

Tuesday – February 11, 2014- 5:00 p.m.

Regular Meeting

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

Absent: Vice-Mayor Marc W. Hunt (family emergency)

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF JACK INGRAM

On behalf of City Council, Mayor Manheimer and Councilman Davis were pleased to present to Mr. Jack Ingram, recent NASCAR inductee into the National Hall of Fame, a recognition proclamation for his exemplary performance in auto racing, and a key to the City.

B. PROCLAMATION PROCLAIMING FEBRUARY 12, 2014, AS "RED HAND DAY"

Mayor Manheimer read the proclamation proclaiming February 12, 2014, as "Red Hand Day" in the City of Asheville. She presented the proclamation to Ms. Heather Kinlin, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING FEBRUARY 12, 2014, AS "DARWIN DAY"

Councilman Bothwell read the proclamation proclaiming February 12, 2014, as "Darwin Day" in the City of Asheville. He presented the proclamation to Ms. Jennifer Lovejoy, President of WNC Humanists.

D. EMPLOYEE RECOGNITION

City Manager Jackson recognized Director of Water Resources Steve Shoaf who was chosen by the American Water Works Association as Vice-President of the international association, which advocates and educates for clean water across the North American Continent.

On behalf of City Council, Mayor Manheimer thanked Mr. Shoaf for his professionalism and skill he brings to the City of Asheville and City Council.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Item "H" was added to the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 28, 2014

B. RESOLUTION NO. 14-23 - RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A CONTRACT WITH GRAHAM LAND COMPANY, LLC

**FOR THE HANDY PARK BUILDING DEMOLITION AND RETAINING WALL
CONSTRUCTION PROJECT**

**ORDINANCE NO. 4276 - BUDGET AMENDMENT FOR THE HANDY PARK
BUILDING DEMOLITION AND RETAINING WALL CONSTRUCTION
PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$359,981 plus a contingency of 15% (\$53,997) with Graham Land Company, LLC for the project known as Handy Park Building Demolition and Retaining Wall Construction; and (2) a budget amendment in the amount of \$413,978 from debt proceeds as part of the Community and Economic Development Capital Improvement Program (EDCIP).

The former Handy Park structure is a former two-story parking deck that is in disrepair and is a liability due to its dilapidated condition. The adjacent structure, the former Flying Frog restaurant, is in similar condition. These structures are owned by the City of Asheville, and as the owner the City of Asheville is responsible should any injuries occur at either site. City of Asheville staff has determined that these structures should not remain as they stand due to poor aesthetics and potential liability issues. Removal of these structures entails demolition of the structures and installation of a retaining wall to maintain the integrity of the site's soils. The retaining wall is a temporary measure and is expected to be removed once the properties are sold. The project was advertised on December 10, 2013. Bids were opened with Graham Land Company, LLC of Robbinsville, NC, being the lowest responsible bidder with a bid of \$359,981. A 15% contingency (\$53,997) has been added to allow payment for any unforeseen costs that typically arise during construction. The work produced from this contract would resolve liability issues associated with these dilapidated structures and remove unsightly blighted structures from downtown.

The estimated completion date is 53 calendar days from the official notice to proceed date (assuming City Council approval on February 11, 2014, the notice to proceed will be issued on February 12, 2014).

As noted above, this project will be funded with debt proceeds as part of the Community and Economic Development Capital Improvement Program (EDCIP). The City will utilize a construction financing arrangement (draw program) to meet cash flow needs on EDCIP projects with full debt issuance likely occurring at twenty-four month intervals. This financing approach will allow the City to maximize the use of EDCIP funds.

City staff recommends City Council adopt a (1) resolution awarding the contract to Graham Land Company, LLC and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$359,981 plus a contingency of 15% (\$53,997), for a total of \$413,978, with Graham Land Company, LLC for the project known as Handy Park Building Demolition and Retaining Wall Construction; and (2) the associated budget amendment.

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**C. MOTION APPOINTING ALAN GLINES TO THE ASHEVILLE REGIONAL
HOUSING CONSORTIUM TO SERVE AT COUNCIL'S PLEASURE**

Summary: The Asheville Regional Housing Consortium was formed in 1993 to serve as the governing body for policy and funding recommendations for the HOME Partnership Act Program, for which the City of Asheville is funded by the US Department of Housing and Urban Development.

The Consortium is comprised of participating local government- counties and municipalities- located in Buncombe, Henderson, Madison and Transylvania Counties. Each Consortium member provides representation to the Consortium Board of Directors, serving at the pleasure of the member's elected governing body. The City of Asheville is provided two Board members- one, the Chair of the City's Housing and Community Development Committee (who also chairs the Consortium Board), and one additional representative.

The City now has the opportunity to appoint a new representative, to replace Brenda Mills who has served in this position for the position for the past six years. Except for the City Council representative and one other person, all other Board members serve in staff positions for their respective local governments.

During the January 21, 2014, Housing & Community Development Committee meeting, City staff recommended Alan Glines as the new City representative. Alan has worked for the City of Asheville for 17 years. In 2001, Alan joined the Planning and Development Department where he now holds the position of Planner II. Alan's current work focuses on development review especially in the downtown area, long range planning efforts, and coordination of the Downtown Commission's design subcommittee and other special projects. Alan received a Master's of Landscape Architecture degree from North Carolina State University and has been a past board member of Asheville Greenworks and Neighborhood Housing Services

The Housing & Community Development Committee members approved the recommendation.

