



MINUTES

October 26, 2022

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

Absent: 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, and others

1. CALL TO ORDER

Mayor Barbara G. Volk called the meeting to order at 4:03 p.m. and welcomed those in attendance. A quorum was established with the majority of members in attendance.

2. CONSENT

A. **Sole Source Purchase of a Standby Engine-Generator for the French Broad River Intake & Pumping Station Project-** *Adam Steurer, Utilities Engineer*

I move City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the Sole-Source Purchase of a Standby Engine-Generator for the French Broad River Intake & Pumping Station Project as presented.

Resolution #R-22-131

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF A STANDBY ENGINE-GENERATOR FOR THE FRENCH BROAD RIVER INTAKE & PUMPING STATION PROJECT

WHEREAS, the French Broad River Intake and Pumping Station (DWSRF Project No. WIF1940) is intended as a redundant source of non-potable water to improve the resiliency of the Water Treatment Facility general operations. The intake and pumping station is also designed for future expansion to serve future water demands within the City's water service area. The new water source associated with this project will be utilized as needed for maintenance as well as interchangeably with existing raw water sources during normal operations. The City will have the flexibility to operate one or all of its raw water sources simultaneously as required to adjust to changing conditions and treatment needs; and

WHEREAS, the French Broad River Intake and Pumping Station will require a standby engine-generator to operate in times of power outages; 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, Utility Staff and consulting engineer is requesting to continue to standardize on generators within the system by asking that Council approve the sole source purchase of a stand-by generator from Cummins.

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

1. A soul-source purchase of a standby engine-generator is authorized for the French Broad River Intake & Pumping Station in the amount of \$216,500 plus applicable sales tax.

Adopted by the City Council of the City of Hendersonville, North Carolina this 26th day of October 2022.

/s/Barbara G. Volk, Mayor

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

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

B. Housing Selection Committee Neighborhood Assistance Policy – John Connet, City Manager

I move that the City Council adopt the 2020 Housing Selection Committee Neighborhood Assistance Policy.

C. Exchange Agreement with Henderson County Board of Public Education – Angela Beeker, City Attorney

I move City Council to adopt the Resolution to Approve the Exchange Agreement with the Henderson County Board of Public Education for Edwards and Berkeley Parks as presented.

Resolution #R-22-132

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE
THE EXCHANGE AGREEMENT WITH THE HENDERSON COUNTY BOARD OF
PUBLIC EDUCATION FOR EDWARDS AND BERKELEY PARKS**

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 Mini-Golf; 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; and

WHEREAS, City Council wishes to approve the draft agreement between the City of Hendersonville and the Henderson County Board of Public Education to carry out the terms of that Resolution approving the exchange, adopted on August 4, 2022.

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

1. The agreement between the City of Hendersonville and the Henderson County Board of Public Education, attached hereto as Exhibit 1, is approved. The City Manager, in

consultation with the City Attorney, is authorized to approve modifications to the agreement, provide they do not involve incurring additional financial obligations by the City.

2. The Mayor, City Manager and City Attorney are authorized to negotiate, make, enter into, and execute such other contracts, and such deeds, easements, boundary line agreements, the right of first refusal, the option agreement, and any and all other documents, and to take any and all actions, reasonably necessary to carry out the terms of the approved agreement, including but not limited to making conveyances and reasonable expenditures for costs and expenses for the purposes stated herein.
3. 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 26th day of October 2022.

/s/Barbara G. Volk, Mayor

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

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

D. Amendment to Rezoning: Conditional Zoning District – Cottages @ Mastermind (P22-55-CZD) – Angela S. Beeker, City Attorney

I move that City Council adopt An Ordinance Of The City Of Hendersonville City Council To Amend The Official Zoning Map Of The City Of Hendersonville For Parcels Possessing Pin Numbers 9579-48-2415 & 9579-48-6832 By Changing The Zoning Designation From R-40 (Low Density Residential) And C-2 (Secondary Business) To PRD (Planned Residential Development – Conditional Zoning District) – Amended, as presented.

**Ordinance #O-22-52A
Amended**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR
PARCELS POSSESSING PIN NUMBERS 9579-48-2415 & 9579-48-6832 BY CHANGING
THE ZONING DESIGNATION FROM R-40 (LOW DENSITY RESIDENTIAL) AND C-2
(SECONDARY BUSINESS) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT –
CONDITIONAL ZONING DISTRICT) - AMENDED**

IN RE: Parcel Number: 9579-48-2415 & 9579-48-6832
 Addresses: 102 Francis Rd & 228 Mastermind Ln
 Cottages at Mastermind (File # P22-55-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant, Elam Hall of DHIC, LLC. and property owners, The Hammond Family Trust & John Hammond Trustee for the development of 99 residential units on approximately 12.8 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on August 8, 2022; voting 10-0 to recommend City Council approve 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 September 1, 2022, and

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: 9579-48-2415 & 9579-48-6832, changing the zoning designation from R-40 (Low Density Residential) and C-2 (Secondary Business) to PRD (Planned Residential Development – Conditional Zoning District)
2. Development of the parcel pursuant to this Ordinance is subject to the following.

- a. Development shall comply with the site plan submitted by the applicant dated September 1, 2022, including the conditions listed therein including modifications approved by City Council which shall be added to the site plan. The updated site shall be submitted to the City at or the applicant's execution of this Ordinance.
- b. Permitted uses shall include:
 - i. Two-family residential
 - ii. Single-family residential
- c. Additional conditions that shall be satisfied prior to final site plan approval include:
 - i. Within the requirements of the Americans with Disabilities Act and per safety regulations, lighting shall be downward facing and fully shielded. Sidewalks away from the parking areas will use pedestrian-scale lighting as approved by City staff.
 - ii. Subject to NCDOT standards and approvals, construct a left-hand turn lane on south-bound Francis Road at the access point to the development. Should said left-hand turn lane extend beyond the existing in-place right-of ways, then the developer shall use best efforts to obtain a sufficient right-of-way easement from affected property owners for construction of left-hand turn lane. In this instance, best efforts include an offer to purchase a right-of-way easement on the affected land at market value as determined by a certified MAI appraisal. If the developer is unable to obtain a right-of-way easement from the affected property owners, then the developer may request that the City of Hendersonville obtain the needed right-of-way easement from the affected property owner subject to the developer repaying the fair market value of the easement obtained by eminent domain. In this instance, fair market value shall be the value as determined by the condemning authorities' certified MAI appraisal or jury verdict, including any cost and attorneys' fees. If the City chooses not to use their powers of eminent domain, the developer will not be responsible for constructing a left-hand turn lane.
 - iii. A Transportation Impact Analysis will not be required.
3. Except where modified by the terms of this Ordinance, development of the parcel(s) shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina.
4. Except where explicit relief is granted by the terms of this Ordinance, the development of the parcel(s) shall occur in accordance with all applicable standards within local ordinances and policies.
5. This ordinance shall not be effective until the list of use(s) and conditions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 26th day of October 2022.

/s/Barbara G. Volk, Mayor

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

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

Council Member Dr. Jennifer Hensley moved that the City Council approve the consent agenda as presented. A unanimous vote of Council Members present followed. Motion carried.

3. NEW BUSINESS

There was no new business.

4. PRESENTATIONS**A. Stantec Water and Sewer Rate Study Presentation – Drew Finley, Asst. to the Utilities Director**

David Hyder, Senior Principal with Stantec, the City's water and sewer financial consultant firm provided a presentation on an ongoing water and sewer rate study, system development charge study, and agreed upon procedures letter for future water and sewer system revenue bonds. Mr. Hyder provided the Council with information regarding cost-of-service models, rate design, water and sewer industry challenges, challenges to the City of Hendersonville's water and sewer utility, existing rate structure, observations, pricing considerations, and next steps. City Manager John F. Connet discussed the true implementation rate and said staff wants to be conservative when planning. Manager Connet encouraged the Council to consider system development charges to reduce impact on the water and sewer plant. Manager Connet said the idea is that the new users will buy into the system to help pay for the improvements that are needed due to development and growth.

A. Closed Session – John Connet, City Manager

At 4:36 p.m. Council Member Lyndsey Simpson moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (6) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, And the public body and to consider the qualifications, competence, performance, character, fitness of an individual public officer or employee.

At 6:52 p.m. Council Member Debbie O'Neal-Roundtree moved the City Council return to open session. A unanimous vote of the Council followed. Motion carried.

There being no further business, the regular meeting was adjourned at 6:52 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk