



MINUTES

June 28, 2023

SECOND MONTHLY MEETING OF THE CITY COUNCIL CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 4:00 p.m.

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

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

1. **CALL TO ORDER**

Mayor Barbara G. Volk called the meeting to order at 4:00 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. **CONSIDERATION OF AGENDA**

Council Member Jerry Smith asked to add one item to the agenda as he had a question from the Parks & Recreation Committee.

Council Member Jennifer Hensley moved to approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.

3. **CONSENT AGENDA**

A. Interlocal Agreement to Provide for Environmental Regulations Governing the Ecusta Trail – Angela S. Beeker, City Attorney

Resolution #23-70

RESOLUTION TO APPROVE INTERLOCAL AGREEMENT FOR ECUSTA TRAIL GOVERNANCE

WHEREAS, Henderson County is the Tenant of the property, owned by the Ecusta Rails2Trail, LLC, a North Carolina nonprofit corporation (“ER2T”), obtained by ER2T by way of that special warranty deed recorded in Book of Record 2764 at Page 590 of the Henderson County Registry, for the development of a greenway along the former railroad corridor, running from Transylvania County to a point in Henderson County (the “R2T Property”); and

WHEREAS, the lease (the “Lease”) between Henderson County and ER2T dated November 1, 2021, for the R2T Property provides that the County will construct and maintain a greenway within the portions of the R2T Property lying in Henderson County (the “R2T Greenway”); and

WHEREAS, Henderson County has requested that the R2T Property be governed by the County’s flood damage prevention (Subpart A of Article VIII of Chapter 42 of the Henderson County Code), stormwater regulation, and water supply watershed protection (both Subpart B of Article VIII of Chapter 42) (the three together, the “Regulations”) and the City of Hendersonville and the Town of Laurel Park have agreed; and

WHEREAS, Henderson County, Laurel Park and the City of Hendersonville wish to enter into an interlocal agreement as allowed by N.C.G.S. Chapter 160A, Article 20, and N.C.G.S. Chapter 160D-202(f) and (i) to carry out these terms as agreed.

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

1. The Interlocal Agreement between Henderson County, the Town of Laurel Park, and the City of Hendersonville providing for the governance of the R2T Property by the Regulations is approved as presented.
2. The Mayor is authorized to sign the Interlocal Agreement.
3. Hendersonville City staff are authorized to take such actions as may be necessary to implement the terms of the Interlocal Agreement.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 28th day of June, 2023.

B. Resolution to accept grant funds – Mark Stierwalt, Public Works

Resolution #R-23-71

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
ACCEPTING A GRANT FROM THE HENDERSON COUNTY TDA
FOR THE PURPOSE OF CONSTRUCTION OF A DISC GOLF COURSE

WHEREAS, the Henderson County TDA (HCTDA) has established a grant that provides funding for a destination enhancement grant; and

WHEREAS, the City of Hendersonville has within its park system has land suitable and designated for a disc golf course; and

WHEREAS, the City of Hendersonville, in particular its Public Works division applied for a grant from the HCTDA to establish a disc golf venue; and

WHEREAS, the City’s has been awarded \$20,000.00 by the HCTDA to be used for the Allowable Purposes; and

WHEREAS, the City of Hendersonville desires to accept the grant funds, and authorize the execution of the grant funding agreement.

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

1. The City hereby accepts the grant from the HCTDA to be used for the Allowable Purposes; and
2. The City Manager is authorized to execute the Grant Agreement, with such changes as he deems appropriate, provide they are consistent with the terms of this Resolution;
3. City Staff are authorized and directed to proceed with the development of the disc golf course.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 28th day of June, 2023.

Council Member Lyndsey Simpson moved to approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

4. PRESENTATIONS

A. Downtown Parking Update – Brian Pahle, Assistant City Manager

Assistant City Manager Brian Pahle gave a brief update on downtown parking. He talked about the goals, occupancy, citations given, what we’re hearing from business owners and citizens, and potential options.

PARKING IN HENDERSONVILLE

GOALS OF THE PROGRAM

- Create Parking Availability
- Move E’ees off Main St.
- Create Easy to Use System (w/ options)
- More Permit Availability
- Maintain Active Business District

WHY DO WE NEED PARKING MANAGEMENT?

parking demand paradigm by: WALKER CONSULTANTS

OCCUPANCY TO DATE

Hist. Occupancy (lots)	28%	22%	25%	36%	28%	20%	15%	15%	22%	28%	28%	28%	25%	
Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total	
Actual Occupancy														
Lots									35%	33%	39%			36%
Main/Ave.									39%	39%	40%			39%
Deck									8%	11%	17%			12%
Average									27%	28%	32%			29%
Actual Revenues														
Lots									10,664	9,919	11,600			32,183
Main/Ave.									45,391	45,951	47,645			138,987
Deck									6,302	8,719	13,230			28,250
Total									62,357	64,589	72,475			199,421
Estimated Occupancy	32%	25%	28%	40%	32%	23%	17%	17%	27%	28%	32%	32%	28%	
Estimated Revenue	72,028	56,216	63,881	91,324	71,577	51,497	39,171	38,306	62,357	64,589	72,475	72,028	755,448	

- Historical Avg. from Lots
- Trend is Positive
- Gard. Jub. Deck Usage + Lessons
- Revenues on Pace with Model

- Rev. Potential Per Space
 - Lots = \$3,010
 - Main/Ave = \$6,020
 - Deck = \$3,650

CITATIONS TO DATE

Month	Total Citations	Actual Citations	Appeals Approved	Appeals Rejected
March	729	52	5	7
April	478	41	10	4
May	858	104	9	11
June	852	79	15	13
Total	2,917	276	39	35
Average	729	69	10	9

- Mostly Warnings ~90% of Tickets

- Appeals are being granted
- Generating ~\$3k in Rev. per month
- ~64% Collection Rate

BALANCING ACT

WHAT WE'RE HEARING

- Business is Hurting (H)
 - Other Econ. Factors
 - Parking Stress
- Most Agree E'ees Off MS (H)
 - Some Disagree
- First Hour Free is Confusing (H)
- For Customers, its a Feeling (H)
- Balance btw Turnover/Leisure (H)
- Make Payment Easier (H)
 - Volunteer Ambassadors
 - Some Store Owners AAK

- Competition with Mall/Online (H)
- Hurting First Dinner Seating (H)
- Hurting Breakfast (H)
- A Lot at Once (H)
- Age Friendly System (H)
- Some Businesses Will Go Under (H)
- Safety For E'ees (H)
- Tech Errors (H)
 - Can't Extend Time Ex.

BALANCING ACT

POTENTIAL OPTIONS

- Remove 30-Minute Zones (ST)
 - ADA Spaces Free (ST)
 - Citation Rates are High (ST)
 - More Signage/Kiosks (ST)
 - Aggressive Marketing (ST)
 - Free Parking
 - How to Pay
 - Permits
 - Parking Validation Setup (ST)
 - Expand Count on Permit (ST)
 - Pay by Half-Hour (ST)
- Enforcement Hours (LT)
 - Resident Discount/Permit (LT)
 - Avenue Rate Diff. (LT)
 - Make Avenues Free
 - Lower Rates (LT)
 - South-end Permits (LT)

ST = Short-term Solution (within 3 months)

LT = Long-term Solution (> 1-year)

BALANCING ACT

POTENTIAL OPTIONS

DAC DIRECTION

- Remove 30-Minute Zones (ST)
 - ADA Spaces Free (ST)
 - Citation Rates are High (ST)
 - More Signage/Kiosks (ST)
 - Aggressive Marketing (ST)
 - Free Parking
 - How to Pay
 - Permits
 - Parking Validation Setup (ST)
 - Expand Count on Permit (ST)
 - Pay by Half-Hour (ST)
- Remove (Unanimous)
 - Keep Paid (8-2)
 - Lower to \$25 (Unanimous)
 - Case by Case (Unanimous)
 - Pursue (Unanimous)

 - Pursue (Unanimous)
 - Pursue to 3 or 4
 - Pursue (5 15 min. | 5 30 min.)

