



MINUTES

February 8, 2023

REGULAR MEETING OF THE CITY COUNCIL

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

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

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

1. CALL TO ORDER

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

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

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

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

Vince Costello addressed City Council in support of the lighting ordinance.

James Gorsuch addressed City Council as an attorney for Pisgah Legal Services and wanted to thank the City of Hendersonville for its support over the years and said I encourage you to support our current request for funding to support our work with the Hendersonville Connections Center. Our proposal is to staff a full-time attorney and social worker at the Hendersonville Connections Center and to provide access to Pisgah Legal Services for vulnerable members of the community. They would have access to the full range of our services including housing resources, domestic violence prevention, public benefits access including social security, disability, food stamps, access to health care, assistance with tax filings and social work support.

Neil Brown addressed City Council regarding the lighting ordinance and said it's a good start but not perfect. He encouraged to drop the exemptions of government buildings and churches, as well as, making the amortization 15 years.

Sharon Tirrell addressed City Council on behalf of Interfaith Assistance Ministry (IAM) as their new Board President. There has been a huge increase in services that we offer. We have served 19,116 families, a 59% increase. Total individuals, 47,736, a 96% increase. We provided food, rent and mortgage assistance, clothing and household goods, bus passes, gasoline and utility assistance. More than 40% of the families we serve are Hispanic and more than 50% of the families live within the City of Hendersonville and 581 contacts with us were reported as homeless. We have 250 volunteers who have come back to us after the pandemic and this means that we are providing a huge amount of services with a very small staff. Our proposal included a new space, an add-on to our pantry. In terms of community values, we hope that you believe, as we do, that poor and working poor citizens deserve to receive some direct help from the recovery funds.

Rachel Ingram addressed the City Council as the Executive Director of the Hendersonville Connections Center and just wanted to say that she appreciates the thoughtfulness put behind designating the ARPA funds.

Lynn Williams addressed City Council via Zoom electronic software and spoke on behalf of historic Boyd Park and mini golf and trying to preserve the historic parts of the course and then integrating them into the new park but there will be no way to include it if it is decimated in the demolition.

Ralph Hammond-Green addressed City Council via Zoom electronic software and spoke to strongly urge Council to pass the lighting ordinance with the amortization in it.

Ken Fitch addressed City Council via Zoom electronic software and spoke regarding Edwards Park. It is important to recognize the history of this site. Edwards Park was named for former Mayor Edwards. It would seem appropriate to add a plaque honoring Mayor Edwards and/or signage

recognizing the history of the site and then perhaps documentation honoring Laura Corn and the site. Also, perhaps as an alternative, provide an open space area so that there would be no obstruction to the site lines at the intersection of North Main and Locust Street that may experience a future increase in traffic.

4. CONSIDERATION OF AGENDA

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

5. CONSENT AGENDA

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

B. Consideration of Ordinance Amending Chapter 20, Article II, Noise of the Hendersonville City Code – Lew Holloway, Blair Myhand, Angela Beeker and John Connet

Ordinance #23-07

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CHAPTER 20 ARTICLE II OF THE CODE OF ORDINANCES- NOISE

WHEREAS, the City of Hendersonville is desirous of amending and updating provision of the Code of Ordinance regulating noise within the municipal limits of the City, in particular Chapter 20, Article II-Noise; and

WHEREAS, a proposed modifications have been prepared and presented to City Council for consideration; and

WHEREAS, City Council wishes to adopt these modifications as presented.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Chapter 20, Environment, Article II, Noise, of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

CHAPTER 20 - ENVIRONMENT

ARTICLE II. NOISE

Sec. 20-31. Article designated noise control ordinance.

(a) This article shall be known as the "Noise Control Ordinance for the City of Hendersonville."

(b) Statement of policy. The City of Hendersonville will maintain a peaceful community while recognizing that certain noises are part of acceptable economic and recreational activity in a vibrant community. The goal of the city is to encourage such activity while ensuring that persons in the community are not disturbed by unreasonably loud, raucous or disturbing noise, particularly during time periods when customarily at rest or have a reasonable expectation of peaceful enjoyment of their residences.

Sec. 20-32. Terminology and methodology.

(a) Definitions and Terminology. The words and phrases defined in this section shall have the meaning indicated when used in this article unless otherwise specifically provided, or unless otherwise clearly required by the context. All terminology used in this article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(1) A-weighted sound level: The sound pressure level in decibels ~~asis~~ measured on a sound level meter using the ~~A-weighting~~-frequency-weighted network and slow meter response setting. The level so read is designed Sound levels are represented herein by the designation dB (A).

(2) Decibel (dB): A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio for the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

(3) Nighttime. 10pm – 7am

(34) Sound pressure level: 20 times the logarithm to the base ten of the ratio of the RMS sound of 20 micronewtons per square meter.

- (45) *Sound level meter*: An instrument, which includes a microphone, amplifier, RMS detector, integrator, or time-averaged, output meter.
- (56) *Sound level*: The weighted sound pressure level ~~obtaining by the use of~~ obtained using a sound level meter and frequency weighted network, such as A, B, or C as specified in American National Standards Institute or the latest approved version thereof) ANSI S1.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- (67) *Emergency work*: Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- (78) *Outdoor amplified sound*: Any sound using amplifying equipment whose sound is outside ~~or whose source is inside, and the sound propagates outside through open doors or windows or other openings in the building.~~
- (89) *Sound amplifying equipment*: Any device for the amplification of the human voice, music, or any other sound, including jukeboxes, stereos, and radios.

(10) MSD: A municipal service district established pursuant to North Carolina General Statutes Chapter 160A, Article 23, Municipal Service Districts.

- (b) *Methodology- Noise violation based on sound level meters. -It shall be unlawful to create, cause or allow the continuance of any noise that exceeds the decibel limits provided in Section 20-35 below. However, enforcement of this article does not require the use of a sound level meter to determine compliance. When a sound level meter is used to determine sound levels pursuant to this article, the S* ~~standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this section shall be those as specified herein;~~ standards, instrumentation, personnel, measurement procedures, and reporting procedures shall be as specified in this section, and all terminology not defined in this section shall be in conformance with the ANSI.
- (1) Sound level measurement shall be made with a sound level meter using the "A"-weighting scale, set on "slow" response.
- (2) Sound level meters shall be ~~of at least type three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system~~ served, and calibrated and operated as recommended by the manufacturer; and in accordance with regulations prescribed by the Chief of Police. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measuring equipment.
- (3) ~~The chief of police or his designee may adopt standards for sound level measurement and enforcement consistent with this article.~~ Sound level measurements shall be made from within the boundary line of an adjoining or complaining property. Whether the sound level violates the prescribed limits in section 20-35 below will be determined by whether the readings taken within the adjoining or complaining property are in excess of the levels allowed by Section 20-35 below.
- (4) The sound level measurement shall be averaged over a period of at least one (1) minute for purposes of determining the sound level. In the case of noise that is impulsive or not continuous, any such sound or noise that exceeds the prescribed level more than two (2) times in a minute shall be deemed to exceed the prescribed sound levels.
- (6) If an officer does not have possession of a department-owned and ANSI-approved sound level meter at the time of responding to a noise complaint, sound level measurements for the purpose of determining violations of this article may not be taken using any other device, including but not limited to applications on cellular devices or any hand-held personal sound level meters obtained from any other source. The officer shall instead proceed under the other sections of this article in order to determine whether a violation of this ordinance is occurring.
- (c) *Methodology- In addition to the methodology contained in Section 20-32(b) above, violations of this ordinance (including but not limited to violations of Section 20-33(a) below) may also be determined as follows:*
- (1) Any police officer responding to a noise complaint may, in the officer's discretion, issue a civil citation or enforce any other penalties under this article if the officer determines that a violation of this ordinance has occurred or is occurring.
- (2) An officer does not have to use a sound level meter or actually witness the sound or noise personally in order to take enforcement action under this section. Citations may be issued based upon statements and evidence obtained from complaining witnesses when the officer determines that such evidence is reliable, appropriate, and sufficient. Examples of such evidence may include, but are not limited to, the following: that a person could not hear a person standing next to them speak at a conversational tone or level, or that furniture, windows or floor were rattling or thumping from vibrations created by the noise.
- (3) It shall be a violation of this article for any person to communicate a noise complaint to any city staff or official, using the 911 system or otherwise, for the purpose of harassing the subject of the complaint, and knowing or having reason to know that no violation of this ordinance actually exists or existed.

- (4) Factors to consider in determining whether a violation of this ordinance has occurred or is occurring include, but are not limited to, the following:
- a. The volume of the noise;
 - b. The intensity of the noise;
 - c. Whether the nature of the noise is usual or unusual;
 - d. Whether the origin of the noise is natural or unnatural;
 - e. The volume and intensity of the background noise, if any;
 - f. The proximity of the noise to residential sleeping facilities;
 - g. The density of the inhabitation of the area from which the noise emanates;
 - h. The time of the day or night the noise occurs;
 - i. The duration of the noise;
 - j. Statements of any complaining witnesses, including any pictures or audio/video documentation produced by complaining witnesses; and
 - k. Whether the noise is recurrent, impulsive, intermittent, or constant.
 - l. Whether the noise exceeds the levels stated in Section 20-35 below.

Sec. 20-33. Noises prohibited, nuisances.

- (a) *General prohibitions.* ~~It shall be unlawful to create, cause or allow the continuance of any unreasonably loud, disturbing, or frightening noise, particularly during nighttime which substantially interferes with neighboring residents' reasonable use and enjoyment of their properties.~~ It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continued any loud, raucous and/or disturbing noise, which term shall mean any sound which, because of its volume level duration and/or character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City of Hendersonville.

- (b) *Specific prohibitions.* In addition the general definition of "loud, raucous and/or disturbing noise" contained in Section 20-33 above, these terms shall be deemed to include the ~~The~~ following acts, which are prohibited and shall be considered nuisance acts:

(1) *Horns and signaling devices.* The intentional sounding of any horn or signaling device of a motor vehicle on any street or public place continuously or intermittently in a manner that would annoy, disturb, or injure the comfort, health or peace of a reasonable person in the vicinity, except as a danger or emergency warning.

~~(2) *Motor vehicles.* Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order to effectively prevent loud or explosive noises therefrom.~~

~~(3)~~ *Exterior loudspeakers.* Operating or permitting the operation of any mechanical device or loudspeaker, ~~without a permit to do so,~~ in a fixed or moveable position exterior to any building or mounted on any aircraft or motor vehicle in such a manner that the sound therefrom is ~~in excess of~~ more than the maximum decibel level as described in section 20-35 of this chapter.

~~(4)~~ *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors during nighttime.

~~(5) *Explosives.* The use or firing of explosives, firearms, fireworks, or similar devices which create impulsive sounds.~~ (4) *Fireworks.* Launching or permitting the launching of fireworks during nighttime.

~~(6)~~ *Security alarms.* The sounding of a security alarm, for more than 20 minutes after being notified by law enforcement personnel.

~~(7) *Dogs and other animals.* Allowing one or more dogs or other animals to bark or make disturbing noises continuously or intermittently for more than 30 minutes.~~

~~(8)~~ *Motor vehicle speakers or speakers located in or on a motor vehicle.* Operating or permitting the operation of any speaker or sound in or on a motor vehicle in such a manner that the sound therefrom is ~~in excess of~~ more than the maximum decibel level described in sections 20-35 of this chapter when registered ~~25-10~~ or more feet from the motor vehicle.

(7) *Burnouts.* Operating or permitting the operation of a motor vehicle or motorcycle in such a manner that the motor vehicle remains stationary and the tires are spun rapidly against a solid surface continuously or

intermittently producing loud noise. The friction between the tires and the solid surface typically produces smoke in addition to loud noise.

- ~~(9) Any business situated within the municipal services district that permits to be played within its building any electronically amplified music or speech, regardless of whether such music is live, shall not permit any door from any street or alley into such building to be or remain open during such amplification except while persons or goods are actively entering or exiting the building through such door, nor shall it permit any window to be or remain open during such amplification.~~

Sec. 20-34. Exceptions.

The following are exempt from the provisions of this article:

- (~~1~~a) Sound emanating from regularly scheduled outdoor athletic events on the campus of local schools.
- (~~2~~b) Construction operations from 7:00 a.m. to ~~9~~10:00 p.m. ~~on weekdays and 8:00 a.m. to 9:00 p.m. on weekends~~ for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of the government; providing all equipment is operated in accord with manufacturer's mufflers and noise-reducing equipment is in use and in proper operating condition.
- (~~3~~c) Noises of safety signals, warning devices, emergency pressure relief valves, and all church bells.
- (~~4~~d) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- (~~5~~) ~~Any other noise resulting from activities of a temporary duration permitted by law, and for which a license or permit therefor has been granted by the city in accordance with section 20-37, below. Regulations of noise emitting from operations under a permit shall be according to the conditions and limits stated on the permit and contained above.~~
- (~~6~~e) ~~Unamplified and amplified sound at street fairs and parades permitted pursuant to section 46-84 of the Code.~~ Events which have received a special events permit from City Council.
- (~~7~~f) All noises ~~coming~~ that come from the normal operations of properly equipped aircraft (not including scale model aircraft).
- (~~8~~g) All noises that come from normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and in good working order.
- (~~9~~h) Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.
- (~~10~~i) Lawn mowers, agricultural equipment, and landscape maintenance equipment ~~that are~~ that are used between the hours of 7:00 a.m. and ~~9~~10:00 p.m. when operated with all the manufacturer's standard mufflers and noise-relating equipment in use and ~~in~~ in proper operating condition.
- (~~11~~j) Musical accompaniment or firearm discharge related to military ~~or law enforcement~~ ceremonies.
- (~~12~~k) ~~Sound amplification equipment used in conjunction with telecommunications systems on business properties to notify employees of that business of incoming phone calls, providing that this system be used only between the hours of 7:00 a.m. and 10:00 p.m. And that any speakers attached to the system be oriented toward the interior of the property.~~ Fireworks permitted by law, except during nighttime hours.
- (~~13~~l) Emergency work ~~that is~~ that is necessary to restore property to a safe condition following a fire, accident or natural disaster, ~~or~~ or to restore public utilities, or to protect persons or property ~~from an~~ from imminent danger.
- (~~14~~m) Noises resulting from the provision of government services.
- (~~15~~n) Noises resulting from the provision of sanitation services between the hours of 7:00 a.m. and ~~9~~10:00 p.m.

Sec. 20-35. Maximum permitted sound level.

~~In addition to the requirements of section 20-34, above, and except as otherwise provided herein or in conjunction with special events permits, it shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continue any loud, raucous and disturbing noise, which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City of Hendersonville. The term loud, raucous, and disturbing noise shall be limited to loud, raucous, and disturbing noises heard upon the public streets, in any public park, in any school or public building, or upon the grounds thereof while in use, in any church or hospital~~

~~or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise, or upon the grounds thereof.~~

As provided in Section 20-32(b) above, the sound levels for the source of noise, taken from within the boundary line of an adjoining or complaining property, may not exceed the limits for the category of the complaining property, stated in the table below. As an example, if a house outside of an MSD is located next to a bar (regardless of whether or not the bar is also in the MSD), noise level measurements taken from the house tract for sound generated by the bar cannot exceed the Residential limits stated below.

| <u>Maximum Sound Level Readings</u> | |
|--|---|
| <u>Adjoining or Complaining Property is located Downtown (defined as the Main Street and 7th Avenue MSDs)</u> | |
| <u>7am to midnight: 75 dB(A) (outdoor)</u> <u>60 dB(A) (indoor)</u> | <u>Midnight to 7am: 65 dB(A)(outdoor)</u> <u>50 dB(A) (indoor)</u> |
| <u>Adjoining or Complaining Property is Residential (including all types or residential properties, but excluding residential properties in the Main Street and 7th Avenue MSDs). Structures or developments containing both residential and nonresidential uses shall be considered residential.</u> | |
| <u>7am to 10pm: 65 dB(A)(outdoor)</u> <u>50 dB(A) (indoor)</u> | <u>10 pm to 7am: 55 dB(A)(outdoor)</u> <u>45 dB(A) (indoor)</u> |
| <u>Adjoining or Complaining Property is Nonresidential (including all types of nonresidential properties, but excluding nonresidential properties located in the Main Street and 7th Avenue MSDs)</u> | |
| <u>7am to midnight: 75 dB(A)(outdoor)</u> <u>60 dB(A) (indoor)</u> | <u>Midnight to 7am: 65 dB(A)(outdoor)</u> <u>50 dB(A) (indoor)</u> |

Sec. 20-36. - ~~Motor vehicle noise.~~ Reserved

- ~~(a) — It shall be unlawful for any person to drive, operate, move or permit to be driven, operated or moved, a motor vehicle or combination of vehicles at any time in such a manner that the sound level of the vehicle or combination of vehicles exceeds 75 db(A) measured at a distance of 25 feet from the nearest lane(s) being monitored and at a height of at least four feet above the immediate surrounding surface.~~
- ~~(b) — This section shall apply to the total noise from a vehicle and shall not be construed as limiting or precluding the enforcement of any other provisions of this article.~~
- ~~(c) — Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements under this section.~~

Sec. 20-37. ~~Permits to exceed limits.~~ Reserved

- ~~(a) — A person or group of persons may produce or cause sound to be produced more than levels authorized in sections 20-35, above, only if a permit to exceed the limit for the time and place of the activity has been obtained.~~
- ~~(b) — Any person or group or persons desiring a permit shall apply as provided herein and shall provide all the information required. All applications shall be submitted to the chief of police or his designer at least 48 hours prior to the scheduled event. Failure to comply with this requirement shall be grounds for denying the permit.~~
- ~~(c) — The chief of police or his designee shall have the authority to take decisive action on all applications for permits specified in this article. In considering and acting on such applications, the chief of police or his designee shall consider, but shall not be limited to, the following in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the city; previous violations, if any, of the applicant.~~
- ~~(d) — Permits to exceed limits shall specify the duration for which noncompliance shall be permitted and may prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The chief of police or his designee may require, but shall not be limited to, the following:~~
- ~~(1) — That no sound speakers shall be set up more than ten feet above the ground.~~

~~(2) — That the permit holders change the arrangement of the loudspeakers or the sound instruments to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically causing the dispersal of sound beyond the property lines.~~

~~(e) — Permit holders shall agree to cooperate with the police department in enforcing the noise control article by having signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the noise control ordinance. The failure of the permittee or designees to be present or to assist the police in compliance with this article will result in the revocation of said permit.~~

Sec. 20-38. Violations.

- ~~(a) Any person who violates any portion of this article shall be subject to ~~a fine of not less than \$50.00 dollars nor more than \$500.00 plus court costs~~ the penalties stated in this Section 20-38. Each failure to obey an order to cease or abate shall constitute a separate violation of this article. Multiple violations may occur within the same day. ~~Violation of this section is cause for immediate revocation of a permit to exceed.~~~~
- ~~(b) Repeated violations of this article by the same person, or repeated violations at the same address, within a 12-month rolling period shall be subject to civil penalties as follows:~~
- ~~(1) First violation: \$250.00~~
- ~~(2) Second violation: \$500.00~~
- ~~(3) Third violation: \$750.00~~
- ~~(4) Fourth and all subsequent violations: \$1,000.00 per offense~~
- ~~(c) The 12-month rolling period is defined as the 12 months immediately preceding the violation. For example, for a violation of this article occurring on January 7, all violations occurring on or after January 8 of the preceding year shall be included for purposes of calculating civil penalties under this subsection.~~
- ~~(d) Any person who willfully fails to comply with the directive of a law enforcement officer to come into compliance with this article shall be subject to a civil penalty of \$1000.00 Violation of this subsection shall constitute a separate violation of this article.~~
- ~~(e) In addition to the remedies stated herein, the City may enforce the provisions of this article by appropriate equitable remedies as outlined in sections 1-6.~~
- ~~(f) Violation of the following sections of this Article, including all subsections, sub-subsections, sub-sub-subsections, and all other paragraphs, shall constitute a Class 3 misdemeanor, and shall subject the offender to a fine of not less than \$50.00 dollars nor more than \$500.00 plus court costs.~~
- ~~(1) Section 20-32. Terminology and methodology.~~
- ~~(2) Section 20-33. Noises prohibited, nuisances.~~
- ~~(3) Section 20-35. Maximum permitted sound level.~~

Sec. 20-39. Owner and occupant responsibility.

- ~~(a) Penalties for violations of this article may be assessed against any of the following:~~
- ~~(1) Persons who are responsible for or in control of the premises on which the violation occurs, including but not limited to a business owner, an onsite manager or supervisor, or a tenant.~~
- ~~(2) Persons in possession or control of any device producing or causing the violation.~~
- ~~(3) The owner of the premises on which the violations occur.~~
- ~~(b) An owner of any premises, as well as any person responsible for or in control of such premises, shall be responsible for and may be held in violation of this article for, actions of tenants, guests, or other licensees that constitute violations of this article. This subsection shall not be interpreted to relieve any other person from responsibility for violations of this article.~~

Adopted on the first reading of the City Council of the City of Hendersonville, North Carolina on the 5th day of January, 2023, and adopted on the second reading of the City Council of the City of Hendersonville, North Carolina on the 8th day of February, 2023.

C. Annexation: Certificate of Sufficiency-Cottages at Mastermind (C23-02-ANX) – Tyler Morrow, Planner II

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

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

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

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

Section 1. A public hearing on the question of annexation of the contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. March 2nd, 2023, or as soon thereafter as it may be heard.

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

Being all of that real property consisting of PINs 9579-48-2415 and 9579-48-6832 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9579-48-2415 and 9579-48-6832 being described by metes and bounds as follows:

BEGINNING at a 1" crimped top pipe being a corner on the northern property line of Bon Worth Francis Road, LLC (hereinafter "BWFR") as described in Deed Book 1267, Page 107; said pipe having "NAD 83 (2011)" coordinates of N: 598,493.05 feet and E: 974,463.91 feet and lying a grid bearing and distance of North 68°26'59" West 1168.52 feet from NCGS CORS Station "NCHE" (with coordinates of N: 598,063.83 feet and E: 975,550.74 feet); thence from said POINT OF BEGINNING with the BWFR line South 01°07'30" East 57.19 feet to 3/4" open top pipe; thence South 81°07'51" West 234.84 feet to a 5/8" rebar lying in the eastern limit of the right-of-way of Francis Road (S.R. 1517); thence leaving the BWFR line with the right-of-way of Francis Road the following 4 (four) calls:

- 1) On a curve to the left having a radius of 184.43 feet, an arc length of 44.97 feet, a chord bearing of North 00°48'44" West, and a chord distance of 44.86 feet to a 1" open top pipe;
- 2) On a curve to the left having a radius of 184.43 feet, an arc length of 36.32 feet, a chord bearing of North 13°26'23" West, and a chord distance of 36.26 feet to a 5/8" rebar with "EHA" cap;
- 3) On a curve to the left having a radius of 332.37 feet, an arc length of 64.35 feet, a chord bearing of North 24°37'42" West, and a chord distance of 64.25 feet to a 5/8" rebar with "EHA" cap;
- 4) North 30°10'30" West 103.92 feet to a 5/8" rebar with "EHA" cap;

Thence leaving Francis Road with the existing City limits also being the southernmost line of Cedar Bluffs Limited Partnership (hereinafter "CBLP") as described in Deed Book 1006, Page 141 on a bearing of North 76°05'56" East 215.70 feet to a 1" open top pipe; thence continuing with the existing City limits also being the eastern CBLP line North 05°22'49" East (passing a 1" square iron at 399.58 feet; and passing a 5/8" rebar with "EHA" cap at 627.93 feet) a total distance of 657.94 feet to an unmarked point in the center of the creek known as Allen Branch, said point also lying on the southern line of Wal-Mart Real Estate Business Trust (hereinafter "Walmart") as described in Deed Book 1085, Page 91; thence leaving the CBLP line with the existing City limits also being the center of Allen Branch and the southern Walmart line, the following 32 (thirty two) calls:

- 1) South 77°56'58" East 24.45 feet to an unmarked point;
- 2) South 82°02'13" East 21.98 feet to an unmarked point;
- 3) North 88°06'05" East 48.93 feet to an unmarked point;
- 4) South 82°28'37" East 64.97 feet to an unmarked point;
- 5) South 58°50'20" East 11.90 feet to an unmarked point;
- 6) South 76°43'27" East 16.95 feet to an unmarked point;
- 7) South 61°28'08" East 26.29 feet to an unmarked point;
- 8) South 79°03'33" East 16.10 feet to an unmarked point;
- 9) South 61°29'15" East 50.12 feet to an unmarked point;
- 10) South 66°59'05" East 29.12 feet to an unmarked point;
- 11) South 48°56'44" East 9.77 feet to an unmarked point;
- 12) South 69°45'29" East 37.15 feet to an unmarked point;
- 13) South 74°01'28" East 23.15 feet to an unmarked point;
- 14) South 64°37'46" East 9.50 feet to an unmarked point;
- 15) South 51°12'36" East 9.91 feet to an unmarked point;
- 16) South 59°06'54" East 16.14 feet to an unmarked point;
- 17) South 51°54'17" East 22.27 feet to an unmarked point;
- 18) South 69°09'16" East 14.47 feet to an unmarked point;
- 19) North 88°04'25" East 18.65 feet to an unmarked point;
- 20) South 75°31'01" East 12.91 feet to an unmarked point;
- 21) South 44°16'47" East 19.76 feet to an unmarked point;
- 22) South 47°21'26" East 31.56 feet to an unmarked point;
- 23) South 54°24'42" East 25.85 feet to an unmarked point;
- 24) South 69°58'01" East 18.46 feet to an unmarked point;
- 25) South 83°11'00" East 34.15 feet to an unmarked point;
- 26) South 34°28'04" East 7.59 feet to an unmarked point;
- 27) South 54°16'23" East 40.45 feet to an unmarked point;
- 28) South 34°54'26" East 34.80 feet to an unmarked point;
- 29) South 43°34'08" East 18.45 feet to an unmarked point;
- 30) South 59°25'04" East 25.78 feet to an unmarked point;

- 31) South 39°09'59" East 35.96 feet to an unmarked point;
32) South 44°44'37" East 13.66 feet to an unmarked point;

Thence leaving the center of Allen Branch with the property lines of Walmart and Robert D. Williams as described in Deed Book 597, Page 321, Deed Book 700, Page 37, and Deed Book 188, Page 178 on a bearing of South 14°06'49" West (passing a 5/8" rebar at 28.17 feet) a total distance of 581.02 feet (the last 120.74' more or less running with existing City limits) to a 1" square iron at the northeastern corner of the BWFR property; thence leaving the Williams line with the northern BWFR line North 84°36'57" West 498.45 feet to the POINT AND PLACE OF BEGINNING, containing 12.76 acres, more or less.

Re: Petition for Contiguous Annexation

Petitioners: John Hammond, as Trustee of The Hammond Family Trust (228 Mastermind Lane), John and Betty Hammond (102 Francis Road)
File No. C23-02-ANX

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

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

CERTIFICATE OF SUFFICIENCY

Re: Petition for Contiguous Annexation

Petitioners: The Hammond Family Trust (228 Mastermind Lane), John and Betty Hammond (102 Francis Road)
File No. C23-02-ANX

To the Honorable Mayor and members of the City Council of Hendersonville, North Carolina: I, Jill Murray, City Clerk, being first duly sworn, hereby certify that:

1. A petition has been received for contiguous annexation of property consisting of +/- 12.76 acres located on Francis Road and Mastermind Lane in Hendersonville, NC, being tax parcels PIN 9579-48-2415 and 9579-48-6832, and being more particularly described on Exhibit A, attached hereto and incorporated by reference, hereinafter "Petition."
2. An investigation has been completed as required by N.C.G.S. § 160A-31 of the Petition for compliance with the requirements of N.C.G.S. § 160A-31.

Based upon this investigation, I find that

1. The Petition includes the names and addresses and signatures of all owners of real property lying in the area described therein.
2. The Petition was prepared in substantially the form prescribed by 160A-31(b).
3. The area described in the petition is contiguous to the City of Hendersonville's primary corporate limits, as defined by N.C.G.S. 160A-31(f).
4. The area for annexation meets all other requirements defined in NC 160A-31 regarding the character of the area to be annexed.

Having made the findings stated above, I hereby certify the Petition appears to be valid.

In witness hereof, I have set my hand and the City Seal on this the 2nd day of February, 2023.

/s/ Jill Murray

D. Street Closure: Resolution of Intent-Portion of Laws Avenue (C23-01-SCL) – Tyler Morrow, Planner II

Resolution #23-11

RESOLUTION OF INTENT TO CLOSE AN UNOPENED, UNIMPROVED PORTION OF LAWS AVENUE

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys; and

WHEREAS, Danny Huggins, Sara Huggins and Katheryn Enloe Writesel have petitioned the City of Hendersonville City Council to close an unopened and unimproved portion of the street known as Laws Avenue, located between PINs 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-18-3133; and

WHEREAS, NC General Statute 160A-299 requires that City Council conduct a public hearing for the purpose of giving consideration to the petition; and

WHEREAS, At the public hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual; and

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

1. City Council herewith calls a public hearing to be held at 5:45 p.m. (or as soon thereafter as it may be heard) on the 6th day of April, 2023, in the Assembly Room of the City Operations Center to consider closing an unopened and unimproved portion of the street known as Laws Avenue located between PINs 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-18-3133. Persons shall be allowed to attend and comment in person or via Zoom at the following address:

<https://zoom.us/join>

Dial-in by phone: (646) 558-8656

Meeting ID: 822 0104 2528

Passcode: 1847

Digital public hearing comments may be submitted prior to the public hearing on the City's webpage at www.hendersonvillenc.gov/public-comment or directly to the City Clerk, Jill Murray, jmurray@hvlnc.gov, 160 6th Avenue East, Hendersonville, NC 28792.

2. The legal description for the portion of Laws Avenue proposed for closing is as follows:

Beginning on a 3/4" iron pipe, said iron pipe standing S 83°36'39" E 73.23' from the northwestern most corner of the Huggins property as described in Deed Book 838, Page 055, and continuing thence from said beginning point thus established, N 06°41'02" E 20.00' to a point, thence N 06°41'02" E 9.25' to a 3/4" iron pipe, said pipe marking the southwestern corner of the Enloe property as described in Deed Book 1388, Page 679, and continuing thence S 87°40'12" E 258.20' to a point, thence S 02°29'48" E 20.98' to a 1/2" iron pipe, thence N 87°25'58" E 124.94' to a 3/4" iron pipe, thence N 87°25'58" E 10.47' to a 1/2" iron pipe set, thence S 04°16'22" 24.84' to a point, thence S 04°16'22" 20.00' to a 1/2" iron pipe, thence S 85°45'15", passing through a 1/2" iron pipe at 67.39', a total distance of 150.00' to a 1/2" iron pipe, thence N 65°55'09" W 35.00' to a 1/2" iron pipe, thence N 65°42'22" W 41.74' to a point, thence N 83°28'54" W 182.52' to the point and place of beginning. Containing 0.37 Acres (16213 SF) and being an unopened portion of "Laws Avenue" as shown on survey by Associated Land Surveyors & Planners, PC bearing job number S-22-753.

3. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
4. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
5. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be prominently posted in at least two along the portion of Laws Avenue proposed for closure as required by G.S. 160A-299.
6. The City Council herewith declares its intent to close the street as described above.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

E. Revision of Personnel Policy-Amending Article III, Section 8 and Article VII, Sections 8 and 14 – Jennifer Harrell, HR Director

Resolution #23-12

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AMENDING THE CITY OF HENDERSONVILLE PERSONNEL POLICY

WHEREAS, the City of Hendersonville maintains a Personnel Policy. The purpose of which is to establish a system of personnel administration for recruiting, selecting, employing, developing and maintaining an effective and responsible work force; and

WHEREAS, the City of Hendersonville wishes to amend Article III. Section 8 – Reassignments: by clarifying when an employee takes a reassignment, salary may be retained at the same level as long as their current salary falls within the pay range of the lower grade. If the employee retains their current salary, they will not be eligible for the 5% increase or probation completion level if they accept a position at a higher pay grade in the future unless the position they are promoted into is in a higher salary range than the position they moved from in the reassignment; exceptions will be on a case by case basis, authorized and approved by the City Manager; and

WHEREAS, the City of Hendersonville also wishes to amend Article VII. Section 8- Vacation Leave: Maximum Accumulation. Vacation leave may be accumulated without any applicable maximum until the last payroll in December.

However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 40 days prorated as shown in Section 16. Effective December 31st, any employee with more than 40 days of accumulated leave shall have the excess accumulation removed so that only 40 days are carried forward to January 1 of the next calendar year. Those hours, in excess of 40 days, shall be converted to the employee’s sick leave account. Employees are not eligible to receive pay for vacation time not taken.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation; and

WHEREAS, the change is being made due to the limitations in the current payroll system. The vacation to sick rollover time is calculating based on last payroll of the calendar year and is not taking into consideration absence time used through the end of December that falls into the first January payroll; and

WHEREAS, the City of Hendersonville also wishes to amend Article VII. Section 14- Transfer of Sick Leave from a Previous Employer by clarifying when sick leave from a previous employer covered by the State or Local Government Retirement System will be accepted. The City will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the City of Hendersonville. The sick leave amount must be certified by the previous employer and it is the employee’s responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon their hire date; and

WHEREAS, The City currently allows sick leave from a previous employer covered by the State or Local Government Retirement System to be added to an employee’s accruals upon the completion of the probationary period. While the pandemic State of Emergency due to Covid was in effect, the City allowed sick leave to be added upon an employee’s hire date. We’ve found no abuse of sick leave when it was activated at this time and this could also be used as a recruitment strategy.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that from and after the effective date of this resolution, Article III. Section 8 and Article VII. Section 8 and Section 14 of the Personnel Policy attached to this resolution, is hereby adopted.

This policy will become effective as of the date of adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

F. Budget Amendments FY23 Vehicles and Equipment – Jenny Floyd, Budget & Mgmt. Analyst

Ordinance #23-10

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
FY23 VEHICLES AND EQUIPMENT PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the FY23 Vehicles and Equipment Project (project #00023).

Section 2: The following amounts are appropriated for the project:

| Account Codes | | | | Account Name | Total Budget |
|-----------------------------|-------|---------|---------|--------------------------------|--------------|
| Fund | Dept. | Account | Project | | |
| 410 | 1502 | 554001 | 00023 | Capital Outlay Equipment | \$258,260 |
| 410 | 1300 | 554002 | 00023 | Capital Outlay- Vehicles 14-47 | 49,815 |
| 410 | 1300 | 554002 | 00023 | Capital Outlay- Vehicles 14-48 | 49,815 |
| 410 | 1300 | 554002 | 00023 | Capital Outlay- Vehicles 14-49 | 49,815 |
| 410 | 1300 | 554002 | 00023 | Capital Outlay- Vehicles 14-52 | 49,815 |
| 410 | 1300 | 554002 | 00023 | Capital Outlay- Vehicles x | 51,065 |
| 410 | 1300 | 554002 | 00023 | Capital Outlay- Vehicles x | 51,065 |
| Total Project Appropriation | | | | | \$559,650 |

Section 3: The following revenues are anticipated to be available for the project:

| Account Codes | | | | Account Name | Total Budget |
|-----------------------------|-------|---------|---------|---------------|--------------|
| Fund | Dept. | Account | Project | | |
| 410 | 0000 | 470010 | 00023 | Debt Issuance | \$559,650 |
| Total Project Appropriation | | | | | \$559,650 |

Section 4: The Finance Director is hereby directed to maintain within the General Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 8th day of February, 2023.

G. FY23 Mid-Year Budget Amendments – *Adam Murr, Budget Manager*

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023
Form Number - 02082023-01

