeastern limits of the City of Hendersonville; thence along the southeastern limits of the City of Hendersonville the following three (3) course to wit: (1) North 15°23’02” East for 74.40 feet; (2) North 14°50’’43” East for 24.81 feet; (3) North 14°50’43” East for 99.55 feet to a point at common corner of Lots 2 & 3 of the aforementioned subdivision; thence leaving the limits of the City of Hendersonville and along the common line between Lots 2 & 3 running South 74°39’12” East for 141.09 feet to a point on the Northwestern right of way line of North Stone View Court; thence along the northwestern right of way line of North Stone View Court the following two (2) courses to wit: (1) South 14°53’55” W for 99.55 feet; (2) South 14°53’55” W for 99.55 feet to the Point of Beginning.

Containing 0.64 acres (28,074 square feet), more or less.

Re: Petition for Contiguous Annexation
Petitioner: Bullets Contracting, LLC- Chris Miller, Manager
File No. C23-61-ANX

Section 3. Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

**F. Annexation: Certificate of Sufficiency – Townes at Martha Kate (C23-62-ANX) –
Tyler Morrow, Planner II**

Resolution #R-23-85

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC
HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2**

WHEREAS, a petition requesting annexation of the satellite area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made;

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

Section 1. A public hearing on the question of annexation of the satellite area described herein will be held at City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. September 7th, 2023, or as soon thereafter as it may be heard.

Section 2. The area proposed for annexation is described as follows:

Being all of that real property consisting of PIN 9569-75-0342 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-75-0342 being described by metes and bounds as follows:

Tract 1
Beginning on a 1/2" rebar, said rebar bearing NC Grid Coordinates of Northing – 596039.0349 and Easting – 966861.2601, and proceeding thence from beginning point thus established, S 21°59’23” E 26.02’ to a 1/2" rebar, thence S 28°05’48 E 69.57’ to a point in Queen Street, thence along with Queen Street the following five calls, S 46°01’56” E 13.80’ to a point, S 57°10’21” E 210.36’ to a point, S 46°42’31” E 113.30’ to a point, S 38°33’02” E 135.50’ to a point, S 38°10’56” E 267.63’ to a point, thence leaving Queen Street S 20°04’32” E 100.50’ to a 1/2" rebar located in the northern margin of North Main Street, thence with the northern margin of North Main Street on a non-tangent curve to the left with a radius of 291.69’ and an arc length of 98.42’ (chord - S 39°38’46”W, 97.95’) to a point, thence S 29°58’49”W 429.16’ to a point, said point being the easternmost point of “Possible Overlap Area” as described below, thence leaving the margin of North Main Street, N 13°10’06” W 18.25’ to a point, thence N 28°49’16” W 126.13’ to a point, thence N 60°17’30” W 232.38’ to a point, thence N 33°05’56” W 596.69’ to a point, thence N 55°47’26” passing a 1/2" rebar at a distance of 25.19’ for a total distance of 175.08’ to a 1” iron pipe, thence N 57°55’43” 277.19’ to the point and place of beginning. Containing 12.21 Acres Total and depicted as Tract 1 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Possible Overlap Area
Beginning on a point in the northern margin of North Main Street, said point being the southeastern corner of Tract 1 as described above, and proceeding from said beginning point thus established, S 29°58’49” W 61.59’ to a point, thence N 38°29’37” W 379.20’ to a point, thence S 60°17’30” E 232.38’ to a point, thence S 28°49’16” E 126.13’ to a point, thence S 13°10’06” E 18.25’ to the point and place of beginning. Containing 0.47 Acres and depicted as Possible Overlap Area on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Tract 2
Beginning on a point located in the southern margin of North Main Street, said point being located S 47°18’15” 61.51’ from the southeastern corner of the “Possible Overlap Area” as described above, and proceeding from beginning point thus established with the southern margin of North Main Street, N 29°58’49” E 363.42’ to a point in the centerline of Ochlawaha Drive, thence with the centerline of Ochlawaha Drive, S 17°13’56” E 67.56’ to a mag nail, thence S 18°39’06” E 157.80’ to a point, thence on a curve to the right with a radius of 125.00’ and an arc length of 97.34’ (chord S 03°39’25” W 94.90’) to a point in the western margin of Ochlawaha Drive, thence S 25°58’04” W 47.05’ to a point, thence N 60°14’45” W 82.23’ to a point, thence N 53°13’35” W 58.00’ to a point, thence N 64°07’55” W 90.81’ to a point, thence N 56°54’56” W 68.43’ to the point and place of beginning. Containing 1.52 Acres and depicted as Tract 2 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Re: Petition for Satellite Annexation
Petitioners: Townes at Martha Kate LLC (Rick Moore, Manager)
File No. C23-62-ANX