ST = Short-term Solution (within 3 months)

BALANCING ACT

POTENTIAL OPTIONS

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TAKEAWAYS

WHAT’S NEXT

- Focus on UX
 - Continued Listening/Observing
 - Adjust as Necessary
 - Balance Between Priorities
 - Occupancy Study
 - Proactive Approach to Available Parking Resources
-
- Council Direction 06.28.2023

WHY DO WE NEED PARKING MANAGEMENT?



Consensus of Council was that the DAC recommendations are good, i.e., 15 minute increments and look for a solution to resident parking permits.

B. Proposed Regulations related to predatory towing and wheel locks - Daniel Heyman, Staff Attorney

City Attorney Angela Beeker discussed the regulation of involuntary towing and commercial parking lots in the City of Hendersonville. The City Council requested that Legal staff research regulations to protect the public from predatory towing practices on private property. “Predatory towing” commonly refers to practices by motor vehicle tow service providers that are illegal or unethical, but there is no definition for the term in North Carolina. There may also be some disagreement about what towing practices are predatory. Some examples of predatory towing practices may include: (1) charging exorbitant fees for owners to retrieve their vehicles; (2) utilizing spotters to identify vehicles to tow even when there has been no request or complaint from a property owner; and (3) towing a vehicle from a spot that is not clearly marked as being in a potential tow-away zone. The Legal department has researched regulations that North Carolina municipalities are authorized to enact and has prepared a proposed ordinance for City Council’s review. The proposed ordinance is being presented for discussion only at this time. Legal staff will also advise on regulations that are preempted by state and/or federal law, and will discuss comments received from other City staff.

GOALS :

Transparency and Notice to people parking

Preservation of the Public Peace - nonconsensual towing can lead to breaches of the peace between towers and car owners.

Avoid confusion to Public with City parking facilities, practices and enforcement

Nonconsensual towing can lead to people being deprived of their primary means of transportation = need to be able to get their cars back reasonably.

Protection of Property Rights, both personal property and real property

REQUIREMENTS FOR TOWERS AND BOOTERS, REGARDLESS OF WHERE TOWING FROM OR WHERE BOOTING:

- Get a permit from HPD
 - Must be authorized to do business in the State of NC
 - Must have a liability policy in place – copy of Certificate of Insurance to HPD, kept current
 - Must provide information to be kept on file at the HPD:
 - Name, address and phone number of business
 - Name and phone number for managing personnel
 - Addresses where towed vehicles are stored
 - Make, model and tag number for all tow trucks being used in the City. Use of unregistered tow truck is violation of ordinance.
 - Fee schedule (must be kept current) and updated 24 hours before changes go into effect

REQUIREMENTS FOR TOWERS AND BOOTERS, REGARDLESS OF WHERE TOWING FROM OR WHERE BOOTING:

- Must accept payment by cash and at least 2 other nationally recognized CC's
- Must tow to a storage facility not more than 15 driving miles from the tow.
- Must report to HPD before leaving property with the MV that it's being towed
- If booting, immediately upon booting, place orange blaze on windshield or driver's side window informing them of the boot, and that attempting to move the car can damage the car.
- Must allow persons to retrieve personal property from stored car.
- If car owner returns before vehicle towed or booted, can require payment of a release fee.
- Must be able to be reached 24/7; if no answer, callback within 15 minutes
- Make vehicle available within 30 minutes of call being answered or message being left.

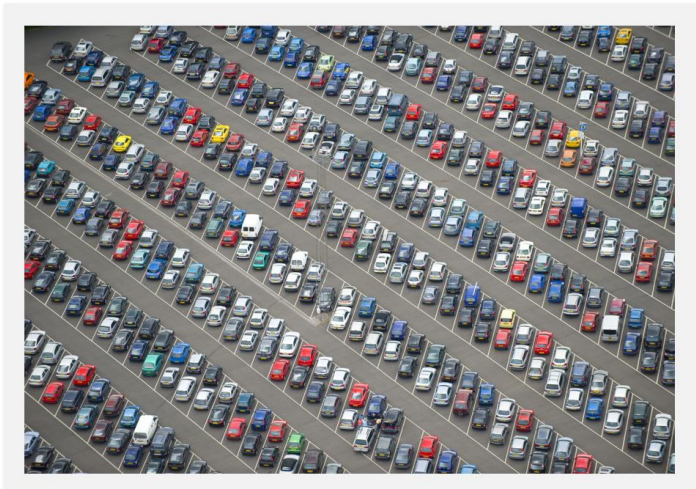
REQUIREMENTS FOR TOWING FROM PRIVATE PROPERTY (REGULATES TOWERS AND PROPERTY OWNERS):

Can't tow (or request that a car be towed) from private property unless property is properly posted per the ordinance. Signs must:

- Meet minimum size requirements, with contrasting letters and background
- Be prominently posted at each vehicular access to property and within 25 feet of every parking space. Visible and legible from all parking spaces.
- State:
 - Tow away zone, or something similar
 - Booting enforced, or something similar if booting used
 - Parking restrictions as applicable
 - Towing company and phone number
 - Max tow fees, booting fees, release fees.
 - Must state methods of payment accepted.
 - Must list City website: "I've been towed."

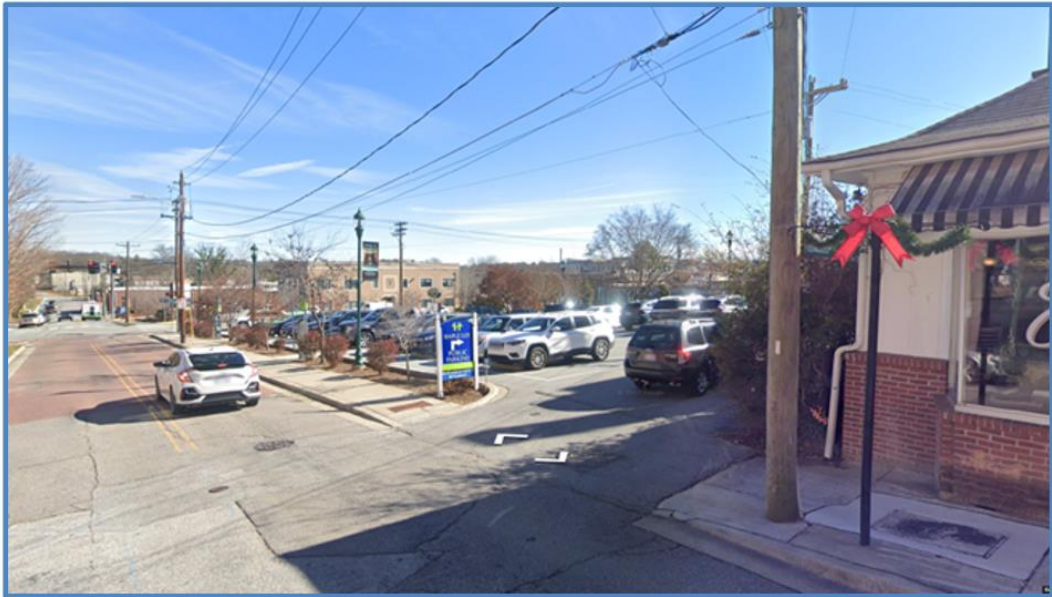


SAMPLE SIGNS:



REGULATION OF
COMMERCIAL
PARKING LOTS IN
THE CITY OF
HENDERSONVILLE
(IN ADDITION TO
POSTING IF
TOWING OR
BOOTING):

SAMPLE LOTS: MAPLE



SAMPLE LOTS: AZALEA



SAMPLE LOTS: DOGWOOD



SAMPLE LOTS: 404 S MAIN



SAMPLE LOTS: SOUTH MAIN



SAMPLE LOTS: KANUGA BEND



REGULATION OF COMMERCIAL PARKING LOTS IN THE CITY OF HENDERSONVILLE (IN ADDITION TO POSTING IF TOWING OR BOOTING):

Site Standards – get/have a zoning compliance permit (require site plan and review)

- Parking spaces of minimum size
- Parking spaces clearly delineated
- Minimum drive aisles
- Landscaping requirements

CIVIL PENALTIES

\$300 first offense

\$600 second offense in 12-month period.

\$1,200 third or subsequent offense in 12-month period.

Consensus of Council was to prepare an ordinance sooner than later and it can have a grace period to give people time to comply with it.

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

Staff Attorney Daniel Heyman explained that the Animal Services Advisory Committee (ASAC) was created in 2020 to, among other duties, “make recommendations to the City Council and staff regarding the Animal Ordinance, policies and procedures, and any other issues requested by the City Council.” ASAC and Police Department staff have spent significant time since then reviewing Chapter 10 of the Code of Ordinances and have proposed a reorganized Chapter relating to animals. The proposed ordinance is being presented for discussion only at this time. Based on direction from City Council, City Staff and ASAC will bring the ordinance back to the City Council at a regular meeting for a vote. Because the proposed ordinance includes criminal penalties, it will require two votes to become effective.

CURRENT ORDINANCE:

- Last major revision was February 2020 coinciding with City’s enforcement of animal services (previously enforced/partially enforced by Henderson County).
- Animal Services Advisory Committee also created.
- Based heavily on Henderson County ordinance.



Hendersonville Police Department NC Facebook page

SINCE FEB 2020:

- City has been through process of declaring a dog dangerous, ASAC has heard two appeals.
- City created and hired a civil Animal Services Officer.
- Discovered that state law preemption makes enforcement of certain provisions difficult.
- Experience enforcing the ordinance has revealed that more detail is needed in places.
- Civil penalties don’t account for every situation.

SECTIONS PROPOSED TO REMAIN:

(Existing cite in parentheses)

- Sec 10-92 (10-1, 10-2) Protection of birds
- Sec 10-93 (10-3) Protection of squirrels
- Sec 10-94 (10-6) Fouling public grounds – includes all animals
- Sec 10-95 (10-152(c)) – Restraint of Animals
- Sec 10-62 (10-42) Swine – (but see G.S. 160A-203.1)
- Sec 10-66 (10-71) Disposal of dead poultry
- Sec 10-186 (10-111) Destruction of animals that cannot be seized or confined

SECTIONS PROPOSED TO BE REVISED:

(Existing cite in parentheses)

- Sec 10-91 (10-4) Running at large - Dangerous dog running at large is a misdemeanor
- Sec 10-63 (10-43) Keeping of other farm animals – previously “milking cows, milking goats, and horses” now “other farm animals. Can be kept w/in 150 ft. of owner’s residence.
- Sec 10-64 (10-66) Keeping of poultry – (previously fowl) limit of 20 birds.
- Sec 10-65 (10-70) Requirements for poultry enclosures – deleted requirements to whitewash and line regularly, specified that “adequate shelter” applies.
- Sec 10-2 (10-106) Definitions – moved out of Dogs article, added many definitions
- Sec 10-182 et. al. (10-110) Dangerous dogs restricted – removed “potentially dangerous,” personal service allowed, insurance required for dangerous dogs, dangerous dog sign to be provided by the City.
- 10-151 et al. (10-113) Rabies vaccination – Clarified that cats must have vaccine as well, clarified enforcement procedure and bite notification requirement.
- 10-121 et. al. (10-121) Mistreatment of animals – Clarifying standards added to adequate shelter.