Staff recommends City Council appoint Alan Glines as a Board member of the Asheville Regional Housing Consortium.

D. RESOLUTION NO. 14-24 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grants administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

FY 2013-14 funding totals \$60,430. The subject grant will provide 80% of the anticipated funding (\$48,344), the North Carolina Department of Transportation will provide 10% (\$6,043), and the City will provide the remaining 10% (\$6,043). The grant funding and the City's local match in the amount of \$6,043 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

The total grant funding for Fiscal Year 2013-14 is \$60,430. The City is required to provide a 10% local match in the amount of \$6,043. The anticipated grant funding and the City's local match in the amount of \$6,043 are already budgeted in the Transit Services Fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2013-14.

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E. RESOLUTION NO. 14-25 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM TO INITIATE A DWI TASK FORCE IN ASHEVILLE & BUNCOMBE COUNTY

ORDINANCE NO. 4277 - BUDGET AMENDMENT FOR DWI TASK FORCE IN ASHEVILLE & BUNCOMBE COUNTY

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund a multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO); and (2) a budget amendment in the amount of \$724,861 to establish a budget for the first year of the grant.

In Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. Since 2010, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies, more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher.

In reviewing these statistics, the NCGHSP contacted APD and suggested a DWI Task Force with a goal of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. They proposed applying for a grant in the amount of \$724,861 in FY 2014 that would cover 100% of the cost, or \$329,250, to purchase vehicles, uniforms, and equipment, and to train six officers on DWI enforcement and education. The remaining \$395,611 of the grant would cover 100% of the salary and benefits costs for four years at a diminishing rate for these officers. Under this grant, APD would supply one sergeant and three officers while BCSO would supply two officers. These six officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. The appointed officers would also hold educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance.

On August 27, 2013, Asheville City Council passed Resolution 13-188 authorizing the City Manager to apply for grant funds for this project. On September 30, NCGHSP Director Don Nail authorized the Asheville Police Department to submit the contract to enter into an agreement for this grant funding for the DWI Task Force.

The general fund impact to the City would be approximately \$253,957 over the four year grant cycle. At the end of the four years, the general fund impact would be approximately \$267,325 per year to permanently add one sergeant and three officers to the APD roster, and to provide their equipment as needed. The chart below outlines the general fund impact over the next four fiscal years.

FY 2014	\$0
FY 2015	\$40,098
FY 2016	\$80,197
FY 2017	\$133,662

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor's Highway Safety Program; and (2) a budget amendment in the amount of \$724,861 to establish a budget for the first year of the grant.

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F. ORDINANCE NO. 4278 - BUDGET AMENDMENT FOR THE PURCHASE OF ADDITIONAL SALT AND SAND

Summary: The consideration of a budget amendment, in the amount of \$150,000, from unassigned fund balance to increase the General Fund winter storm control budget to allow for the purchase of additional salt and sand.

Over the last several fiscal years, staff has budgeted approximately \$120,000 to purchase materials (salt and sand) for winter storm control. After two consecutive mild winters in which actual expenditures for salt and sand came in well under budget, staff reduced the FY 2013-14 storm control budget during the budget process last spring with a plan to return to Council mid-year if weather conditions required the use of additional materials.

With the unusually cold start to the 2013-14 winter that required the use of sand and salt to treat City streets on five occasions and the pending winter storm this week, staff has depleted the approved budget and is requesting that Council approve the budget amendment that will increase the budget appropriation by \$150,000. Staff believes that the additional \$150,000 will provide sufficient resources to fund the purchase of materials for the remainder of the winter season.

Pro:

- Provides the required budget authorization for the purchase of additional salt and sand materials for winter storm control.

Con:

- Requires an appropriation from unassigned fund balance.

This budget amendment includes the appropriation of \$150,000 from unassigned fund balance in the General Fund. As reported to City Council during the recent audit presentation, the City ended FY 2012-13 with an unassigned General Fund fund balance of \$15.48 million, which was approximately \$2.3 million above the City's 15% policy target. With the \$150,000 fund balance appropriation for this budget amendment, the City will still be approximately \$2.1 million above the 15% policy target.

City staff recommends City Council adopt a budget amendment, in the amount of \$150,000, from unassigned fund balance to increase the General Fund winter storm control budget to allow for the purchase of additional salt and sand.

Mayor Manheimer gave some statistics regarding the City's preparedness for snow storms.

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G. RESOLUTION NO. 14-26 - RESOLUTION ADOPTING THE CASH AND INVESTMENT POLICY

Summary: The consideration changes to the City of Asheville's Financial Policy to include a Cash and Investments Policy.

Efficient cash management and effective investment activity are fundamental responsibilities of governing bodies and a vital statutory function of finance officers in North Carolina. Deposit and investment activities of local governments are guided by provisions of the NC General Statutes (NCGS), specifically Chapter 159, Article 3 – The Local Government Budget and Fiscal Control Act.

A written cash and investments policy that is adopted by the governing board to establish guidelines for management of public funds is strongly recommended as best practice by the Government Finance Officers Association (GFOA) and the NC Treasurer's office.

The City has historically followed an informal plan of investing idle public funds. During a review of investment performance with the Finance Committee on October 22, 2013, it was suggested that staff poll peer municipalities across the state to determine which units of government had adopted formal cash and investments policies. The Finance Committee also requested that the City Manager and Finance staff propose such a policy if research indicated such formalization and adoption. The table below summarizes the results of the poll our staff conducted.

Unit	Yes, formal policy	No formal policy
Cary	X	
Concord	X	
Wilmington	X	
Charlotte		X
Wilson		X
Winston-Salem	X	
Greenville	X	

City staff recommends that City Council adopt the changes to the City of Asheville's Financial Policy to include a Cash and Investments Policy.

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H. RESOLUTION NO. 14-31 - RESOLUTION AUTHORIZING PAYMENT TO DELPHI DEVELOPMENT FOR OBTAINING A "QUIET ZONE" DESIGNATION AT LYMAN STREET

ORDINANCE NO. 4279 - BUDGET AMENDMENT FOR "QUIET ZONE" DESIGNATION AT LYMAN STREET

Summary: The consideration of a resolution authorizing the payment of \$15,000 to Delphi Development for obtaining a "Quiet Zone" designation for the railroad crossing at Lyman Street; and the associated budget amendment in the amount of \$15,000 from the City's General Fund Balance to fund this request.

As a general rule, the railroad industry follow protocol for blowing train whistles at railroad crossings for safety purposes. The noise from these whistles can be a deterrent to growth and economic development particularly for housing. It is difficult to have railroad crossings designated as a "Quiet Zones" because of the design, signage and location of the crossing.

Delphi Development contracted with a company to work with Norfolk Southern to designate the Lyman Street Crossing in the River Arts District as a "Quiet Zone." The cost of the consultant was \$30,000. The City of Asheville made the application to Norfolk Southern, paid the application fee of \$2,800 and installed approximately \$5,000 of additional signs to make the crossing safe.

The Quiet Zone designation has now been approved for the Lyman Street Crossing.

As mentioned earlier in the staff report, the cost of the consultant was \$30,000 paid by Delphi Development to obtain approval of the quiet zone by Norfolk Southern. The staff recommends the City pay 50% of the fee up to \$15,000, contingent on the City receiving paid invoices from Delphi Development to the Consultant. In addition, the City has paid the application to Norfolk Southern, in the amount of \$2,800 and installed approximately \$5,000 of additional signs to make the crossing safe.

City staff recommends City Council adopt a resolution authorizing the payment of \$15,000 to Delphi Development for obtaining a "Quiet Zone" designation for the railroad crossing at Lyman Street; and the associated budget amendment in the amount of \$15,000 from the City's General Fund Balance to fund this request.

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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, with the addition of Consent Agenda "H". This motion was seconded by Councilman Smith and carried unanimously.

III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. 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

Mayor Manheimer said that this public hearing was opened and continued from the December 10, 2013, meeting until this date. Earlier today, Mr. W. Louis Bissette, attorney for the applicant, requested a continuance to February 25, 2014, due to inclement weather.

Councilwoman Wisler moved to continue this public hearing, without further advertisement, until February 25, 2014. This motion was seconded by Councilman Pelly and carried unanimously.

B. PUBLIC HEARING TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO ADD STANDARDS TO ALLOW THE USE OF ELECTRIFIED SECURITY FENCES IN ZONING DISTRICTS THAT ALLOW INDUSTRIAL USES

ORDINANCE NO. 4280 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ADD STANDARDS TO ALLOW THE USE OF ELECTRIFIED SECURITY FENCES IN ZONING DISTRICTS THAT ALLOW INDUSTRIAL USES

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance to amend Chapter 7 of the Code of Ordinances to add standards to allow the use of electrified security fences in zoning districts that allow industrial uses. This public hearing was advertised on January 31 and February 7, 2014.

Earlier this year a local business requested a permit to install electrified security fences. These are not currently allowed or disallowed; but the Fire Marshall had concerns about the product and held the permit. The business owner with representatives from the fence company appeared before the Public Safety Committee in the summer. The Committee heard the information presented by the fence company and the concerns of the staff; and then requested further information from staff including practices of other cities in North Carolina. The Fire Marshall returned to the Public Safety Committee in October with additional information. That research revealed that there is no consensus in the state regarding this use. The cities of Fayetteville and Durham specifically allow them, Raleigh, Gaston County, and Cary specifically do not allow them, and Charlotte, while silent regarding them in their zoning, allows them by default.

After discussion the Committee directed staff to prepare a change to the appropriate city ordinances to allow the use of these fences for consideration by the full Council. The ordinance change presented reflects that request.

After internal discussion staff determined that the most appropriate location for the regulations (following practice in cities where the fences are allowed) would be in the section of the UDO that regulates fences and walls, Section 7-10-3. The modifications combine suggested model language from the company that sells these fences and criteria to address staff concerns.

As proposed these electric fences would be allowed only in the Industrial, Light Industrial, and Commercial Industrial zoning districts – as outdoor storage of supplies and equipment vulnerable to theft are most likely to be located in those districts. Further, they would be prohibited from being built within any public right-of-way, utility right-of-way, public construction easement, or within 1,000 feet of any residential use. The table below summarizes the proposed standards.

Energizer Standards	Storage battery only of no more than 12 volts DC
	No connection to any overhead power post
	No connection to more than one energizer per section
	Lightening diverter/arrestor required between fence and energizers
	Must be connected to a dedicated ground system
	Must be not be connected to any building or plumbing system
	Must be at least 10 feet from any buried pipes, wire, or other utilities
	Ground system cables must be properly insulated

Electric Charge	Must not exceed standards of IEC latest edition
	Must regulate voltage, pulse, amperage at all times
Fence Design	Must not interfere with nearby transmission lines
	Must not interfere with overhead utility lines or their maintenance
Alarm System	Must be equipped with a monitoring alarm system
	Must obtain a permit meeting City of Asheville standards <i>and meet the standards of Article II, Section 13 of the City Code</i>
Height	The electric fence may not exceed 10 feet in height
	The perimeter nonelectric fence may not exceed 10 feet in height
	Any portion of either fence taller than 6 feet must be located beyond the front setback
	Any portion of either fence taller than 8 feet must be located beyond the front or rear setback
Separation	The electric fence must be separated from the perimeter nonelectric fence by an area between 12 and 36 inches wide
	The area between the fences must be free of vegetation or objects
	The lowest portion of the perimeter fence must be close enough to the ground to that no space exists.
Warning Sign	At least one warning sign must be placed on each side of the fenced area, no higher than four feet from the ground
	There may be no less than 25 feet between such signs
	There must also be at least one sign put onto any vehicle or pedestrian access gate.
	The sign must not be larger than 1 square foot in size, with lettering a minimum of 1 inch high
	The sign must be black, or black and red, on a white or yellow background.
	The sign must state: "Danger – Electric Fence" or "Warning – Electric Fence" in English and Spanish
	The sign must include an illustration indicating the potential for electric shock
Disconnect Switch	A disconnect switch in a "key box" of a design approved by the Fire Department must be installed at a location acceptable to the Fire Department that will disconnect the electric fence completely from all energizers if required by police, fire, or other emergency personnel
	The location of the switch must be clearly marked and easily observable and accessible from the main entry path

The proposal can be said to comply with the Asheville City Development Plan 2025 in that it works toward improving security options for businesses in Asheville. It can also be said to comply with the City Council's Strategic Plan in that it works toward the goal of improving economic growth and financial sustainability by improving security options for businesses in Asheville.

The Planning and Zoning Commission reviewed this wording amendment at their January 16, 2014, meeting and after a brief discussion voted 4-2 (with 1 absent) to support the change, with one modification. The Commission requested that the change be modified to reflect that the alarm systems would be governed under the existing city code requirements for alarm systems. That change (referencing Article II, Section 13-31) has been added to the proposed ordinance as shown (shaded) below:

c. Alarm system - Electrified fences must be equipped with a monitoring alarm system and must obtain a permit meeting the standards of the City of Asheville for alarms in Article II of Section 13-31 of the City Code that activates simultaneously with any contact to the electrified area of the fence.

There may be minor fiscal impacts. Based on the above findings and the analysis provided in the report, staff believes that the change will have some limited fiscal impact if enforcement by APD is needed when an alarm goes off.

Staff recommends approval of this amendment to Section 7-10-3 fining that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation, and as it reflects the desire of the Public Safety Committee to provide this added security option for local businesses.

She asked for two small amendments: (1) the definition for the electrified security fences include "utility facilities"; and (2) the reference of the Fire Code in "Chapter 13, Article 2, Section 13-32 of the City Code".

Mayor Manheimer opened the public hearing at 5:31 p.m., and when no one spoke she closed the public hearing at 5:31 p.m.

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

Councilwoman Wisler 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. 4280, as amended by City staff. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS: None

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-27 - RESOLUTION TO ESTABLISH A LONG RANGE RESIDENTIAL WASTE REDUCTION GOAL TO GUIDE MUNICIPAL WASTE SERVICES

Chief Sustainability Officer Maggie Ullman said that this is the consideration of a resolution to establish a long range residential waste reduction goal to guide municipal waste services.

The City of Asheville's commitment to waste reduction started in 1997 when the residential recycling program was established. Recently, in response to Council Strategic Goals to *reduce community wide waste* the city implemented the single stream recycling and education program called Zero Waste AVL. This program merged the types of materials into one container and increased the size of the recycling container to match the landfill waste container. Affectionately referred to as Big Blue in the community, this April 2012 service enhancement resulted in a 6.4% decrease in the waste going to the Buncombe County landfill from Asheville residents who are served by municipal waste services. In August 2013, the city entered into a partnership with Buncombe County to assess the feasibility of building a compost processing facility at the county landfill in order to open the opportunity for future compost collection for Asheville residents. Throughout these recent service enhancements and explorations the Sustainability Advisory Committee on Energy and the Environment (SACEE) has been researching national best practices and associated policies in waste reduction.

The resolution, written by the SACEE Committee, and recommended by staff, is intended to achieve the following long range goals:

- Extend the life of the Buncombe County landfill, currently projected to reach capacity in 2035

- Increase reuse, recycling, and composting of waste
- Enhance the local economy by diversifying waste services

The following areas are important to understand when considering a long term residential waste reduction policy: landfill capacity, waste composition, and waste data and trends.

Landfill Capacity: Municipal solid waste collected from Asheville residents is taken to the Buncombe County landfill in North Buncombe. Depending on the year this waste accounts for 16-22% of the total waste going to the landfill. When the landfill opened in 1996 it had a projected lifespan of 30 years until 2026. Due to the recession, when consumption patterns decreased and the construction industry significantly slowed, the projected lifespan of the landfill was delayed to 2035. Although, about 20 years away, efforts to plan for the BC landfill closure are in their earliest phases and will increase in the next 5 years.

Due to the significant amount of time locating, permitting, and planning for a new local landfill or to create partnerships to haul local waste out of county or out of state it is prudent to evaluate options now. Either of these future scenarios will require a significant public expense paid for by Buncombe County and Asheville City citizens. Another option is to commit to reduce waste in order to extend the life of the landfill as long as possible. This waste reduction policy is designed to reduce the amount of Asheville residential waste going into the landfill by 50% by 2035.

Waste Composition: In order to evaluate the potential success of a waste reduction policy it is important to understand what is currently being thrown away and taken to the landfill. Through the aforementioned Buncombe County partnership to investigate composting a residential garbage waste audit was completed in November 2013. The results of this audit, which sorted a statistically significant sample of the waste stream, show that 18% of what is going to the landfill could be recycled and 26% is organic waste which could be composted. When combined 44% of what is being thrown away by Asheville residents could be processed differently and be diverted from the landfill. The proposed resolution calls for a 50% total reduction in landfill waste because staff believes that over time a combination of service expansions for recycling and compost in addition to starting reduction and reuse education programming would yield a total reduction of 50% in the suggested 21 year timeframe.

Residential Waste Data and Trends: The recent trends in Asheville residential curbside waste collection show steady reductions of waste going to the landfill. The two largest decreases in landfill waste were from 2008 to 2009 which corresponds with national residential waste reduction trends due to the recession and then from 2011 to 2012 when the city introduced Big Blue to our neighborhoods. The reduction during those two episodes was 5.8% and 5.4% respectively. Over the last three years since the city has increased recycling education through the Zero Waste AVL program and delivered Big Blue the tons of recycling increased by 25%.

Brush collection is not included in the waste reduction policy because the brush is not going to the landfill but being ground down through the private sector and reused for mulch. It is important to note the fluctuations of brush over time are highly dependent on weather events such as severe winter storms which generate tree falls and limb damage as well as increased rain fall amounts which fuels plant growth. The long term waste reduction policy is intended to continue reducing waste by establishing a strong leadership commitment to waste reduction despite future economic recovery, population growth, and competing municipal priorities over time.

Best Practice Research: SACEE went through a due diligence process to research and assess how the municipality could utilize best practices to support a long range plan and commitment to waste reduction. The trend in waste reduction is to establish a reduction policy with incremental targets for reduction in landfill waste over time as is proposed in the resolution under consideration. At least 30 municipalities have established such policies with varying targets

and timelines based on the local context of municipal waste service, landfill capacity, and community support. The city of Carrboro, NC created a waste diversion target for their residential sector of 61% per capita up from 56% per capita. Austin, TX approved a policy setting a goal of 90% landfill diversion from the residential sector by the year 2040.

The waste reduction policy proposes the following: Establish a goal of 50% residential solid waste reduction by total tonnage by the year 2035. This goal will be measured from the baseline year of 2010 and result in total reductions of:

15% by 2020, 25% by 2025, 40% by 2030, 50% by 2035.

Financial Considerations: When faced with a million dollar service expansion to purchase Big Blue recycling containers for 30,000 households, staff was able to design the program to be revenue neutral. This was achieved by borrowing money to purchase the roll carts and paying it back each year through the money saved in tipping fees at the landfill. In FY13 the city spent \$1.1 Million on tipping fees to dispose garbage at the landfill. In order to achieve a 50% waste reduction goal there will likely be additional costs over time. Through replicating the successful savings recycling program stated above staff believes there is great opportunity to manage potential future cost increases by first looking to tipping fee savings as a funding source.

Included in the supporting documents of this proposal is a long term waste reduction plan. This plan is not intended to be a binding plan but a path forward with potential options for staff and Council to evaluate over time. Any and all service expansions or cost changes in waste reduction services would be considered by Council on an annual basis during the budget process.

This resolution supports the following activities in the Strategic Operating Plan: 1) Ask employees to innovate and seek savings.

There is no direct fiscal impact. Any changes to solid waste services will be considered on an annual basis as part of the fees and charges and/or the budget approval processes.

City staff recommends City Council adopt a resolution to establish a long range residential waste reduction goal to guide municipal waste services.

Councilman Smith hoped we will be able to look at increasing that target over time.

In response to Councilman Davis, Ms. Ullman said that the partnership conversation with Buncombe County has been very positive.

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.

Councilman Davis moved for the adoption of Resolution No. 14-27. This motion was seconded by Councilman Bothwell and carried unanimously.

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**B. RESOLUTION NO. 14-28 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO A MULTI-YEAR PARTNERSHIP WITH MOOG
INSTITUTE FOR MOOGFEST**

ORDINANCE NO. 4281 - BUDGET AMENDMENT FOR MOOGFEST

Economic Development Specialist for Events Jon Fillman said that this is the consideration of (1) a resolution authorizing a multi-year partnership with Moog Institute for Moogfest; and (2) a budget amendment in the amount of \$40,000 from unassigned General Fund fund balance to provide budget authorization for FY 2013-14 Moogfest support.

Moog Institute, a local non-profit organization has requested financial and in-kind support from the City of Asheville through the Office of Economic Development for the production of Moogfest. The request was presented to the Planning & Economic Development Committee for consideration who passed a motion in support of a performance-based partnership at the meeting held on January 21, 2014.

Moogfest is described as an economic development engine for Asheville in the form of a unique hybrid innovation conference, job fair, technology expo and music event held over multiple days, in multiple venues across downtown Asheville. Moogfest's five-day conference is designed as an immersive learning experience targeted to position Asheville as a hub of technology and creativity. The synthesis of Moogfest connects industry leaders to qualified talent, joins corporate sponsors with businesses, and generates content to influence capital investment. Moogfest is a mechanism intended to promote job creation and job growth through a catalytic approach to the development of a technology industry cluster in Asheville.

Moogfest attendance is estimated at 20,000 – 30,000 utilizing 7,300 hotel room nights. Anticipated media value is expected to reach \$10M with an overall \$30M direct economic impact from the conference overall. Moogfest is funded by over \$3M in private investment and is attracting corporate sponsorship commitments ranging from \$5K - \$300K.

Moog Institute has requested the City of Asheville provide \$40K in financial support and a maximum value of \$50K of in-kind support per year for three years beginning with the April, 2014 conference. Staff is in support of establishing a multi-year, performance-based partnership agreement with Moog Institute for Moogfest. Post-event reports and an economic impact study to be conducted by the Asheville Area Chamber of Commerce would be used as measurement tools to evaluate outcomes in the areas of job creation and job growth. Specific requirements of the partnership include the creation of a minimum of 10 full-time positions or equivalent combination of temporary and seasonal positions, host no less than 10 technology companies in Asheville with the capacity to relocate or expand and create jobs, and accommodate at least 25 manufacturers in the event's temporary retail environment.

Pros:

- Furthers Economic Development initiatives in the areas of job growth and job creation;
- Meets strategic operating plan goals of leveraging investment in special event partnerships; promoting an environment for investment
- Performance driven investment;
- Supports economic impact in the form of hotel sales and occupancy taxes, retail and sales tax generation;
- Supports development of an identified economic cluster in the City;
- Supports public/private cooperation as well as support for a non-profit organization.

Cons:

- Requires financial support that was not allocated in the City's 2013-14 budget;
- Has an impact on department staff costs for the utilization of in-kind services including staff time, police, fire, and public works;
- Results in lost revenue for permits, parking fees and rentals;
- Contains risks associated with supporting a new economic development concept.

The fiscal impact is a \$40,000 financial investment per year. \$50,000 of in-kind support and fee waivers per year for a maximum value of \$90,000 per year at a maximum term of three years as defined appropriate to support permitting, space uses and on-site conference operations. As noted above, the \$40,000 in financial support for the April 2014 conference was not included in the FY 2013-14 adopted General Fund budget, therefore an appropriation from unassigned fund balance is required to provide budget authorization for this payment. As reported to City Council during the recent audit presentation, the City ended FY 2012-13 with an unassigned General Fund fund balance of \$15.48 million, which was approximately \$2.3 million above the City's 15% policy target.

Staff recommends City Council approve (1) a resolution authorizing the City Manager to execute a three-year, performance based partnership agreement between the City of Asheville and Moog Institute for Moogfest; and (2) a budget amendment in the amount of \$40,000 from unassigned General Fund fund balance to provide budget authorization for FY 2013-14 Moogfest support.

Mr. Mike Adams, President and CEO of Moog Music, explained the short term benefits to Asheville being (1) \$10 Million media value; 10,000 people per day x five nights; (3) 34,000 hotel room nights; and (4) approximately \$30 Million economic impact. He then explained the long term benefits to Asheville which include (1) create the perception that Asheville is supportive of innovation; (2) transition tourism from "Play" to "Play with Purpose"; (3) attract entrepreneurs and the talent necessary to create jobs; and (4) increase local entrepreneurship. He urged City Council for their support.

In response to Councilman Smith, Mr. Fillman explained on the long-term economic development benefits of networking opportunities for people attending the conference. The networking opportunities will benefit job growth and job creation. In addition to connecting entrepreneurs to skill building, we will be introducing them to the region.

In response to Councilman Pelly, Mr. Adams explained how they are offering scholarships to students.

Councilwoman Wisler hoped that from the relationships built, it will result in good paying jobs and new visitors. She was supportive of the \$50,000 in-kind services, but could not support the \$40,000 request for a festival that is not open to the public and is not consistent with our other economic development funding.

Councilman Smith noted that even though it is a ticketed event, there is a job fair, tech expo, performance stages, etc. which will be free and open to the public.

