

Tuesday – August 27, 2013 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Manheimer gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Mayor Bellamy, Consent Agenda Item "P" (Resolution to add a worksession on September 10, 2013) was added to the Consent Agenda.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 13, 2013**

- B. RESOLUTION NO. 13-176 - RESOLUTION TO ACCEPT FOREST LAKE DRIVE, MEADOW LAKE ROAD, SAWMILL ROAD, SIMPSON HOLLOW ROAD, GOLD FINCH LANE, GLENWOODS COURT AND KINGBIRD LANE, IN THE FOREST LAKE SUBDIVISION, AS CITY-MAINTAINED STREETS**

Summary: The consideration of a resolution to accept Forest Lake Drive, Meadow Lake Road, Sawmill Road, Simpson Hollow Road, Gold Finch Lane, Glenwoods Court, and Kingbird Lane, located in the Forest Lake Subdivision, as city-maintained streets.

Typically, state-maintained streets that are entirely within the city and are classified as local type streets make good candidates to become city-maintained streets. Local type streets primarily provide access to property and many of these types of streets are found in residential communities.

Ordinance # 7-15-1(e)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The Forest Lake area was annexed into the City with an effective date of June 30, 2003.

- SR 3320 (Forest Lake Drive) from Rock Hill Road to Forest Lake Drive is a state-maintained street that has an average width of 20 width, a length of 0.88 mile, and a right-of-way width of 50 feet.

- SR 3321 (Meadow Lake Road) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.19 mile, and a right-of-way width of 50 feet.

- SR 3322 (Sawmill Road) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.06 mile, and a right-of-way width of 50 feet.
- SR 3328 (Simpson Hollow Road) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.14 mile, and a right-of-way width of 50 feet.
- SR 3334 (Gold Finch Lane) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.02 mile, and a right-of-way width of 50 feet.
- SR 3337 (Glenwoods Court) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.05 mile, and a right-of-way width of 50 feet.
- SR 3338 (Kingbird Lane) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.05 mile, and a right-of-way width of 50 feet.

Transportation and Engineering Department staff and Public Works Department staff have inspected these streets and recommend their change of ownership from state-maintained streets to city-maintained streets.

Following City Council's approval of this resolution and approval by the N.C. Dept. of Transportation, the subject streets will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accepts Forest Lake Drive, Meadow Lake Road, Sawmill Road, Simpson Hollow Road, Gold Finch Lane, Glenwoods Court, and Kingbird Lane as city-maintained streets.

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C. RESOLUTION NO. 13-177 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF VARIOUS CAPITAL PROJECTS AND THE ACQUISITION OF VEHICLES AND EQUIPMENT FROM THE PROCEEDS OF AN INSTALLMENT FINANCING CONTRACT TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2014

Summary: The consideration of a resolution declaring the intent of the City to reimburse itself for expenditures incurred in connection with the acquisition, construction and improvement of various capital projects and the acquisition of vehicles and equipment from the proceeds of an Installment Financing Contract to be executed and delivered in FY 2014.

The City of Asheville plans to issue debt in FY 2014 to fund Council approved capital projects and equipment authorized as part of the FY 2014 budget. These projects include the construction and improvement of various streets, sidewalks, and other City infrastructure and facilities; along with the purchase of vehicles and equipment. The City reasonably expects the maximum principal amount necessary to fund these projects to not exceed \$19,000,000.

The purpose of the Reimbursement Resolution is to provide the City with the ability to move

forward with the projects and reimburse its accounts upon the issuance of the debt. The Resolution does not specifically authorize the issuance of the debt. Those resolutions will be drafted in connection with the debt issuance in early 2014. Additionally, as a number of the projects, vehicles and equipment are bid, the actual size of the new money financing can be further refined.

Pro:

- Enables the City to begin spending money on the Council's approved capital projects, vehicles and equipment that were to be financed from debt proceeds.

Con:

- Lost opportunity to earn interest (although at very low interest rates in the range of 1/10 of 1% to 1/4 of 1%) on the City's unrestricted cash and investments which are temporarily diverted to pay for the capital projects pending reimbursement from the debt issuance.

The Reimbursement Resolution will result in some minimal loss of interest income. Bidding and proceeding with the authorized capital projects may result in better pricing thus lower the actual amount of the debt financing. The repayment of the debt issuance is incorporated in the debt management plan.

Staff recommends City Council adopt the FY 2013-14 Resolution.

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D. RESOLUTION NO. 13-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY TO SHARE THE COSTS FOR A COMPOSTING FEASIBILITY STUDY

Summary: The consideration of a resolution authorizing the City Manager to enter into a financial agreement with Buncombe County to share the costs for a Composting Feasibility Study.

In order to work towards Council's strategic goal of reducing community wide solid waste staff is pursuing a multi-dimensional strategy over time. In 2012, the primary strategy was to make curbside recycling service easier for customers by increasing the size of the recycling container and eliminating the need to sort materials. This effort successfully resulted in a 6.4% reduction of waste going into the landfill. In 2013, the City will install recycling containers on sidewalks throughout downtown, Haywood Rd, and Biltmore Village to provide a user friendly opportunity to recycle for pedestrians. Looking forward, staff recommends assessing the feasibility of a curbside compost collection service that would compliment garbage and recycling collection. To conduct the feasibility study staff will partner with Buncombe County to assess a variety of composting components to include: composting facility locations, composting technology, service collection design, and financial feasibility. The City will share the costs of this study with the County.

The cost of the study will not exceed \$50,000. Funding for the study will come from the approved Fiscal Year 2013-14 Public Works' Recycling budget.

City staff recommends Council approve a resolution authorizing the City Manager to enter into a financial agreement with Buncombe County to share the costs for a Composting Feasibility Study.

Councilman Smith noted that this action will also work towards Council's strategic goal of reducing community wide solid waste. This is an element of the City of Asheville Food Action Plan.

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E. RESOLUTION NO. 13-179 - RESOLUTION AMENDING RESOLUTION NO. 13-146 REGARDING APPOINTMENT OF THE CIVIL SERVICE BOARD CHAIR

Summary: The term of Marvin Rosen (an appointed member), expired in March, 2013; however, the Civil Service Board extended his term until the employee election in September, 2013. On June 25, 2013, City Council adopted Resolution No. 13-146 appointing: (1) Carolyn Worthington and Lynn Moffa as members to the Civil Service Board; and (2) Marvin Rosen as Chair to serve a full year, or until his successor is appointed by City Council. On July 12, 2013, Civil Service Board members expressed concern that City Council appointed Marvin Rosen to serve as Chair beyond his current term of office. It is the intent of Council in adopting this Resolution to clarify that in accordance with the provisions of the Civil Service Law, Marvin Rosen may not be reappointed as a member of the Civil Service Board, nor may his replacement be appointed by the Civil Service Board, until after the 2013 Employee Civil Service Board Elections. Therefore, (1) The terms of Carolyn Worthington and Lynn Moffa, are hereby restated to each serve a two-year term, terms to expire May 21, 2015, or until their successors have been appointed; and (2) Marvin Rosen, 6 Graystone Road, Asheville, N.C., be and he is hereby appointed (effective June 25, 2013) as Chair of the Civil Service Board to serve a one year term or until his successor is duly appointed by the City Council, whichever occurs first.

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F. RESOLUTION NO. 13-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BAKER ENGINEERING INC. FOR THE INNSBROOK/MAPLEWOOD ROAD AND MOUNTAIN CREST/PATTON CEMETERY ROAD WATER LINE REPLACEMENTS PROJECT

ORDINANCE NO. 4222 - BUDGET AMENDMENT FOR THE INNSBROOK/MAPLEWOOD ROAD AND MOUNTAIN CREST/PATTON CEMETERY ROAD WATER LINE REPLACEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Michael Baker Engineering, Inc., for engineering services in the amount of \$180,000.00 for the Innsbrook / Maplewood Road and Mountain Crest / Patton Cemetery Road Water Line Replacements Project; and a budget amendment in the amount of \$95,250.00 from combining the professional services budget from two capital projects into one.

The City of Asheville Water Resources Department has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance with these projects. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville standards. The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Innsbrook / Maplewood Road and Mountain Crest / Patton Cemetery Road Water Line Replacements Project. In response to the RFQ, the department received twelve (12) proposals. Companies responding were:

1. Brooks Engineering Associates - Asheville, NC
2. Brown Consultants, PA - Asheville, NC
3. GAI Consultants, Inc. - Charlotte, NC
4. Lamm Engineering Associates, PLLC – Raleigh, NC
5. Mattern & Craig, Inc. - Asheville, NC
6. McGill Associates - Asheville, NC
7. Michael Baker Engineering, Inc. - Asheville, NC
8. The Wooton Company - Raleigh, NC
9. Vaughn & Melton Consulting Engineers - Asheville, NC
10. Weston and Sampson - Charleston, SC
11. Willis Engineers - Charlotte, NC
12. W. K. Dickson & Co., Inc. - Charlotte, NC

A review team, comprised of staff from the City of Asheville Water Resources Department, reviewed these proposals and selected the firm Michael Baker Engineering, Inc. Subsequent to this

selection, Water Resources staff met with Michael Baker Engineering, Inc., and has negotiated an Engineering Services Contract in the amount of \$180,000.00.

The Water Resources Department currently has \$180,000.00 budgeted for professional services for the overall project, but these funds are currently split into two separate capital projects and need to be combined into one. The budgets will be combined into the Innsbrook / Maplewood Roads WL Professional Services budget. In order to combine the professional services budgets, a budget amendment is necessary.

Amount in Innsbrook / Maplewood Roads WL Professional Services	\$ 84,750.00
<u>Amount in Mountain Crest / Patton Cemetery WL Prof. Services</u>	<u>\$ 95,250.00</u>
Total Amount Needed for Professional Services	\$180,000.00

After the department accepts bids for the construction portion of the project and is ready to award the construction contract, the construction budgets in those projects will be combined as well. Staff will seek Council approval on combining those budgets.

City staff recommends City Council approval of the City Manager to execute a professional services agreement with Michael Baker Engineering, Inc., for engineering services in the amount of \$180,000.00 for the Innsbrook / Maplewood Road and Mountain Crest / Patton Cemetery Road Water Line Replacements Project; and a budget amendment in the amount of \$95,250.00 to combine the professional services budget from two capital projects into one.

Regarding the City's living wage policy and in response to Councilman Smith, Interim City Attorney McGlohon said that House Bill 74 became law on August 23, and in it, among other things, contains a provision that prohibits cities from requiring a private contractor to abide by any restriction that the city cannot impose on all employers in the city, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract. She said that the City's living wage policy continues to be in effect for City employees, but is not valid for private entities.

Councilman Bothwell stated that this is one more step that Raleigh is taking to undercut the wages of workers in our state.

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ORDINANCE BOOK NO. 28 - PAGE 307**

G. RESOLUTION NO. 13-181 - RESOLUTION ACCEPTING FAULKNER AVENUE, SAMUEL ASHE DRIVE, LA GRANGE DRIVE, LOWER BEND ROAD, WELLEN WAY AND DUBOIS DRIVE, LOCATED IN THE BEAUCATCHER HEIGHTS SUBDIVISION, AS CITY MAINTAINED STREETS

Summary: The consideration of a resolution to accept Faulkner Avenue, Samuel Ashe Drive, La Grange Drive, Lower Bend Road, Wellen Way and Dubois Drive, located in Beaucatcher Heights Subdivision, as city-maintained streets.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via a letter dated June 8, 2012 asking the City to accept the subject streets as city-maintained streets.

- Faulkner Avenue from McClain Street to Kenilworth Road is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.33 mile, and a right-of-way width of 50 feet.
- Samuel Ashe Drive from Reservoir Road to Faulkner Avenue is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.39 mile, and a right-of-way width of 50 feet.

- La Grange Drive from Faulkner Avenue to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.18 mile, and a right-of-way width of 50 feet.
- Lower Bend Road from Faulkner Avenue to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.05 mile, and a right-of-way width of 50 feet.
- Wellen Way from McClain Street to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.06 mile, and a right-of-way width of 50 feet.
- Dubois Drive from Faulkner Avenue to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.06 mile, and a right-of-way width of 50 feet.

Transportation Department staff and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject streets were constructed to current City of Asheville standards.

The retaining walls that are located adjacent to Samuel Ashe Drive and encroach within the public right-of-way are privately-owned and they will be maintained by the Beaucatcher Heights Homeowners Association or some other private entity as indicated in Plat Book 128 Page 14. The City of Asheville is **not** responsible to maintain any retaining walls that are included in the Beaucatcher Heights Subdivision.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets.

Staff recommends that City Council accept Faulkner Avenue, Samuel Ashe Drive, La Grange Drive, Lower Bend Road, Wellen Way, and Dubois Drive as city-maintained streets.

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H. RESOLUTION NO. 13-182 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL ON SEPTEMBER 21, 2013

RESOLUTION NO. 13-183 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITIZEN-TIMES CITY MARATHON 5K RACE ON SEPTEMBER 27, 2013

RESOLUTION NO. 13-184 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST ON OCTOBER 12, 2013

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Brewgrass Festival on September 21, 2013;

the Asheville Citizen-Times City Marathon 5K Race on September 27, 2013, and Oktoberfest on October 12, 2013.

- Big Brothers Big Sisters has requested through the City of Asheville Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

The Brewgrass Festival will be held on Saturday, September 21, 2013, from 12:00 p.m. – 7:00 p.m. within the boundaries of Martin Luther King Jr. Park, as referenced on the accompanying site map.

- Lend-A-Hand Foundation has requested through the City of Asheville Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Citizen-Times City Marathon 5K Race and allow for consumption at this event.

The Asheville Citizen-Times City Marathon 5K Race will be held on Friday, September 27, 2013, from 6:00 p.m. – 10:00 p.m. along various streets with all beer and/or unfortified wine restricted to a portion of Otis Street between Battery Park Avenue and North French Broad Avenue, as per the event area limits referenced on the accompanying site map.

- The Downtown Association has requested through the City of Asheville Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Oktoberfest and allow for consumption at this event.

Oktoberfest will be held on Saturday, October 12, 2013, from 12:00 p.m. – 6:00 p.m. on Banks Avenue between Collier Avenue and Coxe Avenue and on Coxe Avenue between 135 Coxe Avenue and the intersection of Buxton Avenue, as per the event area limits referenced on the accompanying site map.

City staff recommends City Council adopt the resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Brewgrass Festival, Asheville Citizen-Times City Marathon 5K Race, and Oktoberfest.

RESOLUTION NO. 13-182 - RESOLUTION BOOK NO. 35 - PAGE 428

RESOLUTION NO. 13-183 - RESOLUTION BOOK NO. 35 - PAGE 431

RESOLUTION NO. 13-184 - RESOLUTION BOOK NO. 35 - PAGE 434

- I. RESOLUTION NO. 13-185 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE A SEALED BID SALE OF THREE PARCELS OF CITY-OWNED PROPERTY , KNOWN AS THE (1) CURVE STREET LOT; (2) DEAYER STREET LOT; AND (3) MILLBROOK ROAD LOT**

Summary: The consideration of a resolution directing the City Clerk to advertise a sealed bid sale of three parcels of City owned property, known as the (1) Curve Street lot, (2) Deaver Street lot, and (3) Millbrook Road lot.

The City of Asheville owns three properties that are currently designated as surplus, residential, vacant lots – the Curve Street lot (0.25 acres, PIN 9648-68-0689-00000), Deaver Street lot (0.19 acre, PIN 9638-76-4002-00000) and Millbrook Road lot (0.25 acres, PIN 9638-66-3884-00000). Over the past several weeks, there has been an increase in interest from local buyers in these parcels. To respond to this interest, staff is seeking authorization to commence a sealed bid process, as outlined below:

1. Upon approval of this resolution, the City Clerk will publish a notice of sealed bid sale in the Asheville Citizen-Times, identifying the parcels available for sale and all terms and conditions of the sale.

2. During the thirty day notice period, City staff will actively market the parcels with the assistance of the local realtor's network and the regional Multiple Listing Service (MLS).
3. On October 10th at 3:30 p.m. on the fifth floor of City Hall, City staff will host a public bid opening, and will review all sealed bids received for the parcels.
4. Staff will present highest bids for City Council authorization on October 22nd, 2013, with Council reserving the right to reject any and all bids.
5. Potential closing date(s) – December 1, 2013.

Staff is seeking to utilize the sealed bid process in effort to benefit from the thirty day marketing period, as well as to ensure a deliberate process for all persons that have shown interest in the parcels for sale.

The proceeds from the sale of the Curve Street parcel will benefit the Community Development Block Grant fund. The sale of the Millbrook Road and Deaver Street parcels will benefit the General Fund and will be designated for future economic and community development projects.

Economic Development staff recommends adoption of the resolution directing the City Clerk to advertise a sealed bid sale of three parcels of City owned property, known as (1) Curve Street lot, (2) Deaver Street lot, and (3) Millbrook Road lot.

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J. RESOLUTION NO. 13-186 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEMPORARY LABOR SERVICES AGREEMENT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF-HELP TREATMENT INC. FOR TEMPORARY LABORERS

Summary: The consideration of a resolution to allow the City Manager to enter into a temporary labor services agreement between the City of Asheville and Forsyth Initiative for Residential Self-Help Treatment, INC. (F.I.R.S.T.) for temporary laborers.

The City of Asheville is in need of temporary workers to perform a variety of tasks including unskilled work in concrete, asphalt, drainage, traffic control, building maintenance, and other like unskilled work for our Public Works and Civic Center Departments. These workers will perform unskilled labor and are typically used in crews of four to five on a sporadic, as-needed basis. The City will select a single Agency as the supplier for temporary workers. The anticipated contract amount will be written not to exceed \$155,000.

F.I.R.S.T. is a local non-profit organization operating from 32 Knox Rd. in Ridgecrest, NC. F.I.R.S.T. offers a combination of therapeutic treatment, vocational training, and life skills development for people with chronic substance abuse addictions to assist them in becoming responsible members of society. Participants receive treatment, room and board, transportation and other benefits. The result is positive for the community for the reason that the participants learn to live a productive lifestyle as opposed to being a burden on society. The City of Asheville has utilized F.I.R.S.T. participants for the past ten years with excellent results.

As of June 30, 2013, the City of Asheville has reached the end of a four year general services contract with FIRST for temporary labor services. City staff along with F.I.R.S.T., desire to enter into a new agreement for temporary labor services at the prior rate of \$9.00/hour. Because F.I.R.S.T. is running a program of assistance and provides additional benefits to its participants, this agreement would not be covered by City Council's adopted Living Wage policy for Fiscal Year 2013-2014. For these reasons, City staff is recommending that Council adopt a resolution to allow the City Manager to enter into a temporary labor services agreement with F.I.R.S.T., at a rate of \$9.00/hour.

The contract amount has been allocated in the U.S. Cellular Center and Public Works operational budgets for Fiscal Year 2013-2014.

Staff recommends City Council adopt a resolution to allow the City Manager to enter into a temporary labor services agreement with F.I.R.S.T., at a rate of \$9.00/hour, for an initial term of two years; with the option of continuation for two additional terms each equivalent to a single calendar year.

In response to Councilman Smith, Assistant City Manager Cathy Ball said that this agreement is with the place that the laborers reside in. They provide the laborers with food, shelter and provide transportation within which to bring them into and back from work every day.

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K. RESOLUTION NO. 13-187 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND CONVEY CERTAIN EASEMENTS RELATED TO THE DEVELOPMENT OF HUNT HILL APARTMENTS

Summary: The consideration of a resolution authorizing the City Manager to accept and convey certain easements related to the development of Hunt Hill Apartments.

There is a shared boundary line between the City of Asheville property known as Mountainside Park and the property owned by Biltmore Avenue, LLC slated for the development known as Hunt Hill Apartments. During the course of the project review for the development, it was discovered that the access driveway for Mountainside Park encroached upon land owned by Biltmore Avenue, LLC. Per the Conditional Zoning permit for the project, the City requested that the property owner convey an easement for said driveway into Mountainside Park. At this time, staff is requesting that City Council authorize the City Manager to accept an access easement from Biltmore Avenue, LLC to benefit the City owned property at Mountainside Park.

Along the same shared boundary between the two properties, the developer is requesting two temporary easements from the City of Asheville to Biltmore Avenue, LLC, as follows: (1) A temporary grading easement, approximately 30 feet in width, in order to balance out the grade change between the two properties and remove the need for retaining walls in that area, and (2) A temporary storm drain easement to install storm drainage infrastructure to tie in to existing storm drain lines that flow towards Memorial Stadium. Biltmore Avenue, LLC will enter into a maintenance agreement with the City of Asheville for the long term maintenance of the newly installed line. Staff is requesting that City Council authorize the City Manager to convey a temporary grading easement and a temporary storm line easement to Biltmore Avenue, LLC for the development of Hunt Hill Apartments.