SECTIONS PROPOSED TO BE DELETED:

- (Sec 10-5) Fowl running at large – poultry included in general prohibition on animals at large, and requirements for keeping poultry.
- (Sec 10-41) Compliance with article (keeping of livestock subject to Article) – replaced by specific prohibition.
- (Sec 10-44) Location restrictions – moved to 10-63, and clarified whose residence.
- (Sec 10-45) – Maintenance of stables... - preempted
- (Sec 10-107) Running at large – (dog specific) combined with definition of “at large” and general at large prohibition.
- (Sec 10-109) Mischievous dogs. – replaced with Public Nuisance Animal

NEW PROPOSED SECTIONS:

- Sec 10-31 through 10-34 – Animal Services Officer duties, authority, inspection, and ASAC.
- Sec 10-61 – Keeping of certain animals prohibited – prohibition on keeping oxen, bison, roosters, and wolf hybrids (see G.S. 160A-203.1)
- Sec. 10-96 – Giveaways in public spaces
- Sec. 10-97 – Excessive noises
- Sec. 10-122 – Abandonment – prohibition and procedure.
- Sec 10-123 – Transport of Animals – Animals in open truck beds to be secured by a tether. Exceptions for law enforcement, search and rescue, hunting, and farm dogs.
- Sec 10-124 – Confinement of Animals in Motor Vehicles – prohibitions, ASO authorized to impound animal if safety concern.
- Sec 10-125 – Animals used in entertainment, shows, and for exhibition – “unnatural behavior in which the animals is wrestled, fought, harassed, or displayed in such a way that the animal is abused or stressed.”
- Sec 10-181 – Public Nuisance animals – prohibition and procedure.

D. Edwards Park Update - *Brian Pahle, Assistant City Manager*

Assistant City Manager Brian Pahle gave a brief update of Edwards Park and showed what has been done to date.