Mayor Manheimer noted that this is not a replacement for the Bele Chere festival. She felt the City is taking more of an economic development approach for Moogfest. She was excited to see that Moog is trying to bring together arts and technology, noting we need to harvest a more technology sector. She felt this is an exciting economic development investment.

Councilman Davis felt this is a small amount of investment for the ultimate economic development benefits.

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

Councilman Bothwell moved for the adoption of Resolution No. 14-28. This motion was seconded by Councilman Smith and carried 5-1 vote with Councilwoman Wisler voting "no".

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Councilman Bothwell moved for the adoption of Ordinance No. 4281. This motion was seconded by Councilman Smith and carried on a 5-1 vote with Councilwoman Wisler voting "no".

ORDINANCE BOOK NO. 28 - PAGE 466

C. RESOLUTION NO. 14-29 - RESOLUTION AUTHORIZING THE FISCAL YEAR 2013-14 HOUSING TRUST FUND LOANS TO BEAUCATCHER COMMONS LLC AND GIVENS ESTATES INC.

Summary: The consideration of a resolution authorizing 2013-14 Housing Trust Fund loans to Beaucatcher Commons, LLC (Raleigh & Marietta Lots) and Givens Estates, Inc. (Givens Gerber Park Apartments).

Four applications for 2013-14 Housing Trust Fund financing were received this year. The total amount requested was \$925,000. The projected Fiscal Year 2013-14 year-end balance in the Trust Fund available for new projects is \$377,000. The applications were presented to the Housing and Community Development Committee (HCD) on January 21st. After review and discussion, the HCD Committee recommended loan funding for two of the applications:

- 1) Givens Estates, Inc. for the construction of 120 units of rental housing for seniors on Gerber Road in South Asheville, with the loan amount of \$230,000 (adding to and amending their \$270,000 award from last year); and
 - 2) Beaucatcher Commons, LLC for the construction of six (6) rental units on three contiguous lots on Raleigh and Marietta Streets located in the Shiloh neighborhood in South Asheville, \$90,000.
- Two projects were not recommended for funding: Pinnacle Point, a 38 unit family rental housing development proposed in South Asheville by Mountain Housing Opportunities; and Asheland Place, a 30 unit rental development for the "hardest-to-house" persons experiencing chronic homelessness, proposed by Biotat, LLCX. Project Descriptions for the Housing Trust Fund recommended projects are provided below:

Givens Gerber Park Apartments – Givens Estates, Inc. (\$230,000)

- New Construction of 120 Senior Rental Units
 - (94 One-Bedroom; 26 Two-Bedroom)
- Total estimated Project Cost: \$14,400,518
- Average Cost per Unit = \$120,004 (\$150.87 / SF)
- NCHFA Tax Credits Not Awarded in 2013; Will Reapply in 2014

Givens Estates has proposed a 120-unit multifamily rental development for low income seniors ages 55 and over in South Asheville on a 6-acre vacant site zoned Highway Business and located on Gerber Road between Hendersonville Road and Sweeten Creek Road. Once the 120 units are completed, 42 units will be considered new units, and 78 units will be considered replacement units for 78 existing HUD 202 senior apartments built in 1979, which are proposed to eventually be taken out of service and demolished due to obsolescence and lack of ADA accessibility. Givens Estates has also indicated that current residents of the existing 78 HUD 202 apartments will either be allowed to transfer their rent subsidies to the new apartments or will be provided vouchers.

The HTF loan and terms recommended are:

- A total of \$500,000 in HTF funding is recommended (2013-14 Award: \$270,000 + 2014-15 Request: \$230,000).

- The loan will have a 20-year term at 2% interest with deferred principal payment, with the annual repayment amount to meet the requirements of the NCHFA 2014 Qualified Allocation Plan (QAP). Any unpaid interest will be due and payable at the end of the 20-year term.

If approved as recommended by the HCD Committee, the HTF repayment amount will be an annual payment based on actual cashflow.

30 of the 120 units will be reserved for tenants earning at or below 30% AMI. The remaining 90 units will be restricted to persons at or below 60% AMI. The project proposal meets the Fund's stated priority in that 78% (94) of the units will be one-bedroom units and the remaining units (26) will be 2-bedroom units.

The HTF per-unit subsidy is \$4,167 based on 120 units. The loan request represents 3.5% of the total development costs. The average per-unit development cost is \$120,004. With a total of 95,450 square feet of proposed floor space, the project cost per square foot is \$150.87.

Pros:

- Substantial financial leverage will be achieved if the project receives a tax credit award.
- Extremely low per-unit HTF subsidy requested.
- Development site within ¼ mile of jobs, services, groceries, and transit.
- Energy efficiency with Energy Star and SystemVision certification.

Con:

- No other financing commitments have been received. The project failed to obtain 2013 tax credits, although it was very competitive relative to other projects.

Raleigh & Marietta Lots – Beaucatcher Commons, LLC (\$90,000)

- New Construction of 6 Rental Units
 - 3 Lots; 1 3-BR Rental House & Garage Apartment on Each Lot
- Total Estimated Development Cost = \$623,000
- Average Cost per Unit = \$103,833 (\$127.25 / SF)

Mr. Kirk Booth, principal owner of Beaucatcher Properties, LLC has proposed a 6-unit rental development on 3 contiguous lots located in the Shiloh neighborhood. The proposed units will be infill development in an older established neighborhood with water and sewer access available. Each of the three (3) development lots are currently zoned RS8 and will contain a three-bedroom single family rental home with a one-bedroom accessory apartment over a rear garage. The three-bedroom units will be rented at 80% AMI (\$961/month) and the accessory units at 60% AMI (\$489/month).