Section 3. Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

G. Utility Extension Agreement for the Orchard View Subdivision – *Brendan Shanahan, City Engineer*

Resolution #R-23-86

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH CARROLLWOOD DEVELOPMENT LLC AND CARROLLWOOD DEVELOPMENT CORPORATION FOR THE ORCHARD VIEW SUBDIVISION

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 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 and sewer line extension processes; and

WHEREAS, Carrollwood Development LLC, the “Developer”, and Carrollwood Development Corporation, the “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer services to the Orchard View Subdivision.

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

1. The Utility Extension Agreement with Carrollwood Development LLC, the “Developer”, and Carrollwood Development Corporation, the “Owner”, to provide water service to the Orchard View Subdivision 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 on this 9th day of August, 2023.

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

H. Utility Extension Agreement for the Park Residences at Highland Lake Village Subdivision – *Brendan Shanahan, City Engineer*

Resolution # R-23-87

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH REAL PLACES, INC., (FORMERLY KNOWN AS HIGHLAND LAKE, INC.) FOR THE PARK RESIDENCES AT HIGHLAND LAKE VILLAGE SUBDIVISION

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

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

WHEREAS, the Developer extends public water and gravity 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 processes; and

WHEREAS, Real Places, Inc., (formerly known as Highland Lake, Inc.), the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Park Residences at Highland Lake Village Subdivision.

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

1. The Utility Extension Agreement with Real Places, Inc., (formerly known as Highland Lake, Inc.), the “Developer” and “Owner” to provide water service to the Park Residences at Highland Lake Village Subdivision 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 on this 9th day of August, 2023.

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

I. Approval of United Financial, a Division of Home Trust Bank to Provide Installment Financing for Vehicles and Equipment Purchased in Fiscal Year 2023-2024 – John Buchanan, Finance Director

Resolution #R-23-88

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE FINANCING TERMS FOR THE PURCHASE OF VEHICLES AND EQUIPMENT

WHEREAS, The City of Hendersonville has previously determined to undertake a project for the financing of vehicles and equipment, and

WHEREAS, United Financial has provided a proposal with an acceptable interest rate and terms to meet the City’s needs; and

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

1. The City of Hendersonville hereby determines to finance the purchase of vehicles and equipment through United Financial, in accordance with the proposal dated July 11, 2023. The amount financed shall not exceed \$902,000 with an annual interest rate of 3.8% for a term of 4 years, and a proposal dated July 19, 2023 with an amount not to exceed of \$882,000 with an annual interest rate of 3.93% for a term of 7 years.
2. All financing contracts and all related documents for the closing of the financing shall be consistent with the foregoing terms. City staff are hereby authorized to and directed to execute and deliver any financing documents, and to take all such action as they may consider necessary to carry out the financing as contemplated by the proposal and this resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

J. Fee Schedule Amendments – Jenny Floyd, Budget and Management Analyst

Ordinance: O-23-49

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND SECTION 8 OF THE FISCAL YEAR 2023-24 BUDGET ORDINANCE TO AMEND THE FEE SCHEDULE FOR WATER AND SEWER FEES AND RATES

SECTION 8: That there is hereby adopted an official Fee Schedule listing specific fees, licenses, and utility rates charged by the City of Hendersonville for the use of City facilities and equipment for the purposes of making them available to the public, utility rates the proceeds of which are for the maintenance and expansion utility systems, the reproduction of public records and other miscellaneous services to cover the actual cost of producing

these documents and information under the provision of NCGS 132-6.2 and other various fees associated with enhanced direct services provided by the City. The Fee Schedule is incorporated herein by reference and shall be placed in the office of the City Clerk.

WHEREAS, on June 1st, 2023 the City adopted the FY24 fee schedule; and

WHEREAS, additional changes are needed for the fee schedule to reflect all changes to the updated water and sewer charges.

