

Tuesday - December 10, 2013 – 4:00 p.m.

**ORGANIZATIONAL SESSION:**

Mayor-Elect Manheimer welcomed everyone to the organizational session.

The Marine Corp JROTC led City Council in the Pledge of Allegiance.

Mr. Ric Ledford sang the National Anthem.

Mayor- Elect Manheimer then introduced Rabbi Batsheva Meiri who gave an invocation.

The Honorable Alan Z. Thornburg, Buncombe County Senior Resident Superior Court Judge, administered the Oath of Office to the following:

Mayor Esther E. Manheimer  
Council Member Cecil Bothwell  
Council Member Gordon D. Smith  
Council Member Gwen C. Wisler

**RESOLUTION NO. 13-250 - RESOLUTION OF APPRECIATION FOR TERRY M. BELLAMY**

Mayor Manheimer read the resolution.

Resolution No. 13-250 was adopted by acclamation.

Mayor Manheimer thanked former Mayor Bellamy for her service to Asheville and presented her with an appreciation resolution, a plaque, her name plates, a City pen, copies of the December 2, 2013, Mayor's portrait hanging, and a large framed picture of the current City Council.

Ms. Bellamy thanked the public and her family for allowing her to serve. She also thanked City staff and City Council for their professionalism and dedication to the citizens of Asheville.

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**ELECTION OF VICE-MAYOR**

Councilman Davis nominated Councilman Hunt as Vice-Mayor of the City of Asheville. Councilman Smith seconded the nomination.

After hearing no more nominations, Mayor Manheimer closed the floor for nominations.

Mayor Manheimer called for a vote, resulting in Councilman Hunt being appointed as Vice-Mayor unanimously.

**SWEARING-IN ADDRESS**

Mayor Manheimer gave a brief address speaking about the common goal of quality of life and livability of Asheville. She looked forward to working together to build our community.

## REMARKS - MEMBERS OF COUNCIL

Councilman Bothwell, Councilman Smith and Councilwoman Wisler each expressed their honor to be allowed to serve the citizens, appreciated the support of their family and friends, and looked forward to working for and with City residents.

## ADJOURNMENT:

Mayor Manheimer adjourned the organizational meeting at 4:45 p.m.

Tuesday – December 10, 2013- 5:00 p.m.

## Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; Assistant City Manager Cathy Ball; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

## PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

## I. PROCLAMATIONS:

## II. CONSENT AGENDA:

- A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 13, 2013**
- B. **RESOLUTION NO. 13-253 - RESOLUTION ADOPTING THE 2014 CITY COUNCIL MEETING SCHEDULE AND SETTING A LEGISLATIVE UPDATE WORKSESSION ON JANUARY 14, 2014, AT 3:30 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL**

It was the consensus of Council to schedule the north Asheville community meeting on September 30, 2014, and the south Asheville community meeting on April 29, 2014.

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- C. **RESOLUTION NO. 13-254 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CAVANAUGH & ASSOCIATES PA FOR ENGINEERING SERVICES FOR THE VAULT RENEWALS AND DISTRICT METERING AREA ZONE METERING PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Cavanaugh and Associates, PA, for engineering services for the estimated amount of \$165,336 plus a contingency amount of \$24,800 for a total project budget of \$190,136 for the Vault Renewals and District Metering Area (DMA) Zone Metering Project.

The City of Asheville Water Resources Department (WRD) is seeking the services of a qualified engineering firm to design and provide project management assistance with the Vault Renewals and DMA Zone Metering Project. This project will replace existing substandard and failing large sized water meters and vaults with new metering infrastructure designed and constructed in accordance with the City of Asheville standards. This will improve safety and metering accuracy at these existing meter locations which provide service to some of our larger water consumers. This project will also provide new metering infrastructure for zones within the supply system. This will better enable Water Resources staff to track where Non- Revenue Water Loss is occurring and correct those issues.

The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Vault Renewals and DMA Zone Metering Project. In response to that RFQ, the WRD received five (5) proposals. Companies responding were:

1. Cavanaugh and Associates, PA - Asheville, NC
2. Mattern & Craig, Inc. - Asheville, NC
3. McGill Associates. - Asheville, NC
4. Michael Baker Engineering, Inc. – Raleigh, NC
5. Wade Trim, Inc. - Asheville, NC

A review team, comprised of staff from the City of Asheville Water Resources Department reviewed these proposals and selected the firm Cavanaugh and Associates, PA. Subsequent to this selection, Water Resources staff met with Cavanaugh and Associates, PA and negotiated an Engineering Services Contract for the estimated amount of \$165,336.00 plus a contingency amount of \$24,800.00 for a total project budget in the amount of \$190,136.00.

The funding needed for this agreement is currently allocated within the Meter / Vault Repair Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a professional services agreement with Cavanaugh and Associates, PA, for engineering services for the estimated amount of \$165,336 plus a contingency amount of \$24,800 for a total project budget of \$190,136 for the Vault Renewals and DMA Zone Metering Project.

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**D. RESOLUTION NO. 13-255 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE PORTIONS OF EXCESSIVE SUMMIT AVENUE RIGHT-OF-WAY AND AN UNOPENED RIGHT-OF-WAY BETWEEN SUMMIT AND ALLEN AVENUES AND SETTING A PUBLIC HEARING ON JANUARY 14, 2014**

Summary: The consideration of a resolution of intent to permanently close portions of excessive Summit Avenue right-of-way and an unopened right-of-way between Summit and Allen Avenues and setting a public hearing on January 14, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville to permanently close a portion of the excess right-of-way adjacent to Summit Avenue and an unopened right-of-way between Summit and Allen Avenues.

City staff has reviewed the request and concur that the right-of-way closings will not have a negative impact on City services or active City transportations systems.

The Multimodal Transportation Commission met on December 4, 2013. They voted to unanimously support the right-of-way closures on condition that the developer consider providing multimodal improvements as part of the improvements of the development project.

City staff recommends City Council adopt the resolution of intent to permanently close portions of excessive Summit Avenue right-of-way and an unopened right-of-way between Summit and Allen Avenues and set the public hearing for January 14, 2014.

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**E. RESOLUTION NO. 13-256- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MCGILL ASSOCIATES FOR ENGINEERING SERVICES ASSOCIATED WITH THE NORTH FORK WATER TREATMENT PLANT GENERATOR TRANSFER SWITCH PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with McGill Associates for engineering services for the estimated amount of \$74,100 plus a contingency amount of \$8,400 for a total project budget of \$82,500 for the North Fork Water Treatment Plant (NFWTP) Generator Transfer Switch Project.

The City of Asheville Water Resources Department (WRD) is seeking the services of a qualified engineering firm to design and provide project management assistance with the North Fork Water Treatment Plant Generator Transfer Switch Project. This project will replace an aging (1993) automated emergency power generator transfer switch with new automated electrical switchgear designed and constructed in accordance with current electrical infrastructure standards. This will improve the reliability of the emergency power equipment at the NFWTP and provide effective transitions from supplied electrical power to emergency power. This will better enable Water Resources staff to maintain water plant operations when supplied power is disrupted for any reason.

The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the North Fork Water Treatment Plant Generator Transfer Switch Project. In response to that RFQ, the WRD received two (2) qualification statements. Companies responding were:

6. McGill Associates – Asheville, NC
7. Brown and Caldwell – Charlotte, NC

A review team, comprised of staff from the City of Asheville Water Resources Department reviewed these submittals and selected the firm McGill Associates. Subsequent to this selection, Water Resources staff met with McGill Associates and negotiated an Engineering Services Contract for the estimated amount of \$74,100 plus a contingency amount of \$8,400 for a total project budget in the amount of \$82,500.

The funding needed for this agreement is currently allocated within the North Fork Water Treatment Plant Generator Transfer Switch Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a professional services agreement with McGill Associates, for engineering services for the estimated amount of \$74,100 plus a contingency amount of \$8,400 for a total project budget of \$82,500 for the North Fork Water Treatment Plant (NFWTP) Generator Transfer Switch Project.

**RESOLUTION BOOK NO. 36 - PAGE 25**

**F. ORDINANCE NO. 4252 - ORDINANCE ENACTING AND/OR CHANGING A 20 MPH SPEED LIMIT ON PORTIONS OF MOUNT VERNON PLACE, PROSPECT STREET, SALEM AVENUE, AND WESTHAVEN DRIVE; AND ENACTING AND/OR CHANGING A 25 MPH SPEED LIMIT ON PORTIONS OF ALLEN AVENUE, ATKINS STREET, BEAVERBROOK ROAD, BELL ROAD, CHAPEL PARK PLACE, COUNTRY MEADOWS DRIVE, FAIRVIEW ROAD, GIBSON ROAD, HIGH MEADOW ROAD, MIDLAND DRIVE, OTEEN PARK PLACE, PINEDALE ROAD, SUCCESS AVENUE, VANCE GAP ROAD, WATERS ROAD, AND WESTWOOD PLACE**

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of roads in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 20 mph speed limit would be reasonable and safe on Mount Vernon Place from Mount Vernon Circle to Lakeshore Drive, Prospect Street from Salem Avenue to Lee Avenue, Salem Avenue from Chatham Road to Prospect Street, and Westhaven Drive from NC 694 Town Mountain Road to Crowningway Drive.

Additional traffic engineering investigations were conducted by City staff that indicated that a 25 mph speed limit would be reasonable and safe on Allen Avenue from US 25 Hendersonville Road to the end of City maintenance, Atkins Street from US 25 Hendersonville Road to the end of City maintenance, Beaverbrook Road from Windsor Road to the end of City maintenance, Bell Road from SR 2236 New Haw Creek Road to Munn Drive, Chapel Park Place from West Chapel Road to Bostic Place, Country Meadows Drive from NC 112 Sardis Road to end of City maintenance, Fairview Road from US 25A Sweeten Creek Road to Bleachery BLVD, Gibson Road from Wild Cherry Road to end of City maintenance, High Meadow Road from Brooklyn Road to end of City maintenance, Midland Drive from US 25 Merrimon Avenue to US 25 Merrimon Avenue, Oteen Park Place from US 70 Tunnel Road to end of City maintenance, Pinedale Road from Bull Mountain Road to end of City maintenance, Success Avenue from Wamboldt Avenue to Euclid BLVD, Vance Gap Road from NC 694 Town Mountain Road to end of City maintenance, Waters Road from Old Haw Creek Road to Rocking Porch Road, and Westwood Place from Waynesville Avenue to Millbrook Road.

The initial cost to install the appropriate speed limit signs is about \$2,000 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting and/or changing a 20 mph speed limit on Mount Vernon Place from Mount Vernon Circle to Lakeshore Drive, Prospect Street from Salem Avenue to Lee Avenue, Salem Avenue from Chatham Road to Prospect Street, and Westhaven Drive from NC 694 Town Mountain Road to Crowningway Drive.

City staff recommends that City Council approve an ordinance enacting and/or changing a 25 mph speed limit on Allen Avenue from US 25 Hendersonville Road to the end of City maintenance, Atkins Street from US 25 Hendersonville Road to the end of City maintenance,

Beaverbrook Road from Windsor Road to the end of City maintenance, Bell Road from SR 2236 New Haw Creek Road to Munn Drive, Chapel Park Place from West Chapel Road to Bostic Place, Country Meadows Drive from NC 112 Sardis Road to end of City maintenance, Fairview Road from US 25A Sweeten Creek Road to Bleachery BLVD, Gibson Road from Wild Cherry Road to end of City maintenance, High Meadow Road from Brooklyn Road to end of City maintenance, Midland Drive from US 25 Merrimon Avenue to US 25 Merrimon Avenue, Oteen Park Place from US 70 Tunnel Road to end of City maintenance, Pinedale Road from Bull Mountain Road to end of City maintenance, Success Avenue from Wamboldt Avenue to Euclid BLVD, Vance Gap Road from NC 694 Town Mountain Road to end of City maintenance, Waters Road from Old Haw Creek Road to Rocking Porch Road, and Westwood Place from Waynesville Avenue to Millbrook Road.

**ORDINANCE BOOK NO. 28 - PAGE**

**G. RESOLUTION NO. 13-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND, IF AWARDED, ENTER INTO A GRANT AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR CONSTRUCTION OF THE BEAUCATCHER GREENWAY**

Summary: The consideration of a resolution authorizing the City Manager to apply for and, if awarded, enter into a grant agreement with the N.C. Dept. of Environment and Natural Resources for construction of the Beaucatcher Greenway.

Funds are available through the N.C. Dept. of Environment and Natural Resources, Division of Parks and Recreation in the Recreation Trails Program to assist with the development of parks, recreational facilities, and greenways. The city wishes to submit a grant application not to exceed \$100,000. If awarded, grant funds will be used to reimburse the city for future expenses related to construction of the Beaucatcher Greenway.

The grant application requires 25% cash, in-kind, or force labor match. The \$25,000 cash match is available in the existing capital improvement budget for Beaucatcher Greenway.

In 2008, the City received a grant from the N.C. Parks and Recreation Trust Fund to assist with the land acquisition for Beaucatcher Greenway. In November 2012, the City entered into a contract with Stewart Engineering to develop the greenway design and construction documents which will be complete in February 2014, followed by construction beginning spring 2014.

The Recreation Advisory Board endorsed Beaucatcher Greenway as a priority greenway linking downtown Asheville to the French Broad River at its meeting on April 9, 2012.

If awarded, the grant is for one-time construction cost for the Beaucatcher Greenway that will increase the budget not to exceed \$100,000. This increase is funded by a grant from the North Carolina in the Department of Environment and Natural Resources Recreation Trails Program. The grant application requires cash, in-kind, or force labor match of 25 percent of the amount requested valued at \$25,000, which is available in the existing capital improvement budget for Beaucatcher Greenway construction. There is no impact to the city's General Fund budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to apply for and enter into an agreement for a grant through the North Carolina in the Department of Environment and Natural Resources Recreation Trails Program not to exceed \$100,000 for reimbursement of future construction costs for the Beaucatcher Greenway.

**RESOLUTION BOOK NO. 36 - PAGE 26**

**H. RESOLUTION NO. 13-258 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR, AND IF AWARDED, ENTER INTO A GRANT AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR CONSTRUCTION AT THE DR. WESLEY GRANT SR. SOUTHSIDE CENTER**

Summary: The consideration of a resolution authorizing the Mayor to apply for and, if awarded, enter into a grant agreement with the N.C. Dept. of Environment and Natural Resources for a North Carolina Parks and Recreation Trust Fund (PARTF) grant for construction at the Dr. Wesley Grant, Sr. Southside Center.

Funds are available through the N.C. Dept. of Environment and Natural Resources, Division of Parks and Recreation in PARTF to assist with the development of parks, recreational facilities, and greenways. The City of Asheville wishes to submit a grant application not to exceed \$500,000. If awarded, grant funds will be used to reimburse the city for future expenses related to construction at the Dr. Wesley Grant, Sr. Southside Center.

The grant application requires a dollar for dollar cash match not to exceed \$500,000. The cash match is available in the existing capital improvement budget for the Dr. Wesley Grant, Sr. Southside Center.

The next area of construction at the Dr. Wesley Grant, Sr. Southside Center includes the spray ground, playground and a section of the Town Branch Greenway. Earlier this year, the city was awarded a \$35,000 grant from the Community Development Block Grant to support construction cost. The PARTF grant, if awarded, will provide a significant portion of the funding needed to construct the project.

The development of the Dr. Wesley Grant, Sr. Southside Center is one of the top capital project priorities for the city in the Parks and Recreation Department. The first part of the Cultural Phase was completed in October 2011 consisting of an auditorium, three classrooms, office, storage, spray ground mechanical room, restrooms and parking.

The construction concept plan for the Dr. Wesley Grant, Sr. Southside was endorsed by the Recreation Advisory Board at its meeting on August 13, 2012. A public input session regarding the project was held on November 1, 2012.

If awarded, the grant is for one-time facility construction cost at the Dr. Wesley Grant, Sr. Southside Center that will increase the budget not to exceed \$500,000. This increase is funded by a grant from the State of North Carolina in the Department of Department of Environment and Natural Resources. The grant application requires a dollar for dollar cash match not to exceed \$500,000, which is available in the existing capital improvement budget for the Dr. Wesley Grant, Sr. Southside Center. There is no impact to the city's General Fund budget.

City staff recommends City Council to adopt a resolution authorizing the Mayor to apply for and enter into an agreement for a grant through the N.C. Dept. of Environment and Natural Resources Parks and Recreation Trust Fund not to exceed \$500,000 for reimbursement of future construction costs for the Dr. Wesley Grant, Sr. Southside Center.

**RESOLUTION BOOK NO. 36 - PAGE 27**

**I. MOTION ADOPTING ASSIGNMENT OF BOARDS & COMMISSIONS MEMBERS/LIAISONS FOR 2014-15**

Summary: City Clerk Burleson has a complete listing of all appointments made for City Council liaison and mandatory seats for Council on the various boards and commissions.

The following changes were made: (1) Vice-Mayor Hunt (Chairman), Councilman Davis and Councilman Pelly were appointed to the City Council Boards & Commissions Committee; (2) Mayor Manheimer as a member of the Riverfront Redevelopment Commission; and (3) Councilman Bothwell will serve as the liaison to the Housing Authority of the City of Asheville.

**RESOLUTION NO. 13-265 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL**

Summary: As Mayor Terry Bellamy is no longer a member of the Asheville City Council, there currently exists a vacancy on the Asheville-Buncombe Community Relations Council.

Councilman Gordon Smith be and he is hereby appointed as a voting member to the Asheville-Buncombe Community Relations Council to serve a term according to the length of his Council term of office.

**RESOLUTION BOOK NO. 36 - PAGE 34**

**RESOLUTION NO. 13-266 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS**

Summary: The term of Esther Manheimer, as a member on the Metropolitan Sewerage District Board of Directors, expires on January 19, 2014.

Mayor Esther Manheimer be and she is hereby appointed to serve a three-year term, expire to expire January 19, 2017, or until her successor has been appointed.

**RESOLUTION BOOK NO. 36 - PAGE 35**

**RESOLUTION NO. 13-267 - RESOLUTION APPOINTING VICE-MAYOR AS CHAIRMAN TO THE POLICE OFFICERS & FIREFIGHTERS DISABILITY REVIEW BOARD**

Summary: There is a need to appoint the Vice-Mayor to serve as the Chairman of the Police Officers and Firefighters Disability Review Board.

Vice-Mayor Marc Hunt be and he is hereby appointed as the City Council representative, to serve as Chairman, to the Police Officers and Firefighters Disability Review Board to serve a term according to the length of his Vice-Mayor term of office.

**RESOLUTION BOOK NO. 36 - PAGE 36**

**RESOLUTION NO. 13-268 - RESOLUTION APPOINTING AN EX-OFFICIO, NON-VOTING MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY**

Summary: Councilman Gordon Smith has resigned from the ex-officio non-voting member on the Buncombe County Tourism Development Authority, thus creating a vacancy for a City Council representative.

Councilman Jan Davis be and he is hereby appointed as the ex-officio non-voting City Council representative on the Buncombe County Tourism Development Authority to serve a term according to the length of his Council term of office.

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**RESOLUTION NO. 13-269 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION**

Summary: Councilman Jan Davis has resigned as a member of the Asheville Area Riverfront Redevelopment Commission, thus creating a vacancy for the City Council ex-officio voting member.

Mayor Esther Manheimer be and she is hereby appointed to the Asheville Area Riverfront Redevelopment Commission to serve in an ex-officio voting member capacity until she is no longer a member of the Asheville City Council.

**RESOLUTION BOOK NO. 36 - PAGE 38**

**J. RESOLUTION NO. 13-258 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TELECOMMUNICATION AND INDUSTRIAL CONSULTING SERVICES CORPORATION TO PERFORM RIGHT-OF-WAY ACQUISITION SERVICES FOR THE US 25 / HENDERSONVILLE ROAD SIDEWALK PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Telecommunication and Industrial Consulting Services Corporation (TELICS) to perform right-of-way acquisition services for the US 25 / Hendersonville Road Sidewalk Project.

The Hendersonville Road Sidewalk Construction Project consists of constructing an identified priority for the linkage of the City's Pedestrian Plan. It will consist of installing several public infrastructure improvements, including (1) installing new sidewalks and associated items, (2) bus shelters, bike racks and other multimodal amenities, (3) ADA improvements.

The mass of the project consists of 7.5 feet of N.C. Dept. of Transportation (NCDOT) right-of-way off of the back of curb. The proposed typical section of sidewalk to be constructed consists of a 6 foot sidewalk constructed off of the back of curb. The majority of the work is expected to be performed within the existing right of way but there will be a need to acquire permanent and/or temporary easements and/or fee interest in some properties where there are issues with grade, the need for drainage improvements, installation of bus shelters, relocation of utilities, installation of retaining walls and other structures, and other related items to the construction of the sidewalk.

Since this project is receiving federal funds for construction, certain requirements / qualifications and guidelines have to be met. A Request for Proposals was issued to ascertain a qualified firm to acquire the necessary rights-of-way and meet the required federal guidelines.

Ten firms submitted proposals. These proposals were evaluated by a team of 5 members which rated each proposal based on qualifications and fees. The firm with the highest score among all the evaluators was TELICS, Charlotte, N.C.

Currently, staff is in the initial phase of design and it is estimated that over one-hundred parcels will be adjacent to the new sidewalk. A truly accurate estimate of the cost for the services rendered is not realistic at this time. Based on an assumption of acquiring 60 easements, with 30 of those requiring appraisals and with no relocations, and using the unit costs provided by TELICS, it is estimated the cost would be in an amount of \$180,000. This requested amount is for services only and does not include monies for the actual purchase of land or land use.

This action is needed to fulfill the contract agreement between the City and the NCDOT to construct the sidewalk along this corridor.

Funding for the Hendersonville Road sidewalk project was included in the adopted Fiscal Year 2014 Capital Improvement Budget.

City staff recommends that City Council adopt the resolution authorizing the City Manager to enter into a contract with TELICS for a not to exceed amount of \$180,000 for right-of-way acquisition services for the Hendersonville Road Sidewalk Construction Project.

**RESOLUTION BOOK NO. 36 - PAGE 28**

**K. RESOLUTION NO. 13-260 - RESOLUTION ACCEPTING EMERGENCY SOLUTIONS GRANT FUNDS**

**ORDINANCE NO. 4253 - BUDGET AMENDMENT TO FUND LOCAL ORGANIZATIONS WITH THE EMERGENCY SOLUTIONS GRANT FUNDS**

Summary: The consideration of a resolution authorizing the City to accept Emergency Solutions Grant funds and to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services, Housing and Homeless Unit; and a budget amendment, in the amount of for \$159,247, to fund local organizations with 2013 and 2014 Emergency Solutions Grant funds.

In the process approved by Council at the August 27, 2013 Council meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant funding. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

We have been informed that our application has been approved, with the following agency awards:

	Emergency Response	Housing Stabilization	Administration	Total
<b>Organization</b>				
ABCCM		\$ 25,195		\$ 25,195
Helpmate	\$ 26,559			\$ 26,559
Homeward Bound		\$ 76,577		\$ 76,577
Salvation Army	\$ 23,441			\$ 23,441
City of Asheville			\$ 7,475.00	\$ 7,475
<b>TOTAL REQUESTS</b>	<b>\$ 50,000</b>	<b>\$ 101,772</b>		<b>\$ 159,247</b>

These awards are conditional on providing to the State additional information needed and/or assurances that must be provided. These conditions will include, but are not limited, to adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City).

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution authorizing the City to accept ESG funding, and to provide those funds to the agencies for the programs approved by the State

Division of Aging and Adult Services (DAAS), Housing and Homeless Unit, and the associated budget amendment.

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**L. RESOLUTION NO. 13-261 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO EXECUTE A CHANGE ORDER WITH BOLTON  
CONSTRUCTION COMPANY FOR THE MONTFORD GYM FLOORING  
REPLACEMENT PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of \$29,000 to increase the construction services contract for Bolton Construction of WNC Inc., from a total in the amount of \$130,000 to \$159,000 for the Montford Gym Flooring Replacement Project.

On October 10, 2013, City Council awarded the construction services contract to Bolton Construction of WNC Inc., for the Montford Gym Flooring Replacement Project. The contract originally consisted of a demolition and removal of the tile flooring, and installation of a new wood sports flooring system within the Montford Recreation Center. During the initial construction phase, it was determined that accessibility improvements were required per current ADA guidelines and the six (6) existing basketball goals/backboards needed replacement in order to meet the project objectives of improved level of service. A new curb ramp, replace four (4) entry doors, two (2) sets of interior door hardware, and six (6) basketball goals & backboards were added to the construction services contract.

The additional construction services for the curb ramp, doors, and basketball goal/backboard replacement creates the need for a change order to increase the contract amount by an additional \$29,000.00 for a total contract amount of \$159,000.00. Funding for this contract change order will come from the Parks and Recreation Department's existing FY 2013-14 deferred capital maintenance budget.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order in the amount of \$29,000.00 to increase the construction services contract for Bolton Construction of WNC Inc., from a total in the amount of \$130,000.00 to \$159,000.00 for the Montford Gym Flooring Replacement Project.

**RESOLUTION BOOK NO. 36 - PAGE 30**

**M. RESOLUTION NO. 13-262 - RESOLUTION AUTHORIZING AN AMENDMENT  
TO THE TERMS OF THE CONTRACT WITH MOUNTAIN HOUSING  
OPPORTUNITIES FOR THE USE OF HOME PARTNERSHIP ACT FUNDS  
FOR THE EAGLE MARKET PLACE PROJECT**

Councilman Smith disclosed a possible conflict of interest; however, Interim City Attorney McGlohon determined that there was no conflict of interest that would warrant recusal.

Summary: The consideration of a request by Mountain Housing Opportunities to amend the terms of their HOME grant for the Eagle Market Place residential development.

In May of 2013, Mountain Housing Opportunities and the City of Asheville executed a contract for the use of \$462,600 in federal HOME funds, for use in the Eagle Market Place project. This funding was provided to the project as part of the 2011-2012 Annual Action Plan, which was amended in May of 2011 to increase the award \$100,000 from \$362,600 as approved by Council in April of 2011. The contract was not executed until this year because the Low Income Housing Tax Credit award for the project was not made until September, 2012.

The terms of the contract, negotiated by City and MHO staff, called for the grant funds to be used for “construction” only, and for progress payments of the HOME grant based upon percentages of completion.

The Draw Schedule in the contract is as follows:

<b>Activity</b>	<b>Amount</b>
Construction 30% complete	\$146,490
Construction 60% complete	\$146,490
Construction 95% complete	\$146,490
Closeout 100% (5% Retainage)	\$23,130
<b>Total</b>	<b>\$462,600</b>

MHO now seeks to amend the terms of that contract to allow for the use of funds for non-direct construction activities (“soft costs”), and to allow the immediate draw of HOME funds, making HOME funds “first in” to the project.

Although terms for HOME funds for projects in prior years have been more flexible, City staff has been reflecting increased concern by HUD about the expenditure of HOME funds, as a result of increased scrutiny of the HOME program by Congress. City staff has received guidance from HUD staff and technical assistance providers regarding contract terms, again reflecting HUD’s primary directive for the HOME program that the use of HOME funds must result in the production of affordable housing. HUD has advised staff that ideally, HOME funds are disbursed on a pro-rata basis with all other funding. By doing so, the risk of having to repay HOME funds from non-federal resources- required by HUD if a project does not achieve its affordable housing deliverable within four years of the commitment of funds- is significantly reduced.

All parties agreed at the time of the contract that these terms were reasonable. To this date, however, other committed financing for the residential project has not closed. No explanation for the delay in closing those loans has been given other than paperwork complications. MHO seeks to use HOME funds to pay obligations that have been incurred prior to the closing for other committed funds, including construction financing committed by TD Bank.

The proposed amendment to the contract could expose the City to the financial risk of the federal regulation requiring that the contracted number of affordable housing units (8) be fully constructed and occupied within four years of the date of the commitment.

Staff recommends that Council approve the request to amend the term of the HOME contract to allow for disbursement of HOME funds as needed for the project, and to allow HOME funds to be used to reimburse non-construction costs; and that the amendment confirm that Mountain Housing Opportunities will be required to repay the HOME funds to the City in full from non-federal sources if the HOME units specified in the contract are not completed within four years of the original commitment.

**RESOLUTION BOOK NO. 36 – PAGE 31**

**N. RESOLUTION NO. 13-263 - RESOLUTION APPROVING A WRITTEN EXEMPTION FROM THE REQUEST FOR QUALIFICATIONS PROCESS IN THE CASE OF CONSTRUCTION MANAGEMENT SERVICES FOR EAGLE MARKET PLACE**

**ORDINANCE NO. 4254 - BUDGET AMENDMENT FOR EAGLE MARKET PLACE**

Councilman Smith disclosed a possible conflict of interest; however, Interim City Attorney McGlohon determined that there was no conflict of interest that would warrant recusal.

Summary: The consideration of (1) a resolution approving a written exemption to the Request For Qualifications (RFQ) process for a time sensitive project management contract for the Eagle Market Place with a cost that falls below the state's minimum requirement for such processes; and (2) a project budget amendment in the amount of \$49,500 from Economic Development Capital Improvement Plan (EDCIP) debt proceeds to fund the contract.

The City of Asheville is providing significant financial support to the Eagle Market Place (EMP) project for the purpose of creating affordable housing and revitalizing the "Block." In order to ensure that the project is completed in a timely manner with little cost overruns, the City will hire a construction manager.

Previously, the City had contracted with Kimley-Horn to provide similar services for the 51 Biltmore Avenue Parking Garage, and was pleased with their work. We have determined that they are qualified to perform construction management services for the EMP project as well. If accepted, the contract with Kimley-Horn will be for \$49,500. The state's general statute allows for a written exemption from the RFQ process for professional contracts under \$50,000. G.S. 143-64.32 was updated per session law 2013.401, H.B. 857, to read:

**§143-64.32. Written exemption of particular contracts.**

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000).

The demolition of the project has begun and the construction period is expected to last for fourteen months. Given the time constraints on the project, the fact that a contract of this size is allowed exemption from the RFQ process by state statute as updated per session law 2013-401, H.B. 857, and our previous positive experience with the work and qualifications of a preferred firm, an written exemption for this project from the RFQ process by Council would expedite the contract and ensure construction management can begin when needed.

The fiscal impact would be that it saves the City the staff time of an RFQ process, and saves the project the potential of errors or overrun due to insufficient management until an RFQ process is complete. The contract will be funded through the Economic and Community Development CIP.

City staff recommends City Council (1) approve a resolution approving a written exemption from the RFQ process in the case of construction management services for Eagle Market Place; and (2) approve a project budget amendment in the amount of \$49,500 from EDCIP debt proceeds to fund the contract.

Councilwoman Wisler asked that staff provide City Council with a monthly report via e-mail.

Councilman Smith was pleased that there is going to be a construction manager and hoped that they would bring the project in on time.

**RESOLUTION BOOK NO. 36 – PAGE 32  
ORDINANCE BOOK NO. 28 - PAGE**

**O. ORDINANCE NO. 4255 - BUDGET AMENDMENT FOR PHASE IV OF THE  
LED STREETLIGHTS AND PHOTOCELLS**

Summary: The consideration of a budget amendment, funded with debt proceeds, to establish a Fiscal Year 2014 budget in the amount of \$575,000 for purchasing Phase IV LED streetlights and photocells.

In April 2011 City Council approved a resolution to increase the annual municipal carbon footprint reduction goal from 2% to 4%. A key element to achieving this goal is the 4 year plan to change most of the municipal streetlights to LED technology. The mechanism city council approved the fund this initiative is through the Green Capital Improvement Program (Green CIP). The Green CIP borrows money to capitalize carbon reduction efforts then uses operational energy savings to pay off the investment, thus maintaining a revenue neutral if not positive program.

The City will use debt proceeds to fund the \$575,000 expense associated with this purchase. It is estimated that the annual debt service will be approximately \$70,000 over a ten year period. As noted above, installation of the LED streetlights will generate an estimated \$105,000 in electricity savings, which will more than offset the annual debt service payments.

City staff recommends City Council adopt a budget amendment to purchase a Phase IV of LED street lights.

**ORDINANCE BOOK NO. 28 - PAGE**

**P. ORDINANCE NO. 4256 - BUDGET AMENDMENT TO INCREASE THE BUDGET FOR THE HARVEST HOUSE AND SENIOR OPPORTUNITY CENTER FROM THE N.C. DEPT. OF HEALTH AND HUMAN SERVICES**

Summary: The consideration of budget amendments in the amount of \$3,893 for Senior Opportunity Center and \$3,893 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding.

Funds will be used at the Senior Opportunity Center to 1) renovate the pool room, and 2) purchase program and facility equipment. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to purchase program and facility equipment. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

The allocation will increase the City's General Fund budget by \$7,786.00 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget in the amount of 1) \$3,893.00 for Senior Opportunity Center, and 2) \$3,893.00 for Harvest House for facility improvements and equipment.

**ORDINANCE BOOK NO. 28 - PAGE**

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

Mayor Manheimer 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 Pelly and carried unanimously.

### **III. PRESENTATIONS & REPORTS:**

#### **A. QUARTERLY REPORTS**

##### **Financial Report**

Budget Manager Tony McDowell provided Council with the following financial information which reflects the City's overall financial position for the fiscal year through September, 2013.

**Amendments.** The General Fund budget presented in this first quarter report reflects the adopted budget of \$95,861,764 along with three budget amendments approved by Council during the first quarter. Two of the three first quarter budget amendments were technical amendments that moved budgets from the General Fund to other City funds. The overall net impact of the amendments in the first quarter lowered the General Fund budget by \$379,218. A summary of the three amendments is presented below. None of the amendments involved an appropriation from fund balance.

Adopted Budget	95,861,764
Budget Amendments:	
Technical: Move Changing Together to Grant Fund	(79,060)
Technical: Move Computer Purch. to Capital Fund	(350,000)
Add School Resource Officer	<u>49,842</u>
9/30/2013 Budget	<u>\$95,482,546</u>

**Revenues.** Through September 30, 2013, the City has collected \$15,040,749 in General Fund revenue, which represents approximately 15.8% of the total General Fund revenue budget. As Council is aware, the Town of Biltmore Forest cancelled its fire protection contract with the City of Asheville, which will result in a revenue loss of approximately \$600,000 in the current fiscal year. Also, based on early sales tax trends, staff is projecting a \$335,000 budget shortfall in this revenue. On a positive note, revenues from Development Service fees and the new sanitation fee are trending higher than anticipated. Overall, staff is currently projecting that ***FY 2013-14 General Fund revenue will come in under budget by \$409,000 or 0.43%.***

**Expenditures.** General Fund expenditures through September 30, 2013 total \$17,159,239 or 18.0% of the budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. Expenditures for fuel and fleet maintenance and other operating costs are running slightly under budget through the first quarter. ***Based on the trends noted above, staff is conservatively projecting that expenditures will finish the year under budget by \$760,000 (99% of budget) which will more than offset the expected revenue shortfall.***

**Fund Balance.** The City ended FY 2012-13 with available fund balance of \$15.4 million, which equated to 17.6% of FY 2012-13 expenditures. Based on ***current revenue and expenditure projections for FY 2013-14, staff estimates that available fund balance at June 30, 2014 will be \$15.8 million or 16.7% of estimated expenditures.***

#### **Public Safety Committee Chair Report**

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

Councilman Bothwell moved to distribute City Council Committee Chair quarterly reports via e-mail because the time for the Chairs to make their report is when the pertinent issue comes before Council. This motion was seconded by Councilman Smith and carried unanimously.

#### **IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 291 EAST CHESTNUT STREET LOCATED AT 287 AND 291 EAST CHESTNUT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING WITH A MODIFICATION REQUEST TO THE SETBACK AND LANDSCAPE BUFFER REQUIREMENTS**

Mayor Manheimer announced that the City Clerk received an e-mail on December 4, 2013, from Mr. Chad Roberson requesting a continuance until January 28, 2014. Therefore, Vice-Mayor Hunt moved to continue this public hearing until January 28, 2014. This motion was seconded by Councilman Smith and when no one from the public spoke, the motion carried unanimously.

**B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF NEW FACILITIES AT ASHEVILLE MIDDLE SCHOOL LOCATED AT 197 SOUTH FRENCH BROAD AVENUE**

**ORDINANCE NO. 4257 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF NEW FACILITIES AT ASHEVILLE MIDDLE SCHOOL LOCATED AT 197 SOUTH FRENCH BROAD AVENUE**

Interim City Attorney McGlohon reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

City Clerk Bureson administered the oath to anyone who anticipated speaking on this matter.

Interim City Attorney McGlohon said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Interim City Attorney McGlohon said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 5:30 p.m.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for the construction of new facilities for the Asheville Middle School located at 197 S. French Broad Avenue.



Ms. Bernstein said that the applicant is requesting review of site plans for the construction of new facilities for the Asheville Middle School. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which designates review for institutional uses of over 100,000 square feet. Level III projects are reviewed as Conditional Use Permits in the Institutional District and schools are reviewed as a Use By Right, Subject to Special Requirements in residential districts.

The site consists of a 25.97 acre parcel located at 197 South French Broad Street. The parcel is split-zoned Institutional and RM-8 and is currently the location of the Asheville Middle School. The site is bordered by CI to the west, Office and RS-8 to the east, Institutional (YWCA) and RM-8 to the north and CI and RS-8 to the south.

The proposal is to demolish the existing school building and construct a new facility with upgraded site improvements (students will remain in the existing building until the new facility is complete). Plans show a 3-story (48 feet in height), 174,695 square foot building with 67 classrooms, located towards the southern end of the site and parking and open space towards the northern end. Existing uses on the rear end of the site are not expected to change (track, football/soccer field, baseball diamond, open space) (City Exhibit 3 - Location Map and Site Plan).

Plans show access into the site by vehicles from five locations. One access point is via Charles Street which is proposed to become one-way (into the site) south of Timothy Street. The other four access points are all along South French Broad Avenue, starting at the northern end with an entrance-only, two-lane loop that provides a drop-off in front of the school building and access to the parking lot, connecting back to the roadway as an exit-only opening to complete the loop. The third and fourth driveways provide a second "loop", for bus drop-off and access to the bus parking.

There are two surface parking areas proposed with this project. The first is towards the front of the building and includes 106 spaces. The second parking area is to the side of the building and provides bus parking (six spaces) and an additional 28 car spaces. There are a total of 134 car spaces shown on the site. Bicycle parking is required and provided.

Ten foot wide sidewalks are provided along the entire frontage of the property along South French Broad Avenue and a six foot sidewalk will be included along Charles Street. There is one pedestrian route shown into the site from South French Broad, at the southernmost driveway entrance (10 feet, back of curb) and another from Charles Street (six feet wide). There are draft plans for the Clingman Forest Greenway segment, which will travel through the northern end of the site, and potential connections into the site are under discussion. Details on the greenway segment are not yet formalized.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping and property line buffer in two locations. There is significant existing vegetation on the site that is proposed to remain, primarily along the rear of the site by the sports fields.

Fifteen percent of the total lot area is required to be dedicated as open space, which would be 3.89 acres for this site. Significantly more than the minimum is provided, with 9.64 acres designated on the plans and more area left open on the site but not included in the calculation.

This proposal was approved with conditions by the Technical Review Committee on October 21, 2013. The Planning & Zoning Commission reviewed the proposal at their meeting on November 6, 2013, and unanimously recommended approval. Staff has heard from a member of the public residing on Charles Street with concerns about current and future traffic congestion.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

**1. That the proposed use or development of the land will not materially endanger the public health or safety.**

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

**2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

The proposed use and development of the land is compatible with the natural and topographic features on the site in that the area intended for construction of the new middle school facility is previously graded (where the old baseball field and basketball courts are currently located) and the new parking area will be on the previous school site. The bulk of the project area will remain unchanged. The area for construction is flat and where there are a few locations around the perimeter of the project area with topographic challenge, they will be appropriately managed with retaining walls.

**3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

The parcel containing the Asheville Middle School is quite large (over 25 acres) and the school use has long been established in this location. Schools are a complementary use to have in proximity to residential neighborhoods and should enhance the value of these abutting properties. The adjacent YWCA and small offices in residential conversions are also compatible with this type of development and are not expected to see a decline in value.

**4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

The new Middle School will be located towards the previously developed southeastern end of this large parcel. As mentioned in #3, this is an appropriate location for an educational use and this use has been established on the site for some time. The new school building is approximately 40,000 square feet larger and one-story taller than the existing building.

**5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

Elements of the project are directly aligned with the City's goals and objectives including infill development, investment in the public school system, enhancement of the residential community and supporting a high quality of life for Asheville residents. The project is also aligned with separate Clingman Forest Greenway discussions occurring separately.

**6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

This proposed development is located near major road facilities and interstate connections. In addition, the project has been reviewed by the Technical Review Committee who found that existing infrastructure appears adequate and preliminary review has not revealed any problems for future service to the development. The site is located along the S4 transit route and the proposed Clingman Forest Greenway is adjacent to the site.

**7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

There was no TIS required for this project. The traffic control plans for the project have been reviewed. Based on the plans that were presented, the proposed use should not cause undue traffic congestion or create a traffic hazard. The proposed configuration on the AMS campus should be a positive change to traffic congestion issues along South French Broad Avenue.

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

Pros:

- The proposal provides an upgraded facility for Asheville Middle School students and families.
- Reconfigured drop-off and pick-up loops for automobile and school bus traffic should streamline vehicular access to the site.
- The proposed Clingman Forest Greenway should be near or through the northern part of this site, providing potential connections to the school campus.

Con:

- Not currently proposing LEED-certification (as has been included in several recent Asheville City school projects).

Staff recommends supporting the requested Level III project (Conditional Use Permit) to support this development proposal, subject to the additional condition recommended by City staff and the standard conditions. The upgraded school facility will be a benefit to many local students and residents and investment in education is well supported by City goals and objectives.

Councilman Smith thanked the Buncombe County Commissioners for working with the Asheville City Schools, which is an excellent example of good partnerships.

Ms. Jacquelyn Hallum, Chair of the Asheville City Board of Education, was pleased with this new project.

Using Applicant Exhibit 1, Mr. Chad Roberson showed the existing site, the new building, the different levels of the building, views from various vantage points, etc. He said the new building will be constructed in its entirety and then the old building demolished. He showed where the garden would be located off S. French Broad Avenue. One of their goals was to get the traffic off of S. French Broad and they will accomplish that with the loops. Sustainability has been a focus of the building and the building is designed for the school to grow.

In response to Councilman Bothwell, Mr. Roberson said that the traffic level will be the same, but instead of cueing on S. French Broad, they will be bringing the cueing deep into the site.

After rebuttal, Mayor Manheimer closed the public hearing at 5:48 p.m.

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. 4257 granting a conditional use permit for the construction of new facilities for the Asheville Middle School located at 197 South French Broad Avenue, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (6) The applicant will continue to work closely with City staff to provide connections into the site, where feasible and appropriate, from the proposed Clingman Forest Greenway. This motion was seconded by Councilman Smith and carried unanimously.

#### **ORDINANCE BOOK NO. 27 - PAGE**

#### **C. PUBLIC HEARING REGARDING THE MERGER OF THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S FUNCTION AND DUTIES INTO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION**

At the request of City staff, Councilman Davis moved to continue this public hearing until January 14, 2014. This motion was seconded by Vice-Mayor Hunt and when no one from the public spoke, the motion carried unanimously.

#### **D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 12.33 ACRES FOR A PROJECT KNOWN AS THE AVALON LOCATED ON SWEETEN CREEK ROAD FROM INDUSTRIAL DISTRICT TO RM-16 MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING**

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone 12.33 acres for a project known as The Avalon, located on Sweeten Creek Road, from Industrial District to RM-16 Multi-Family High Density District/Conditional Zoning for the development of 8 multi-family buildings and 1 clubhouse building. This public hearing was advertised on November 29 and December 6, 2013.

Ms. Bernstein said that the applicant is requesting review of a conditional zoning request from Industrial to Residential Multi-family High Density (RM-16), in accordance with Section 7-7-8 of the UDO, for the construction of a multi-family apartment complex.

The site consists of a 12.33-acre parcel located on Sweeten Creek Road in South Asheville. The parcel is currently zoned Industrial (IND) and is vacant. The site is bordered by the Norfolk-Southern Railroad to the west; Institutional zoning to the east (nursing home); Commercial Industrial (CI) zoning to the north (a mix of manufacturing operations, warehousing and associated offices in an industrial park) and Commercial Industrial (CI) zoning to the south (warehousing and storage uses).

The proposal is to develop a multi-family apartment complex with a total of 192 units. Plans propose a mix of 1-bedroom (48 units), 2-bedroom (120 units) and 3-bedroom (24 units) configurations. There are 8 residential buildings shown on the site, with a maximum building height of 36 feet (all three-stories). Additional structures proposed include a single-story clubhouse building located at the entrance to the development and three 1-story garages within the site.

Vehicles will access the site from two driveway cuts, both off of Sweeten Creek Road, with the primary entrance placed next to the clubhouse at the northern end of the parcel.

There are 312 parking spaces shown on plans, both along the 26 foot wide two-way private drives and in small parking lots throughout the site. This parking count includes 11 HC-accessible spaces dispersed throughout the site, a small parking area on pervious pavers and three six-car covered garages. Also, 16 bike parking spaces are distributed among the buildings.

Sweeten Creek Road is identified as a “needed linkage” for sidewalks but none are shown along this frontage due to anticipated road widening in the near future by the North Carolina Department of Transportation. Pedestrian pathways are shown interior to the site and would connect to any future sidewalk.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping and tree save area. The applicant is proposing to preserve existing vegetation around the north, west and southern perimeters of the site and to apply those as credits for some of the required landscaping.

Open space is also required for this project, at a rate of 500 square feet per unit, which will result in a total of 2.20 acres for the site.

Under the current Industrial zoning, residential is not a permitted use. As is noted above, the requested rezoning is not consistent with a Comprehensive Plan policy stating that Industrially-zoned land should be preserved for industrial uses. However, there are multiple recent precedents for City Council approval of similar zoning changes. At the August 2009 meeting of the Planning and Economic Development Committee, City staff discussed these cases, and reviewed the practice of considering each such rezoning petition on a case-by-case basis, under close consultation with the Office of Economic Development.

Staff consulted with the Economic Development Coalition (EDC) who shared staff's concern that industrially-zoned land should be preserved or industrial uses and requests examined on a case-by-case basis. In this particular case, the group did not feel strongly enough to formally oppose the rezoning.

The following provides a list of several examples where the City has approved rezoning applications eliminating Industrial sites:

- In October 2005, City Council approved a rezoning of roughly 31 acres off of Dogwood Road in Candler from Industrial to RS4.
- In May 2006, a rezoning of approximately 1.5 acres of land at 1301 Sand Hill Road was rezoned from Industrial to Community Business II.
- In July 2007, City Council approved a rezoning of approximately 37 acres from Industrial to RM16 for an area on the eastern edge of the Biltmore Lake community.
- In October 2010, City Council approved a rezoning from Industrial to Airport, a district allowing fewer industrial uses.
- In January 2011, 13 acres off Orchard Street were rezoned from IND to RM6.
- In February 2013, the Possum Trot rezoning changed 1.3 acres from CI to RM8.

This project was approved with conditions by the Technical Review Committee on October 7, 2013. The Planning & Zoning Commission evaluated this request at their meeting on November 6, 2013, and voted 6-1 in favor of the project. There was discussion on the rental

rates as well as the loss of industrially-zoned property, with information provided by the applicant regarding the need in the rental market for rates at this level and the unsuitability of the site for true industrial use. No communication from the public has been received as of the writing of this report (November 7, 2013).

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

**1. That the proposed use or development of the land will not materially endanger the public health or safety.**

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

**2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

This site has been previously graded and is mostly flat with areas of existing vegetation around the north, south and west property lines. The proposed development of the land is compatible with these features in that the buildings and parking areas are focused in the center of the site and areas around the perimeter incorporate and retain landscaping materials for required bufferyards.

**3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

The proposed use and development of the land is not expected to injure the value of abutting property. Although the parcels immediately adjacent to the north and south are industrial and warehousing uses, the required landscape buffers should provide adequate visual separation. As noted below, there are numerous other residential developments in the immediate vicinity.

**4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

The subject area has a variety of zoning districts and uses. The parcels directly adjacent to the north and south are manufacturing/storage/warehousing uses and this proposed development can be said to be inharmonious with those uses. However, there are instances throughout the City where these uses are adjacent to one another.

Additionally, there are a number of residential developments existing in the immediate vicinity, just on the other side of those parcels and across the street to the east (Holiday Drive – zoned CI, Carrington Place and Pigeon Lane – both zoned RM-16), and this use is very similar to those in scale, bulk, coverage, density and character. The “area or neighborhood in which it is located” is not entirely straightforward in this situation.

City-adopted goals indicate the need to preserve industrially-zoned land for industrial and manufacturing uses and there is some question as to whether a residential use is in harmony with the uses permitted on those neighboring sites. However, as previously stated, there are multiple residential uses in the immediate vicinity (the three mentioned above are within 0.4 miles) as well as a very large residential presence in the general area (as shown on the Exhibit C map). There are several sizable under-developed parcels across Sweeten Creek Road to the east that are either residentially zoned

already or Institutional, which permits residential uses. So it seems that while the proposed use may be out of character with the uses immediately to the north and south, the multi-family residential development is similar in scale, bulk, coverage, density and character to a number of other like developments in very close proximity.

**5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

Elements of the project align with the City's goals and objectives including siting development in an infill location, proposing a density that supports transit and offering rentals as a "workforce" rate. However, multiple plans caution eliminating Industrially-zoned land, which this proposal does.

**6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

The site is located in an area accessible by vehicle. The nearest transit route is the S3 at Hendersonville and Buck Shoals Road (approximately 0.5 miles). Adequate water supply, police protection, waste disposal and similar facilities are verified during the TRC review process.

**7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

The Traffic Impact Study for the Avalon has been reviewed. Based on the findings and presuming that the recommendations presented by the report are implemented, the proposed use should not cause undue traffic congestion or create a traffic hazard.

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

Pros:

- Some existing vegetation around the perimeter of the site will be preserved.
- Project incorporates pervious pavers into one of the parking areas.
- Proposes a density that supports transit (S3 on Hendersonville Road is within 0.5 miles and the S1 ends 5 miles north)

Con:

- Application does not propose to dedicate any units for affordable housing (*although none is required*) – *however, the applicant has been directed to the Community Development Department to discuss possibilities.*

The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially-zoned land for industrial uses.

Based on policies stated in the Comprehensive Plan and other plans, staff notes concerns about eliminating Industrially-zoned land. However, both the Planning and Zoning Commission and City Council have supported similar rezoning actions in the recent past and the EDC did not oppose the proposal when consulted. If the Commission wishes to consider this rezoning independent of the existing policies, staff feels a case can be made for recommending approval based on the proliferation of residential uses in the near vicinity.

Mr. William Ratchford, Vice-President of Triangle Realty, said that his company is family owned, and they are constructing another project in Asheville - The Palisades. They are based in Gastonia, N.C., and consider themselves a regional company with regional interests. This is about a \$20 Million with 4 full-time staff of and 2 part-time. They are long-time holders, managers and operators of the property. They have 71 communities with three additional construction and

three under planning. There is a huge need for apartments in the City of Asheville. He sets the unit rents for 13,000 out of their 14,900 units, and except two places, Asheville has the highest rent for apartments because there is a huge lack of supply. He feels their apartment rates shown, even though not listed in the City's affordable category, can help reduce the rates of the apartments in this area. They are long-term holders of properties and hoped City Council would support their project.

Mr. G. Thomas Jones, civil and site engineer, talked about the details of the property. The property is really 10 acres because they can't put buildings in the 2 acre railroad right-of-way. He then talked about the adjacent land uses and the neighborhood. He felt that this property has been vacant for 10 years because industrial projects that create a lot of jobs typically require more land than 10 acres. Another challenge for industrial is that the site has an elevation difference of 58 feet from the highest point on Sweeten Creek Road to the lower corner of the property. He felt that based on the surrounding zoning and property uses, and because of the size and nature of the property and the fact that the property has been available for over 10 years, an apartment project is an excellent use of the property at this time.

Mr. Gene Ratchford Jr. offered to respond to Council's questions, but would support a continuation of this public hearing until February 11, 2014, to review land use issues.

Vice-Mayor Hunt moved to continue this public hearing until February 11, 2014, in order have City staff to organize the data and input for Council to be more informed on industrial site property, noting that the 2025 Plan, which was developed by a broad section of the community, identified the loss of industrial sites. This motion as seconded by Councilman Bothwell.

Councilman Bothwell questioned if the access to the railroad has any particular benefit for potential industry use on that property, since not every property has railroad access. The railroad transport of goods is increasing in America.

Councilman Davis agreed that the 2025 Plan was adopted over 10 years ago and they felt they needed to reserve industrial space because there was not a lot of interest from developers. Housing was also a short supply and we all agree that apartments are very much in need. He suggested further contact with the Economic Development Coalition to see if there is still a market for reserving industrial sites. With this project, we have an opportunity to improve our tax base and provide apartments for people who work in that area.

Councilman Smith also wanted to look closely at our industrially zoned land to make sure they are right for this type of zoning. The proposed site, to him, looks like a usable piece of land for perhaps a distribution location site or other different use. If we rezone industrial sites, we need to do that with our strategic goals in mind as well. We are also trying to create affordable housing and we have had hundreds of apartment units approved by Council in the last few months and only 14 of them are designated affordable. We do need to improve housing stock, but this looks like we are only creating one kind. He was also concerned about the open space and how the developer is using only the existing buffer.

Mr. Jones addressed the questions raised by Council regarding the railroad access and noted that there is very little vegetation on the site to preserve. He said that their open space meets or exceeds the City's requirements.

In response to Councilwoman Wisler, Assistant City Manager Ball said that staff will look at the suitability of the industrially zoned properties and prioritize them to say which would be appropriate to maintain in that category, and which ones are not as likely to be usable space. They will also provide the additional information requested to Council.



Vice-Mayor Hunt also asked that staff make sure there is some design dialogue with not just Economic Development Coalition staff, but with the Board members, on their assessment of industrial sites county-wide. They may have some data that may help us.

After Mayor Manheimer asked for public comment and received none, the motion made by Vice-Mayor Hunt and seconded by Councilman Bothwell carried unanimously.

**E. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 2.12 ACRES OF PROPERTY LOCATED ON TAFT AVENUE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING**

**ORDINANCE NO. 4258 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON TAFT AVENUE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING**

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone 2.12 acres located on Taft Avenue from RS-4 Residential Single-Family Medium Density District to RS-8 Residential Single-Family High Density District/Conditional Zoning, to facilitate the development of a single-family residential community composed of 10 lots and 10 detached single-family dwellings. This public hearing was advertised on November 29 and December 6, 2013.

Ms. Fields said that the project site (currently three separate parcels) is approximately 3.34 acres in size and is located off of Taft Avenue in the Shiloh community. The current zoning of the property is RS4. The property is traversed by a stream and sewer line presenting challenges to development. A 30 foot platted right-of-way abuts the parcels.

Asheville Area Habitat for Humanity proposes to create a ten-lot subdivision utilizing a previously platted right-of-way to create a new street, McKinley Avenue, on which the lots in the subdivision will be located. All homes to be constructed will meet affordable standards.

Due to property constraints and a desire to create as many affordable home lots as possible, they are requesting a rezoning to RS8CZ. The rezoning will allow smaller lot sizes, but due to site constraints it will not result in an increase in density. The resulting density will be less than what would be permitted under the current zoning (around 14 lots) because much of the property must remain undisturbed due to the location of streams and a sewer line on the property. In an effort to work with an adjoining property owner the developer is requesting a modification of lot size for Lot #1. The modification is 382 square feet; the resulting lot will be 4,618 square feet in size.

Access to all lots will be via a new roadway, McKinley Avenue that is proposed to be 24 feet wide with a right-of-way varying from 30 to 40 feet. City standards require 22 feet of pavement with a 50 foot right-of-way. The applicant is requesting a modification of the right-of-way standard (20, 15 and 10 foot modifications). No sidewalk is proposed as the development will not generate the vehicular traffic to warrant a sidewalk per city standards.

Street trees and significant tree save area are shown. Open space exceeding the required 20% (63.5%) is proposed.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

**1. That the proposed use or development of the land will not materially endanger the public health or safety.**

The proposal has been reviewed by the City of Asheville Technical Review Committee and meets, or can meet all applicable regulations with the exception of the right-of-way and the size of Lot #1. Staff is supportive of these modifications as they result from existing conditions on the property and an effort to assist an adjoining property owner.

**2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

The use is compatible with the significant challenges presented on site due to a stream/floodplain. The proposed development leaves this sensitive portion of the property primarily as open space and tree save area.

**3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

The proposed use should not injure the value of adjoining properties. It abuts a single-family community and a shopping center.

**4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

All but two of the RS4 properties in the immediate area are less than 10,000 square feet in size (the RS4 standard). Most of these lots are 5,000 to 7,000 square feet in size. The developer plans to build traditional single-family homes on the lots which is in keeping with the adjacent community.

**5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

This project supports several goals found in the City's comprehensive plan including goals concerning infill development and affordable housing. The area where this development is proposed was specifically encouraged as an infill possibility in the Shiloh Community Plan adopted in 2010.

**6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

The proposed subdivision is located in an established community and will have all appropriate facilities provided. Additionally, it is located in close proximity to a community center.

**7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

There are only ten single family home lots proposed in the development.

Pros:

- The development provides ten new affordable single-family home lots.
- The development meets City goals concerning infill and the provision of affordable housing.
- The development abuts an established community of single-family homes.

Con:

- None noted.

The Asheville Planning and Zoning Commission held a meeting on this matter on November 6, 2013. Besides the applicant, there was only one other individual who spoke. It was the son of a neighborhood resident who had some basic questions. The applicant was able to address their issues and provided contact information for future reference. The Commission recommended this matter to the Asheville City Council unanimously (7-0).

Based on the above finding and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modifications to lot size and right-of-way width and with the conditions set forth in the TRC report and the standard conditions listed below.

The Asheville Planning and Zoning Commission voted to recommend this conditional zoning to the Asheville City Council at a meeting on November 6, 2013, with a vote of 7-0.

Mayor Manheimer opened the public hearing at 6:36 p.m.

Mr. Will Buie, with Lapsley & Associates Engineering, explained the compatibility with the neighborhood and felt that this is serving a need in the community.

Mayor Manheimer closed the public hearing at 6:37 p.m.

Mayor Manheimer 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. 4258 to conditionally zone 2.12 acres located on Taft Avenue from RS-4 Residential Single-Family Medium Density District to RS-8 Residential Single-Family High Density District/Conditional Zoning, with a lot size modification for Lot #1 of 382 square feet and a right-of-way modification ranging from ten to twenty feet in size, and subject to the conditions recommended by staff and all standard conditions as follows: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Davis and carried unanimously.

## **ORDINANCE BOOK NO. 28 - PAGE**

### **V. UNFINISHED BUSINESS:**

### **VI. NEW BUSINESS:**

#### **A. RESOLUTION NO. 13-264 - RESOLUTION ACCEPTING THE REPETITIVE LOSS AREAS ANALYSIS REPORT AS A COMPANION DOCUMENT TO THE BUNCOMBE COUNTY ALL HAZARDS MITIGATION PLAN**

Director of Development Services Shannon Tuch said that this is the consideration of a resolution accepting the report prepared by Brown and Caldwell for the Repetitive Loss Area

Analysis (RLAA) for the City of Asheville as a companion document to the previously approved Buncombe County All Hazards Mitigation Plan.

The City of Asheville has prepared an application to join the Community Rating System (CRS) program administered by the Insurance Services Office (ISO). Through the application process, points are assigned for actions that are above and beyond the requirements of the National Flood Insurance Program administered by FEMA. A successful application with a high score will provide lower insurance premiums under the National Flood Insurance Program (NFIP). The premium reduction is relative to the final score of the application where higher scores result in greater reductions. In addition to reducing insurance premiums for Asheville's citizens, another benefit of the program is the education offered to the property owners for those properties located in a Repetitive Loss Areas. A Repetitive Loss Area (RLA) is defined as an area that contains one or more repetitive loss structures (two or more claims of more than \$1,000 that have been paid by the NFIP within any 10-year period since 1978). An RLAA is a mitigation plan developed for those areas with the purpose of reducing damages from flooding and lowering the cost of claims submitted to the NFIP. The ultimate goal of lowering these costs is to stem the consistent increase in flood insurance premiums that has been occurring for a number of decades.

In order to become a member of the CRS program, the City must adopt a RLAA commonly included in a hazard mitigation plan. However, a preliminary review of the city's application by ISO representatives indicated that the previously adopted Buncombe County All Hazards Mitigation Plan did not have an adequate RLAA included. As a result, in order to meet the eligibility requirements for the CRS program, a separate RLAA had to be performed.

The current cost of the engineering report is \$30,500 which is being funded through the stormwater utility fund. The ongoing cost associated with this program will be staff time.

City staff recommends City Council adopt a resolution to accept the Repetitive Loss Area Analysis report prepared by Brown and Caldwell and reviewed by City staff.

Mr. Hal Clarkson, representing Brown and Caldwell, explained the community rating system - repetitive loss area analysis. After their analysis, they found 18 valid repetitive loss properties in 6 repetitive loss areas - Biltmore Village, Sweeten Creek, Swannanoa River Road, east Asheville, Lyman Street and Carrier Park. The analysis process (1) generated repetitive loss area maps; (2) performed general area site visits; and (3) generated fact sheets on approximately 9 structures. Specific recommendations for owners include (1) wet flood proofing; (2) dry flood proofing; and (3) compliance ore removal of structures that are not in compliance with applicable building permits. Specific recommendations for the City are (1) continued public outreach by meeting with property owners to raise awareness and answer questions; (2) enforce building codes; and (3) flood awareness/flood warning - consider the feasibility of implementation of a flood warning system. Moving forward he said the City should (1) advise and educate repetitive loss area owners; track progress; and report and adjust.

When Councilman Davis asked how many of the 90 buildings are derelict and should be demolished, Mr. Clarkson said that there are about 18-20 that would not be suitable for either wet or dry flood proofing. The City should contact them now and provide their options to them.

Mr. Clarkson responded to Vice-Mayor Hunt when he asked if they had any sense of the frequency of floods.

Councilwoman Wisler asked if an individual property owner chooses not to do anything, would that affect the other property owners. Mr. Clarkson said that might indirectly affect adjoining property values if those owners know there is an adjoining building that continually floods.

In response to Councilman Bothwell, Mr. Clarkson said that anyone who pays a flood insurance premium will see a decrease in their flood insurance premiums.

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

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

Councilwoman Wisler moved for the adoption of Resolution No. 13-264. This motion was seconded by Councilman Bothwell and, after hearing no public comment, carried unanimously.

#### **RESOLUTION BOOK NO. 36 - PAGE 33**

#### **B. MOTION ESTABLISHING THE CITY COUNCIL GOVERNANCE COMMITTEE AND DISSOLVING THE PERSONNEL COMMITTEE, RULES COMMITTEE, AND THE RETREAT COMMITTEE**

Mayor Manheimer said that recognizing the need to explore implications of policy alternatives and the policy development process in the areas of strategic planning, intergovernmental relationships, legislative agendas, and public engagement. She proposed a new standing committee called the Governance Committee.

The following committees would roll into the function of the Governance Committee:

- Rules Committee: Set up to discuss and advise the full City Council on proposed changes to City Council's Rules of Procedures. Members include the Mayor and Vice Mayor. The Committee meets on an as needed basis.
- Personnel Committee: Set up in 2008 by Council motion to provide leadership and guidance for the city council on matters related to personnel issues. The Personnel committee is responsible for leading the annual review of the City Manager, City Clerk and City Attorney. The Personnel Committee is also responsible for leading the process for filling these positions when they become vacant. The Personnel Committee does not have direct decision making authority, serving in an advisory capacity to City Council. 4 members, including a chair, appointed by Council. Committee meets on an as needed basis.
- Retreat Committee: Advises the full City Council on planning for the Annual Council Retreat.

The Governance Committee will operate as a policy review and discussion arm of the City Council. The Committee will provide an opportunity to explore implications of policy alternatives and the policy development process while serving in an advisory capacity to Council as a whole. The Governance Committee will review policy matters referred to them, inform and educate Council on the existing city programs and issues and review other related matters.

The Governance Committee will provide guidance in the following areas:

- City Council Rules of Procedure
- Personnel Issues
- City Council Retreat Planning
- Legislative Agenda
- Strategic Planning
- Public Engagement

Councilman Bothwell moved to establish the City Council Governance Committee and dissolve the Personnel Committee, Rules Committee, and Retreat Committee. This motion was seconded by Councilman Davis.

Councilwoman Wisler asked for a friendly amendment that the functions of the Governance Committee be revisited in six months. Councilman Bothwell and Councilman Davis accepted the friendly amendment.

The amended motion, after hearing no public comment, carried unanimously.

Councilman Bothwell moved to appoint Mayor Manheimer (as Chair), Vice-Mayor Hunt and Councilman Smith to serve as members on the City Council Governance Committee. This motion was seconded by Councilman Pelly and carried unanimously.

## **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

### **PRIMARY ELECTION RESULTS – CITY OF ASHEVILLE – OCTOBER, 8, 2013; GENERAL ELECTION RESULTS – CITY OF ASHEVILLE – NOVEMBER 5, 2013**

Attached hereto as Exhibit “A” is the abstract containing the number of legal votes in the Primary Election, City of Asheville, held on October 8, 2013. Also attached as Exhibit “B” is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 5, 2013.

Rev. Christopher Chiaromonte spoke to Council about treating all people equally and showing no favoritism.

Ms. Kim Martin-Engel, representing the Economy, Assets, Safety and Teamwork (EAST) group, said that the mission of their group is to identify and beautify east Asheville, noting that safety has become a priority. They requested a Tunnel Road Corridor Study that better balances the needs of both drivers and pedestrians; and creates a shared vision of how we want this critical roadway to evolve. In February of 2013 they contacted the Transportation Department to address their safety concerns but no follow-up has occurred. The Tunnel Road Corridor Study concept was approved by Council in February of 2012; however, due to staff reorganization by the City they have no City representative to work with them. In May of 2012 they received a draft of the Corridor Study but nothing has been done towards this effort. She asked for the City to move this project to the top of their priority list and address their safety issues.

After a short discussion, it was the consensus of Council to refer this matter to the Planning & Economic Development Commission to have a full discussion on steps to move forward with a Corridor Study.

### **Recess**

At 7:14 p.m. Vice-Mayor Hunt moved to recess the Tuesday, December 10, 2013, meeting of the Asheville City Council until Tuesday, December 17, 2013, at 3:30 p.m. in the Council Chamber, located on the 2nd Floor of City Hall. At that time, it is anticipated that City Council will immediately go into closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

Tuesday – December 17, 2013 - 3:30 p.m.

Recessed Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Christopher A. Pelly; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Legal Counsel Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Jan B. Davis (ill) and Councilman Gordon D. Smith (family emergency)

At 3:30 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) 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). This motion was seconded by Councilman Pelly and carried unanimously.

At 4:59 p.m. Mayor Manheimer moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 4:59 p.m.

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CITY CLERK

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MAYOR