BUDGET AMENDMENT

| FUND 010 | | | | | |
|--|--------------------------------------|-----------------|----------|----------|----------------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | EXISTING BUDGET | INCREASE | DECREASE | REVISED BUDGET |
| 010-0000-400102 | Prior Years Ad Valorem Taxes | 25,000 | 29,800 | - | 54,800 |
| 010-0000-400150 | Tax - Interest | 1,000 | 2,540 | - | 3,540 |
| 010-0000-410001 | Local Sales & Use Tax | 5,058,500 | 287,000 | - | 5,300,500 |
| 010-0000-410200 | Court Fees - Police | 2,500 | 105 | - | 2,605 |
| 010-0000-420050 | Grant Revenue | - | 3,860 | - | 3,860 |
| 010-0000-430007 | Boyd Park Concessions | 1,000 | 150 | - | 1,150 |
| 010-0000-440011 | Demo Fees | 100 | 20 | - | 120 |
| 010-0000-440012 | Street Sidewalk Encroachment | 250 | 1,500 | - | 1,750 |
| 010-0000-440015 | Payment In Lieu Of Sidewalk | 5,000 | 31,300 | - | 36,300 |
| 010-0000-450002 | Powell Bill Interest | - | 2,140 | - | 2,140 |
| 010-0000-450099 | Market Adjustment | - | 53,000 | - | 53,000 |
| 010-0000-460090 | Contributions/Donations | - | 2,548 | - | 2,548 |
| 010-0000-460120 | Refunds | - | 15,900 | - | 15,900 |
| 010-0000-470010 | Debt Issued | 1,088,700 | - | 567,700 | 888,700 |
| 010-0000-470030 | Insurance proceeds | - | 27,150 | - | 27,150 |
| 010-0000-470050 | Sale Of Capital Assets | 20,000 | 50,650 | - | 70,650 |
| 010-0000-534999 | Contingency | 4,359 | 45,000 | - | 49,359 |
| 010-1001-519200 | Contract Services | 20,000 | - | 10,000 | 10,000 |
| 010-1002-519200 | Contract Services | 165,000 | 15,000 | - | 180,000 |
| 010-1002-531215 | Dues & Subscriptions | 17,625 | 150 | - | 17,775 |
| 010-1002-531225 | Training | 32,500 | 2,000 | - | 34,500 |
| 010-1002-534000 | Non-Capital Equipment | 34,900 | 2,250 | - | 37,150 |
| 010-1002-551000 | Capital Outlay - Land,Easements,Row | 122,500 | 1,000 | - | 123,500 |
| 010-1005-502005 | Group Med & Life Ins | 7,581 | 1,000 | - | 8,581 |
| 010-1010-501001 | Salaries - Regular | 53,822 | - | 21,625 | 32,197 |
| 010-1010-502001 | Fica Tax Expense | 4,117 | - | 2,000 | 2,117 |
| 010-1010-502005 | Group Med & Life Ins | 5,333 | - | 3,000 | 2,333 |
| 010-1010-502050 | Retirement Expense | 6,534 | - | 4,000 | 2,534 |
| 010-1010-519200 | Contract Services | 210,000 | 26,625 | - | 236,625 |
| 010-1010-534000 | Non-Capital Equipment | 40,000 | 25,000 | - | 65,000 |
| 010-1014-524030 | R & M - Trucks | 1,000 | 1,500 | - | 2,500 |
| 010-1014-531700 | Liab & Prop Ins & Bonds | 2,500 | 305 | - | 2,805 |
| 010-1200-502091 | Worker's Comp Ins | 6,550 | 120 | - | 6,670 |
| 010-1200-524030 | R & M - Trucks | 2,200 | 650 | - | 2,850 |
| 010-1300-501001 | Salaries - Regular | 3,202,834 | 204,200 | - | 3,407,034 |
| 010-1300-501002 | Salaries - Board/ Part Time/Temp/Aux | 80,812 | 9,750 | - | 90,562 |
| 010-1300-501010 | Salaries - Overtime | 120,000 | 25,500 | - | 145,500 |
| 010-1300-501012 | Salaries - Standby Pay | 17,000 | 2,500 | - | 19,500 |
| 010-1300-501025 | Salaries - Uniform/Taxab | 12,000 | 3,250 | - | 15,250 |
| 010-1300-502001 | Fica Tax Expense | 259,795 | 21,250 | - | 281,045 |
| 010-1300-502091 | Worker's Comp Ins | 59,664 | 4,981 | - | 64,645 |
| 010-1300-519102 | Prof Services-Legal | 24,700 | 200 | - | 24,900 |
| 010-1300-524030 | R & M - Trucks | 108,500 | 2,997 | - | 111,497 |
| 010-1300-531210 | Permits, License And Fees | 92,930 | 3,050 | - | 95,980 |
| 010-1300-531215 | Dues & Subscriptions | 20,827 | - | 3,050 | 17,777 |
| 010-1300-531225 | Training | 73,965 | - | 10,000 | 63,965 |
| 010-1300-531700 | Liab & Prop Ins & Bonds | 88,125 | 875 | - | 89,000 |
| 010-1300-534000 | Non-Capital Equipment | 91,673 | 30,000 | - | 121,673 |
| 010-1300-554002 | Capital Outlay - Vehicles | 367,700 | - | 367,700 | - |
| 010-1400-501001 | Salaries - Regular | 2,211,178 | 5,000 | - | 2,216,178 |
| 010-1400-501002 | Salaries - Board/ Part Time/Temp/Aux | 40,000 | 2,000 | - | 42,000 |
| 010-1400-501010 | Salaries - Overtime | 115,000 | 2,000 | - | 117,000 |
| 010-1400-502001 | Fica Tax Expense | 183,670 | 1,700 | - | 185,370 |
| 010-1400-502091 | Worker's Comp Ins | 44,431 | 5,109 | - | 49,540 |
| 010-1400-531100 | Fuel | 45,000 | 3,904 | - | 48,904 |
| 010-1400-531215 | Dues & Subscriptions | 25,000 | 770 | - | 25,770 |
| 010-1400-531700 | Liab & Prop Ins & Bonds | 65,000 | 31,650 | - | 96,650 |
| 010-1400-554002 | Capital Outlay - Vehicles | 157,000 | 24,355 | - | 181,355 |
| 010-1502-501025 | Salaries - Uniform/Taxab | 405 | 170 | - | 575 |
| 010-1502-502005 | Group Med & Life Ins | 38,700 | 8,000 | - | 46,700 |
| 010-1502-502091 | Worker's Comp Ins | 3,191 | 90 | - | 3,281 |
| 010-1502-521001 | Supplies & Materials | 4,000 | 120 | - | 4,120 |
| 010-1502-531100 | Fuel | 4,500 | 2,000 | - | 6,500 |
| 010-1502-531210 | Permits, License And Fees | 13,600 | 680 | - | 14,280 |
| 010-1502-531700 | Liab & Prop Ins & Bonds | 3,261 | 290 | - | 3,551 |
| 010-1521-502005 | Group Med & Life Ins | 33,343 | 1,200 | - | 34,543 |
| 010-1521-502091 | Worker's Comp Ins | 5,767 | 818 | - | 6,585 |
| 010-1521-523003 | Utilities - Telephone & Internet | 1,200 | 1,000 | - | 2,200 |
| 010-1521-531700 | Liab & Prop Ins & Bonds | 2,865 | 660 | - | 3,525 |
| 010-1521-554001 | Capital Outlay - Equipment | 69,000 | - | 15,000 | 54,000 |
| 010-1523-502091 | Worker's Comp Ins | 3,534 | 1,450 | - | 4,984 |
| 010-1523-519200 | Contract Services | 150,960 | 22,500 | - | 173,460 |
| 010-1523-521001 | Supplies & Materials | 25,000 | 2,548 | - | 27,548 |
| 010-1523-524010 | R & M - Bulidings | 48,950 | - | 5,000 | 43,950 |
| 010-1525-502091 | Worker's Comp Ins | 7,408 | 250 | - | 7,658 |
| 010-1525-521001 | Supplies & Materials | 34,000 | - | 1,000 | 33,000 |
| 010-1525-531100 | Fuel | 20,750 | 1,000 | - | 21,750 |
| 010-1525-531700 | Liab & Prop Ins & Bonds | 8,323 | 590 | - | 8,913 |
| 010-1525-554001 | Capital Outlay - Equipment | 49,000 | - | 2,000 | 43,000 |
| 010-1555-501001 | Salaries - Regular | 479,510 | 15,000 | - | 494,510 |
| 010-1555-501025 | Salaries - Uniform/Taxab | 1,500 | 400 | - | 1,900 |
| 010-1555-502091 | Worker's Comp Ins | 4,011 | 385 | - | 4,396 |
| 010-1555-519104 | Prof Services-Engring | 11,520 | 300 | - | 11,820 |
| 010-1555-523003 | Utilities - Telephone & Internet | 900 | 1,200 | - | 2,100 |
| 010-1555-524030 | R & M - Trucks | 35,000 | 3,000 | - | 38,000 |
| 010-1555-531100 | Fuel | 25,750 | 1,000 | - | 26,750 |
| 010-1555-531225 | Training | 3,000 | 1,700 | - | 4,700 |
| 010-1555-531700 | Liab & Prop Ins & Bonds | 15,830 | 415 | - | 16,245 |
| 010-1555-554001 | Capital Outlay - Equipment | 331,100 | - | 200,000 | 131,100 |
| 010-1560-502091 | Worker's Comp Ins | 15,832 | 450 | - | 16,282 |
| 010-1560-521001 | Supplies & Materials | 45,000 | 9,385 | - | 54,385 |
| 010-1560-531100 | Fuel | 3,250 | 2,000 | - | 5,250 |
| 010-1560-531700 | Liab & Prop Ins & Bonds | 1,967 | 731 | - | 2,698 |
| 010-1560-554002 | Capital Outlay - Vehicles | 160,000 | - | 635 | 159,365 |
| FUND 010 | TOTAL REVENUES | | 507,663 | 567,700 | |
| | TOTAL EXPENDITURES | | 584,973 | 645,010 | |
| A mid-year budget amendment resulting in a net decrease of the General Fund (010) by \$60,037 to reflect higher than anticipated and/or forecasted revenues for FY23. The amendment is a net decrease to the fund due to purchases of equipment and vehicles being moved to the FY23 Vehicles and Equipment CPO (#00023). Without the adjustment to capital purchases, the amendment results in a net increase of \$507,663. Increased revenues are proposed to be utilized to clean-up items within the General Fund. Notable expenditure increases include: corrections for contracted services, dues, and non-capital equipment; IT resources; embedded clinician funding; and salaries and benefits adjustments. | | | | | |

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023

Form Number - 02082023-02

BUDGET AMENDMENT

| FUND 020 | | | |
|---|------------------------------------|----------|----------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | INCREASE | DECREASE |
| 020-0000-450099 | Market Adjustment | 1,040 | - |
| 020-0000-460040 | Special Events- Nontaxable | 5,000 | - |
| 020-0000-460120 | Refunds | 430 | - |
| 020-2102-501002 | Salaries- Board/Part Time/Temp/Aux | 120 | - |
| 020-2102-501010 | Salaries- Overtime | 3,200 | - |
| 020-2102-51012 | Salaries- Standby | 480 | - |
| 020-2102-501025 | Salaries- Uniform/Taxabl | 120 | - |
| 020-2102-502091 | Salaries-Worker's Comp | 100 | - |
| 020-2102-524010 | R&M Buildings | 230 | - |
| 020-2102-531205 | Advertising | 1,000 | - |
| 020-2102-531220 | Travel | 820 | - |
| 020-2102-531230 | Tax Billing | 400 | - |
| FUND 020 | TOTAL REVENUES | 6,470 | - |
| | TOTAL EXPENDITURES | 6,470 | - |
| A budget amendment in the Main St Fund to increase revenues and expenditure accounts where appropriate as the City approaches mid-year. Increased funds will be used for priortiy itmes within the Main St Fund including salaries, building repair, travel, and advertising. | | | |

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023

Form Number - 02082023-03

BUDGET AMENDMENT

| FUND 021 | | | |
|---|------------------------------------|----------|----------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | INCREASE | DECREASE |
| 021-0000-410010 | Local Sales & Use Tax | 1,000 | - |
| 021-0000-450001 | Interest Income | 23 | - |
| 021-0000-450099 | Market Adjustment | 1,000 | - |
| 021-2202-201002 | Salaries- Board/Part Time/Temp/Aux | 30 | - |
| 021-2202-501010 | Salaries- Overtime | 1,600 | - |
| 021-2202-501012 | Salaries- Standby Pay | 238 | - |
| 021-2202-501025 | Salaries-Uniform/Taxab | 30 | - |
| 021-2202-502091 | Worker's Comp Ins. | 125 | - |
| FUND 021 | TOTAL REVENUES | 2,023 | - |
| | TOTAL EXPENDITURES | 2,023 | - |
| A budget amendment in the 7th Ave Fund to increase revenues and expenditure accounts where appropriate as the City approaches mid-year. Increased funds will be used for priortiy itmes within the 7th Ave Fund including salaries and insurance. | | | |

BUDGET AMENDMENT

| FUND 060 | | | | | |
|--|-------------------------------------|-----------------|-----------|----------|----------------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | EXISTING BUDGET | INCREASE | DECREASE | REVISED BUDGET |
| 060-0000-430501 | Water Sales - General | 14,850,000 | 210,000 | - | 15,060,000 |
| 060-0000-430502 | Water Sales - Miscellaneous | 2,000 | 400 | - | 2,400 |
| 060-0000-430701 | Sewer Charges | 6,200,000 | 125,000 | - | 6,325,000 |
| 060-0000-444102 | W&S Inspection Line Fees | 10,000 | 38,200 | - | 48,200 |
| 060-0000-444202 | Disconnect/Reconnect Admin Fee | 70,000 | 500 | - | 70,500 |
| 060-0000-445201 | Utility Billing Service Charges | 51,000 | 15,300 | - | 66,300 |
| 060-0000-445202 | Sewer Surcharges | 60,850 | 21,000 | - | 81,850 |
| 060-0000-450001 | Interest Income | 8,000 | 500 | - | 8,500 |
| 060-0000-521950 | Inventory Purchases | - | 622,000 | - | 622,000 |
| 060-0000-521951 | Contra Inventory Purchases | - | (622,000) | - | (622,000) |
| 060-1008-502091 | Worker's Comp Ins | 1,530 | 50 | - | 1,580 |
| 060-1008-523003 | Utilities - Telephone & Internet | 750 | 1,500 | - | 2,250 |
| 060-1010-501001 | Salaries - Regular | 192,176 | - | 21,625 | 170,551 |
| 060-1010-502001 | Fica Tax Expense | 14,701 | - | 2,000 | 12,701 |
| 060-1010-502005 | Group Med & Life Ins | 19,282 | - | 3,000 | 16,282 |
| 060-1010-502050 | Retirement Expense | 23,330 | - | 4,000 | 19,330 |
| 060-1010-502091 | Worker's Comp Ins | 692 | 105 | - | 797 |
| 060-1010-519200 | Contract Services | 200,000 | 5,625 | - | 205,625 |
| 060-1010-531700 | Liab & Prop Ins & Bonds | 800 | 280 | - | 1,080 |
| 060-1010-534000 | Non-Capital Equipment | 30,000 | 25,000 | - | 55,000 |
| 060-1014-501010 | Salaries - Overtime | 3,000 | 2,000 | - | 5,000 |
| 060-1014-502091 | Worker's Comp Ins | 10,611 | 210 | - | 10,821 |
| 060-1014-519104 | Prof Services-Engring | 45,000 | 285 | - | 45,285 |
| 060-1014-531210 | Permits, License And Fees | 41,000 | 850 | - | 41,850 |
| 060-1521-502091 | Worker's Comp Ins | 3,501 | 95 | - | 3,596 |
| 060-7002-501010 | Salaries - Overtime | 3,750 | 4,000 | - | 7,750 |
| 060-7002-502091 | Worker's Comp Ins | 11,160 | 12,500 | - | 23,660 |
| 060-7002-502092 | State Unemployment Insurance | 2,750 | 12,400 | - | 15,150 |
| 060-7002-531225 | Training | 9,750 | 10,000 | - | 19,750 |
| 060-7002-534000 | Non-Capital Equipment | 27,500 | 2,075 | - | 29,575 |
| 060-7002-551000 | Capital Outlay - Land,Easements,Row | 117,500 | 1,000 | - | 118,500 |
| 060-7032-502091 | Worker's Comp Ins | 4,838 | 200 | - | 5,038 |
| 060-7032-531700 | Liab & Prop Ins & Bonds | 11,840 | 200 | - | 12,040 |
| 060-7032-554001 | Capital Outlay - Equipment | 80,000 | 750 | - | 80,750 |
| 060-7035-502091 | Worker's Comp Ins | 33,996 | 600 | - | 34,596 |
| 060-7035-519104 | Prof Services-Engring | - | 800 | - | 800 |
| 060-7035-522001 | Chemicals | 558,000 | 70,000 | - | 628,000 |
| 060-7035-524010 | R & M - Bulidings | 61,500 | - | 20,000 | 41,500 |
| 060-7050-501010 | Salaries - Overtime | 8,000 | 4,000 | - | 12,000 |
| 060-7050-502091 | Worker's Comp Ins | 326 | 200 | - | 526 |
| 060-7050-524030 | R & M - Trucks | 7,000 | 2,600 | - | 9,600 |
| 060-7055-502091 | Worker's Comp Ins | 1,680 | 900 | - | 2,580 |
| 060-7055-524060 | R & M - Lines | 180,000 | 140,000 | - | 320,000 |
| 060-7055-531100 | Fuel | 64,250 | 7,175 | - | 71,425 |
| 060-7055-531215 | Dues & Subscriptions | 8,000 | 1,200 | - | 9,200 |
| 060-7055-531700 | Liab & Prop Ins & Bonds | 50,400 | 4,600 | - | 55,000 |
| 060-7055-555002 | C/O Lines | - | 265,000 | - | 265,000 |
| 060-7132-501025 | Salaries - Uniform/Taxab | 500 | 500 | - | 1,000 |
| 060-7132-502091 | Worker's Comp Ins | 2,383 | 700 | - | 3,083 |
| 060-7132-531700 | Liab & Prop Ins & Bonds | 3,714 | 200 | - | 3,914 |
| 060-7135-502091 | Worker's Comp Ins | 29,265 | 400 | - | 29,665 |
| 060-7150-502091 | Worker's Comp Ins | 98 | 100 | - | 198 |
| 060-7155-501025 | Salaries - Uniform/Taxab | 1,850 | 500 | - | 2,350 |
| 060-7155-502091 | Worker's Comp Ins | 818 | 700 | - | 1,518 |
| 060-7155-524030 | R & M - Trucks | 10,000 | 2,700 | - | 12,700 |
| 060-7155-524060 | R & M - Lines | 200,000 | - | 140,000 | 60,000 |
| 060-7155-531100 | Fuel | 38,500 | 7,175 | - | 45,675 |
| 060-7155-531700 | Liab & Prop Ins & Bonds | 25,458 | 350 | - | 25,808 |
| 060-7155-555002 | C/O Lines | - | 12,000 | - | 12,000 |
| FUND 060 | TOTAL REVENUES | | 410,900 | - | |
| | TOTAL EXPENDITURES | | 601,525 | 190,625 | |
| A mid-year budget amendment resulting in a net increase of the Water and Sewer Fund (060) by \$410,900 to reflect higher than anticipated and/or forecasted revenues for FY23. Increased funding is proposed to be utilized to clean-up items within the Water and Sewer Fund. Notable expenditure increases include: I.T. department purchases; miscellaneous salaries, wages, and benefits clean-up; increases for water treatment chemicals; increases for inventory purchases for capital projects (e.g. line and meter replacements); and an addition of two offsetting financial accounts for inventory and "contra" inventory for audit purposes. | | | | | |

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023

Form Number - 02082023-05

BUDGET AMENDMENT

| FUND 067 | | | |
|--|------------------------------------|----------|----------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | INCREASE | DECREASE |
| 067-0000-447000 | Stormwater Permit | 2,980 | - |
| 067-0000-450001 | Interest Income | 100 | - |
| 067-0000-450099 | Market Adjustment | 3,000 | - |
| 067-7555-201002 | Salaries- Board/Part Time/Temp/Aux | 710 | - |
| 067-7555-501010 | Salaries- Overtime | 3,310 | - |
| 067-7555-201011 | Salaries-Holiday Pay | 460 | - |
| 067-7555-501012 | Salaries- Standby Pay | 1,500 | - |
| 067-7555-502091 | Worker's Comp Ins. | 100 | - |
| FUND 067 | TOTAL REVENUES | 6,080 | - |
| | TOTAL EXPENDITURES | 6,080 | - |
| A budget amendment in the Stormwater Fund to increase revenues and expenditure accounts where appropriate as the City approaches mid-year. Increased funds will be used for priortiy itmes within the Stormwater Fund including salaries, and insurance. | | | |

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023

Form Number - 02082023-06

BUDGET AMENDMENT

| FUND 068 | | | |
|--|--|----------|----------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | INCREASE | DECREASE |
| 068-0000-430802 | Waste Dispoal Fees- Commercial | 38,700 | - |
| 068-0000-430803 | Solid Waste Disosal Tax | 3,010 | - |
| 068-0000-470900 | Fund Balance Appropriation | 253,013 | |
| 068-0000-460120 | Refunds | 290 | - |
| 068-7855-501001 | Salaries-Regular | 23,000 | - |
| 068-7855-501010 | Salaries-Overtime | 3,000 | - |
| 068-7855-502050 | Retirement Expense | 2,500 | - |
| 068-7855-502091 | Worker's Comp Ins. | 1,300 | - |
| 068-7855-531700 | Liab & Prop Ins & Bonds | 2,200 | - |
| 068-7855-531100 | Fuel | 10,000 | - |
| 068-7855-554001 | Capital Outlay-Equipment Other than Vehicles | 253,013 | |
| FUND 068 | TOTAL REVENUES | 295,013 | - |
| | TOTAL EXPENDITURES | 295,013 | - |
| A budget amendment in the Environmental Services Fund to increase revenues and expenditure accounts where appropriate as the City approaches mid-year. Increased funds will be used for priortiy itmes within the Environmental Services Fund including salaries, fuel, and insurance. | | | |

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023

Form Number - 02082023-07

BUDGET AMENDMENT

| FUND 410 | | | | | |
|--|--|-----------------|----------|----------|----------------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | EXISTING BUDGET | INCREASE | DECREASE | REVISED BUDGET |
| 410-0000-470010-00023 | Debt Issued | - | 559,650 | - | 559,650 |
| 410-1502-554001-00023 | Capital Outlay Equipment (Pothole Patcher) | - | 258,260 | - | 258,260 |
| 410-1300-554002-00023 | Capital Outlay - Vehicles | - | 301,390 | - | 301,390 |
| FUND 410 | TOTAL REVENUES | | 559,650 | - | |
| | TOTAL EXPENDITURES | | 559,650 | - | |
| A budget amendment to reflect capital purchases approved in the FY23 General Fund CIP being moved to the Governmental Capital Project Fund (410) in order to adjust for longer than anticipated lead and delivery times past the end of FY23. The newly adopted capital project ordinance for the FY23 Vehicles and Equipment project is #00023. | | | | | |

TO MAYOR & COUNCIL - February 08, 2023

FISCAL YEAR 2023

Form Number - 02082023-08

BUDGET AMENDMENT

| FUND 460 | | | | | |
|---|------------------------------|-----------------|----------|----------|----------------|
| ACCOUNT NUMBER | DESCRIPTION OF ACCOUNT | EXISTING BUDGET | INCREASE | DECREASE | REVISED BUDGET |
| 460-0000-470010-22011 | Prior Years Ad Valorem Taxes | 480,000 | 70,000 | - | 550,000 |
| 460-7155-554002-22011 | Tax - Interest | 480,000 | 70,000 | - | 550,000 |
| FUND 460 | TOTAL REVENUES | | 70,000 | - | |
| | TOTAL EXPENDITURES | | 70,000 | - | |
| A budget amendment to increase the Vactor Truck project (#22011) to reflect an anticipated 2023 Series Water & Sewer System Revenue Bond (debt issuance) and increase expenditures according to most recent equipment quotes. | | | | | |

H. Resolution Authorizing the Sale of Two Harley Davidson Motorcycles to the Town of Waynesville – Blair Myhand, Chief of Police

Resolution #23-13

RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SALE OF TWO HARLEY DAVIDSON MOTORCYCLES TO THE TOWN OF WAYNESVILLE

WHEREAS, the Hendersonville Police Department owns five Harley Davidson Police Motorcycles; and;

WHEREAS, two of the motorcycles are no longer used by the police department and are in need of repair; and

WHEREAS, the Town of Waynesville desires to purchase the two motorcycles to start a new motorcycle unit; and

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

WHEREAS, the Hendersonville Police Department wishes to sell the two motorcycles to the Waynesville Police Department at a value of \$2,000 each.

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

1.

The 2012 and 2013 Harley Davidson Motorcycles identified by VIN 1HD1FMM12CB610390 and 1HD1FMM19DB634798 respectively are deemed surplus and approved to be sold.
2.

The City Council Councils authorizes the sale of the two motorcycles to the Town of Waynesville in accordance with §160A-274 at a price of \$2,000 each.
3.

The City Manager is authorized to execute the Bill of Sale with the Town of Waynesville.

| TAX DISTRICT | OWNER | ABSTRACT | NOTE | CHANGE | NUMBER | CODE | LEVY TYPE | BILLED | PAID | RELEASE |
|----------------------------|--|---------------------------|--|----------------|-----------------|---------------|-----------------|------------|-------------|------------|
| CITY OF HENDERSONVILLE | NEILL, SAMUEL D | 0002130514-2017-2017-0000 | VOID ABSTRACT; TAXPAYER PROVIDED DOCUMENTATION AND A REQUEST FOR RELEASE/REFUND; TAXPAYER SOLD HIS WATERCRAFT; PER WILDLIFE, WATERCRAFT TRANSFERRED OWNERSHIP 05/28/2014 | (\$4,010) | 8061 | JURSC10 | TAX | | \$0.00 | \$18.85 |
| | | | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$1.88 |
| | | | | | | | TOTAL: | | | \$20.73 |
| | | | | | | | ABSTRACT TOTAL: | | | \$20.73 |
| | | OWNER TOTAL: | | \$0 | | | | | | \$58.22 |
| | | 0002319201-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$736,200) | 8064 | JURSC10 | TAX | \$3,828.24 | \$0.00 | \$3,828.24 |
| | | | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | | TOTAL: | | | \$3,828.24 |
| | | | | | | | ABSTRACT TOTAL: | | | \$3,828.24 |
| | | 0002319329-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$404,800) | 8065 | JURSC10 | TAX | \$2,104.96 | \$0.00 | \$2,104.96 |
| | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 | | |
| | | | | | TOTAL: | | | \$2,104.96 | | |
| | | | | | ABSTRACT TOTAL: | | | \$2,104.96 | | |
| 0002852280-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$46,300) | 8069 | JURSC10 | TAX | \$240.76 | \$0.00 | \$240.76 | | |
| | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 | | |
| | | | | | TOTAL: | | | \$240.76 | | |
| | | | | | ABSTRACT TOTAL: | | | \$240.76 | | |
| 0002861109-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$43,600) | 8068 | JURSC10 | TAX | \$226.72 | \$0.00 | \$226.72 | | |
| | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 | | |
| | | | | | TOTAL: | | | \$226.72 | | |
| | | | | | ABSTRACT TOTAL: | | | \$226.72 | | |
| 0002863175-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$31,200) | 8066 | JURSC10 | TAX | \$162.24 | \$0.00 | \$162.24 | | |
| | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 | | |
| | | | | | TOTAL: | | | \$162.24 | | |
| | | | | | ABSTRACT TOTAL: | | | \$162.24 | | |
| 00028669956-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$32,800) | 8067 | JURSC10 | TAX | \$170.56 | \$0.00 | \$170.56 | | |
| | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 | | |
| | | | | | TOTAL: | | | \$170.56 | | |
| | | | | | ABSTRACT TOTAL: | | | \$170.56 | | |
| | | | | | | | | | | |
| TAX DISTRICT | OWNER | ABSTRACT | NOTE | VALUE CHANGE | ADJ. NUMBER | DISTRICT CODE | LEVY TYPE | BILLED | PAID | RELEASE |
| CITY OF HENDERSONVILLE | RTS AFFORDABLE HOUSING CORPORATION | 0003098166-2021-2021-0000 | EXEMPTION REMOVED IN ERROR, WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND. | (\$431,400) | 8070 | JURSC10 | TAX | \$2,243.28 | \$0.00 | \$2,243.28 |
| | | | | | | | LATE LIST FEE | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | | TOTAL: | | | \$2,243.28 |
| | | | | | | | ABSTRACT TOTAL: | | | \$2,243.28 |
| OWNER TOTAL: | | | | \$0 | | | | | \$8,976.76 | |
| DISTRICT TOTAL: | | | | (\$18,934,420) | | | | | \$98,460.95 | |

J. Approval of General Fund Vehicle and Equipment Financing Agreement – John Buchanan, Finance Director

Resolution #23-14

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

WHEREAS, The City of Hendersonville has previously determined to undertake a project for the financing of vehicles and equipment, and the Finance Director issued a request for proposals for the financing and;

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

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

1.

The City of Hendersonville hereby determines to finance the purchase of vehicles and equipment through United Financial, in accordance with the proposal dated January 9, 2023. The amount financed shall not exceed \$762,000 with an annual interest rate of 3.65% for a term of 4 years.
2.

All financing contracts and all related documents for the closing of the financing shall be consistent with the foregoing terms. City staff are hereby authorized to and directed to execute and deliver any financing documents, and to take all such action as they may consider necessary to carry out the financing as contemplated by the proposal and this resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

K. Resolution in Support of an Application by the City of Brevard for USDOT RAISE Grant Funding to Construct the Ecusta Trail in Transylvania County – Brent Detwiler, City Engineer

Resolution #23-15

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL IN SUPPORT OF AN APPLICATION BY THE CITY OF BREVARD FOR USDOT RAISE GRANT FUNDING TO CONSTRUCT THE ECUSTA TRAIL IN TRANSYLVANIA COUNTY

WHEREAS, the City Council of the City of Hendersonville considers bicycle and pedestrian transportation to be of utmost importance to the region by providing Western North Carolina with recreation and transportation opportunities as well as the possibilities of economic and community development; and

WHEREAS, the City Council of the City of Hendersonville adopted a resolution on April 5, 2012 supporting a regional recreational greenway along the Ecusta rail corridor linking Henderson and Transylvania counties; and

WHEREAS, the United States Department of Transportation has established a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program that provides funding for surface transportation infrastructure projects that will have a significant local or regional impact; and

WHEREAS, the City of Brevard will be applying for a RAISE Grant to fund the design and construction of the Ecusta Trail in Transylvania County; and

WHEREAS, the City Council of the City of Hendersonville feels that it is in the best interest of the citizens of Hendersonville to support and endorse said grant application; and

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

1. The City hereby fully supports and endorses an application by the City of Brevard for USDOT RAISE grant funding to construct the Ecusta Trail in Transylvania County; and
2. The City hopes that Secretary Pete Buttigieg and the US Department of Transportation will recognize the significance of this project and award funding to enhance the safety and connectivity for residents and visitors to the region.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

L. Ordinance to Amend and Correct CZD Ordinance #O-22-08 – Lew Holloway, Community Development Director

Ordinance #23-12

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND AND CORRECT ORDINANCE #O-22-08 TO AMEND THE PERMITTED LIST OF USES FOR PARCEL 9578-24-9710 C-2 CZD SECONDARY BUSINESS CONDITIONAL ZONING DISTRICT

WHEREAS, the City Council adopted Ordinance #18-070749, An Ordinance Amending the Official Zoning Map of the City of Hendersonville which rezoned Parcel Number 9578-24-9710 (previously, 9578-24-8681) from City of Hendersonville R-15 Medium Density Residential to C-3 CZD, Highway Business Conditional Zoning District; and

WHEREAS, the City adopted Ordinance #20-0427, An Ordinance Amending the Official Zoning Map of the City of Hendersonville which rezoned Parcel Number 9578-24-9710 9710 (previously, 9578-24-8681) from City of Hendersonville C-3 CZD Highway Business Conditional Zoning District to C-2 CZD, Secondary Business Conditional Zoning District; and

WHEREAS, on January 6th, 2022 the City adopted Ordinance #O-22-08, An Ordinance Amending the Official Zoning Map of the City of Hendersonville which rezoned Parcel Number 9578-24-9710 (previously, 9578-24-8681) from City of Hendersonville C-2 CZD, Secondary Business Conditional Zoning District to C-2 CZD, Secondary Business Conditional Zoning District; and

WHEREAS, the application from William A. Pace, Jr. (Applicant) and William A. Pace Jr. LLC (Property Owner) for rezoning the subject parcel, requested the addition of Automotive Paint & Body and certain permitted uses in the C-2 Secondary Business Zoning District to the approved list of uses for the Conditional Zoning District at the subject property, and

WHEREAS, in reviewing this application the City Council considered the list of permitted uses in the C-2 , Secondary Business Conditional Zoning District and, specifically the Special Use of Automotive Paint and Body and moved to adopt an ordinance the Official Zoning Map of the City of Hendersonville to include these uses; and

WHEREAS, the ordinance adopted mistakenly left Automotive Paint and Body off the list of permitted uses.

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

1. The list of permitted uses included in Ordinance #O-22-08 shall be amended, effective February 8th, 2023, as follows:
Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan submitted by the applicant and subject to the following:
 - a) Permitted Uses shall include:
 - i. Accessory uses & structures
 - ii. Animal hospitals & clinics so long as the use contains no outdoor kennels
 - iii. Automobile car washes
 - iv. Automobile sales & service establishments
 - v. Banks and other financial institutions
 - vi. Bed & breakfast facilities

- vii. Cultural arts buildings
- viii. Dance and fitness facilities
- ix. Dry cleaning and laundry establishments containing less than 6,000 ft² square feet of floor area
- x. Farm equipment sales & service
- xi. Funeral homes
- xii. Laundries, coin-operated
- xiii. Microbreweries, subject to special requirements Supplementary Standards contained in Section 16-4, below
- xiv. Mobile food vendors, subject to special requirements Supplementary Standards contained in Section 16-4, below
- xv. Music and art studios
- xvi. Neighborhood community centers
- xvii. Newspaper offices and printing establishments
- xviii. Offices, business, professional and public
- xix. Parking lots and parking garages
- xx. Parks
- xxi. Progressive care facilities subject to special requirements Supplementary Standards contained in Section 16-4, below
- xxii. Restaurants
- xxiii. Retail stores
- xxiv. Schools, post-secondary, business, technical and vocational
- xxv. Schools, primary & secondary
- xxvi. Signs, subject to the provisions of Article XIII
- xxvii. Theaters, indoor
- xxviii. Automotive Paint and Body

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

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

6. PRESENTATIONS

A. Introduction of Deputy Fire Chief – D. James Miller, Fire Chief

Fire Chief Miller introduced the new Deputy Fire Chief, Daniel C. Chavous.

B. Quarterly MVP Recipients – John Connet, City Manager

Chris McClure of Public Works was named an MVP for going the extra distance to be not only helpful but very friendly while picking up the trash for a customer who forgot to put their trash out.

Andrew Gunnin of the Police Department was named MVP for going above and beyond by crawling into a tight space and moving an appliance to rescue a cat for an elderly woman.

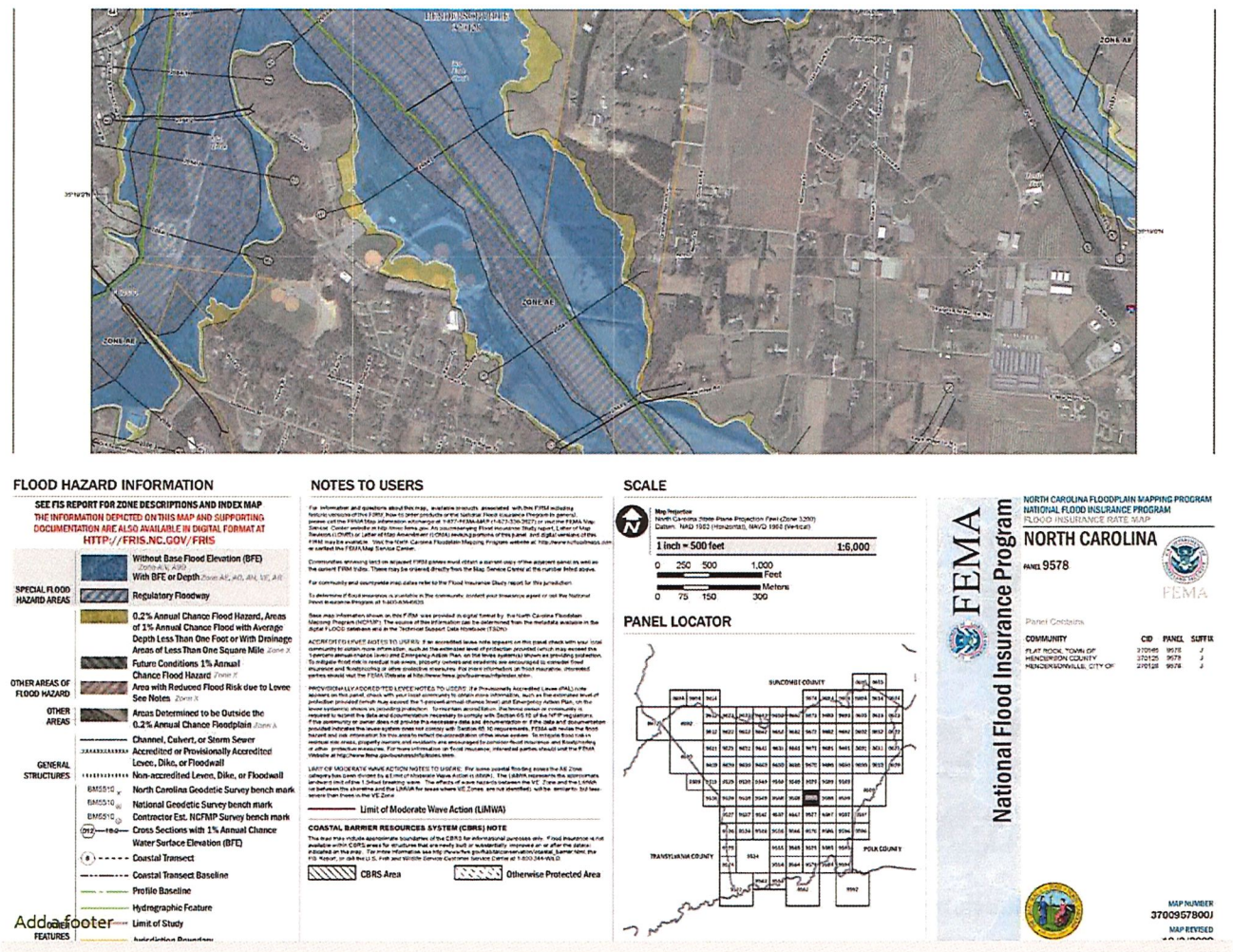
Landon McCraw of the Police Department was name MVP for helping two women that were stranded in a parking lot with a flat tire. There was a freeze warning that night and he drove them to a hotel and helped them with names of local tow truck companies.

C. MVP of the Year – John Connet, City Manager

Paul Williams, Water and Sewer Utilities Production Specialist was named as MVP of the year after he helped Pardee Hospital avoid having their water shut down after a contractor had hit the water main supply. Paul contacted all relevant internal personnel, collected all necessary repair parts and collaborated with one of our excavation crews to be on site within the hour to make the repairs.

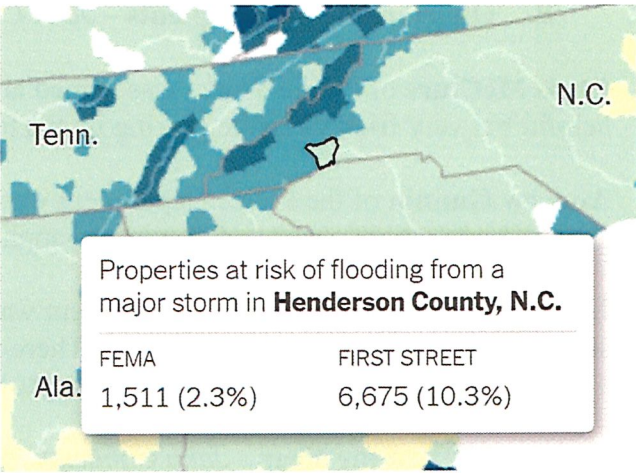
D. Understanding Flood Risk – Brendan Shanahan, Projects Division Manager

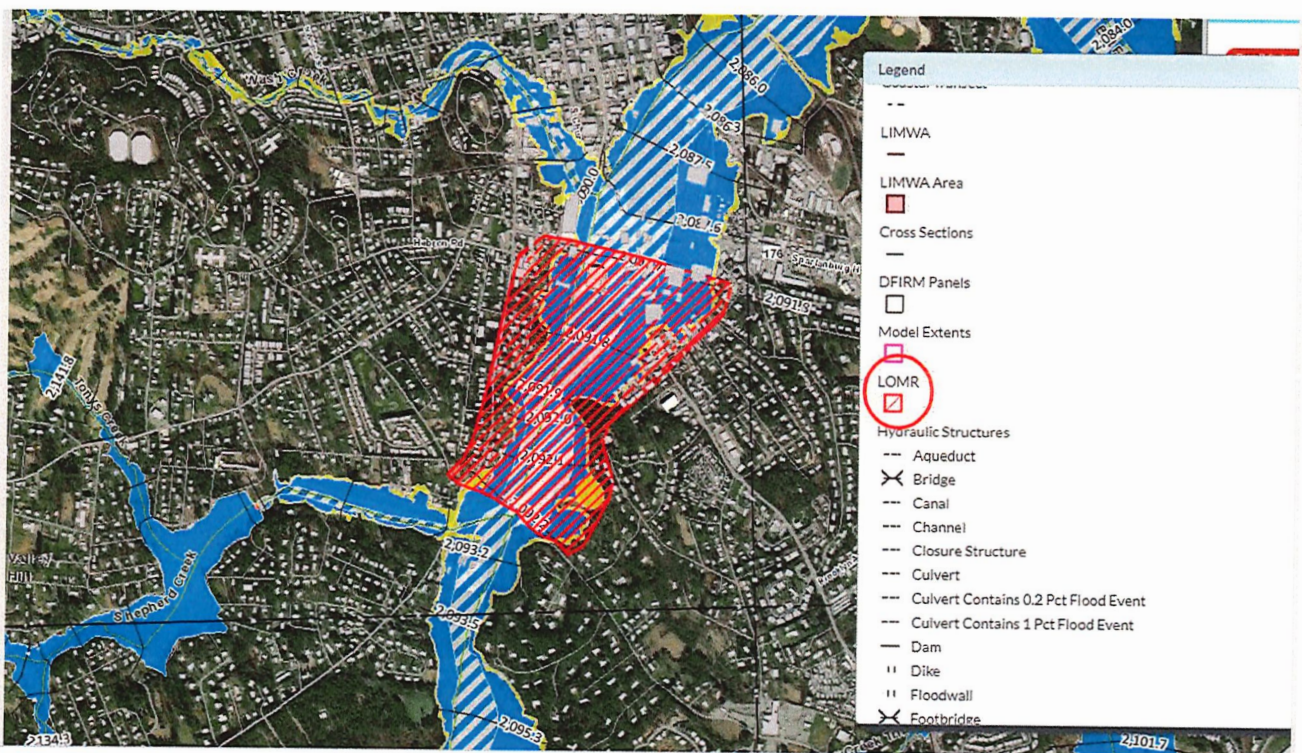
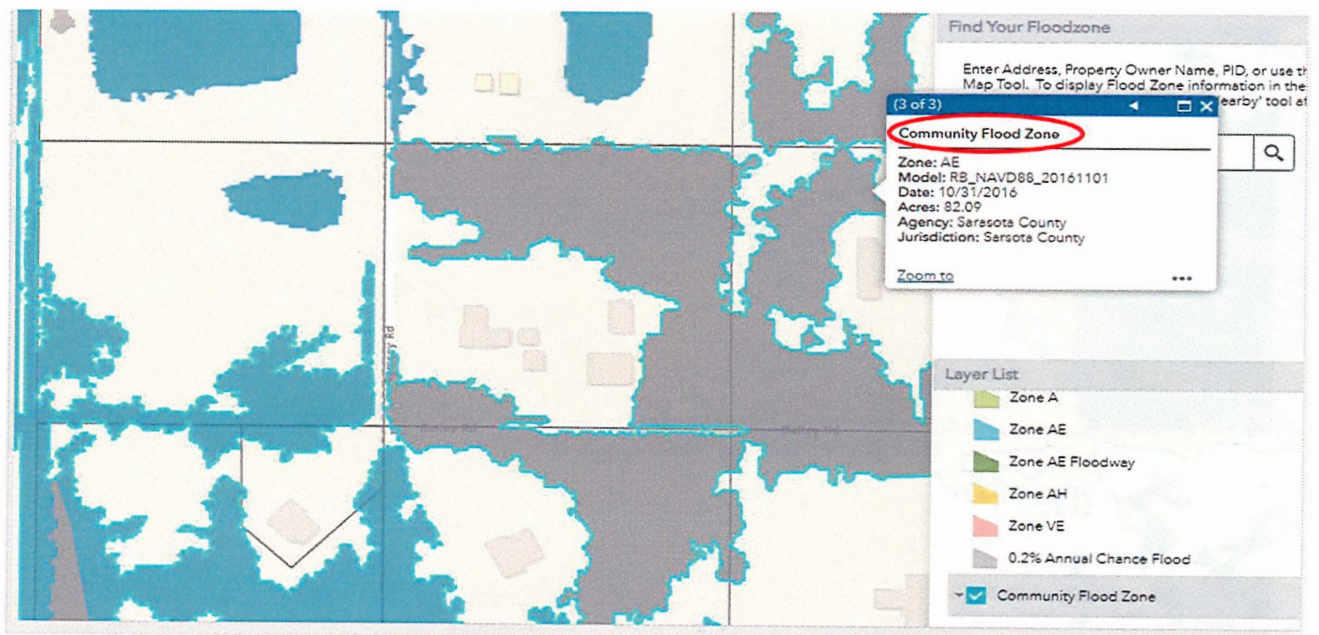
Brendan Shanahan showed Council a PowerPoint presentation of flood risks in our area.



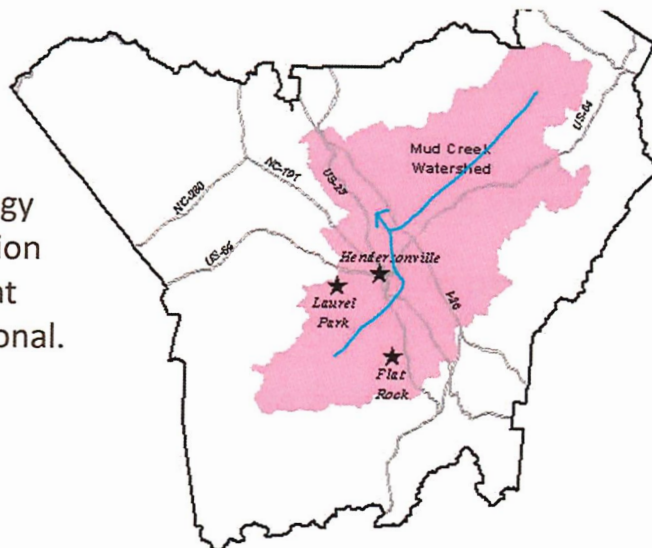
So, what is the “True” risk?

- Some studies attempt to capture the true risk.
- One example, First Street (2020), uses “more detailed data”
- It estimates there are over 4 times as many properties in our county that are at risk of flooding in a major storm than our flood maps may indicate.





The No Adverse Impact Strategy works best as a regional solution because the drainage area that contributes to flooding is regional.



Mud Creek Watershed Restoration Council
January 2003
Revised April 2003



Some of the work that is underway is:

- Elimination of siloed review
- Interdepartmental coordination on possible improvements to Code language to prevent risk by reducing adverse development within the floodplain
- Make improvements to decades old infrastructure
- Use sensors and alerts to be more responsive

Possible next steps are:

- Staff can pursue permit connectivity (zoning and flood damage prevention)
- Staff can pursue education and outreach
- Consultant analysis to better define risk gaps and to provide strategies to address them, may include Community Flood Hazard Areas, or LOMR to FEMAs map
- Assess the outlook for regional strategy and coordination

Consensus of Council was to look into areas that are flood prone.

7. UNFINISHED BUSINESS

A. Zoning Text Amendment: Lighting Ordinance (P22-100-ZTA) – Lew Holloway, Community Development Director

Mr. Holloway noted that he made the changes discussed since the last meeting. Council discussed and the following motions were made:

Council Member Jerry Smith moved to amend 6-19-2(d)-ix-6 5 to say “publicly owned buildings”. A unanimous vote of the Council followed.

Council Member Jennifer Hensley moved to strike paragraph (a) in section 6-19-3 which takes out amortization. A unanimous vote of the Council followed.

Council Member Jennifer Hensley moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VI. – General Provisions adding Section 6-19, revising Section 6-2. Nonconformities and Section 6-13. Nuisances and Article VII. Development Review and Article XII. Definition of Terms, based on the following as amended by motions made tonight: 1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because: The petition aligns with the Comprehensive Plan’s goals to minimize the negative impacts of growth (Strategy LU-3.5) and to protect wildlife habitat (Strategy NR-1.2). 2. We [find] this petition, in conjunction with the recommendations presented by staff, to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and

because: 1. The proposed text amendment establishes standards which allow for the sufficient and safe lighting of sites while reducing negative impacts on people, plants and animals. 2. The proposed text amendment establishes standards which address light pollution, an issue of growing international, national and regional concern. 3. The text amendment would ensure that both public lighting and private, nonresidential lighting would meet standards that minimize light pollution.

Motion carried 4-1, as amended to change the items listed above, with Council Member Jerry Smith being nay.

Ordinance #23-05

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE CITY OF HENDERSONVILLE ZONING ORDINANCE, ARTICLE VI – GENERAL PROVISIONS ADDING SECTION 6-19 AND REVISING SECTION 6-2. NONCONFORMITIES AND SECTION 6-13. NUISANCES AND ARTICLE VII DEVELOPMENT REVIEW REVISING SECTION 7-3 AND ARTICLE XII – DEFINITION OF TERMS TO REGULATE THE INSTALLATION ON-SITE LIGHTING FOR CERTAIN LAND USES WITHIN THE CITY OF HENDERSONVILLE.

WHEREAS, the City of Hendersonville’s Planning Board has reviewed and recommended for adoption a zoning text amendment to establish Lighting Standards for non-residential and multi-family land uses within the City of Hendersonville’s zoning jurisdiction; and

WHEREAS, the proposed amendment is intended to encourage compatible redevelopment and infill development by reducing the potential negative impacts of these projects on existing development and on natural resources; and

WHEREAS, City Council desires to minimize adverse offsite impacts of lighting such as light trespass and obtrusive light, curtail light pollution, reduce skyglow, improve the nighttime environment, help protect the natural environment from the adverse effects of artificial lighting at night and conserve energy and resources to the greatest extent possible.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article VI. – General Provisions, Article VII. Development Review and Article XII. Definition of Terms of the Zoning Ordinance of the City of Hendersonville be amended to add the following:

Article VI. - General Provisions

Section 6-19. Lighting.

Intent. The purpose of these standards is as follows:

- a) Minimize adverse offsite impacts of lighting such as light trespass and obtrusive light.
- b) Curtail light pollution, reduce skyglow and improve the nighttime environment.
- c) Help protect the natural environment from the adverse effects of artificial lighting at night.
- d) Conserve energy and resources to the greatest extent possible.

6-19-1. General Standards of Applicability. The lighting standards of this section shall be applicable as follows:

- a) Non-residential uses shall be subject to these standards. For the purposes of these standards non-residential shall include, but not be limited to, commercial, institutional, educational, industrial, etc.
- b) Multi-family residential uses shall be subject to these standards. For the purposes of these standards multi-family residential shall include all residential uses with three or more attached dwelling units.
- c) Residential uses shall be exempted from these standards. For the purposes of these standards, residential uses shall include all single family & two-family residences.
- d) Street and roadway lighting shall be exempt from these standards. Street and roadway lighting are subject to the standards of the City of Hendersonville Code of Ordinances (Chapter 46, Article VI).
- e) For the purposes of these standards the term “stream buffer” shall refer to the term as defined in Section 17-3 of this ordinance.
- f) All new exterior lighting fixtures and site lighting installed, after the effective date of this Ordinance and within the zoning jurisdiction of the City of Hendersonville, shall comply with the standards established in Sections 6-19.2., 6-19.3. and 6-19.4. unless exempted.

6-19-2. Lighting Fixture Standards

- a) Lighting fixtures shall be designed with an upright rating of U0 per IES TM-15 and designed to limit Backlight trespass.
- b) New floodlights shall be prohibited. Replacement area lighting shall be shielded to prevent upright and to prevent front, side, and/or back light depending on the implications on surrounding properties.
- c) All wall pack lights shall be full cutoff and shielded.
- d) The following applications are exempted from 6-19-2 (a), (b) & (c); all other standards of Section 6-19 shall apply:
 - i. flagpoles
 - ii. sports facilities

- iii. temporary construction sites
- iv. correctional facilities
- v. lighting used solely for signage (see sign regulations)
- vi. temporary lighting as needed under emergency conditions
- vii. low voltage landscape lighting
- viii. temporary holiday lighting
- ix. ornamental and architectural lighting of/for:
 - 1. bridges
 - 2. public monuments
 - 3. statuary
 - 4. church; spires, belfries, cupolas and domes not intended for human occupancy
 - 5. structures individually listed on the National Register of Historic Buildings or considered contributing within a National Register Historic District
 - 6. publicly owned buildings
- e) The nominal CCT of lighting fixtures shall be $\leq 4,000K$
- f) The CRI of lighting fixtures shall be ≥ 70 .

6-19-3. Site Lighting Standards

- a) Lighting levels and placement shall be designed in accordance with applicable 2020 Illuminating Engineers Society (IES) Lighting Library Standards Collection recommended practices.
- b) The maximum light level using maintained lumens shall be no more than 1.0 foot candles for a non-residential to residential/multi-family residential use interface at the ground level of the property line.
- c) The maximum light level using maintained lumens shall be no more than 1.0 foot candles for a multi-family residential-to-residential use interface at the ground level of the property line.
- d) The maximum light level using maintained lumens shall be no more than 0.0 foot candles for a non-residential/multifamily residential to stream buffer interface at the ground level of the edge of the stream buffer.
- e) No lights shall be installed within a Stream Buffer except as described below. Lighting may be permitted within a Stream Buffer only where facilities exempted under Section 17-3-5 are located and shall be oriented to minimize light intrusion within the Stream Buffer.
- f) For the purposes of this section maintained lumens shall mean L80 or 80% of initial lumens.
- g) Sites with compliant lighting plans shall be deemed compliant with these standards when the fixtures are installed as shown on an approved lighting plan as to type, orientation, location, height, shielding and rating of fixtures.
- h) A lighting plan is not required to take into account lighting sources external to the site.

6-19-4. Existing Exterior Lighting.

Non-compliant lighting installed prior to the effective date of this ordinance shall be considered non-conforming and may continue to be used in accordance with the non-conforming standards found in Section 6-2-5.

Section 6-2. - Nonconformities

6-2-5 Nonconforming Exterior Lighting.

The following applies to existing non-compliant lighting installed prior to [adoption date of ordinance].

Full compliance with the lighting requirements in Section 6-19 shall be required under the following circumstances:

- a) When repairing or replacing 50% or more of total existing exterior lighting fixtures on a site within any 12-month period; provided however any replacement of a floodlight shall be required to meet the standards of section 6-19-2(b).
- b) When expanding or improving 50% or more of an existing parking or lighted area. Examples of activities that would trigger compliance under 6-2-5(b) include; paving an unpaved parking lot, adding 20 additional parking spaces to an existing 40 space lot or adding bio-retention facilities to 12 spaces in a 20 space lot. Examples of activities that would not trigger compliance include; repaving an existing paved lot, reorganizing spots within an existing lot or adding 10 spaces to an existing 25 space lot.
- c) When structures on a site with non-conforming lighting are renovated and the total cost of renovations exceeds 50% of the assessed value of the building according to Henderson County tax records.

Section 6-13. - Nuisances

6-13-4 Lighting.

Lighting facilities, if provided, shall be aimed, directed, shielded or arranged so the light sources for such facilities do not cause undue glare on neighboring properties or interfere with the safe use of public rights-of-way to mitigate off-site lighting trespass to surrounding properties.

Article VII Development Review

7-3-4.3 Contents of Final Site Plan.

r) Site Lighting Plan conforming with the standards established in Section 6-19. Such plan shall include proposed fixture list including type, orientation, location, height, shielding and rating of fixtures, footcandle map, property lines and stream buffers at a minimum.

Article XII. – Definition of Terms

Uplight – For an exterior light fixture, light output emitted into the hemisphere above the horizontal plane of the light emitting light opening (i.e. above 90° from straight down) (see Figure 1)

Backlight – For an exterior light fixture, light output emitted into the lower rear quarter sphere behind the fixture and opposite the intended aiming direction of the fixture. For a light fixture with a symmetric light output pattern, the backlight is the same as the forward light. (see Figure 1)

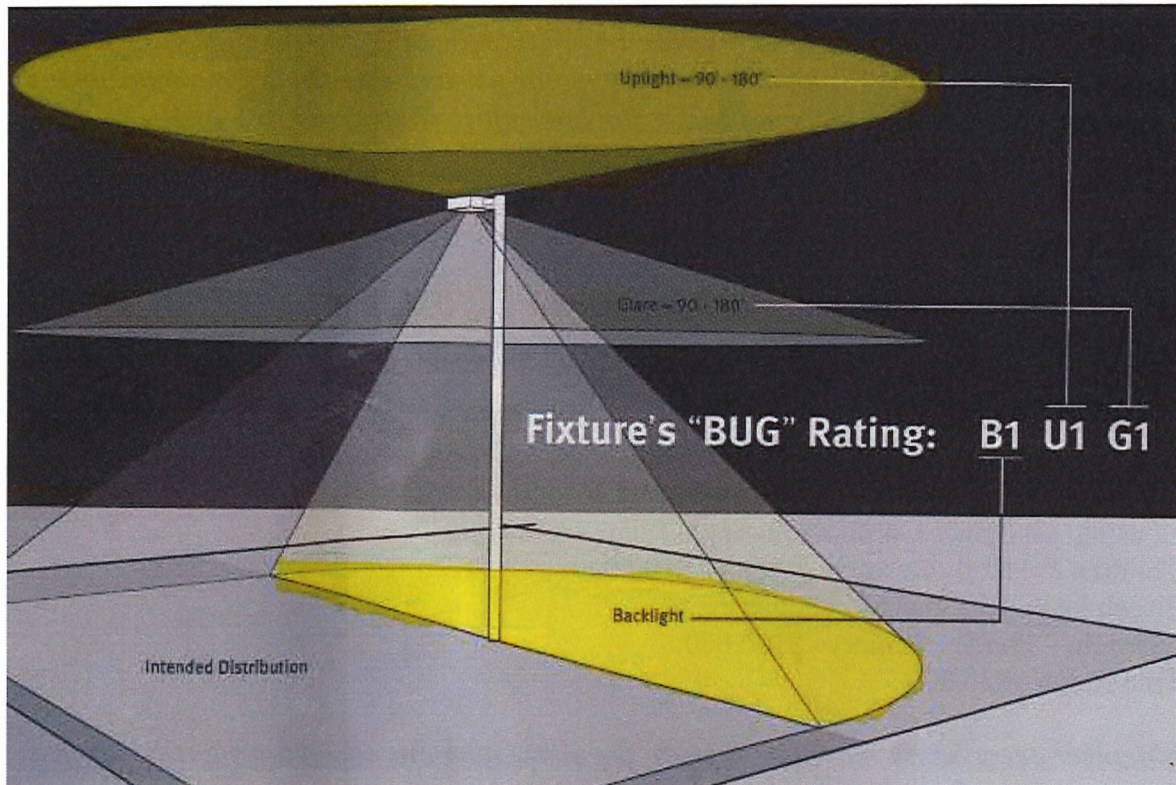


Figure 1 (provided by International Dark Sky Association & Illuminating Engineering Society)

Lumen - The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

Maintained Lumens - The lumen output remaining, at a selected operating time, expressed as a percentage of the initial lumen output of a fixture.

Footcandle (FC) - A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot

Correlated Color Temperature (CCT) - A description of the color appearance of a light source in terms of warmth (lower temperatures) or coolness (higher temperatures), as measured on the Kelvin (K) scale (i.e. High Pressure Sodium 2200K, Metal Halide 3000-4200K, moonlight 4100K)

Color Rendering Index (CRI) - A method to describe the effect a light source (from 0 poor to 100 best) has on the observer's ability to differentiate the true color of objects being illuminated (High Pressure Sodium 27, Metal Halide 65-80, LED 70-90, sunlight 100)

Illuminating Engineering Society (IES) – Established in 1906, the IES is the recognized technical and educational authority on illumination. Their mission is to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public.

Ornamental Lighting – Lighting fixtures designed to adorn a building or structure and have stand-alone aesthetic appeal. The fixtures themselves are decorative in nature and provide ornamentation in addition to their function as a light source.

Architectural Lighting – Lighting designed to illuminate building design and form for the purpose of decoration, ornamentation, creation of visual hierarchy, sense of liveliness or other purpose unrelated to safety, business operation, or essential lighting function.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 8th day of February, 2023.

Council Member Jennifer Hensley moved that City Council adopt An Ordinance of the City of Hendersonville City Council to Amend Chapter 46 – Streets, Sidewalks, and Other Public Places adding Article VI – Street Lights to the Code of Ordinances as presented. Attorney Angela Beeker

explained that if this passes by super majority, then it only requires one reading. Motion carried unanimously.

8. NEW BUSINESS

A. Designation of Limited Parking Zone on Oakland Street – John Connet, City Manager

City Manager Connet explained that Hendersonville High School has requested two fifteen-minute parking spaces and one law enforcement parking space on Oakland Street to assist with visitor parking. City staff has evaluated the on-street parking along Oakland Street and would propose the designation of three parking spaces for this purpose near the Hendersonville High School main office.

Council Member Jerry Smith moved to approve two parking spaces on Oakland Street to be 15-minute parking from 8:00am – 3:00pm only, to allow for parking after hours for sporting events etc., and one parking space on Oakland Street for law enforcement available 24 hours a day. A unanimous vote of the Council followed. Motion carried.

B. Continuation of American Rescue Plan Discussions – Adam Murr, Budget Manager

City Council and City Staff re-visited a discussion on American Rescue Plan (ARP) funding decisions and decided on the following:

- Joseph's Outreach Ministries-Connections Center - \$800,000
- Interfaith Assistance Ministry - \$100,000
- Housing Assistance Corporation-Home Repair - \$130,000
- Housing Assistance Corporation-Apple Ridge - \$400,000
- Children & Family Resource Center - \$100,000
- Pisgah Legal - \$320,000
- Safelight – Phoenix Project - \$100,000
- True Ridge - \$50,000

Council Member Jerry Smith moved to approve the above amounts subject to signed contracts. A unanimous vote of the Council followed. Motion carried.

C. Amendments to City Code to Conform with SB300 – Daniel Heyman, Staff Attorney

The eminent Attorney Daniel Heyman explained that in 2021, the NC Legislature adopted SL 2021-138, otherwise more commonly known as Senate Bill 300, to decriminalize City Ordinances as a whole. Prior to this, as a matter of law, violation of any local ordinance was a misdemeanor pursuant to NCGS § 14-4. Senate Bill 300 changed this by:

1. Amending the City's enforcement statute, NCGS § 160A-175, to provide that violation of a city ordinance may be a misdemeanor or an infraction *only if the city specifies such in the ordinance*;
2. Determining that no ordinance of the following type may impose a criminal penalty:
 - a. Any ordinance adopted under NCGS Chapter 160D, except those related to unsafe buildings;
 - b. Any ordinance adopted under NCGS 160A-193.1, stream clearing programs
 - c. Any ordinance adopted under NCGS 160A-194, regulating and licensing businesses, trades, etc.;
 - d. Any ordinance regulating outdoor advertising (ref NCGS 160D-912);
 - e. Any ordinance regulating solar collectors, rain cisterns and barrels, taxis, building setback lines, curb cut regulations, or any ordinance regulating trees.

SB 300 also amended NCGS 14-4, the statute providing that violations of a local ordinance are a misdemeanor [if specified in the ordinances themselves] to add defenses to an ordinance violation. It provides that a person may *not* be found guilty of an ordinance violation if, when tried, the person produces proof of compliance with the ordinance by any of the following:

1. No new alleged violations of the ordinance within 30 days of the initial alleged violation; or
2. The person provides proof of a good faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance.

Staff has been through the City's code and has prepared a draft ordinance for consideration by City Council that designates which of the violations will be a misdemeanor and adoption will require two readings.

Council Member Lyndsey Simpson moved to adopt the ordinance as presented. . A unanimous vote of the Council followed. Attorney Angela Beeker said that this can go onto consent at the next meeting.

9. BOARDS/COMMISSIONS/COMMITTEE APPOINTMENTS

A. Appointments to Tree Board, Planning Board & Environmental Sustainability Board - Jill Murray, City Clerk

Tree Board

Council Member Jerry Smith moved to appoint Laura Redfern to the Tree Board to finish out the term of Mark Madsen ending December, 2024. A unanimous vote of the Council followed. Motion carried.

Planning Board

Council Member Lyndsey Simpson moved to appoint Yolanda Robinson to the Planning Board for a three-year term ending December, 2025. A unanimous vote of the Council followed. Motion carried.

Environmental Sustainability Board

Council Member Lyndsey Simpson moved to appoint Marcia Shaffer to the Environmental Sustainability Board to finish the term of Anthony Baltiero ending June, 2024. A unanimous vote of the Council followed. Motion carried..

B. Appointment of Recreation Master Plan Steering Committee Member – Jennifer Hensley, Council Member

Council Member Jennifer Hensley moved to appoint Carlos Ruiz to the Recreation Master Plan Steering Committee. A unanimous vote of the Council followed. Motion carried.

10. CITY COUNCIL COMMENTS –

Council Member Jerry Smith said that our recent meeting with the County was only the third time ever that he met with them and suggested that maybe City Council and County Commissioners could meet monthly or even quarterly. Council member Hensley said maybe we should reach out and see how often they would want to. City Manager Connet said that he and the Mayor would reach out to them.

Council Member Lyndsey Simpson thanked staff, Council, and the Planning Board regarding the lighting ordinance. She added that she is happy that we approved ARP funding and lastly said that Boyd Park/Mini Golf will be honoring history more than the old one.

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

City Manager Connet thanked Council for approving the lighting ordinance.

12. CLOSED SESSION

A. Closed Session – John Connet, City Manager

At 7:47 p.m. Council Member Lyndsey Simpson moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) (3) and (5) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a

public record within the meaning of Chapter 132 of the General Statutes, to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body and to discuss the case of O'Neill v. City of Hendersonville, 22 CVS 1738, to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

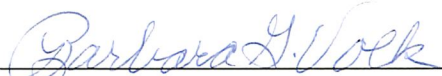
At approximately 8:07 p.m. Council Member Lyndsey Simpson moved that City Council return to open session. A unanimous vote of the Council followed. Motion carried.

13. ADJOURN

There being no further business, the meeting was adjourned at approximately 8:07 p.m. upon unanimous assent of the Council.

ATTEST:


Jill Murray, City Clerk


Barbara G. Volk, Mayor