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

1. Section 8 of the Fiscal Year 2023-24 Budget Ordinance for the City of Hendersonville shall be amended, effective August 10th, 2023, to revise the Fee Schedule as follows:

Water		
Outside City Limits		
Base Charge by Meter Size		
3/4"	\$11.23	
1"	\$13.11	
1 1/2"	\$17.75	
2"	\$23.70	\$31.16
3"	\$37.63	
4"	\$57.51	
6"	\$107.19	
8"	\$166.81	
Volumetric Charges		
Residential		
0 to 6,000 gallons	\$6.05 per 1000 gallons	
6,000 to 14,000 gallons	\$6.65 per 1000 gallons	
14,000 gallons and greater	\$7.56 per 1000 gallons	
Commercial/Industrial		
0 to 40,000 gallons	\$6.05 per 1000 gallons	
40,000 to 200,000 gallons	\$5.78 per 1000 gallons	
200,000 gallons and greater	\$5.13 per 1000 gallons	
Irrigation		
0 to 40,000 gallons	\$7.56 per 1000 gallons	
40,000 gallons and greater	\$8.06 per 1000 gallons	
Sewer		
Inside City Limits		
Volumetric Charges		
All Usage	\$6.33 per 1000 gallons	\$6.88 per 1000 gallons
Sewer Only-Flat Rate	\$32.98 per month	\$37.31 per month

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

K. Lower Mud Creek Floodplain Restoration Engineering Services Selection– Michael Huffman, Stormwater Division Manage

Resolution #R-23-89

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A FIRM TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE LOWER MUD CREEK FLOODPLAIN RESTORATION PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM

WHEREAS, the City of Hendersonville advertised a request for qualifications for professional engineering services for the City of Hendersonville and;

WHEREAS, Wildlands Engineering was determined to have the highest aggregate score and was most frequently ranked as the highest firm by each reviewer; and

WHEREAS, firms Jennings Environmental, RES Inc., and RVE, were the next highest-ranking firms in order; and

WHEREAS, a contract for service is still to be established;

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 contract for professional engineering services for the lower mud creek floodplain restoration project with Wildlands Engineering on behalf of the City and
2. If negotiations fail, the City Manager is directed to negotiate a contract with the next most qualified firm based on the rankings provided in the RFQ review sheet, said contract to be consistent with the terms of this Resolution;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

L. Comprehensive Stormwater Master Planning Services Contract Amendment –
Michael Huffman, Stormwater Division Manager

Resolution #R-23-90

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING AN
AMENDMENT TO THE WK DICKSON CONTRACT FOR THE COMPREHENSIVE STORMWATER
MASTER PLANNING PROJECT**

WHEREAS, the City of Hendersonville advertised a request for qualifications for comprehensive master planning services for the City of Hendersonville and;

WHEREAS, WK Dickson was determined to have the highest aggregate score and was most frequently ranked as the highest firm by each reviewer; and

WHEREAS, City Council previously authorized an agreement with WK Dickson in an amount not to exceed \$500,000; and

WHEREAS, City stormwater management staff, along with WK Dickson, have secured additional funding, bringing the total available funds for this project to \$530,000;

WHEREAS, staff has requested City Council to authorize an amendment to the WK Dickson agreement to increase the maximum authorized amount to \$530,000;

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 an amendment to the contract for the stormwater master planning project with WK DICKSON 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 scope of work;
 - b. Breaking the scope of work into Phases if appropriate, and
 - c. Amending the contract in the future to amend the scope of work or activate future phases,

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; and
- b. The total of funds authorized under this Resolution shall not exceed \$530,000.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

**M. Lower Mud Creek Floodplain Restoration Grant Administration and Project
Management – Michael Huffman, Stormwater Division Manager**

Resolution #R-23-91

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO DIRECT THE CITY
MANAGER TO NEGOTIATE A CONTRACT WITH THE LAND OF SKY REGIONAL COUNCIL FOR
TECHNIAL SERVICES ASSISTANCE FOR THE LOWER MUD CREEK FLOODPLAIN
RESTORATION PROJECT (23006)**

WHEREAS, the City of Hendersonville has received funding from NC Land and Water Fund and the NC Division of Water Infrastructure to complete the Lower Mud Creek Floodplain Restoration project and;

WHEREAS, Land of Sky Regional Council can provide Technical Service Assistance in the form of Grant Administration and Project Management; and

WHEREAS, a contract for service is still to be established;