The developer requested a \$120,000 loan. The HCD Committee recommends a \$90,000 loan, with 50% of the note (\$45,000) due as an amortizing loan over 30 years at 4.5% interest (3-bedroom units) and the remaining 50% of the note (\$45,000) financed as interest-only at 2.00% annual interest with principal deferred for 20 years (accessory units). The HCD Committee left it to the developer to reduce project costs or find another funding source to make up the \$30,000 difference.

The project proposal meets the Fund's stated priority in that 50% of the units will be one-bedroom floor plans. No TRC or P&Z review is required. The developer is ready to begin construction immediately and anticipates that the units could be completed and occupied by October 2015.

The recommended loan represents 14.4% of the total development cost as submitted by the applicant. The average per-unit development cost is \$103,833. Based on a total of 4,896 square feet, the project's average cost per square foot is \$127.25. The per-unit HTF subsidy is \$15,000. The proposed development lots are located within 1/4 mile of a transit line. None of the units will be ADA accessible. The project will not be Energy Star certified but does incorporate many of the desired elements such as energy star appliances, low-e windows, low-flow water system, efficient lighting, and recycled flooring lumber.

Pros:

- Infill development supports strategic planning goals.
- The developer has completed other local projects in a timely manner.
- Developer is pledging affordability for 30 years.
- Units available to serve individuals transitioning from homelessness will be provided.

Con:

- Questions of design quality have been raised by neighbors regarding one of the developer's recent projects. Plans submitted by the developer for this project show a cottage design that appears compatible with the existing structures in the neighborhood.

The current projected year-end balance (as of July 31, 2014) in the Housing Trust Fund is \$377,000. The total of the loans recommended by the HCD Committee is \$320,000, which leaves a projected unreserved balance in the Trust Fund of \$57,000. This should be a sufficient cushion in case Fund revenue does not meet expectations. No negative fiscal impacts associated with City Council approval of these loans is anticipated.

The Housing and Community Development Committee recommends City Council approve a resolution authorizing the following loans subject to the developers meeting all program requirements for loan closing.

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.

Councilman Smith moved for the adoption of Resolution No. 14-39. This motion was seconded by Councilwoman Wisler and carried unanimously.

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D. BOARDS & COMMISSION

Regarding the City-County African American Heritage Commission, the following individuals applied for the vacancies: Donnell Sloan, Rebecca Bernstein, Phyllis Utley, James E. Lee III, Jan Goffney, Warren G. Smith, Angel Redmond, Sheneika Smith, Sandra Elaine Kilgore, Marvin D. Chambers, Johnnie N. Grant, Annie Burton, DeWayne Barton, Sasha F. Mitchell, Mychal Bacoate, Desmond McAfee, Jesse Junior, Lamar Hylton, Georgia M. Shannon, Alfred J. Whitesides Jr., Daniel Jonas Young, Viola J. Spells and Damita Jo Wilder. After each Council member announced their top three candidates for interviews, it was the consensus of Council to interview the top six as follows: Jan Goffney, Marvin D. Chamber, Johnnie N. Grant, DeWayne Barton, Lamar Hylton and Alfred J. Whitesides Jr..

Regarding the Asheville-Buncombe Historic Resources Commission, the following individuals applied for the vacancy: Stephens Smith Farrell, Tom Hartwell, Keaton Edwards, Jesse James, William S. Eakins, Gary Herndon, Patricia Darcy, Kendra Turner and Geoff Mohney. The Boards & Commissions Committee recommended appointing Kendra Turner. Councilman Pelly moved to appoint Kendra Turner and that motion was seconded by Councilman

Smith. Because another Council member requested an interview of William Eakins, Councilman Pelly withdrew his motion. It was the consensus of City Council to interview William Eakins.

RESOLUTION NO. 14-30 – RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Councilman Davis, member of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Board of Electrical Examiners.

Mr. Harold Garland recently died, thus leaving an unexpired vacancy until July 1, 2015. Councilman Davis spoke highly of Mr. Garland's service as a City employee and then as the Chair to the Board of Electrical Examiners.

The following individual applied for the vacancy: Kenneth DeWayne Frisbee.

On February 11, 2014, it was the consensus of the Boards & Commissions Committee to appoint Kenneth Frisbee.

Councilman Smith moved to appoint Kenneth Frisbee to serve the unexpired term of Mr. Garland, term to expire July 1, 2015, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Lawsuit Report

The City was served with a Complaint on February 7, 2014, from Veronica Crouch vs. the City of Asheville. The nature of the proceeding is a complaint for personal injury from negligence of public transit bus driver. This matter will be handled by an attorney outside the City Attorney's Office.

Closed Session

At 6:42 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville; Wilcox, Mary Ann; and Henderson County and Cane Creek Water and Sewer District. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:23 p.m.

CITY CLERK

MAYOR