There is no immediate financial impact to the City. City staff will be responsible for creating legal documents associated with this project, with the developer to provide all surveys and exhibits.

City staff recommends that City Council adopt the resolution authorizing the City Manager to accept and convey certain easements related to the Hunt Hill Apartments project.

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L. RESOLUTION NO. 13-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS UNDER THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM TO FUND A MULTI-JURISDICTIONAL DWI TASK FORCE

Summary: The consideration of a resolution authorizing the City Manager to sign the application to apply with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund a multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO).

In Asheville and Buncombe County, the number of impaired drivers has been a serious

concern to citizens and law enforcement. Since 2010, the total number of incidents involving impaired drivers has risen steadily. During this three year period, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies. There have been more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher. The goal of this proposed DWI Task Force would be to reduce the number of DWI – related collisions, injuries and deaths in Asheville and Buncombe County, as well as educate the public on impaired driving and its effects.

In recognizing these alarming statistics, the NCGHSP has contacted APD and proposed a \$724,861 grant in FY 2014 that would provide APD and BCSO 100% of the cost, or \$329,250 to purchase vehicles, uniforms, and equipment, and to train 6 additional officers. The remaining \$395,611 of the grant proceeds covers 100% of salary and benefits costs for four years at a diminishing rate. Under this grant, APD would supply one (1) sergeant and three (3) officers while BCSO would supply 2 officers. These 6 officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. The involved officers would also conduct educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance.

The NCGHSP grant would pay for full salary and benefits for the involved officers on a diminishing rate / costs are approximate depending on involved officer's salaries:

<u>Year</u>	<u>Rate / # of Officers</u>	<u>Grant Payment</u>	<u>City Cost / 4 Officers</u>
Year 1:	100% / 6 officers	= \$395,611	City share: \$0.00
Year 2:	5% / 6 officers	= \$336,269	City share: \$40,098
Year 3:	70% / 6 officers	= \$276,927	City share: \$80,197
Year 4:	50% / 6 officers	= \$197,805	City share: \$133,662

At the conclusion of year 4, it is recommended that the involved agencies continue with the DWI Task Force initiative, but is not mandated.

The Public Safety Committee reviewed this on March 25 with unanimous approval to move it forward to City Council.

The general fund impact to the City would be approximately \$253,957 during the four year grant cycle. At the end of the four years, the general fund impact would be an increase of approximately \$267,325 per year to add permanently the one (1) sergeant and three (3) officers and to provide equipment as needed.

City staff recommends City Council adopt the resolution authorizing the City Manager to apply for grant funds through the North Carolina Governor's Highway Safety Program.

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M. RESOLUTION NO. 13-189 - RESOLUTION AUTHORIZING SUBMITTAL OF FISCAL YEAR 2013 STATE EMERGENCY SOLUTIONS GRANT APPLICATION

Summary: The consideration of a resolution authorizing submittal of Fiscal Year 2013 State Emergency Solutions Grant (ESG) application.

The State of North Carolina announced the availability of funds and the application deadline for FY 2013 ESG grants last month. Like last year, the State required single applications for established Continuums of Care (CoC). The deadline for submittal of applications was August 21, 2013. The Homeless Initiative Advisory Committee, on behalf of the Asheville-Buncombe CoC, established an ESG Subcommittee to make recommendations to the Continuum of Care for project funding. Representatives

of agencies eligible for ESG funding were not appointed to the subcommittee. The subcommittee solicited letters of intent from eligible agencies, reviewed these, and proposed projects for ESG funding. Their recommendations were forwarded to the Homeless Initiative Advisory Committee. The Asheville Homeless Coalition and the Homeless Initiative Advisory Committee met together on August 6, 2013, and unanimously approved these recommendations. These groups also recommended that the City of Asheville continue to serve as Fiscal Agent for the Continuum of Care for this grant. The Housing and Community Development Committee accepted these recommendations on August 8, 2013. The HCD Committee was informed by staff that the application deadline preceded the next available Council meeting for consideration of the application. The HCD Committee agreed that staff should submit the application, conditional on Council approval at the next available Council meeting. Recommended application amounts are:

	Emergency Response	Housing Stabilization	Total
Organization			
ABCCM	\$	\$ 20,000.00	\$ 20,000.00
Helpmate	\$ 26,559.00	\$	\$ 26,559.00
Homeward Bound	\$	\$ 71,382.00	\$ 71,382.00
Salvation Army	\$ 23,441.00		\$ 23,441.00
TOTAL REQUESTS	\$ 50,000.00	\$ 91,382.00	\$ 141,382.00
TOTAL AVAILABLE			\$ 141,382.00

If approved by the State, these funds will come to the City of Asheville, and then be allocated to the agencies. A small percentage of administrative funds will be given to the City of Asheville once the State determines final community allocations. The Community Development Division administers the program within approved budget constraints.

The HCD Committee requests City Council approve the application for the Emergency Solutions Grant funding for Fiscal Year 2013.

RESOLUTION BOOK NO. 35 - PAGE 441

N. RESOLUTION NO. 13-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER FOR THE CRAVEN STREET IMPROVEMENTS PROJECT FOR ADDITIONAL PROFESSIONAL SERVICES FOR COMPLETING THE DESIGN AND CONSTRUCTION ADMINISTRATION OF THE PROJECT

ORDINANCE NO. 4223 - BUDGET AMENDMENT TO FUND THE CHANGE ORDER FOR THE CRAVEN STREET IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a change order for the Craven Street Improvements project for additional professional services for completing the design and construction administration of the project; and (2) a budget amendment in the amount of \$286,961 from various sources to fund the change order.

On June 12, 2012, City Council had previously approved a contract with ColeJenest & Stone for professional services in the amount of \$514,221 plus a 10% contingency. This change order will increase that contract amount to \$852,604. This project includes improvements to the existing two lane roadway by implementing a complete street approach to the design. The new facility will include bike lanes, sidewalk, stormwater improvements, stream stabilization, greenway, parking areas and two-way vehicular traffic. The City had previously selected ColeJenest & Stone through a Request for Qualifications process in which 14 other teams had submitted.

The City has three funding partners on this project, Golden Leaf Foundation has provided \$300,000, the Economic Development Grant from the Department of Commerce has partnered to provide approximately \$1.2M, and the Clean Water Management Trust Fund through RiverLink has provided \$400,000 toward this great project. The remaining cost of the project will be paid through the Stormwater, Water, and Parking Funds and General Fund debt proceeds.

The additional services required to complete this project include working with the North Carolina Department of Public Safety to acquire a parcel that was previously held by Buncombe County and to provide ground water monitoring at this same site.

Due to the topography, retaining walls are needed along the greenway. The design and inspection of these specialized walls are also additional services. Since the greenway passes over a MSD sewer line, additional engineering services are required to design the sewer line to meet MSD standards with a greenway facility located above it.

The city continues to work closely with Duke Energy for right-of-way access and shared uses of rights-of-way. Additional services include performing necessary plat preparation, coordinating with property owners and surveying for the properties where the city will need easements or additional rights-of-way.

As the project had developed, additional services have been identified for the construction inspection and material testing of the project. This work is critical to the success of the project and the professional services team will have a full time inspector on site to perform material testing as necessary.

As there are many funding partners on this project, the professional services team will also assist staff with coordination and documentation with these organizations. These services include providing requested data and also assisting with key reporting dates as we move through the construction process.

The budget that City Council approved in June 2012 for this contract, including the 10% contingency, totaled \$565,643. In order to fund this change order, an additional \$286,961 in budget authorization is required. Funding for the change order will come from the following sources: 1) General Fund (debt proceeds): \$177,418; 2) Parking Fund operating budget: \$57,732; 3) Stormwater Fund fund balance: \$51,811.

City staff recommends City Council 1) authorize the City Manager to execute change order with ColeJenest & Stone for the additional professional services associated with the Craven Street Improvement project - The total professional services contract is not to exceed \$852,604; and 2) approve a budget amendment in the amount of \$286,961 from various sources to fund the change order.

**RESOLUTION BOOK NO. 35 - PAGE 442
ORDINANCE BOOK NO. 28 - PAGE 309**

O. ORDINANCE NO. 4224 - BUDGET AMENDMENT TO REFLECT FINAL HUD FUNDING FOR THE CONSOLIDATED ACTION PLAN FOR CDBG AND HOME FOR 2013-14

Summary: The consideration of the budget amendment in the amount of \$218, necessary to complete action on the final revised allocations for the Consolidated Action Plan for CDBG and HOME for Fiscal Year (FY) 2013-2014.

The final revised grants of HUD funds for CDBG and HOME have been received. The revised CDBG grant available for the current year is \$993,543. The revised HOME grant is \$938,716.

The proposed Budget Amendment will account for all funds awarded.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the budget amendment.

ORDINANCE BOOK NO. 28 - PAGE 311

P. RESOLUTION NO. 13-197 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE

Summary: The Asheville City Council will hold a worksession in the First Floor North Conference Room of City Hall, located at 70 Court Plaza, Asheville, North Carolina, on Tuesday, September 10, 2013, at 4:00 p.m. to obtain an update from City staff on the proposed North Asheville Dog Park.

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Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Hunt and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

III. PRESENTATIONS & REPORTS:

A. CHARLOTTE STREET CORRIDOR STUDY PRESENTATION

Transportation Director Ken Putnam introduced Mr. Don Bryson, consultant with Vanasse Hangen Brustlin (originally Martin/Alexiou, Bryson). He said that he will provide Council with a pdf version of the entire report, along with posting it on the City's website. City Council then viewed the computer modeling and heard the complete analysis of the traffic conditions today and what they are projected to be in the future of the Charlotte Street Comprehensive Traffic Study Report. Mr. Bryson said they did an extensive corridor study of traffic counts, travel speeds, level of service, and collision history. He then reviewed the 4-lane vs. 3-lane scenarios, adding bike lanes, parking on one side, narrower 3 lanes with wider sidewalks, hybrid 3-lane/4-lane etc. He stressed that access management is an issue, noting many properties have multiple driveways, excessively wide driveways, and driveways too close to intersections. Sidewalks are narrow (typically 4-5') and have obstacles in them (utility poles, signs, vegetation and driveways). He showed two simulations for the year 2035 with existing 4 lanes and then with 3 lanes. There are economic impacts including (1) effects of road diets on business activity and property values; and (2) sources of benefits. The results show (1) little difference in the short term; (2) queue lengths are issue with 3-lane; (3) hybrid could be acceptable, but yields minimal benefits; (4) potential for speeding on 3-lane segments; (5) no significant bicycle or pedestrian benefits; and (6) access conflicts remain unresolved.

Mr. Bryson and Mr. Putnam responded to various questions/comments from Council, some being, but are not limited to: any consideration given to limiting left turn lanes; can we force changes to existing driveways; what is the rationale and the factors of the trend nationwide with fuel prices and different modes of transportation; and would widening the sidewalks be beneficial for bike riders.

Vice-Mayor Manheimer felt the study is sufficient enough that we can come put together the vision and then let the professionals come up with the result, since there might be some consensus on pedestrian safety and preserving the access to businesses.

City Manager Jackson said that staff envisions taking on some of these issues (utility relocation and sidewalk widening) to the extent that the codes will promote redevelopment of corridors like this. We are trying to put these tools in place. A part of the most recent budget cycle was increasing the actual resources for multimodal transportation. We did not identify specific target areas. That will be the next phase and we want to use the Complete Streets Policy to identify those target areas. This is a tool to evaluate how these things can work together.

Assistant City Manager Ball felt that we have enough data to allow staff to go back and design the corridor with a more comprehensive plan more than grinding up the lanes and re-stripping - wider sidewalks, opportunity for bike lanes, etc. She said we can put the design of that project in this year's budget and fund the construction in next year's budget.

The following individuals made several comments about the Charlotte Street Corridor Study, some being, but are not limited to: the area is unattractive for pedestrian use; leave Charlotte Street 4-lanes; need for safe passage for pedestrians and bicyclists; need more information in the impact of the NC Dept. of Transportation intersection at I-240 that impacts the queuing; and need for pedestrian crossing at I-240 and Charlotte Street:

David Nutter, resident on Flint Street
Grace Curry, resident on Edgemont
Leah Karpen resident on Charlotte Street
Jane Mathews, resident of Albemarle Park
Max Alexander, resident on Sunset Drive
Two area residents

It was the consensus of Council (1) that in November of 2013, City staff report to the Planning & Economic Development (PED) Committee their alternatives/recommendations to enhance pedestrian safety and overall mobility, with public input; and (2) that in January, 2014, Council consider the recommendations from the PED Committee for the Charlotte Street Corridor.

B. QUARTERLY REPORTS

Public Safety Committee Chair Report

Vice-Mayor Manheimer, Chairman of the Planning & Economic Development Committee, provided Council with a brief update on some major accomplishments during this quarter.

Strategic Operating Plan

A report submitted by Deputy City Manager Jeff Richardson was provided to Council on the quarterly updates on key strategic initiatives associated with the six focus areas of the City's Strategic Plan. Staff has tracked projects using performance indicators and measurements through the Fiscal Year 2012-13. He then briefly summarized the 2012-13 end of the year review.

No action is necessary at this time.

City Manager Jackson thanked Deputy City Manager Richardson for this outstanding work on the quarterly and end-of-year reporting. Mr. Richardson has made this a higher performing organization. He wished him well as he begins his new venture on October 1, 2013, as Cleveland County's Manager.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 103, 107, 113 AND 117 CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4225- ORDINANCE TO REZONE 103, 107, 113 AND 117 CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone 103, 107, 113 and 117 Caledonia Road from Institutional District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on August 16 and 23, 2013.

Mr. Esselstyn said that the subject site, roughly 0.6 acres of wooded, steeply sloped land, has been involved in or associated with multiple zoning actions and development proposals in recent years, as described in the above section. While the high-density multi-family development proposals for this area met technical requirements, there was consternation on the part of City Council, as well as multiple neighboring citizens, about the compatibility of that type of use in this location.

The current zoning designation, Institutional, can be traced back to circumstances years ago, when this property was under the same ownership as the complex to the northwest (now the Kenilworth Apartments), which was a medical institution at the time. The subject property, which may have at that time shared a PIN with the parcel on which the complex was built, was considered part of the institution's campus. When the building was converted to apartments, the existing zoning district allowed high density multi-family residential uses, and it was preserved.

Staff feels (as was reflected in the 2011 City-initiated rezoning effort) that the proposed zoning reflects a density more appropriate for these steeply sloped properties in a predominately single-family residential neighborhood, and eliminates the potential for certain commercial uses (allowed in the Institutional district) that are unlikely to be compatible at this location. The site has already been subdivided into lots suitable for single-family development, and the Institutional Zoning District allows single-family uses, but the side setbacks in Institutional are more restrictive than in RS-8. While the single family lots exceed the minimum lot size for the RS-8 district, width is at a premium because of the steep incline, and the difference between the ten-foot side setback in Institutional and the six-foot setback in RS-8 was one factor prompting the applicant to request the rezoning.

The UDO (7-8-15) states that "The Institutional District is established to reserve land for the development of major educational facilities, major medical facilities and other complementary and supporting uses such as health related developments, office developments, and public services." Staff feels the land no longer is appropriate for this purpose.

By contrast, the stated intent of RS-8 is "to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development while promoting a suitable environment for single-family living. Non-single-family development normally required to provide the basic elements of a balanced and attractive residential area is also permitted."

When a similar rezoning proposal was initiated by the City in 2011, the primary reason cited for objection on the part of reviewing boards was the lack of support of the property owner. Now that that situation has changed, the property has been subdivided, and the property owner is behind the rezoning, staff feels that the argument for the rezoning is further strengthened.

Unlike the similar recent rezoning request (described above) on Finalee, which was contiguous on two sides to existing RS-8 zoning, however, the petition in question would create an area of RS-8 zoning which only touches corresponding zoning at a single point. The 0.6-acre area would be

surrounded on three sides by Institutional zoning, and would face River zoning across the street along most of its frontage. Staff has expressed to the applicant that a petition including other adjacent parcels would be preferable, but the applicant was not prepared to expand the area at this time.

At the most recent two meetings of the Planning and Zoning Commission, certain Commissioners indicated concerns about the "piecemeal" approach under which rezoning is being pursued in this area. While staff would also rather see a larger area being proposed for rezoning by the applicant and adjacent property owners this report must consider the petition submitted on its own merits. Staff believes that the proposed rezoning would represent an improvement over the existing situation.

At the August 7 Planning and Zoning Commission meeting, two neighbors spoke in support of this rezoning, but voiced concerns about the "bigger picture." Several commissioners also expressed interest in a more extensive consideration of the zoning in this area, but nonetheless recommended approval of this rezoning request by a 6-1 vote. As a result of that concern, at the September 4 meeting of the Planning and Zoning Commission, staff was asked to present a summary of the findings and analysis from the broader City-initiated rezoning proposed in 2011 for discussion by the Commission.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pro:

- The rezoning establishes zoning on the properties that is more reflective of and compatible with the neighboring single-family neighborhood and the steeply sloping site.

Con:

- The minimal contiguity of the proposed area of RS-8 zoning to existing RS-8 zoning is less than ideal according to standard zoning practices.

Staff's analysis indicates that the proposed zoning district would support appropriate development and prevent incompatible development better than the existing zoning, and, accordingly, staff recommends approval.

Mayor Bellamy opened the public hearing at 6:26 p.m.

Mr. David Evers, resident on Finalee, supported the rezoning; however, felt they could be spot zoning. He felt it was time to ask City staff to rezone the larger tracts to avoid further spot zoning.

Mayor Bellamy closed the public hearing at 6:29 p.m.

Councilman Smith said that a process is underway to examine the areas that might have issues around land slides, and that sort of thing. There is also a process underway to look at zoning designations in an effort to make sure we are not creating any unintended problems.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4225. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

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B. PUBLIC HEARING TO REZONE 172 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

C. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ARTICLE 7-8-18) TO INCLUDE A PARCEL LOCATED AT 172 ASHELAND AVENUE IN THE OFFICIAL CENTRAL BUSINESS DISTRICT HEIGHT ZONE MAP AND KEY PEDESTRIAN STREETS MAP

ORDINANCE NO. 4226 - ORDINANCE TO REZONE 172 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4227 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ARTICLE 7-8-18) TO INCLUDE A PARCEL LOCATED AT 172 ASHELAND AVENUE IN THE OFFICIAL CENTRAL BUSINESS DISTRICT HEIGHT ZONE MAP AND KEY PEDESTRIAN STREETS MAP

Mayor Bellamy said that since these two public hearings are related, she asked Mr. Glines to combine his presentation and that public comment would be taken on each item with two separate votes being taken.

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone 172 Asheland Avenue from Regional Business District to Central Business District. This public hearing was advertised on August 16 and 23, 2013.

He said this parcel is located along Asheland Avenue south of Hilliard Avenue. The property is adjacent to the western border of the Central Business District zone (CBD). The parcel slopes away from Asheland Avenue and has access to a small right of way called Federal Alley at the back side of the property. Recently the owners of 86 Asheland Avenue submitted an application to rezone their three parcels to CBD. That request was approved by City Council at their meeting on June 23, 2013. After receiving notification of that application, Douglas Fox called staff to inquire about changing the zoning of his parcel. Mr. Fox feels that the growth pattern for the south area of downtown is strongly in favor of an urban, denser form of development. He submitted this request with the knowledge that new substantial development changes on his property will be required to follow standards approved for the Central Business District.

The Downtown Commission considered this request at their July meeting, and most Commissioners were surprised to receive a second application for rezoning in the area. Staff explained that the property owner received notification from the earlier rezoning request and feels that a zoning change is also warranted for this property too. Although work on a corridor-long rezoning study is anticipated to start later in the year, this specific request to rezone was submitted and staff is compelled to consider and process it in a timely manner. Planning for this corridor project has not commenced but it will include community meetings with affected property owners and neighbors of the South French Broad neighborhood especially because of potential impacts from parcels on the west side of Asheland Avenue. Parcels on the east side such as 172 Asheland are not expected to have the same level of impact on the neighborhood. There was a similar discussion at the Planning and Zoning Commission review in August.

The Central Business District allows a wide range of residential and commercial uses with regulations in place for designing new structures so that new construction will be compatible with the urban context of downtown. Most of the regulations for downtown development were identified in the Downtown Master Plan completed in 2009 and later adopted with some amendments into the UDO in 2010. Building heights are defined by the Height Zone map and a recommendation to include these parcels on the map is associated with this application. There is also a Key Pedestrian Streets map (KPS) and certain streets that are primary pedestrian corridors are included in the map. Asheland Avenue north of Hilliard is on the KPS map. The intermediate height zone was approved for 86 Asheland and the key pedestrian streets map was extended to include those three properties. The Downtown Commission is recommending the same map amendments for this property too. This was also supported by the Planning and Zoning Commission.

The Regional Business District allows a large array of commercial uses and permits large structures (greater than 100,000 square feet). Building height is limited to 80 feet. The development zone is more common in suburban areas along busy highways, interchanges and thoroughfares. There is little character defining regulations in the ordinance and parking is allowed in front of buildings and at the sidewalk edge in regional business zones. In this area near downtown Regional Business zoning is a remnant of a prior focus for the area.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- The zoning change is compatible with the neighboring downtown area.
- Supports the goals of the Downtown Master Plan and the Strategic Operating Plan
- Supports the redevelopment of the south area of downtown

Con:

- None noted.

The Planning and Zoning Commission voted unanimously to support the request to rezone the subject property at their meeting on August 7, 2013. The Downtown Commission reviewed the request as a policy discussion at their meeting on July 12, 2013 and voted 8-0 to support the request. In addition, three neighboring property owners called with questions and support for the zoning change before the Planning and Zoning Commission meeting.

Staff supports the proposed zoning change because the request is aligned with City adopted goals and plans for the downtown area.

Regarding the UDO map amendments, Mr. Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance (Article 7-8-18) to include a parcel located at 172 Asheland Avenue in the official Central Business District Height Zone Map and Key Pedestrian Streets Map. This public hearing was advertised on August 16 and 23, 2013.

The Planning and Development Department has received an application to rezone a parcel at 172 Asheland Avenue from Regional Business (RB) to Central Business District (CBD). Downtown CBD properties are subject to height regulations that are based on their specific location in the downtown area. Also, some streets in downtown are designated as Key Pedestrian Streets which have additional development regulations designed to enhance the pedestrian relationship for new construction. If the rezoning is approved, these maps should be reviewed and adjusted to consider the rezoned parcels.

Height Zone Map - The height zone map is adopted as a part of the Central Business District (7-8-18 of the UDO). The map identifies areas for the *tallest height zone* (265 feet) and the *intermediate height zone* (145 feet) and *buffer height* that moderates the tallest height zone along view shed corridors. The Planning and Zoning Commission and the Downtown Commission recommended that the intermediate height zone be applied to 172 Asheland Avenue. The intermediate height zone has been used at other locations that have bordered the edge of the downtown CBD. If the study proceeds later this year to expand the CBD further south along Asheland Avenue, the height zone will be reviewed again.

Key Pedestrian Streets - The Key Pedestrian Streets map (KPS) is a designation along specific streets that serve as primary pedestrian linkages throughout the downtown area. When a street is designated a KPS, there are several development regulations in place that are designed to enhance the pedestrian experience at the sidewalk level. For example, a building on a KPS, must provide 70% windows, doors or other openings at pedestrian level and parking garages must provide either an occupiable space for the first 20 feet of depth or provide fenestration details meeting regulations. Asheland Avenue is a KPS north of Hilliard Avenue and City Council approved the extension of the KPS map to include the recent request to rezone 3 parcels at 86 Asheland Avenue. The Downtown

Commission recommends that the KPS designation extend to the property at 172 Asheland Avenue. The designation would extend past a property between 86 Asheland and 172 Asheland but if approved, KPS standards will not apply to non-CBD zoned parcels. If Asheland Avenue is studied for further CBD expansion the issue of extending the KPS map will also receive discussion then.

City Council reviewed and approved a similar request to amend the same maps in relation to the 86 Asheland Avenue rezoning at the meeting on June 23, 2013.

Based on the above findings and the analysis in the report, staff finds the map amendment to be reasonable and conforming to the Comprehensive Plan.

The Planning and Zoning Commission reviewed the map amendment at their August 7, 2013, meeting and unanimously recommended the placement of the intermediate height zone on and the extension of the key pedestrian streets map to the subject property. The Downtown Commission supported a similar recommendation at their meeting on July 12, 2013. Staff concurs with this recommendation because it supports the goals of the Comprehensive Plan and its conformance with the adopted Downtown Master Plan.

Pros:

- Adjusts development maps in accordance with land use changes
- Implements portions of the *Downtown Master Plan* and supports City Council's *Goals and Vision Plan*
- Removes incongruous development patterns from an area suitable for more sustainable models

Con:

- None noted

City staff recommends City Council approve the amendment to the Height Zone map to include the intermediate height for the subject properties and also the amendment to the Key Pedestrian Streets map to extend this designation to the subject area and (find that the amendment is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy opened the public hearing at 6:36 p.m., and when no one spoke, she closed the public hearing at 6:36 p.m.

Mayor Bellamy said that members of Council have previously received a copy of both ordinances and they would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4226. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

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Vice-Mayor Manheimer found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4227. This motion was seconded by Councilman Bothwell and carried unanimously.

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When Mayor Bellamy asked for the City to consider upgrading the appearance of the western corridor (Patton Avenue) coming into the City, City Manager Jackson said that staff has a vision in the conceptual stage and included in the Capital Improvement Plan schedule there is a placeholder for \$250,000 for the western downtown gateway. Staff will look for Council direction for that in the coming year.

At the request of Mayor Bellamy, it was the consensus of Council to ask the City Manager to provide them with a report on providing screens in other parts of the Council Chamber so the entire audience can view what is on the screen.

D. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CLARIFICATIONS TO AND MODIFICATIONS OF CURRENT SIGN REGULATIONS

ORDINANCE NO. 4228 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CLARIFICATIONS TO AND MODIFICATIONS OF CURRENT SIGN REGULATIONS

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance regarding clarifications to and modifications of current sign regulations. This public hearing was advertised on August 16 and 23, 2013.

Ms. Daniel said that in June, staff proposed a number of changes to the Sign Regulations. The Planning and Zoning Commission recommended approval of some of those changes, which were forwarded to Council and approved in July. The Commission requested further information from the staff on other proposed changes and staff returned to the Commission for that evaluation. This report outlines the proposed changes and the recommendations of the Planning and Zoning Commission.

The proposed modifications arise from staff observation that adjustments to the sign regulations should be considered that primarily allow more flexibility for businesses and development from a practical perspective, without causing any substantial increase in signage. This report includes the proposals for changes to off-premise signs, residential development signs, and signs for multi-tenant businesses.

Summary of Changes:

(1) Sec. 7-13-3: Off-premises signs

This section relates to signs that are prohibited. The proposed modifications for this section include two technical changes and one substantive change.

A technical change is proposed to the title of Sec. 7-13-3 to more clearly reflect the content of the section which contains both prohibitions and additional standards.

Sec. 7-13-3. Signs prohibited or requiring additional standards in all zoning districts.

There are two changes to paragraph "6" and the first corrects a technical error. The more substantive proposed change will allow the use of off-premise signs in multi-family residential districts; as some developments are situated in locations without direct frontage on a public road, and directional signage would be helpful for those looking for the development. Initially, several members of the Planning and Zoning Commission expressed concern that this change could have the potential to allow signage in multi-family districts that have a substantial level of single-family housing. To address this concern, staff proposed additional safeguards in Sec. 7-13-5, which governs off-premise signs, discussed later in this report.

(6). Off-premises signs – some districts. Off-premises signs in all single-family

residential zoning districts and in the Office, ~~Officer~~ Office Business, Community Business I, Neighborhood Business, and Central Business Districts.

The Planning and Zoning Commission unanimously recommended approval of these modifications.

(2) Sec. 7-13-4(b)(1)(c): Residential development signs

The proposed change would allow more than two entry signs for residential developments. Currently one primary sign and one smaller secondary entrance sign are allowed. The change would still allow only one primary sign, but additional secondary entrances from public roads would be allowed the smaller directional sign. Staff believes that this change will provide helpful directional signage for residents and the public for larger developments or communities with multiple entrances on more than two roads.

(c). Subdivision and multi-family development identification signs may contain the name of the development only and must be either free standing ground signs or attached wall signs. If the signs are free standing ground signs, the height shall be limited to six feet from grade and the minimum setback shall be ten feet. ~~Only two entrances to the development may have a sign.~~ There may be one sign for each entry to the development from a public road, limited to one sign per road, but only one main entrance sign.

The main entrance sign shall have no more than sixteen (16) square feet per face, two faces per sign. The secondary entrance signs shall have no more than eight (8) square feet per face, two faces per sign. Only two sign faces are ~~shall be~~ allowed at each entrance, however, ~~said the~~ sign faces for the main entrance may be on two individual sign structures.

Commissioners had mixed thoughts about this change, related to a concern about sign proliferation. Staff believes the safeguards on size for the secondary sign or signs, the limit of one main sign and one sign per public road entry are sufficient, and the benefits to the public in terms of directional assistance for secondary entrances will be helpful.

After discussion at the August meeting, the Commission voted 4-3 to not support this change.

(3) Sec. 7-13-4(c): On-Premises signs for multi-tenant development

The proposed changes once again reflect the usefulness of additional directional identification signage for development; in this case multi-tenant development which has access points on more than one public road. Staff believes the existing language to be somewhat confusing and unnecessarily restrictive and inflexible.

The proposed changes clarify that the two allowed identification signs for the building/development (as opposed to tenant identification signs) may be either freestanding or attached. It clarifies the limit on the number of identification signs per development, and clarifies where the allowed attached tenant identification signs are regulated. And it clarifies that the regulations pertain to any tenant, not just a business tenant.

During the initial discussions some Commissioners expressed a concern that this change did not establish a smaller sign size for the added freestanding signage allowed. To address that concern, the staff proposed a modification that would require a smaller size for the additional identification sign. And to address another Commission concern, the new information was added in a "table" format. Also a designation for the Light Industrial district is also added, as we noticed that none was noted currently.

Sec. 7-13-4(c)(b): On premises signs: Multiple tenant development.

- (a) Multiple tenant development may erect either a development identification or joint identification sign. In addition, tenant identification sign for individual businesses within a development are allowed.
- (b) For a multiple tenant development, the development itself is allowed one identification sign either freestanding (maximum of two faces per sign) or attached for each property boundary with street frontage with a maximum of two identification signs allowed per development, ~~only one of which may be freestanding.~~ All other permitted tenant identification signs as allowed in 7-13-4(c)(b)(2) must be attached to the building(s).

1. Development and joint identification signs.

- a. Where a development or joint identification sign is selected, such as sign may be of the following types.

Freestanding: Pole (except in Urban Residential District), Ground, Changeable copy (except in Central Business District and Urban Residential District)

Attached: Wall, Projecting, Window, Awning/canopy, Suspended or transom

- b. The sign(s) shall meet the following requirement based on the zoning district in which it is located.

<i>Zoning District</i>	<i>Maximum Height Allowed</i>	<i>Maximum Size Per Face</i>	<i>Maximum Height Secondary Freestanding Identification Sign</i>
Residential (all districts)	6 ft.	25 sq. ft.	<u>3 feet or ground sign</u>
Office I & II, Office Business, INST, Resort	8 ft.	90 sq. ft.	<u>4 feet or ground sign</u>
CB II, HB, RB, River, CI, IND, <u>Light IND</u> , Airport	25 ft.	200 sq. ft.	<u>12.5 feet or ground sign</u>
CBD, Urban Village	20 ft.	75 sq. ft.	<u>10 feet or ground sign</u>
NBD, CBI, NCD, URD, UP	12 ft.	60 sq. ft.	<u>6 feet or ground sign</u>

After discussion, the Planning and Zoning Commission unanimously recommended approval of this change.

(4) Sec. 7-13-5(b)(3)(d): Off-premise signs

The regulations currently do not allow any off-premise sign within a 100 foot radius of any residentially zoned property. The intent of the proposed change is to allow an off premise sign to be used in proximity to multi-family zoned properties, easing the ability to use directional identification signs for developments that do not have direct frontage on a primary public road.

As noted earlier, some Commissioners initially expressed a concern that this change might lead to off-premise directional signs being placed near single family homes that are in a multi-family zoning district, a not uncommon situation in some Asheville neighborhoods. To address this concern, staff modified the proposed language to protect such homes in multi-family zoning districts.

(d) No off-premises sign shall be located within a 100-foot radius of a property zoned single-family residential or residentially-zoned property in a multi-family zone that is in primarily single-family residential use.

After consideration, the Commission voted unanimously to support this proposed modification.

The Planning and Zoning Commission unanimously recommended approval of the proposed changes to:

- **Sec. 7-13-3** related to prohibited off-premise signs,
- **Sec. 7-13-4(c)** related to on-premise signs in multiple tenant developments; and
- **Sec. 7-13-5(b)(3)(d)** governing off-premise signs.

The Planning and Zoning Commission voted 4-3 to not support the proposed changes to **Sec. 7-13-4(b)(1)(c)** that govern residential development signs.

Staff believes the proposed amendments to be reasonable and consistent with the Comprehensive Plan and other adopted plans, and with Council's Strategic Operating Plan goals for job growth and business development through limited taxes, fees, and regulation as the proposed changes would lift some restrictions on signage that are helpful for businesses.

Pros:

- Allows the signage regulations to remain relevant to adjustments in community interests and business practices.
- Allows greater flexibility in providing signage guidance to the public.

Con:

- The nature of ordinance related to signs is such that they require review and adjustments over time.

In response to Vice-Mayor Manheimer, Ms. Daniel said that the residential development sign amendment is aimed at platted and approved subdivisions, not self-identified neighborhoods.

In response to Councilman Hunt, Ms. Daniel explained that basically the Planning & Zoning Commission did not support the changes to residential development signs because they felt there would be a proliferation of them. Staff, however, felt the application would be for larger developments that have widely separated entrances.

Mayor Bellamy opened the public hearing at 6:50 p.m., and when no one spoke, she closed the public hearing at 6:50 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4228 to approve the amendments to (1) **Sec. 7-13-3** related to prohibited off-premise signs; (2) **Sec. 7-13-4(c)** related to on-premise signs in multiple tenant developments; and (3) **Sec. 7-13-5(b)(3)(d)** governing off-premise signs. This motion was seconded by Councilman Pelly and carried unanimously.

Because a person who might request more residential development signs has the opportunity to apply for a variance through the Board of Adjustment, City Council did not approve the proposed amendments to **Sec. 7-13-4(b)(1)(c)** that govern residential development signs.

ORDINANCE BOOK NO. 28 – PAGE 323

E. PUBLIC HEARING REGARDING THE EAGLE MARKET STREETS DEVELOPMENT

RESOLUTION NO. 13-191 - RESOLUTION AUTHORIZING A SUBSTANTIAL AMENDMENT TO THE CITY'S CONSOLIDATED ANNUAL ACTION PLANS FOR 2013-2014 FOR USE OF SECTION 108 FUNDS FOR THE EAGLE MARKET PLACE COMMERCIAL DEVELOPMENT

RESOLUTION NO. 13-192 - RESOLUTION APPROVING A HOUSING TRUST FUND LOAN REQUEST FOR THE EAGLE MARKET PLACE PROJECT

RESOLUTION NO. 13-193 - RESOLUTION AUTHORIZING CAPITAL INVESTMENT LOAN FOR THE EAGLE MARKET PLACE AFFORDABLE HOUSING DEVELOPMENT

ORDINANCE NO. 4229 - BUDGET AMENDMENT REGARDING THE EAGLE MARKET PLACE AFFORDABLE HOUSING DEVELOPMENT

Assistant City Manager Cathy Ball said that this is the consideration of (1) a resolution approving the City and HUD funding by Mountain Housing Opportunities for the Eagle Market Place housing development project and commercial redevelopment project; (2) a resolution to approve a Housing Trust Fund loan for Eagle-Market Place Project; (3) a resolution authorizing the City Manager to negotiate a development agreement with Mountain Housing Opportunities and Eagle Market Street Development Corporation; and (4) a budget budget amendment in the amount of \$2,200,000 to establish a project budget from previously approved FY 2014 EDCIP proceeds. The public hearing required for the substantial amendment was advertised on August 16 and 23, 2013.

The Eagle Market Place project, to be developed by Mountain Housing Opportunities (MHO) and Eagle Market Streets Development Corporation (EMSDC), is seeking Council approval of additional Housing Trust Funds, City Economic Development Capital Project Funds (EDCIP) and final commitment of HUD Section 108 funds. The developers hope to close project construction financing on or about September 15th in order to commence construction.

History: The redevelopment of the "Block," the neighborhood in the immediate vicinity of the intersection of Eagle and Market Streets, has been sought for over 25 years. This historic center of African American commerce in Asheville was dramatically affected by the federal urban renewal program of the 1970's. Businesses relocated, property investment tailed off, and physical deterioration of buildings and vacancies resulted.

Since 1986, when the City established the South Pack Square Reinvestment District, and developed guidelines for the renovation of the historic properties there, a number of redevelopment projects have been proposed, but none have become reality. In the 2000's, the City sought and obtained an \$800,000 Section 108 loan from HUD, and a \$300,000 HUD Economic Development Incentive grant. However, a lawsuit brought by an affected property owner whose holdings were not included in the plan (although later dismissed) derailed the project. The City lost the EDI grant, although it was able to retain the Section 108 funds for possible later use.

As recently as 2008, EMSDC in partnership with a private developer and with City support, proposed to redevelop the property for residential condominiums. The timing of the financing proposal coincided with the collapse of the housing market, and EMSDC chose to let a pre-development agreement lapse in 2010.

Mountain Housing Opportunities (MHO), at the encouragement of City officials, agreed to explore the possibility of developing a residential rental project, using Low Income Housing Tax Credits as the

primary financing vehicle. MHO, with a \$1 million commitment of City general funds and \$300,000 in Housing Trust Funds, and with a \$2,000,000 County general fund and \$300,000 County housing trust fund commitment, successfully applied for \$5 million in federal Low Income Housing Tax Credits in 2012, for 62 new units of affordable housing.

Concurrent with the funding process, MHO and EMSDC pursued design and development permits, achieving concurrence from the South Pack Square Design Review Advisory Board, the Historic Resources Commission, the Downtown Commission and the City Planning and Zoning Commission. Because the project involved the demolition of buildings contributing to the Asheville Downtown National Historic District, an agreement was reached with the State Historic Preservation Office (facilitated by the City) to mitigate the adverse effect on historic resources. An agreement was reached with the City to help meet resident parking needs. All other permits necessary to move forward with construction have been granted.

Project Description: The project is planned as 62 apartments and 10,270 square feet commercial space, of which 3,500 square feet is planned as community space.

After construction, the commercial and the residential components of the project will be separated into two independent ownerships. The commercial component will consist of (1) the entire Del Cardo building at the corner of Eagle and South Market Streets, (2) the first floor of the Ritz Building at 42-44 South Market Street, (3) the first floor of a newly constructed building at 46 South Market Street, and (4) the first floor of the Dr. Collette Building (reserved as community space). MHO has proposed that the residential component will lease a portion of the Dr. Collette Building (19 Eagle Street), which will serve as the community space and leasing office. 62 affordable housing units comprised of one efficiency unit, 40 one bedroom, 18 two-bedroom and three three-bedroom apartments will be constructed in the remainder of the Ritz, and as new construction in a 6-story building rising from the interior of the 0.61 acre site. Rents will range from \$250 to \$780.

As the final design plans were completed, the cost of the project increased due to the impact of site conditions, affecting foundation and second floor deck costs, the constraints of the site, the impact of preserving existing structures, and rising construction costs in general due to improved economic conditions.

Given that the cost of the project had increased approximately \$3 million in a two month period, city and county staff requested a third-party cost estimate. The third-party cost estimate provided by American South, the contractor for the County courthouse expansion on College Street and the AB Tech expansion was \$600,000 higher the most recent cost estimate from MHO's general contractor, Weaver-Cooke.

While the cost estimate provided by the third-party was shared with MHO, Weaver-Cooke has agreed to hold their original price. The current sources and uses chart indicate the need for additional funds in the amount of \$3,367,618. MHO and EMSDC are requesting these additional funds from the City of Asheville. Should Council approve the additional funding, the City's full commitment to the Eagle Market Place development will total \$4,667,618, when added to \$1,300,000 in loans previously approved for this project.

An event is scheduled for Monday, August 26th to help MHO and EMSDC reached their fundraising goal. This goal is included in their sources and uses chart.

HUD – Section 108 Loan: The total commercial space to be developed is 10,720 SF. 3,500 square feet in the Dr Collette building is proposed to be leased to the residential ownership for office, community and historical display space.

Based upon these most recent estimates, EMSDC and MHO have identified an additional funding gap of \$706,867. The organizations have assumed responsibility to fill this gap through their fundraising

efforts. They have applied for a \$250,000 grant for the project from the Appalachian Regional Commission, and have been named a finalist for these funds.

The third-party cost estimate indicated that the projected cost for the project does not include electrical, plumbing, HVAC and interior finishes such as sheetrock. The cost for this work is included as an alternate at a cost of approximately \$150,000. MHO stated that that the systems work can be completed within the projected budget and that interior sheetrock and other interior up-fit will be the tenant's responsibility. Staff's understanding is that EMSDC intends to provide rent relief to enable businesses to complete interior finishes to suit.

EMSDC and MHO request that \$718,000 of HUD section 108 funds be loaned to the project on a 40 year schedule, to be repaid from net cash flow available after payment to the primary lender and keeping the debt coverage ratio at 1.2. They request that the City provide all additional collateral that may be required from HUD to approve an amendment to the existing Section 108 Agreement between HUD and the City of Asheville; and that the City make all payments above those available on the terms requested to satisfy the current repayment schedule for the Section 108 loan, from other funds available to the City, including but not necessarily limited to future CDBG program allocations and program income. In short, the City will repay HUD the outstanding balance over 9 years, while the project will repay the City over a 40-year amortization schedule, as explained below.

The City received approval from HUD in 2002 for a Section 108 loan in the amount of \$800,000 for the redevelopment of properties in the Block. The City has been repaying interest on the Section 108 loan since 2004, and for the past two years, principal payments have also been made. The repayment schedule was provided to Council. To date, a total of \$691,905 has been repaid, with \$391,016 paid in interest and \$240,000 repaid in principal. There is a principal balance of \$540,000. The fund retains a total balance of \$718,000, as the City has endeavored to make as much of the original loan available as possible for an Eagle-Market place project. Only some transaction costs (for the original loan) and a portion of the principal repayment has been made from the original balance. The City has used Program Income derived from past CDBG-funded activity to make the loan payments. This Program Income would otherwise have been used to fund current activities through the annual Action Plan process.

HUD has noted that the Section 108 funds are CDBG funds, and that the national objective for which these funds are made available has never been achieved. HUD urges the use of these funds. The City also has the option to repay the loan in full in 2014. HUD requires that an amendment be proposed by the City of Asheville for the use of these funds. The Section 108 loan is an advance of future CDBG funds to the City, and it is ultimately the future CDBG funding that is pledged to repay the advance.

HUD will evaluate the collateral offered and the reliability of the source of repayment for the project.

While HUD often sees projects that repay the Section 108 loan from project revenues alone, this is not a HUD requirement. EMSDC has projected a below-market rent structure for the project. EMSDC indicates that rents and expenses have been projected conservatively to avoid creating unrealistic expectations, and to enable marketing to small and start-up businesses, especially those who participate in the BLOCK Academy. EMSDC also has the stated goal of marketing directly to minority-owned business, and maximizing leasing of space to minority-owned businesses. Additionally, 3,500 square feet of the commercial space is proposed to be used as the housing rental office and as community space, including space for a historical display. The proposed lease rate for that space is \$5/square foot (about \$15/sq ft below market rates).

The result of this proposed rental structure is that the City of Asheville is requested to make-up the required payments to HUD for the remaining term of the Section 108 loan, and recover those payments over time as the project can afford to make them.

The proposed payment to the City during the remaining 9-year term of the Section 108 agreement between the City and HUD is \$7,153. The City's obligation to HUD during that period is

\$704,000. Assuming City Council approval of the developer request, the City would repay the balance of the Section 108 loan using CDBG funds or other City funds dedicated for that repayment. Staff's understanding is that the actual loan payment would be determined annually, based upon net income available after repayment of the first position loan, while ensuring a debt coverage ratio of 1.2.

The first position loan is being provided by NeighborWorks Capital. This loan must be replaced with other funds in three years. Staff requested information from MHO on how the loan would be replaced. MHO provided the following information:

"Based on conversations with the Initiative in recent weeks, we do not expect them to discontinue their commercial loan program for member Community Development Corporations (including MHO). It's my understanding that their loan capital did not originate from the State Legislature, but from private investments. After three years, we expect the commercial properties at EMP to be eligible for commercial loans from private banks as well, to take out the NW Capital funds."

HUD requires sufficient collateral to fully secure the Section 108 loan. The maximum loan to value HUD will accept to fully collateralize the loan is 80% of all loans for the project. The Section 108 program allows the advance use of CDBG funds for projects that meet both National Objective and Program Activity requirements. The Section 108 loan is subject to all CDBG regulations. HUD has provided the following guidance for this project:

Eligibility: Community Economic Development Project carried out by a CBDO [570.204(a)(2)] and [570.703(h)(2)]: Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii); activities under this paragraph may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination;

National Objective: Spot slums and blight 24 CFR 570.208(b) (2)

Public Benefit: Generally, the project must create at least one job (FTE) per \$35,000 of CDBG invested. That is 21 jobs at \$718,000.

Housing Trust Fund Request: The cost for the affordable housing units is greater than previously funded projects. The average cost per unit for Low Income Housing Tax Credit developments in the Asheville Regional Housing Consortium in past five years has been \$127,700. The cost per unit in this project is \$240,000. The average local subsidy per unit (including federal HOME funds) has averaged \$9,332 with a range of \$2,500 to \$17,500. The estimated combined City/County subsidy per unit for Eagle Market Place is \$120,000.

The proposed additional funding proposed for the residential element is sourced from the EDCIP and the Affordable Housing Trust Fund (HTF). The estimated funding gap in excess of the previously committed \$1.3 million is \$3.4 million.

One option that staff has proposed for funding part of the \$3.4 million gap is to use an additional \$500,000 from the Housing Trust Fund for Eagle Market Place. If approved, the HTF loan for the project would increase from \$300,000 to \$800,000. The existing \$300,000 loan was approved at 2% interest-only payments with a term of 20 years. The same terms are requested for the increased amount. The annual payment amount would be \$20,000.

The history of the \$300,000 HTF loan previously approved for Eagle Market Place:

- March 8, 2011 City Council approval of \$300,000 loan, 2% interest-only payments, 20-year term.

- October 23, 2012 City Council approval of release of HTF funds to MHO; 100% draw immediately for project “soft” costs
- January 22, 2013 Eagle Market Place HTF Loan Agreement is executed and \$300,000 disbursed to MHO for the purchase of the “Ritz” property. The City’s loan is secured by a second security interest in the subject property.

The residential element of the project supports Council’s strategic goal of Affordable Housing and Community Development, by increasing the number of affordable housing units within the City limits to encourage density. The commercial element supports the goal of Economic Growth and Financial Stability, by helping create mixed use neighborhoods, contributing to downtown vitality and supporting job growth.

Pros:

- The community has attempted for years to rejuvenate the Eagle Market Street area, only to see failure. The Eagle Market Place project represents an opportunity to see this effort through to completion.
- The project’s impacts will benefit downtown Asheville, and may extend investment and redevelopment interest southward toward the Mt. Zion Church properties.
- The project would yield 10,000 square feet of rehabilitated commercial space in downtown Asheville, and has the goal to recruit minority-owned job-creating businesses into this space.
- The project will be energy efficient with Energy Star and System-Vision certification.
- If the affordable housing portion of this project is not completed the state would lose federal Low Income Housing Tax Credits (LIHTC) earmarked for this project. The housing tax credits cannot be transferred to another project in the city of Asheville or in the state. The loss of credits could negatively affect future applications for credits.
- The proposed project has a significant economic impact. Construction wages and material purchases, especially with the project’s proposed use of minority contractors, will positively affect the local and regional economy. MHO, EMSDC and the project general contractor, Weaver-Cooke, have made a commitment to maximize the use of minority contractors and “Section 3” employees.
- The revitalization of the “Block” has been a City/County priority for 25 years.
- The proposed project will create a new locational efficient residential development, particularly affecting downtown service-sector employees. The project will create housing that will be affordable for at least 30 years.

Cons:

- Plumbing, electrical and HVAC for the commercial space is not provided in the base bid. The additional cost for this work is estimated at \$150,000.
- The cost of interior finishes is not included in the commercial element budget.
- Staff has not reviewed a marketing plan for the commercial space.
- The projected commercial rents are lower than the rents cited by the appraisal in determining the value of the completed project.
- The proposed Section 108 repayment schedule will require ongoing subsidy from CDBG allocations and program income for the full remaining period of repayment of the Section 108 loan. The exact amount of the subsidy is not clear, since the repayment from the project is indexed to net income after superior loan obligations are paid.
- The use of CDBG funds to further subsidize the project during the initial eight years will affect funding available for other CDBG-eligible activities in Asheville.
- There are some unknowns about the housing project cost. Based on the third party review, the project could cost an additional \$400,000.
- In order to receive the full tax credit, the housing units must obtain a temporary certificate of occupancy (TCO) by December 31, 2014. Receiving a TCO late could result in penalties. Weaver-Cooke believes the project can be completed within 14 months. The third party contractor indicated that if they were bidding the project, 16 month construction period would be the least amount of time they could complete the project.

- Many projects will be delayed in order to provide additional funding for this project. A revised EDCIP was provided to Council to demonstrate the potential changes to the original conceptual EDCIP approved by City Council in June 2013. Additionally, funding a portion of this project with Affordable Housing Trust Fund Money will decrease the funding for additional affordable housing units available in the City.

The project financing would not require these funds until the 16th month of construction. Should Council choose to approve this request, staff would recommend that \$3,867,618 from the EDCIP and \$500,000 from Affordable Housing as the sources for the funding.

Funding sources for Council's approved EDCIP provides \$2,200,000 in pay-as-you-go (pay-go) funds in FY 2014 and 1,764,250 in pay-go funding in FY 2015. Due to the project's construction cash flow requirements, approval of this request will commit all of the EDCIP pay-go investment over the next two years to the Eagle Market Place project. The budget amendment will create a multi-year project budget that will allow the City to carry over the \$2,200,000 from FY 2014 EDCIP funds to be available in FY 2015 when the payment request is expected to be received. Staff has updated the EDCIP to reflect the fact that the FY 2014 and FY 2015 pay-go investments will go toward the Eagle Market Place project.

The HTF loan request, if approved, would total \$800,000 with 2% interest-only payments for a 20 year term. The annual interest payment would be \$20,000. This amount includes the \$300,000 previously committed and expended on the purchase of the Ritz property.

An event is scheduled for Monday, August 26th to help MHO and EMSDC reached their fundraising goal. This goal is included in their sources and uses chart.

The Housing Trust Fund currently has an available loan balance of \$769,621. The project, if approved at the requested amount, would leave an anticipated balance of \$269,621 to lend for other developments. Due to the project's cash flow requirements during construction, the Housing Trust Fund investment could be spread over two years, lessening its impact to support affordable housing developments this year.

It has been the policy of the HCD Committee and Council to request proposals from developers for the use of Housing Trust Funds one-time annually, with decisions typically made in December or January. Should these funds be allocated now, the range of proposals that may be considered at that time will be limited.

Current Housing Trust Fund policy limits the amount of funds that may be loaned to one project as follows:

Per-unit Subsidy Requested	Maximum Loan Amount
More than \$20,000	Ineligible
\$15,001 to \$20,000	\$150,000
\$10,001 to \$15,000	\$200,000
\$ 5,001 to \$10,000	\$300,000
Less than \$5,000	\$500,000

Based upon the amount requested per unit (\$12,097), this project is eligible for a maximum loan of \$200,000. The current policy maximum per project is \$500,000. To grant the request, both of these policies will need to be waived.

In summary, the total requested City investment from EDCIP and Housing Trust Funds is approximately \$4.7 million. This would require a new total commitment of \$3.4 million.

This investment must be loaned to the project in order to protect the tax-credit equity investment. However, it is unlikely that the City will recover this financial investment due to the nature of the project

and its anticipated cash flow. Maintaining affordability of the rental units over the 30+ years is only achieved through no debt or low performing debt. Therefore, the investment must be structured as a low- or no-interest loan, with an expectation that the debt will be either renewed or forgiven upon its maturity.

Staff requests the following actions:

- City and HUD funding by Mountain Housing Opportunities for the Eagle Market Place housing development project and commercial redevelopment project;
- Authorization for the City Manager to negotiate a development agreement with Mountain Housing Opportunities (MHO) and Eagle Market Street Development Corporation (MHO) ; and,
- Adopt a budget amendment in the amount of \$2,200,000 to establish a project budget from previously approved FY 2014 EDCIP proceeds.

If Council approves this investment, staff recommends the following conditions on for development agreement:

1. Second lien security interest in the residential project;
2. Project completion unconditionally guaranteed by Mountain Housing Opportunities;
3. Last funds disbursed to the project and only upon the project's completion as represented by MHO;
4. The funding approved at this time represents the final and full funding commitment of the City to the project;
5. City staff participates in all monthly progress meetings. Full documentation of project expenses to City; all change orders affecting project financing to be disclosed at least two weeks before presentation for approval. Additionally, the city review all change order requests and approve change orders, over \$25,000.
6. Any inspection reports from MHO/EMSDC/TD Bank's representatives are provided to the City within two weeks of the inspections.
7. MHO/EMSDC would comply with all reporting requirements from the federal monies in the project.
8. MHO/EMSDC work with the City on the City's financing structure so that it is most advantageous to the City. This could require the ability of the City to own some portion of the project in order to debt finance the loan.
9. Qualification for LIHTC: Then City commitment to be conditional on MHO meeting the requirements for full delivery of the LIHTC. City funds will only be disbursed if the City is assured this condition will be met.
10. Second lien security interest in the commercial project, additional collateral may be required pending HUD's review of the project;
11. Project completion unconditionally guaranteed by Mountain Housing Opportunities, to include fully operational systems, with only required tenant up-fit being finishes such as sheet rock or specialty finishes;
12. EMSDC enter into a CDBG Contract with the City of Asheville, and agree to meet all regulatory requirements, including the documentation of job creation as necessary to meet the programmatic requirements in a final amended Section 108 agreement with HUD.

Mayor Bellamy opened the public hearing at 7:00 p.m.

The following individuals spoke in whole-hearted support of this important project, that has lingered on for a long time, for the historic neighborhood and the wider community:

Mr. Scott Dedman, Executive of MHO
Mr. Mike Romero, Board member of MHO
Mr. Marvin Chambers
Ms. Caldwell, commercial tenant for Eagle Market Place
Owner of Limones
Mr. Mike Campbell, Board member of EMSDC

Mr. Darryl Hart, Chairman of EMSDC
Mr. Matthew Bacoate Jr., Board member of MHO
Mr. David Nutter, Board member of EMSDC
Ms. Stephanie Swepson-Twitty, President and CEO of EMSDC

Mayor Bellamy closed the public hearing at 7:23 p.m.

Council members were very pleased to see this project come to life.

Mayor Bellamy said that members of Council have previously received copies of the resolutions and ordinance and they would not be read.

Councilman Pelly moved for the adoption of Resolution No. 13-191. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 443

Councilman Smith moved for the adoption of Resolution No. 13-192. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 444

Vice-Mayor Manheimer moved for the adoption of Resolution No. 13-193_. This motion was seconded by Councilman Hunt and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 445

Councilman Bothwell moved for the adoption of Ordinance No. 4229. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 326

Upon inquiry of Mayor Bellamy, Assistant City Manager Ball said that staff will bring back the development agreement for Council consideration at their September 10, 2013, meeting.

V. UNFINISHED BUSINESS: None

VI. NEW BUSINESS:

A. RESOLUTION NO. 13-194 - RESOLUTION APPROVING THE RECOMMENDATION OF THE HOUSING & COMMUNITY DEVELOPMENT COMMITTEE FOR THE 2014 OUTSIDE AGENCY PROGRAM

Community Development Director Jeff Staudinger said that this is the consideration of a resolution approving of the recommendations of the Housing & Community Development (HCD) Committee for the 2014 Outside Agency Program.

The HCD Committee received applications from 13 eligible organizations for Outside Agency funding for 2014. The Committee considered these applications at their meeting of August 8, 2013, and now recommends 9 applications for funding. The recommendations are:

Agency	Purpose	Amount

Asheville Buncombe Community Relations Council	Provide services to improve relations between City residents and law enforcement; and act as a local resource for Asheville residents who feel that they have been discriminated against in housing, employment, law enforcement and schools.	35,000.00
Asheville Design Center	Assist Hall Fletcher School develop the first phase of the Outdoor Learning Center.	4,000.00
Asheville Green Works	Act as a liaison between city, other governments and community agencies and citizens to improve the environment.	8,000.00
Child Abuse Prevention Services	Reduce/prevent child abuse, strengthen families, and assist children and families who have experienced abuse through prevention education, parenting education, and crisis intervention/counseling.	5,000.00
Children First	Support Learning Center programs at Pisgah View, Deaverview and Woodbridge communities.	20,000.00
Green Opportunities	GO Kitchen Ready program to prepare participants for jobs in Asheville restaurant and hospitality industry.	25,000.00
Homeward Bound -A HOPE	A HOPE Day Center outreach, intake and support for homeless persons, support for weekend operations.	25,900.00
United Way 2-1-1	Community service information line that connects people to community resources.	2,500.00
YWCA	The MotherLove program helps pregnant and parenting teens stay in school, access higher education and vocational training, develop the skills and knowledge to become strong parents and delay another teen pregnancy.	8,000.00
TOTAL		\$133,400

This action complies with the City Council Strategic Operating Plan in (1) Affordable, by supporting initiatives to end homelessness; (2) Safe, by supporting recreation and employment alternatives for youth at risk of gang exposure; (3) Job Growth and Community development, by continuing to support the Economic Development Coalition; and by considering tools and programs the City can use to promote job growth and creation.

Pros:

- Approval of Outside Agency Grants provides operating support to Asheville- based organizations that are providing direct services for Asheville residents.

- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Funding is included in the FY 2013-14 adopted General Fund budget for the Outside Agency Grants recommended above.

The HCD recommends approval of the 2014 Outside Agency Program grants as presented.

Councilman Davis, Chair of the HCD Committee thanked Councilman Pelly and Councilman Smith for their hard work on this Committee. He was pleased that Council provided the funding and noted that this year their emphasis was on helping young people.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 13-194. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 447

B. RESOLUTION NO. 13-195 - RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Affordable Housing Advisory Committee.

The terms of Barber Melton, Scott Dedman, Lindsey Simerly and David Dills expire on September 1, 2013.

The following individuals have applied for the vacancies: Robin R. Raines, Brandee Boggs and Dawn Nelson.

On August 13, 2013, it was the consensus of the Boards & Commissions Committee, and consensus of City Council to (1) reappoint Ms. Melton, Mr. Dedman and Ms. Simerly; and (2) interview Robin Raines.

Councilman Smith moved to (1) reappoint Barber Melton, Scott Dedman and Lindsey Simerly Dills as members to the Affordable Housing Advisory Committee, to each serve a three year term, terms to expire September 1, 2016, or until their successors are appointed; and (2) appoint Robin Raines to serve a three-year term, term to expire September 1, 2016, or until her successor is appointed.. This motion was seconded by Councilman Hunt and carried unanimously.

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C. RESOLUTION NO. 13-196 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE CRIMESTOPPERS BOARD OF DIRECTORS

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Crimestoppers Board of Directors.

Mr. David Herbert has resigned from the Board, thus leaving an unexpired term until June 30, 2014.

The following individuals have applied for the vacancy: Fred Cooke and Anthony Mitchell.

On August 13, 2013, it was the consensus of the Boards & Commissions Committee and consensus of Council to interview Mr. Cooke and Mr. Mitchell.

Councilman Hunt moved to appoint Anthony Mitchell as a member of the Asheville-Buncombe Crimestoppers Board of Directors, to serve the unexpired term of Mr. Herbert, term to expire June 30, 2014, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

In addition, at Mayor Bellamy's request, and Council's concurrence, Councilman Pelly moved to request the Citizens-Police Advisory Committee appoint Mr. Fred Cooke to one of their two ad hoc voting members seats. This motion was seconded by Councilman Davis and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Grant Millin provided Council with a draft Asheville happiness initiative proclamation.

Lawsuits

On August 9, 2013, the City was served with a Complaint in the matter of Suzayne Reeves, RBC Centura Bank, and the City of Asheville. This is a tax foreclosure for 62 Ivanhoe Avenue in the City of Asheville. This matter will be handled in-house.

On August 19, 2013, the City was served with a Complaint in the matter of David Wade Hall, Mrs. David Wade Hall, Karen M. Hall, John Doe Hall, Citizens Fidelity Bank & Trust Company, and the City of Asheville. This is a tax foreclosure for 220 Hazel Mill Road in the City of Asheville. This matter will be handled in-house.

Closed Session

At 7:42 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: (A) State of North Carolina; Metropolitan Sewerage District of Buncombe County; and City of Asheville; and (B) Lisa Richmond (formerly "Lisa Roth"), City of Asheville, Timothy Splain, Michael Downing, William Hogan, and Gary Jackson. The statutory authorization is N. C. Gen. Stat. 143-318.11(a)(3); (3) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1); and (4) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 9:05 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:05 p.m.

CITY CLERK

MAYOR