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 contract for Technical Services Assistance for the Lower Mud Creek Floodplain Restoration project with the Land of Sky Regional Council on behalf of the City

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

N. Grant Agreement for the Lower Mud Creek Restoration Project - Michael Huffman, Stormwater Division Manager

Resolution #R-23-92

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING A GRANT AGREEMENT WITH THE NORTH CAROLINA LAND AND WATER FUND FOR THE LOWER MUD CREEK RESTORATION PROJECT

WHEREAS, the City of Hendersonville has been awarded a grant of \$1,120,929 by the North Carolina Land and Water Fund (the “Fund”), a division of the Department of Natural and Cultural Resources for the lower Mud Creek Restoration Project; and

WHEREAS, the City has received a draft grant agreement to govern the City’s use and the Funds disbursement of the grant; and

WHEREAS, staff has requested City Council to approve the grant agreement and authorize it’s finalization and execution by the City Manager;

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

1. The Grant Contract – Restoration of Degraded Streams or Other Waters (Flood Risk Reduction with Land Acquisition – Government) (the “Grant Agreement”) is hereby approved.
2. The City Manager is authorized to negotiate, finalize and execute the Grant Agreement on behalf of the City in consultation with the City Attorney and stormwater management staff, including future amendments thereto, provided, however, that the following conditions shall apply: the Grant Agreement 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 agreement or any such amendment.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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

6. PRESENTATIONS

A. Public Art Mural Proposal for Sullivan Park – Crystal Cauley

Crystal Cauley spoke about a public art mural for Sullivan Park. She feels a mural on the asphalt would be very beautiful and welcoming which would include, hopscotch, four square and maybe a walking maze and would draw children there. The Arts Council of Henderson County has agreed to be involved with this as well. She asked City Council if they would approve her doing an art mural. The slab would need to be resurfaced and then they would form a committee and they would do a professional call for artists and ask many artists to give their feedback, as well as getting citizen feedback. She also showed a stage that could feature local artists and musicians. Examples would be local story tellers, educators and numerous non-profits that focus on children. You could also do things like music in the park. There are many opportunities and the feedback has been positive. Council asked if she could send specs for what she has in mind and she said she would. Mayor Volk said that we have a Parks and Greenspace Committee and this can be mentioned to them to be considered.





B. Recognition of Jessica Pomerleau, Recruitment & Retention Officer for obtaining the Society for Human Resources CP Certification – Jennifer Harrell, Human Resources Director

Jennifer Harrell presented Jessica Pomerleau with her SHRM certificate and explained that she recently passed the examination obtaining the Society for Human Resources Certified Professional (SHRM-CP) Certification. The SHRM certificate is one of the most highly recognized international Human Resources certifications that may be obtained and is recognized and valued in all industries. To become SHRM certified, one must demonstrate not only an understanding of contemporary theoretical knowledge, but also the ability to translate this knowledge into property action in the workplace.

C. Quarterly MVP Recipients – John Connet, City Manager

City Manager John Connet introduced the three recipients of the MVP award for April through June quarter of 2023 as selected by the Service Excellence Design Team.

Jay Heatherly (Administration)

Jay was on the phone with a contractor for IT work at the parking deck. The contractor relayed that an individual was hooking something up to their exhaust. After getting more information, Jay determined that this was a dangerous situation, simultaneously contacted HPD and got emergency personnel on the scene, which resulted in saving someone's life. Jay is always willing and able to [help](#) and this is just another example of his positive attitude and care for our community. Thank you, Jay!



Justin Maybin (Water & Sewer)

Justin maintains the City generators including those at the pump stations. Someone disposed of old tires on an obscure road leading to one of our pump stations off Highland Lake Rd. Justin took it on himself to clean up the mess even though it was arguably not on City property.

**Steve Alverson (Human Resources)**

(from citizen) I tripped this morning over an unpainted speed bump on Wall St and Fourth Ave and incurred injuries on my left knee and left elbow. I called Steve Alverson's office to report this. He came to my business and informed me that the speed bump was now painted yellow. Seeing my injuries, Steve called Fire Service personnel who treated my elbow. Steve also offered to get some gauze and antibacterial medicine for me. I think he went way above the call of duty.

**7. PUBLIC HEARINGS**

- A. Street Closure: Order to Close Unnamed 20' alley (between City Hall and N. Edwards Street) (C23-44-SCL) – Tyler Morrow, Planner II**

This item was pulled from the agenda at the beginning of the meeting. The petitioner withdrew their petition.

8. UNFINISHED BUSINESS**9. NEW BUSINESS**

- A. Parking Changes – Brian Pahle, Assistant City Manager**

Assistant City Manager Brian Pahle explained that due to the parking ordinance revision, amendments to the City's fee schedule related to the new parking services system were required.

Council Member Jerry Smith moved that City Council adopt An Ordinance of the City of Hendersonville City Council to Amend Section 8 of the Fiscal Year 2023-24 Budget Ordinance to Amend the Fee Schedule for Parking Services Fees and Rates as presented. A unanimous vote of the Council followed. Motion carried.

- B. Parking Ordinance Amendments – Angela Beeker, City Attorney**

Assistant City Manager Brian Pahle explained that attached for City Council's consideration are proposed amendments to Chapter 50 of the Hendersonville Code of Ordinances, the Parking Ordinance provisions. These changes will do the following:

1. Clarify that up to three license plates may be assigned to a City monthly parking permit.
2. Clarify that of the three license plates assigned to a City monthly parking permit, only one vehicle may be parked in the permitted parking facilities at any given time.
3. Allowing the City Manager to invoke the flat rate parking fee contained within the City's fee schedule for special events, holidays, or any other time where needed due to traffic, overcrowding or other public safety concerns.
4. Change the increments for billing for paid parking to 15 minute for on-street paid parking, and 30 minutes for surface lots and the parking deck.
5. Removing the 30-minute time limit for previously limited parking spaces on Main Street by approving the amended Official Parking Map, included in this agenda packet.
6. Making it a misdemeanor and adopting a \$500.00 civil penalty for persons climbing or sitting on the walls of the parking deck.

Council Member Lyndsey Simpson moved to adopt An Ordinance to Amend Chapter 50, Traffic, Article V Stopping, Standing and Parking, of the City Of Hendersonville Code of Ordinances and to Amend the Official City Parking Map as presented. A unanimous vote of the Council followed. Motion carried.

10. BOARDS/COMMITTEE APPOINTMENTS

A. Planning Board Appointment – Jill Murray, City Clerk

At their July 6th meeting, Council Member Jennifer Hensley appointed Laura Flores to the Planning Board. Since Ms. Flores is also on the Board of Adjustment, Council asked the City Clerk to get in touch with Ms. Flores to make sure that she is not on any other boards or committees, City or otherwise. The City Clerk spoke with Ms. Flores and she assured her that she is not on any other boards.

Council Member Jennifer Hensley moved that City Council appoint Laura Flores to the Planning Board. A unanimous vote of the Council followed. Motion carried.

B. Formation of Community Advisory Committee – Lew Holloway, Community Development Director

Community Development Director Lew Holloway explained that in an effort to provide community-driven feedback over the course of the Comprehensive Planning process, the City's consultant team of Bolton & Menk have requested that the City establish a Community Advisory Committee (CAC). This committee will be made up of a wide range of citizens and leaders within various sectors. The attached list provides a framework for identifying potential committee members. The consultants recommend a range of 12-15 appointed members for this type of committee.