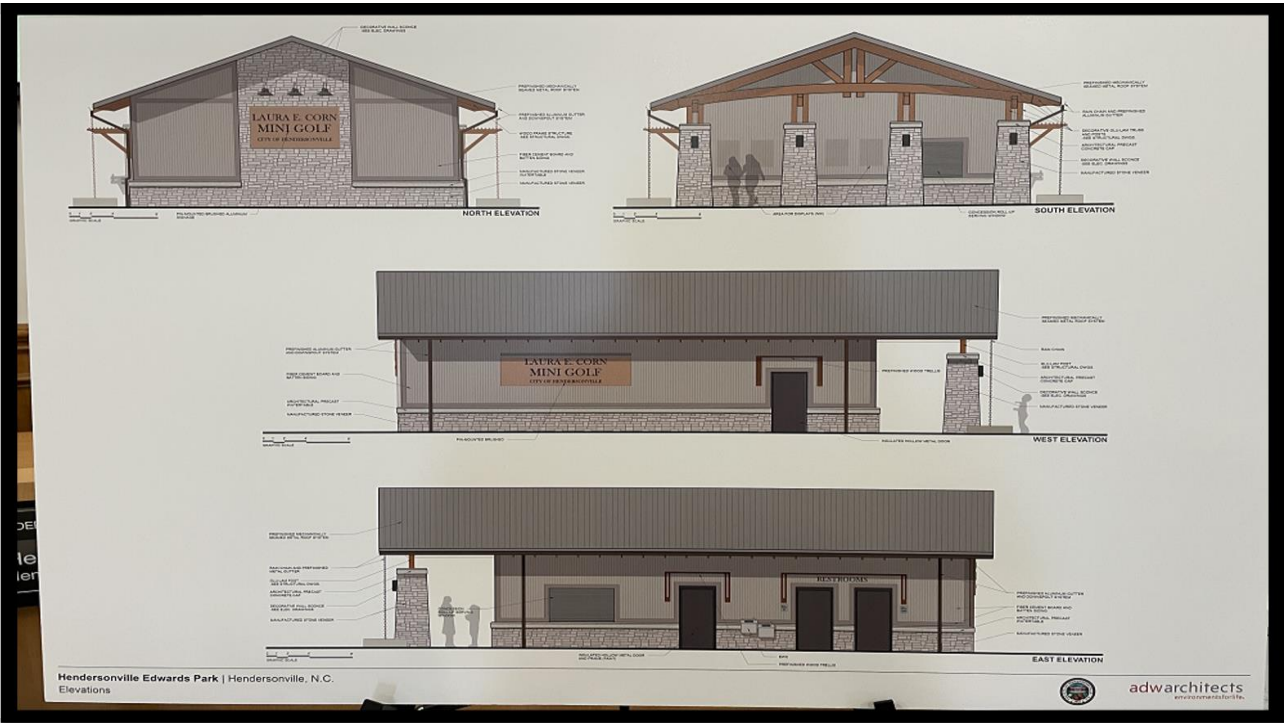
Project Status

- Mini-Golf Concrete Complete
- Building Construction On-Going
- Art Installation Mobilization
- Playground Equipment in Sep.

Next Steps

- Landscaping
- Mini-Golf Carpeting
- Playground/Signage Installation
- Building Construction
- October Opening



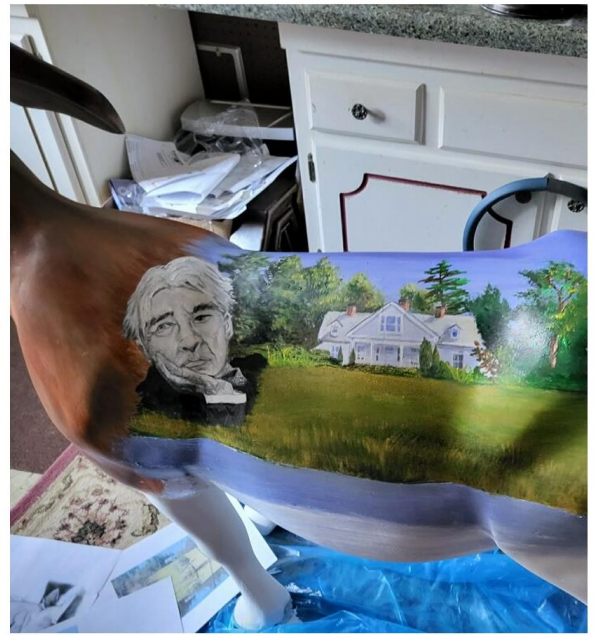




A Community Project

- Apple Country Woodcrafters
- Artist Judy Dempsey
- Artist Diamond Cash
- Artist Dee Ballenger
- Artist Bethany Joy
- Blue Ridge Bicycle Club
- Henderson Co. Public Library
- Henderson Co. Genealogical Society
- The Corn Family
- The Community Foundation
- The Shipman Family





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Let's Build a
Community Project
Let's Blend the Old
and the New
Let's Honor History
and Tradition

*"It is the happy voices of families large
and small celebrating hole-in-ones that
makes this beautiful park come alive!!!"*
-Laura E. Corn



E. Parks & Recreation Committee - Jerry Smith, Council Member

Jerry Smith said he attended a recent Parks & Recreation Committee meeting and the committee asked if recreational programming is something that City Council is interested in having as part of the plan? Consensus of Council was that if they wanted to put on an "event" once in a while, for example, a kid's triathlon, which would be fine, but not an ongoing recreational calendar.

4. ADJOURN

There being no further business, the meeting was adjourned at 5:39 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk