



# MINUTES

August 4, 2022

## REGULAR MEETING OF THE CITY COUNCIL [ELECTRONIC] CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk and Council Members: Mayor Pro Tem Lyndsey Simpson, Dr. Jennifer Hensley, and Debbie O'Neal-Roundtree

Present Remotely: Jerry A. Smith Jr., J.D.

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

### 1. CALL TO ORDER

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

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

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

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

Ken Fitch addressed Council remotely via Zoom electronic software regarding the Berkeley Park and Edwards Park exchange and requested the ballpark be preserved due to the local historical significance.

Mayor Volk read comments submitted electronically from the following person.

Louis Meserow submitted digital comments in opposition to the “director of diversity” position.

Rodney Gilliam addressed City Council regarding his internship with the City. Mr. Gilliam extended thanks and appreciation to the Fire Department staff and said his recent ride-a-long was a very positive experience.

### 4. CONSIDERATION OF AGENDA

City Manager John Connet requested Council remove Item 5C, Sole Source Purchase of a Standby Generator for the Fire Station 1 Project and Item 9F, Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP) Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP) from consideration.

*Council Member Lyndsey Simpson moved that City Council approve the agenda as amended, removing Item 5C, Sole Source Purchase of a Standby Generator for the Fire Station 1 Project and Item 9F, Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP) Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP). A unanimous roll-call vote of the Council followed. Motion carried.*

### 5. CONSENT AGENDA

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

*I move that City Council approve the minutes of adopt the minutes of the July 7, 2022 Regular Meeting as presented.*

#### B. **Resolution to Accept an Offer of American Rescue Plan Funding** – Adam Steurer, Utilities Engineer

*I move that City Council approve the Resolution By The City Of Hendersonville City Council To Accept An Offer Of Funding From The State Fiscal Recovery Fund Established In S.L. 2021-180 To Assist Eligible Units Of Government With Meeting Their Water/Wastewater Infrastructure Needs.*

**Resolution #R-22-87****RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT AN OFFER OF FUNDING FROM THE STATE FISCAL RECOVERY FUND ESTABLISHED IN S.L. 2021-180 TO ASSIST ELIGIBLE UNITS OF GOVERNMENT WITH MEETING THEIR WATER/WASTEWATER INFRASTRUCTURE NEEDS**

**WHEREAS**, the City of Hendersonville has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

**WHEREAS**, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$5,000,000 to perform work detailed in the submitted applications, entitled WWTF Ultraviolet Disinfection Improvements and WWTF Aeration Basin No. 2 Repairs and Rehabilitation, and

**WHEREAS**, the City of Hendersonville intends to perform said project in accordance with the agreed scope of work,

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

1. The City of Hendersonville does hereby accept in the American Rescue Plan Grant offer of \$5,000,000.
2. That the City of Hendersonville does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
3. That John Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**C. ~~REMOVED: Sole Source Purchase of a Standby Generator for the Fire Station 1 Project~~**

**D. Sole Source Purchase of Ortho Phosphate - Ricky Levi, Water Treatment Facilities Manager**

*I move that City Council approve the Resolution by the City of Hendersonville City Council to Authorize the continued Sole-Source Purchase of Ortho Phosphate for the City Water Treatment Plant.*

**Resolution #R-22-89****RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF ORTHO PHOSPHATE FOR THE WATER TREATMENT PLANT**

**WHEREAS**, the City's Water Treatment Plant utilizes Ortho Phosphate; and

**WHEREAS**, Ortho Phosphate is required by the state for corrosion control; and

**WHEREAS**, Ortho Phosphate is a proprietary blend called 70/30 Ortho Poly with a total PO4 value of 36 percent; and

**WHEREAS**, Ortho Phosphate is only available from one source of supply. While there are alternative products in the market, no other vendors offer this particular blend; and

**WHEREAS**, the City has used this blend for roughly 15-20 years and utilizing a different blend would create a need to for an entirely new corrosion study with the state and the changeover would take 3-6 months to replace within the distribution system. This would significant budgetary overages, would cause regulatory issues with the state, and would cause issues with corrosion control (ie. Lead and copper); and

**WHEREAS**, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract; and

**WHEREAS**, staff are requesting to continue to utilize Worx on Ortho Phosphate City-wide by asking that Council approve this sole source request; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that a sole-source purchase of Ortho Phosphate is authorized for the City's Water Treatment Plant.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**E. Utility Easement Contract Resolution with AT&T – John Connet, City Manager**

*I move that City Council approve the resolution authorizing the City Manager to enter into option contract with AT&T for a 12 x18 utility easement in the Dogwood Parking Lot.*

**Resolution #R-22-90**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO AN OPTION CONTRACT WITH  
AT&T FOR A 12 X18 UTILITY EASEMENT IN THE DOGWOOD PARKING LOT**

**WHEREAS**, the North Carolina General Statutes authorize municipalities to enter grant utility easements to private utilities for the expansion of public infrastructure; and

**WHEREAS**, AT&T is currently developing plans to install additional fiber optic cable in downtown Hendersonville; and

**WHEREAS**, the Hendersonville City Council has made it a priority to expand fiber optic infrastructure in Hendersonville; and

**WHEREAS**, the identified 12x18 area in the Dogwood Parking Lot is an appropriate location for utility infrastructure.

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

1. The City Manager is authorized to enter into an option contract with AT&T for a 12X18 utility easement along 5<sup>th</sup> Avenue in the Dogwood Parking Lot.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**F. Sole Source Purchase of Bicarbonate - Ricky Levi, Water Treatment Facilities Manager**

*I move that City Council approve the Resolution by the City of Hendersonville City Council to Authorize the continued Sole-Source Purchase of Bicarbonate for the City Water Treatment Plant.*

**Resolution #R-22-91**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE SOLE-SOURCE PURCHASE OF BICARBONATE FOR THE WATER  
TREATMENT PLANT**

**WHEREAS**, the City's Water Treatment Plant utilizes Bicarbonate; and

**WHEREAS**, Bicarbonate is required by the state for providing required alkalinity level; and

**WHEREAS**, Bicarbonate is a proprietary blend called Alkalinity First and is only available from one source of supply in this area as they are the only authorized area distributor; and

**WHEREAS**, this is a granular technical grade Bicarbonate, which ensures consistent levels of alkalinity that other products cannot offer; and

**WHEREAS**, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract; and

**WHEREAS**, staff are requesting to continue to utilize Univar on Bicarbonate City-wide by asking that Council approve this sole source request; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that a sole-source purchase of Bicarbonate is authorized for the City's Water Treatment Plant.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**G. Sole Source Purchase of Coagulant - Ricky Levi, Water Treatment Facilities Manager**

*I move that City Council approve the Resolution by the City of Hendersonville City Council to Authorize the continued Sole-Source Purchase of Coagulant for the City Water Treatment Plant.*

**Resolution #R-22-92**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE SOLE-SOURCE PURCHASE OF COAGULANT FOR THE WATER  
TREATMENT PLANT**

**WHEREAS**, the City's Water Treatment Plant utilizes Coagulant; and

**WHEREAS**, Coagulant is required by the state for coagulation, flocculation, and sedimentation; and

**WHEREAS**, Coagulant is a proprietary blend only available from one source of supply; and

**WHEREAS**, While there are other alternative non-coagulant products, none have this particular blend which required for the efficient operations of our facility; and

**WHEREAS**, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract; and

**WHEREAS**, staff are requesting to continue to utilize CedarChem on Coagulant City-wide by asking that Council approve this sole source request; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that a sole-source purchase of Coagulant is authorized for the City's Water Treatment Plant.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**H. 7<sup>th</sup> Ave. Streetscape Construction Manager at Risk Selection** – *Adela Gutierrez Ramirez, Civil Engineer I*

*I move that City Council approve a Resolution directing the City Manager to negotiate a contract with Harper General Contractors to provide construction manager at risk services, based on their review as most qualified firm to perform the work.*

**Resolution R-22-93**

**RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR CONSTRUCTION MANAGER AT RISK SERVICES WITH A SELECTED FIRM FOR THE SEVENTH AVENUE STREETSCAPE PROJECT**

**WHEREAS**, the City of Hendersonville advertised a request for qualifications for construction manager at risk services for a Seventh Avenue Streetscape Project; and

**WHEREAS**, Harper General Contractors was determined to have the highest aggregate score and was most frequently ranked as the highest firm by each reviewer; and

**WHEREAS**, firms Frank L. Blum Construction, Crowder Construction, and First Victory were the next highest-ranking firms in order; and

**WHEREAS**, the City Council may authorize the City Manager to complete contract negotiations on the behalf of City Council for construction manager at risk services; and

**WHEREAS**, a contract for services is still to be established; and

**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 a contract for construction manager at risk services with Harper General Contractors on behalf of City Council..
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.
3. The final negotiated agreement shall be presented to City Council for its approval.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**I. Engineering Services for the WWTF Aeration Basin No. 2 Repairs and Rehabilitation Project**– *Adam Steurer, Utilities Engineer*

*I move that City Council approve the Resolution By the City Council to select McKim & Creed, Inc. as most qualified to provide engineering services and authorize the City Manager To Enter Into a Contract for Engineering Services for the WWTF Aeration Basin No. 2 Repairs and Rehabilitation Project.*

**Resolution #R-22-94**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR ENGINEERING SERVICES FOR THE WWTF AERATION BASIN NO. 2 REPAIRS AND REHABILITATION PROJECT**

**WHEREAS**, the City owns and operates a wastewater treatment facility (WWTF), which contains a concrete aeration basin structure that is bowing outwards and showing signs of stress fractures; and

**WHEREAS**, the City desires to repair and rehabilitate this concrete aeration basin to ensure structural stability and prolong the useful life of the structure; and

**WHEREAS**, City Staff have performed a qualifications-based selection, determined McKim & Creed, Inc. as most qualified, and received a proposal from McKim & Creed, Inc. to provide Engineering Services to support the project; and

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

1. McKim & Creed, Inc. is most qualified to provide professional engineering services for the project, as recommended by Staff.
2. The scope of engineering services from Hazen and Sawyer is approved in the amount of \$240,499
3. The City Manager is authorized to execute an agreement with McKim & Creed, Inc. consistent with the terms of this Resolution, as approved by the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**J. Authorization to Purchase Patrol Vehicles – Blair Myhand, Chief of Police**

*I move that City Council approve the purchase of seven patrol vehicles from Performance Automotive in the amount of \$242,169.64 under State Contract 070A, as presented.*

*Council Member moved that Dr. Jennifer Hensley moved that City Council approve the consent agenda as amended. A unanimous roll-call vote of the Council followed. Motion carried.*

**6. PRESENTATIONS**

**A. Quarterly MVP Recipients – John Connet, City Manager**

City Manager John Connet and Mayor Barbara G. Volk recognized quarterly MVP recipients for outstanding customer service to the citizens of Hendersonville: Will Justice, Ricky Mahaffey, Patrick Corn; Paul Williams; and Matt Capps.

**7. PUBLIC HEARINGS**

**A. Annexation: Public Hearing- Crest Road (Army Corps. of Engineers) (C22-43-ANX) – Tyler Morrow, Planner II**

Community Development Planner II, Tyler Morrow stated the City has received a petition from the United States of America, Ralph J. Werthmann of the Army Corps of Engineers, Savannah District for satellite annexation of PIN 9587-68-8771 located on Crest Road that is approximately 20.603 acres. Mr. Morrow recalled the Council accepting the Clerk's certificate of sufficiency on July 7, 2022, for the petition.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 5:59 p.m.

There were no comments.

The public hearing was closed at 6:00 p.m.

*Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance of the City of Hendersonville to annex noncontiguous property owned by the United States of America, identified as PIN 9587-68-8771, finding that the standards established by North Carolina General Statute 160A-58.1 have been satisfied and that the annexation is in the best interest of the City. A unanimous roll-call vote of the Council followed. Motion carried.*

**Ordinance #O-22-48****AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
EXTEND THE CORPORATE LIMITS OF THE CITY AS A SATELLITE ANNEXATION**

Re: Petition for Satellite Annexation

Petitioners: United States of America, Ralph J. Werthmann- Army Corps of Engineers-  
Savannah District  
File No. C22-43-ANX

**WHEREAS**, The City of Hendersonville has been petitioned by Ralph J. Werthmann- Army Corps of Engineers- Savannah District pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein below; and,

**WHEREAS**, the City Clerk has investigated and certified the sufficiency of said petition; and,

**WHEREAS**, a public hearing on the question of this annexation was held at the City Operations Center at 305 Williams Street, Hendersonville, NC at 5:45 pm, on the 4<sup>th</sup> day of August 2022, after due notice by publication as provided by law on July 24<sup>th</sup> 2022; and

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

- a. All of the proposed satellite corporate limits are less than three miles from the primary corporate limits of Hendersonville. The map distance is approximately 9,850’.
- b. The proposed satellite corporate limits are closer to the primary corporate limits of the Village of Flat Rock (9,300’). The City of Hendersonville and the Village of Flat Rock reentered their annexation agreement on August 3rd, 2018. The area to be annexed is located within the area that the participating municipalities agreed will not be annexed by the Village of Flat Rock and could be annexed by the City of Hendersonville.
- c. The area described is so situated that the City of Hendersonville will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- d. The area proposed for annexation is not a subdivision as defined in NCGS 160A-376.
- e. The area within the proposed satellite corporate limits, when added to the areas within all other satellite corporate limits does not exceed 10 percent (10%) of the area within the primary corporate limits of the City of Hendersonville.

**WHEREAS**, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

- 1: By virtue of the authority granted by N.C.G.S. 160A-58.2, as amended, the following described noncontiguous area is hereby annexed and made part of the City of Hendersonville as of the 4th day of August 2022.

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page \_\_\_\_\_ of the Henderson County Registry, and being also all of that real property described in deed of record in Deed Book 3904 at page 139 of the Henderson County Registry, and being described by metes and bounds as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00’04”W and a grid distance of 4,930.99 feet from NGS monument “DEND” (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet; thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10’46”E a distance of 707.56 feet to a 3/4” iron pipe found; thence continuing with the Ramey line N53°49’25”W a

distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to an 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216) ; thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
- (2) thence along a curve to the left with an arc length of 217.51 feet having a radius of 2,065.79 feet and a chord bearing of S38°24'15"W and chord distance of 217.41 feet to a computed point,
- (3) thence along a tangent S35°23'16"W a distance of 295.16 feet to a computed point,
- (4) thence along a tangent S36°18'13"W a distance of 77.31 feet to a computed point,
- (5) thence along a curve to the right with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
- (6) thence along a tangent S52°58'01"W a distance of 46.25 feet to a computed point,
- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,
- (8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled Satellite Annexation Plat for: "The City of Hendersonville" dated May 24, 2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina.

All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

- 2: Upon and after the fourth day of August 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**B. Rezoning: Standard Rezoning – Crest Rd – US Army (P22-47-RZO) – Matthew Manley, AICP, Planning Manager**

Community Development Planning Manager, Matt Manley stated the City received an annexation application from the United States Army Corp of Engineers for a 19.96-acre tract along Crest Rd adjacent to Upward Elementary School. Mr. Manley clarified the applicant has not requested zoning and said staff are initiating zoning for this parcel from County - Industrial to City of Hendersonville I-1, Industrial. Mr. Manley explained the zoning designation I-1 permits a wide range of high intensity commercial and industrial uses along with residential uses and does not include design standards. He said this zoning district is considered to be the City's most intense zoning district classification. Mr. Manley stated the I-1 zoning district provides exceptions to the size limitations which trigger CZDs and said Government Facilities are not one of the uses that are exempted from the 50,000 Sq Ft trigger.



Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:07 p.m.

There were no comments.

The public hearing was closed at 6:07 p.m.

*Council Member Debbie O'Neal-Roundtree moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9587-68-8771) from Henderson County Industrial Zoning District to City of Hendersonville I-1 (Industrial) Zoning District based on the following: The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the proposed Industrial zoning presents an opportunity to improve the land use balance as called for in Chapter 8 of the City's 2030 Comprehensive Plan. Additionally, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because the proposed zoning is compatible with surrounding land uses and the proposed zoning presents an opportunity for additional employment. Furthermore, we recommend designating the Future Land Use of the parcel as Regional Activity Center. A unanimous roll-call vote of the Council followed. Motion carried.*

**Ordinance #O-22-49**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBERS 9587-68-8771) CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY INDUSTRIAL ZONING DISTRICT TO CITY OF HENDERSONVILLE I-1 (INDUSTRIAL) ZONING DISTRICT**

IN RE: Parcel Numbers: 9587-68-8771  
Crest Rd-US Army (File # P22-47-RZO)

**WHEREAS**, the Planning Board took up this application at its regular meeting on July 11, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on August 4, 2022, and

**WHEREAS**, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on August 4, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9587-68-8771 from Henderson County Industrial Zoning District to City of Hendersonville I-1 (Industrial) Zoning District.
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**C. Zoning Text Amendment: Animal Hospitals & Clinics in MIC (P22-58-ZTA) –**  
*Matthew Manley, AICP, Planning Manager*

Community Development Planning Manager, Matt Manley stated the City is in receipt of an application for a zoning text amendment from Andrew Riddle for an amendment to the list of permitted uses in the MIC (Medical, Institutional, & Cultural) Zoning District (Sec. 5-10-1) to include the use of animal hospital & clinic. Mr. Manley stated animal hospitals and clinics are not permitted in the MIC Zoning District currently and said staff are also proposing to make clarifications and corrections related to animal hospitals & clinics and animal boarding facilities elsewhere in the zoning code.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The public hearing was opened at 6:15 p.m.

Ken Fitch addressed Council remotely via Zoom electronic software requesting consideration of adequate setbacks between medical and residential uses.

The public hearing was closed at 6:17 p.m.

*Council Member Lyndsey Simpson moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article V. – Zoning District Classifications, Section 5-10-1. and Section 5-12-1. ‘Permitted Uses’; And Article XII. – ‘Definition Of Terms’, Section 12.2 – ‘Definition of Commonly Used Terms And Words’, based on the following: the petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because the 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose. We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the petition addresses additional opportunities for the provision of services for pets and other animals within the City of Hendersonville’s zoning jurisdiction and the proposed use aligns with the intent of the MIC Zoning District to serve as a medical district. A unanimous roll-call vote of the Council followed. Motion carried.*

**Ordinance #O-22-50**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AMEND ARTICLE V. – ZONING DISTRICT CLASSIFICATIONS, SECTION 5-10-1.  
AND SECTION 5-12-1. PERMITTED USES; AND ARTICLE XII. – DEFINITION OF  
TERMS, SECTION 12.2 – DEFINITION OF COMMONLY USED TERMS AND  
WORDS OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO  
ADDRESS STANDARDS ANIMAL HOPITALS & CLINICS**

**WHEREAS**, the Planning Board reviewed this petition for a zoning text amendment at its regular meeting on July 11, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance; and

**WHEREAS**, City Council took up this application at its regular meeting on August 4, 2022; and

**WHEREAS**, City Council has found that this zoning text amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated; and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on August 4, 2022; and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville to amend Article V. – Zoning District Classifications, Section 5-10-1. and Section 5-12-1. ‘Permitted Uses’; And Article XII. – ‘Definition Of Terms’, Section 12.2 – ‘Definition of Commonly Used Terms And Words’ be amended as follows to permit Animal Hospitals & Clinics in the MIC Zoning District and to make additional clarifications and corrections.

**ARTICLE V. - ZONING DISTRICT CLASSIFICATIONS**

**Section 5-10. - Medical, Institutional and Cultural Zoning District Classification (MIC).**

**5-10-1. Permitted uses.**

The following uses are permitted by right in the MIC Medical Institutional Cultural Zoning District Classification, provided they meet all requirements of this section and all other requirements established in this appendix:

Accessory dwelling units subject to supplementary standards contained in section 16-4 below

Accessory uses and structures

Adult care centers registered with the NC Department of Health and Human Services (DHSS)

Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Animal hospitals and clinics as long as they contain no outdoor kennels

Banks and other financial institutions

Childcare centers subject to supplementary standards contained in section 16-4, below

Childcare homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Congregate care facilities subject to supplementary standards contained in section 16-4, below

Home occupations

Hospitals

Laundries, coin-operated

Music and art studios

Neighborhood community centers

Nursing homes subject to supplementary standards contained in section 16-4, below

Offices, business, professional and public

Parking lots and parking garages

Parks

Personal services consistent with the purposes of this classification, such as barber and beauty shops, medical and dental labs and clinics, opticians and optical services and prosthetics & orthopedics

Planned residential developments (minor)

Progressive care facilities subject to supplementary standards contained in section 16-4, below

Public and semi-public buildings

Religious institutions

Residential care facilities subject to supplementary standards contained in section 16-4, below

Residential dwellings, single-family

Residential dwellings, two-family

Rest homes subject to supplementary standards contained in section 16-4, below

Retail stores consistent within the purposes of this classification, such as gift shops, florist shops and pharmacies

Schools, post-secondary, business, technical and vocational

Signs, subject to the provisions of article XIII

Telecommunications antennas, subject to supplementary standards contained in section 16-4, below

### **Section 5-12. - I-1 Industrial Zoning District Classification**

5-12-1. Permitted uses.

Animal hospitals and clinics ~~subject to supplementary standards contained in section 16-4, below~~ as long as they contain no outdoor kennels

### **ARTICLE XII. - DEFINITION OF TERMS**

#### **Sec. 12-2. - Definition of commonly used terms and words.**

Animal boarding facility: A facility whose primary purpose is the boarding of household pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. ~~t~~The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

#### **D. Rezoning: Standard Rezoning – 1027 Fleming St-Riddle (P22-57-RZO) – Matthew Manley, AICP, Planning Manager**

Community Development Planning Manager, Matt Manley stated the City received a zoning map amendment petition from Andrew Riddle of Riddle Development, LLC for the subject property (PIN: 9569-60-2887) located at 1027 Fleming Street to rezone the property from MIC-SU to the base MIC zoning district. Mr. Manley stated the subject property was a part of a 3.33-acre development which previously received special use zoning approval in 2006 (zoning for large-scale projects which predated what is now known as conditional zoning). Mr. Manley stated this was subsequently modified in 2008 for the construction of professional office and retail uses and said the existing building at this site was already constructed and zoned C-3 prior to the approval of the special use zoning. Mr. Manley said the remainder of the proposed development was never constructed and said the 2008 site plan approved for this development is now voided.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:24 p.m.

Ken Fitch addressed City Council via Zoom electronic software in support of the rezoning stating the action removes inconsistencies. Mr. Fitch additionally requested consideration regarding preservation of the existing stone pillars on the property which were remnants of the Fassifern complex.

The public hearing was closed at 6:26 p.m.

***Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9569-60-2887) from MIC-SU (Medical, Institutional & Cultural – Special Use) zoning district to MIC (Medical, Institutional & Cultural) zoning district based on the following: the petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the Goals & Strategies of LU-12 – ‘Urban Institutional’ calls for primary recommended land uses which align with the proposed MIC zoning. Furthermore, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because MIC is the zoning district established for the area surrounding Pardee Hospital, the property is located in an area designated as a “Priority Infill Area” according to the City’s Comprehensive Plan, and the subject property***

*contains an existing office building and is well-suited to house a range of uses permitted in the MIC. A unanimous roll-call vote of the Council followed. Motion carried.*

**Ordinance #O-22-51**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBER: 9569-60-2887 BY CHANGING THE ZONING DESIGNATION FROM MIC-SU (MEDICAL, INSTITUTIONAL & CULTURAL – SPECIAL USE) ZONING DISTRICT TO MIC (MEDICAL, INSTITUTIONAL & CULTURAL) ZONING DISTRICT**

IN RE: Parcel Number: 9569-60-2887  
1027 Fleming St-Riddle (File # P22-57-RZO)

**WHEREAS**, the Planning Board took up this application at its regular meeting on July 11, 2022; voting 5-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on August 4, 2022, and

**WHEREAS**, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on August 4, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Number: 9569-60-2887 from MIC-SU (Medical, Institutional & Cultural – Special Use) Zoning District To MIC (Medical, Institutional & Cultural) Zoning District.
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August, 2022.

/s/Barbara G. Volk, Mayor

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

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

**E. Installment Financing Contract (IFC) 2022- Adam Murr, Budget Manager**

Budget Manager, Adam Murr provided a brief project history of Fire Station 1, acquisition of a new fire ladder and fire engine, and of the construction of new Edwards Park amenities, including a mini-golf course. Mr. Murr stated the City intends to enter into an installment financing contract to finance the projects and provided an initial resolution which authorizes the City Manager, staff, special counsel, and financial advisors to negotiate financing for the projects, not to exceed \$18,500,000.00 in accordance with NCGS160A-20. Mr. Murr stated the resolution additionally authorizes an application to the Local Government Commission (LGC) and approval of special counsel, Parker Poe, and financial advisors, First Tryon Advisors.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:29 p.m.

Lynne Williams addressed City Council via Zoom electronic software asking for consideration of a historic report on the project property and asked Council for more compromise of preservation of Boyd Park.

The public hearing was closed at 6:31 p.m.

*Council Member Debbie O’Neal-Roundtree moved that City Council adopt the Resolution of the City Council of the City of Hendersonville, North Carolina, Authorizing the Negotiation of an Installment Financing Contract and Providing for Certain Other Related Matters Thereto as presented. A unanimous roll-call vote of the Council followed. Motion carried.*

**Resolution #R-22-95**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**

**WHEREAS**, the City of Hendersonville, North Carolina (the “City”) is a municipal corporation existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the “State”);

**WHEREAS**, the City has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

**WHEREAS**, the City Council of the City (the “City Council”) hereby determines that it is in the best interest of the City to (1) enter into an installment financing contract (the “Contract”) with a financial institution to be determined (the “Bank”) in order to pay the costs of (a) constructing and improving fire and emergency services facilities, including (i) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site and (ii) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the “Fire Facilities Projects”), (b) relocating the Laura-Corn mini-golf course to Edwards Park, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the “Parks and Recreation Project” and collectively with the Fire Facilities Projects, the “Projects”) and (c) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the “Vehicles” and together with the Projects, the “2022 Projects”) and (2) in order to provide security for the City’s obligations under the Contract, grant to the Bank a security interest under a deed of trust, security agreement and fixture filing (the “Deed of Trust”) on all or a portion of the sites of the Projects and improvements thereon and a security interest in the Vehicles as may be required by the Bank;

**WHEREAS**, the City staff has retained (1) Parker Poe Adams & Bernstein LLP, as special counsel (“Special Counsel”) and (2) First Tryon Advisors, as financial advisor, in connection with the proposed installment financing;

**WHEREAS**, the City Council hereby determines that the 2022 Projects are essential to the City’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2022 Projects will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the City by virtue of the findings presented herein;

**WHEREAS**, the City Council hereby determines that such cost of the 2022 Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

**WHEREAS**, although the cost of financing the 2022 Projects pursuant to the Contract and the Deed of Trust is expected to exceed the cost of financing the 2022 Projects pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of financing the 2022 Projects pursuant to the Contract and Deed of Trust and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond

financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the 2022 Projects; and (3) insufficient revenues are produced by the 2022 Projects so as to permit a revenue bond financing;

**WHEREAS**, the City Council hereby determines that the estimated cost of financing the 2022 Projects pursuant to the Contract and the Deed of Trust allows the City to finance the 2022 Projects at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the City and reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

**WHEREAS**, the City does not anticipate a future property tax increase to pay installment payments falling due under the Contract but an increase in taxes, if any, necessary to meet the sums to fall due under the Contract will not be excessive.

**WHEREAS**, Special Counsel will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

**WHEREAS**, no deficiency judgment may be rendered against the City in any action for its breach of the Contract, and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

**WHEREAS**, the City is not in default under any of its debt service obligations;

**WHEREAS**, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget Ordinance;

**WHEREAS**, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the Local Government Commission of North Carolina (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

**WHEREAS**, a public hearing on the Contract, the Deed of Trust and the 2022 Projects, after publication of a notice with respect to such public hearing, was held on August 4, 2022 and approval of the LGC with respect to entering the Contract must be received; and

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

Section 1. ***Authorization to Negotiate the Contract and the Deed of Trust.*** That the City Manager, the Assistant City Manager and the Finance Director (the "*Authorized Officers*"), individually or collectively, with advice from the City Attorney, Special Counsel and the City's financial advisor, are hereby authorized and directed to negotiate on behalf of the City (1) the financing of the 2022 Projects for a principal amount of approximately \$18,500,000.00 under the Contract to be entered into with the Bank in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended, and (2) the provision of a security interest in the Vehicles and/or under the Deed of Trust in the City's fee simple interest on all or a portion of the sites of the Projects, together with all improvements and fixtures located thereon, as may be required by the Bank providing the funds to the City under the Contract to secure the City's obligations thereunder.

Section 2. ***Application to LGC.*** The Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the City and its financial condition as may be required by the LGC.

Section 3. ***Approval of the Financing Team.*** Parker Poe Adams & Bernstein LLP has been retained by the City to serve as special counsel and First Tryon Advisors been retained to serve as financial advisor. The Authorized Officers, with advice from the City Attorney and Special Counsel, are hereby authorized to retain the assistance of other professionals as they deem necessary and desirable to carry out the intention of this Resolution.

Section 4. ***Ratification.*** All actions of the City and its officials, whether previously or hereafter taken in effectuating the proposed financing as described herein, are hereby ratified, authorized and approved.

Section 5. ***Repealer.*** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 6. ***Effective Date.*** This Resolution is effective on the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August, 2022.

/s/Barbara G. Volk, Mayor

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

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

## 8. UNFINISHED BUSINESS

### A. Board & Commission Vacant Seat Appointments – *Angela L. Reece, City Clerk*

#### 1. Board of Adjustment

*Council Member Lyndsey Simpson moved that City Council appoint Frederick Nace and Laura Flores to serve a term on the Board of Adjustment ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Lyndsey Simpson moved that City Council appoint Peter Hanley to serve an unexpired term on the Board of Adjustment ending June 30, 2023. A unanimous roll-call vote of the Council followed. Motion carried.*

## 9. NEW BUSINESS

### A. Proposal to Adjust Second Monthly Meeting Agenda Rules – *John Connet, City Manager*

City Manager John Connet recalled Council previously establishing the following informal meeting rules governing their second monthly meetings:

- The meeting will last no more than two hours and will be presentation in nature.
- No formal action/votes will be taken.
- If there is nothing to discuss, the meeting will be canceled.
- The meeting will be held at a regularly scheduled date/time.

Manager Connet discussed the need to add non-controversial, administrative matters to the second monthly meeting and to allow formal action and votes on certain matters in order to shorten the regular monthly meeting agenda.

Manager Connet proposed the following revision:

- The meeting will last no more than two hours.
- If there is nothing to discuss, the meeting will be canceled.
- The meeting will be held at a regularly scheduled date/time.
- Formal action/votes will be taken on matters which are non-controversial in nature including the following:
  - Board and Commission Appointments
  - Financial and Bidding Items
  - Internal Policy Amendments
  - Non-Controversial Contract Matters

Manager Connet further clarified there would be no public hearings held at the second monthly meeting. Council Members agreed to the revisions to their informal rules as presented. [Second monthly meetings are held on the fourth Wednesday of each month at 4:00 p.m. at the City Operations Center Assembly Room located at 305 Williams St.]



**B. Update Regarding Remote Meetings – Angie Beeker, City Attorney**

City Attorney Angela S. Beeker provided an update regarding Governor Cooper's State of Emergency order expiration on August 15, 2022. Attorney Beeker provided legal advice to Council regarding remote meeting participation and recommended discontinuing the practice until additional guidance from the NC General Assembly is provided. After much discussion City Council conceded to discontinue remote meetings for themselves and all City advisory boards and committees until further notice effective on August 15<sup>th</sup> with the expiration of Governor Cooper's State of Emergency. Mayor Barbara G. Volk and Council Member Jerry A. Smith Jr., J.D. clarified that meetings will still be offered electronically to allow public participation and commenting.

**C. Pickleball Court Discussion – Tom Wooten, Public Works Director and Mark Stierwalt, Public Works Superintendent**

Public Works Superintendent Mark Stierwalt presented information regarding pickleball offerings at Patton Park. Mr. Stierwalt presented information regarding conditions of current tennis and basketball courts as well as discussed costs of repair and various options. Mr. Stierwalt discussed Council preferences for location, number, and types of courts to be offered. Mr. Stierwalt discussed refinishing existing courts and relocating the current pickle ball court to the soft ball field and said this option is more costly due to stream restoration needs. Mayor Barbara G. Volk stated she is not in favor of a multi court facility and instead preferred smaller facilities for community use. Council Member Dr. Jennifer Hensley stated she supports a larger facility and said she believes there is a high local demand. After much discussion, Council requested additional information and diagrams before a decision is made.

**D. Resolution Authorizing the Exchange of Approximately Sixteen Acres of Berkeley Park for Edwards Park – John Connet, City Manager**

City Manager John Connet recalled numerous Council discussions regarding the exchange of approximately sixteen acres of Berkeley Park, including the historic baseball stadium and \$250,000, for Edwards Park with Henderson County Public Schools. Manager Connet stated in addition to the property exchange and financial contribution, the Henderson County Public Schools will have the first right of refusal for additional Berkeley Park property if economic development Project Independence does not move forward.

*Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt the Resolution to Authorize the Exchange of Property Between City of Hendersonville and Henderson County Board of Public Education, as presented. A unanimous roll-call vote of the Council followed. Motion carried.*

**Resolution #R-22-96**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE EXCHANGE OF PROPERTY BETWEEN CITY OF  
HENDERSONVILLE AND HENDERSON COUNTY BOARD OF PUBLIC EDUCATION**

**WHEREAS**, the Henderson County Board of Public Education, hereinafter "Board of Education," is the owner of that property, commonly known as Edwards Park, being that +/- 1.47-acre parcel of property shown on plat slide 13621 of the Henderson County Registry, having acquired it by that deed recorded in Book 825 at Page 670 of the Henderson County Registry, said 1.47-acre parcel being hereinafter referred to as "Edwards Park";

**WHEREAS**, the City of Hendersonville, hereinafter "City," is the owner of that property, commonly known as "Berkely Park, being that property shown on Plat Slide 7333 of the Henderson County Registry, having acquired it by that deed recorded in Deed Book 1363 at Page 221 of the Henderson County Registry, said property being hereinafter referred to as "Berkely Park,"; and

**WHEREAS**, the City of Hendersonville wishes to acquire Edwards Park, for the relocation of the Laura Corn Minigolf; and

**WHEREAS**, Board of Education wishes to acquire approximately 16 acres of Berkeley Park, including the historic baseball stadium, for Hendersonville High School athletic facilities, the approximate 16 acres being substantially shown and identified as "+/- 16.0-acre parcel" on Exhibit A, attached hereto and incorporated herein by reference, said +/- 16.0-acre parcel being hereinafter referred to the "+/- 16.0 Acre Tract; and

**WHEREAS**, the City of Hendersonville is willing to convey the +/- 16.0 Acre Tract and pay \$250,000, to the Board of Education in exchange for the Board of Education's conveyance of Edwards Park to the City; and

**WHEREAS**, the City of Hendersonville is willing to give the Board of Education a right of first refusal for the +/- 21.34 acre remaining portion of Berkely Park located on the north side of Balfour Road if not used or conveyed by the City for economic development purposes, upon the terms set forth hereinbelow, said +/- 21.34 acres being shown and identified on the attached Exhibit A as "+/- 21.34 acre parcel," and referred to hereinafter as the "Berkely Remainder Parcel"; and

**WHEREAS**, NCGS 160A-274 authorizes the City to sell, lease convey or exchange properties with the Board of Education upon such terms as City Council deems advisable.

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

1. The proposed property exchange with the Board of Education is approved upon the following terms and conditions:
  - a. The City will convey the +/- 16.0 Acre Tract to the Board of Education.
  - b. The City will pay \$250,000 to the Board of Education.
  - c. The Board of Education will convey Edwards Park to the City.
  - d. The City will grant an option to the Board of Education for the Berkely Remainder parcel upon the following terms:
    - i. The option shall only be effective if the Berkely Remainder Parcel is not used or conveyed by the City for economic development purposes within a reasonable time from the date of closing on the property exchange approved by this Resolution (+/- 16.0 Tract plus \$250,000.00 for Edwards Park), and once effective, the option shall be valid for a term of one year;
    - ii. The price for the Board of Education's exercise of the option (i.e. the purchase of the Berkely Remainder Parcel) shall be the payment to the City of \$350,000, plus the conveyance to the City of a +/- 1.0 acre tract that is a portion of the Board of Education administrative offices property, located at 414 4<sup>th</sup> Avenue West, Hendersonville, NC, having a PIN of 9568676778, said 1.0 acre tract being substantially as shown on Exhibit B, attached hereto and incorporated by reference.
  - e. If conveyed to the City of Hendersonville, the +/- 1.0 acre tract shown on Exhibit B shall be restricted to use as a park or green space available for public use between the hours of 7am and 7 pm only. The City of Hendersonville may hold supervised events after 7 pm upon advanced notice to the Superintendent.
  - f. The City of Hendersonville will reserve an easement around the perimeter of the +/- 16.0 Acre Tract, and if conveyed to the Board of Education, the Berkely Remainder Parcel for the purposes of a greenway, and for the future installation of utilities (water & sewer) and stormwater improvements, as may be required. Said easement shall have a minimum width of 20 feet.
  - g. At no cost to the public, the Board of Education will grant the public access to the +/- 16.0 Acre tract, and if conveyed, the Berkely Remainder Parcel, including but not limited to any tennis courts constructed, but specifically excluding the historic baseball stadium and any athletic fields constructed by or on behalf of the Board of Education.
  - h. The City will grant a right of first refusal to the Board of Education for Edwards Park and the 1.0-acre tract shown on Exhibit B.
  - i. The Board of Education will grant a right of first refusal to the City for the +/- 16.0-acre tract and, if conveyed, the Berkely Remainder Parcel. Any right of first refusal granted by the Board of Education will be subject to Henderson County's statutory right of first refusal.

2. The Mayor, City Manager and City Attorney are authorized to negotiate, make, enter into, and execute contracts, deeds, easements, boundary line agreements, the right of first refusal, and any and all other documents, and to take any and all actions, reasonably necessary to carry out the terms of this Resolution, including but not limited to making conveyances and reasonable expenditures for costs and expenses for the purposes stated herein.
3. Notwithstanding the foregoing, the adoption of this Resolution shall not be considered as a contract, nor as a legally binding obligation of the City of Hendersonville, but this Resolution shall serve as the authority for the Mayor, City Manager, City Attorney to enter into legally binding obligations on behalf of the City of Hendersonville, consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August, 2022.

/s/Barbara G. Volk, Mayor

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

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

**E. Resolution Authorizing the Installation of a Stop Sign at the Intersection of Maple Street and 8th Avenue East – John Connet, City Manager**

City Manager John Connet stated city staff have been working to resolve a traffic issue associated with student pick up at Bruce Drysdale Elementary School. Manager Connet proposed a solution to utilize Maple Street and 8<sup>th</sup> Avenue to stage parents as they wait to for dismissal of school but said installation of a new stop sign at the intersection of Maple Street and 8<sup>th</sup> Avenue East would be necessary. Council Member Dr. Jennifer Hensley stated traffic would be greatly reduced if parents were allowed to walk their children to school and recalled a new rule prohibiting this passed this past year which has tripled vehicle traffic in this area.

*Council Member Lindsey Simpson moved that City Council adopt the resolution authorizing the Director of Public Works to install a stop sign in the north bound lane of Maple Street at the intersection of Maple Street and 8th Avenue East. A unanimous roll-call vote of the Council followed. Motion carried.*

**Resolution #R-22-97**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING THE PUBLIC WORKS DIRECTOR TO INSTALL A STOP SIGN AT THE INTERSECTION OF 8<sup>TH</sup> AVENUE AND MAPLE STREET**

**WHEREAS**, Sec. 50-181 of the Hendersonville City Code authorizes the director of public works to install traffic control devices with the approval of the City Council; and

**WHEREAS**, the intersection of Maple Street and 8<sup>th</sup> Avenue East only has stop signs on 8<sup>th</sup> Avenue East and the south bound lane of Maple Street; and

**WHEREAS**, Maple Street is a narrow residential street and being used by cut through traffic and is proposed to be utilized for the Bruce Drysdale Elementary School parent pick up line; and

**WHEREAS**, there is a need to create a three-way stop at the intersection of Maple Street and 8<sup>th</sup> Avenue East.

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

The Director of Public Works is authorized to install a traffic control device (Stop Sign) in the north bound lane of Maples Street at the intersection of Maple Street and 8<sup>th</sup> Avenue East.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of August 2022.

/s/Barbara G. Volk, Mayor

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

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

**F. REMOVED: ~~Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP)~~****10. CITY COUNCIL COMMENTS**

Council Member Debbie O’Neal-Roundtree invited the public to the 7<sup>th</sup> Avenue branding and vision meeting on Tuesday, August 9<sup>th</sup> at 7:00 p.m. at the City Operations Center and also reminded everyone the Back to School Fest will be held on Sunday August 21<sup>st</sup> at Sullivan Park at 3:00 p.m.

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

City Manager John Connet presented the following reports to Council for information and consideration.

**A. Surplus Items Memo** – *John Connet, City Manager*

**B. Cash and Investment Report** - *John Buchanan, Finance Director*

**C. August 2022 Contingences Report** – *Adam Murr, Budget Manager*

**12. ADJOURN**

There being no further business, the meeting was adjourned at 7:42 p.m. upon unanimous assent of the Council.

\_\_\_\_\_  
Barbara G. Volk, Mayor

ATTEST:

\_\_\_\_\_  
Angela L. Reece, City Clerk