Composition of Community Advisory Committee		Potential Organizations	Prospective Member Name (Suggestions)	Confirmed ?	Address	Contact		
Sectors	Government							
	City Leadership	City Council Liason						
	Other Boards / Commissions	Planning Board	Jim Robertson (Board Chair);	YES		jim.robertson@bldr.com		
	Business Leaders							
	Commercial Property Owners		Bill McKibbin	???				
	Economic Development/Industry Rep	The Partnership	Jamie Justus	YES		jamie@hcped.org		
	Business Organization	Chamber of Commerce; TDA	Mark Williams	YES				
	Community							
	Neighborhood Reps (including Historically Disadvantaged Communities, Hispanic Community, LGBTQ+)							
	Neighborhood Representatives	Green Meadows/7th Ave	David Wright	YES	Lincoln Circle	davidwright6370@gmail.com	(828) 290-4652	
	Neighborhood Representatives	Green Meadows/7th Ave						
	Neighborhood Representatives	Lenox Park	Beth Stang (Lenox Park Resident & Chief Public Defender)	YES		BethWStang@gmail.com		
	Neighborhood Representatives	Brookland Manor	Luke Slomba	YES	300 Balsam Rd. Hendersonville NC 28792	L.u.k.e.s.l.o.m.b.a@gmail.com		
	Neighborhood Representatives	Druid Hills/191	Chris Dannals (MD)	YES		prattdannals@gmail.com		
	Neighborhood Representatives	Rte 64 East	Kyle Gilgis	YES	Wolfpen	kyle.gilgis@hotmail.com		
	Neighborhood Representatives	Westside	Bob Johnson	YES; can't make	216 Fleming Street	rdigorillas@yahoo.com	828-638-1955	
	Neighborhood Representatives	Hyman Heights	Kathy Watkins	YES; can't make		kathywatkins40@gmail.com		
	Neighborhood Representatives	Medical District	Samantha Jamison (810 Knollwood Dr)	NO	Moving to Durham in Fall	sjamison1023@gmail.com		
	Civic Non-Profits	United Way	Denise Cumbee-Long (United Way)	YES		dlong@liveunitedhc.org		
	Civic Non-Profit	El Centro/Pisgah Legal	Angie Pena (El Centro-Board/Pisgah Legal)	Emailed & Called	No response as of Council Appointment Date	chair@elcentrehvl.org		
	Youth Population (HS/MS Student)	Hendersonville HS	Brock Hill	YES		bhill0182@stu.hcpsnc.org	828-808-1277	
	Aging Population (Seniors)	HC Aging Coalition	Alicia Evans (Council on Aging)	YES		aevans@coahc.org		

Council Member Lyndsey Simpson moved that City Council appoint the people as presented on the list by the Planning Director. A unanimous vote of the Council followed. Motion carried.

C. Additional Tree Ordinance Committee Appointment Request – John Connet, City Manager

City Manager John Connet explained to Council that the Partners for Economic Progress (PEP) have requested that City Council appoint Ken Gordon as an additional member to the Tree Ordinance Committee.

Council Member Lyndsey Simpson moved that City Council appoint Ken Gordon to the Tree Ordinance Committee. A unanimous vote of the Council followed. Motion carried.

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

A. August 2023 Contingency Report – John Connet, City Manager

City Manager Connet explained that in accordance with State Statute 159-13(b) it is required that all expenditures resulting from a contingency appropriation budget be reported to the governing board at its next regular meeting and recorded in the minutes. The following contingency appropriations were made due to higher than anticipated Worker’s Comp Insurance costs:

1. Decrease Fund 010 contingencies by \$8,289 for Worker’s Comp. Insurance

a. Increase 010-1002-502091 by \$8,289
2. Decrease Fund 060 contingencies by \$8,289 for Worker’s Comp. Insurance

b. Increase 060-1002-502091 by \$8,289

B. Cash and Investment Report – John Connet, City Manager

City Manager Connet says this report shows how your idle cash is invested.

Cash and Investment Summary

	4/30/23	6/30/23
U.S. Treasuries	\$ 0.00	\$ 0.00
Agencies	1,498,225.00	1,498,225.00
Commercial Paper	0.00	0.00
NCCMT Mutual Fund	9,276,025.14	9,348,263.83
NCCMT Cash Fund	9,812,512.02	2,821,694.42
Wells Fargo H&W	65,892.81	76,137.44
Wells Fargo Operating Account	6,576,341.47	7,808,596.67
Total	\$ 27,228,996.44	\$ 21,552,917.36

Undisbursed Bond Proceeds

2019 Revenue Bond	\$ 303,791.77	\$ 230,561.76
2021 LOB	\$ 2,363,405.62	\$ 2,363,291.32
2022 Revenue Bond	\$ 1,698,384.30	\$ 964,063.08
2022 IFC Fire Station	\$ 15,647,162.70	\$ 15,522,344.19
2023 Revenue Bond		\$ 7,753,701.38
2023 City Hall/Ops Construction		\$ 6,273,082.22

Mr. Connet added that as a reminder, the Apple Festival is coming in about three weeks and the mini golf course is moving right along and on schedule and the landscaping has been installed and looks really good and I think you will be very pleasantly surprised.

12. CITY COUNCIL COMMENTS –

Lyndsey Simpson said that all of the info about Gen H that’s out there is an opportunity to speak up and come to the meetings and sign up for emails because this guides everything we do.

13. CLOSED SESSION – There was no closed session.

14. ADJOURN

There being no further business, the meeting was adjourned at 6:46 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST: _____
Jill Murray, City Clerk