

Tuesday – March 25, 2014 - 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; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

Boy Scout Marek Graves led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING MARCH 11, 2014, AS "CLEAN ENERGY FOR US DAY"**

Mayor Manheimer read the proclamation proclaiming March 11, 2014, as "Clean Energy for Us" in the City of Asheville. She presented the proclamation to Ms. Katie Bray, Program Director for Clean Energy For Us, and Ms. Heather Rayburn, who briefed City Council on some activities taking place during the day.

**II. CONSENT AGENDA:**

At the request of Councilman Pelly, Consent Agenda Item "B" was removed from the Consent Agenda due to a conflict of interest.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 25, 2014, AND THE SPECIAL MEETING HELD ON MARCH 18, 2014**

**B. RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF ASHELAND AVENUE AND SETTING A PUBLIC HEARING ON APRIL 22, 2014**

This matter was removed from the Consent Agenda, due to a conflict of interest by Councilman Pelly.

**C. RESOLUTION NO. 14-44 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET AND SETTING A PUBLIC HEARING ON APRIL 22, 2014**

Summary: The consideration of a resolution of intent to permanently close an unnamed alley off of South Ann Street and set a public hearing on April 22, 2014.

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

Pursuant to this statute, property owner Shalin Patel has requested the City of Asheville to permanently close an unnamed alley off of South Ann Street.

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of the unnamed alley off of South Ann Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent property
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley off of South Ann Street and set the public hearing on April 22, 2014.

When Councilman Smith asked if this site is intended to be developed for a hotel, City Manager Jackson replied probably yes, but no plans have been submitted yet.

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#### **D. RESOLUTION NO. 14-45 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE UNIVERSITY HEIGHTS AND A PORTION OF EDGEWOOD ROAD AND SETTING A PUBLIC HEARING ON APRIL 22, 2014**

Summary: The consideration of a resolution of intent to permanently close University Heights and a portion of Edgewood Road and set a public hearing on April 22, 2014.

N.C. Gen. Stat. sec. 160A-296 gives cities the authority to permanently close streets and alleys within their jurisdictions and North Carolina General Statute # 160A-299 outlines the procedure to be followed. The University of North Carolina at Asheville has requested the City of Asheville to permanently close University Heights and a portion of Edgewood Road, both of which are contained within the university's property which is identified as parcel # 9649072895.

During a meeting on May 18, 2012, staff from the University of North Carolina - Asheville (UNC-Asheville) officially requested that these streets be transferred to them for ownership and maintenance activities. City staff's initial concern was the possibility of losing connectivity between W.T. Weaver Boulevard and Hyannis Street. The university responded via e-mail message dated July 14, 2012 that they had no current plans to either gate or close the streets. The University is pursuing the subject action for the following reasons:

- Enables the university to fully control and maintain the streets that are contained within their property.
- Enables the campus police to enforce parking and traffic control as dictated by N.C. Gen. Stat. sec. 116-44.4.
- Enables the use of State funding to improve and maintain the streets.
- Helps the university complete its master plan.

The City and UNC-Asheville staff has worked closely together during the past two years researching various ways to accomplish the subject task and we have concluded that the best way is through the closing procedures outlined in the statutes.

This item was reviewed by the Multimodal Transportation Commission on February 26, 2014, and they recommended approval.

Pros:

- There will be no future compromise of ingress/egress to other property.

- The closure would allow for more efficient use of the existing adjacent property.
- Enables the university to fully control and maintain the streets that are contained within their property.
- Enables the campus police to enforce parking and traffic control as dictated by N.C. Gen. Stat. sec. 116-44.4.

Cons:

- The City cannot prohibit the possibility of gating the streets although the university has stated that it has no current plans to do so.
- Minor loss of revenues from Powell Bill Funds although the revenues typically do not provide the full street maintenance cost.

City staff recommends City Council adopt the resolution of intent to permanently close University Heights and a portion of Edgewood Road and set a public hearing on April 22, 2014. Staff additionally recommends the street closure fee be waived since the City and UNC-Asheville continue to maintain a close partnership relationship.

### **RESOLUTION BOOK NO. 36 - PAGE 96**

#### **E. RESOLUTION NO. 14-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH LEAF COMMUNITY ARTS FOR REAL PROPERTY AT THE EAST ASHEVILLE CENTER AT 906 TUNNEL ROAD**

Summary: The consideration of a resolution authorizing the City Manager to execute a Lease Agreement with LEAF Community Arts for real property at East Asheville Center at 906 Tunnel Road, Asheville, North Carolina.

LEAF Community Arts is a local non-profit arts education program matching artists with youth in schools and communities for hands-on workshops, residencies, interactive performances and mentoring that includes opportunities for youth to engage perform with the artists.

The East Asheville Center at 906 Tunnel Road is approximately 3,402 square feet and is located within a larger complex of City-owned property. The current uses within the complex of this property are: (1) The City of Asheville Fire Department Station 8 at 904 Tunnel Road; and (2) Buncombe County Public Library East Asheville Branch at 902 Tunnel Road.

At this time, the one-year lease between the City and LEAF Community Arts will expire June 30, 2014, and LEAF Community Arts wishes to establish a lease of the property for a five-year term.

The proposed lease terms are as follows:

- Term: Five years
- Rental: \$1.00 per year and operate cultural programs using the Easel Rider Mobile Art Lab on behalf of the City
- Tenant responsibilities: Installation of all improvements, per zoning standards
- Utilities: All utilities to be paid by the tenant
- Maintenance: All maintenance to be performed by tenant
- Mutual rights to terminate lease
- Standard provisions of all City leases (e.g. insurance, indemnity, etc.) will also apply

The Notice of Intent to enter into a Lease Agreement with LEAF Community Arts was published on March 14, 2014, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the Lease Agreement is being requested.

Pros:

- Mission of LEAF Community Arts supports education programs in the arts and culture
- Delivery of cultural arts programs to the community and within City activities
- Community investment in a recreation facility and cultural art programs at low cost to the City

Con:

- None

There is no fiscal impact on the city's annual operating budget. Although it does not increase the city's capital improvement budget, it does enhance the city's resources to maintain and improve public facilities, and to operate community programming.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease agreement with LEAF Community Arts on behalf of the City of Asheville.

When Councilman Smith asked how we might utilize this type of agreement with area non-profits in order to more closely align our strategic goals regarding achievement gap with our community center programming, Assistant Parks & Recreation Director Debbie Ivester said that we have lease agreements or partnership agreements where we have partners come into our facilities that not only lease the building but help us in programming. Big Brothers/Big Sisters brings a variety of services into our centers, especially during the youth programming. Their programming is clearly addressing youth in that academic arena but in a community center setting. We are in the process of building a comprehensive plan over the next 1-3 years.

In response to an earlier question raised by Councilman Pelly, Ms. Ivester noted that LEAF has been leasing the community center for one year and part of that arrangement is two-fold - LEAF continues to offer the space as a community resource similar to when the city was operating it. It's just a matter of contacting LEAF and making those arrangements. It is based on availability so they do continue to offer that as part of the arrangement in the lease agreement.

#### **RESOLUTION BOOK NO. 36 - PAGE 98**

#### **F. ORDINANCE NO. 4287 - BUDGET AMENDMENT FOR PARK AVENUE NORTH BRIDGE REHABILITATION PROJECT**

Summary: The consideration a budget amendment in the amount of \$30,000 from funding available in the Community and Economic Development Capital Improvement Program (EDCI) for the Park Avenue North Bridge Rehabilitation Project.

The Park Avenue North Bridge, located in the River Arts District, is in disrepair. Recent state inspection reports indicate that the bridge needs immediate attention. Staff is requesting a budget amendment in the amount of \$30,000 to perform a feasibility analysis of this bridge to evaluate the structural integrity of the bridge and recommend various options to rehabilitate or remove the bridge, along with the costs of these options.

Pro:

- Provide a professional evaluation of structural integrity of the Park Avenue Bridge.

Con:

- None

The project budget for the feasibility study is \$30,000. These funds will be allocated from the EDCIP budget and will cover the cost of the feasibility study.

Staff recommends City Council adopt a budget amendment in the amount of \$30,000 from funding available in the Community and Economic Development Capital Improvement Program.

**ORDINANCE BOOK NO. 29 - PAGE 1**

**G. RESOLUTION NO. 14-47- RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A NON-MATCHING GRANT FROM THE NORFOLK SOUTHERN FOUNDATION FOR THE REGIONAL HAZARDOUS MATERIALS RESPONSE TEAM 6**

**ORDINANCE NO. 4288 - BUDGET AMENDMENT FOR THE REGIONAL HAZARDOUS MATERIALS RESPONSE TEAM 6**

Summary: The consideration of: 1) a resolution authorizing the City Manager to accept a non-matching gift in the amount of \$1,400 from the Norfolk Southern Foundation to be used in a Hazardous Material Response for Regional Response Team 6 Asheville Fire Department; and 2) a budget amendment in the amount of \$1,400 to appropriate this gift for spending.

The Norfolk Southern Foundation has made funds available to help offset operational expensive for hazardous materials teams when training or purchasing equipment to enhance a response.

This matter was reviewed by the Public Safety Committee on February 24, 2014, and they unanimously supported it.

Pros:

- The Norfolk Southern Foundation has made funds available to help offset operational expensive for hazardous materials teams when training or purchasing equipment to enhance a response.
- Firefighter and citizen safety will be enhanced.

Con:

- There are no con's associated with this gift, as it is non-matching.

There is no fiscal impact associated with this gift, as it is non-matching.

City staff recommends that City Council accept the non-matching gift from the Norfolk Southern Foundation, to enhance AFD's capabilities to protect Asheville and Western North Carolina, and the associated budget amendment.

**RESOLUTION BOOK NO. 36 - PAGE 99  
ORDINANCE BOOK NO. 29 - PAGE 3**

**H. RESOLUTION NO. 14-48 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE A SEALED BID SALE OF ONE PARCEL OF CITY-OWNED PROPERTY LOCATED AT 30 ROCK HILL PLACE**

Summary: The consideration of a resolution directing the City Clerk to advertise a sealed bid sale of one parcel of City owned property located at 30 Rock Hill Place.

The City of Asheville held a deferred rehabilitation loan from September 1996 in the amount of \$39,000 on the property at 30 Rock Hill Place, Asheville (0.34 acres. PIN 9656-28-0496-00000). This property was foreclosed on by the 1<sup>st</sup> lien holder and the City of Asheville placed the winning bid at the foreclosure auction on January 7, 2014 in order to protect its investment by acquiring the property in order to resell. The City purchased the property for

\$30,612. The City will use a broker to assist in the sales process, at an estimated cost of \$1,000. Any profit from the sale of the property would be used to repay the Community Development Block Grant (CDBG) fund which was the original source of funding for the rehabilitation loan. Staff's estimate of the market value is between \$45,000 and \$60,000. Staff expects that some portion of the original CDBG funds invested in the property will be recovered. Staff is seeking authorization to commence a sealed bid process, as outlined below:

1. Upon approval of this resolution, the City Clerk will publish a notice of sealed bid sale in the Asheville Citizen-Times, identifying the parcel available for sale and all terms and conditions of the sale.
2. During the thirty day notice period, City staff will actively market the parcels with the assistance of the local realtor's network and the regional Multiple Listing Service (MLS).
3. On May 1, 2014 at 3:30 p.m. on the fifth floor of City Hall, City staff will host a public bid opening, and will review all sealed bids received for the parcels.
4. Staff will present highest bids for City Council authorization on May 13, 2014, with Council reserving the right to reject any and all bids.
5. Potential earliest closing date – June 16, 2014.

Staff is seeking to utilize the sealed bid process in an effort to benefit from the thirty day marketing period. For more information on the parcel and conditions of sale, please refer to the notes contained on the parcel map.

Pros:

- The potential sale will be at fair market value as established by the sealed bid process.
- It will return designated CDBG funds to the City for future grant allocations
- It will transfer responsibility for maintenance to the private sector.

Con:

- There is no negative impact.

All net proceeds from the sale of 30 Rock Hill Place will benefit the Community Development Block Grant fund. If the sale produces no profits, no return will be made to CDBG. If the sale results in a loss, the CDBG funds in the property will be forfeited, and the City's purchase expense would be paid from Housing Trust Funds.

Community Development staff recommends adoption of the resolution directing the City Clerk to advertise a sealed bid sale of 30 Rock Hill Place.

#### **RESOLUTION BOOK NO. 36 - PAGE 100**

#### **I. RESOLUTION NO. 14-49 - RESOLUTION AMENDING RESOLUTION NO. 13-168 TO CORRECT THE NAME OF CONTRACTORS ASSIGNED TO THE TWO MUDSLIDE ROAD PROJECTS FOLLOWING THE 2013 SUMMER SUBSTANTIAL RAINFALL**

Summary: The consideration of a resolution amending Resolution No. 13-168, to correct the name of the contractors assigned to the two mudslide road projects following the 2013 summer substantial rainfall.

City Council ratified and approved the City entering into two construction contracts to repair major road failures within the City following the torrential rainfall during the summer of 2013. Subsequent thereto, the City was approved for Federal FEMA funding for the cost of public infrastructure repairs. In the process of closing out the projects, staff discovered that both the 2013 staff report and resolution incorrectly interchanged the contractors for the two projects. The purpose of this resolution is to correct a public record and to minimize issues with FEMA reimbursement due to the error. As amended, the resolution now reflects: 1) that the contract for

Buchanan & Sons, Inc. of Whittier, N.C. was for the Sunset Drive and Skyview Place repairs in the amount of \$267,674; and 2) that the contract for Young & McQueen Grading Company, Inc., of Burnsville, N.C., was for the Spooks Branch Road repairs for \$425,450. Additionally, the resolution clarifies that funds may be expended on both projects up to the total project budget.

Pros:

- Corrects a mistake on the original Resolution.

Cons:

- None.

Adoption of this resolution correcting the names of the contractors has no financial impact.

City staff recommends City Council adopt a resolution amending Resolution No. 13-168, to correct the name of the contractors assigned to the two mudslide road projects following the 2013 summer substantial rainfall.

**RESOLUTION BOOK NO. 36 - PAGE 101**

**J. RESOLUTION NO. 14-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE A VAN**

**ORDINANCE NO. 4289 - BUDGET AMENDMENT TO SET UP BUDGET TO PURCHASE VAN FOR HENDERSON COUNTY'S TRANSIT SYSTEM**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease a van; and (2) a budget amendment, in the amount of \$53,928, to set the budget to purchase a van for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is \$53,928. Federal funds will provide \$38,046 covered with grant NC-90-X395; this grant requires a match of \$13,082 provided by Henderson County, plus \$2,800 for the title and tag. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A State contract is in place and City staff will order the van as soon as the budget is amended.

Pros:

- The van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 74% of the total estimated project cost.

- Henderson County provides 26% of the total estimated project cost plus tag and title's costs.
- There is no cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is \$53,928, with 74% or \$38,046 coming from Federal funds, 26% or \$13,082 and tag and title in the amount of \$2,800 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one van and the associated budget amendment.

**RESOLUTION BOOK NO. 36 - PAGE 102  
ORDINANCE BOOK NO. 29 - PAGE 5**

**K. RESOLUTION NO. 14-51 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH ELLUM ENGINEERING INC. FOR ENGINEERING SERVICES FOR THE CTS WATERLINE EXTENSION CONSTRUCTION ADMINISTRATION**

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Ellum Engineering, Inc. for engineering services in the not-to-exceed amount of \$155,000 for the CTS Waterline Extension Construction Administration.

The City of Asheville Water Resources Department is seeking the services of a qualified engineering firm to work with staff to provide construction administration services, inspection services, and record drawing development for the project known as the CTS Waterline Extension. The CTS Waterline Extension project will consist of installing new waterlines and services in the Mills Gap Area of Buncombe County. Approximately 120 new meter services, 7,700 Linear Feet of 8-inch and 6,300 Linear Feet of 6-inch waterlines will be installed with fire hydrants, valves, and other related appurtenances. The project will also include installation of approximately 50,000 Linear Feet of private service line and three individual residential booster pump facilities.

The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the contract administration of the CTS Waterline Extension Construction Administration. In response to that RFQ, the WRD received four (4) proposals. Companies responding were:

1. Altamont Environmental, Inc. – Asheville, NC
2. Ellum Engineering, Inc. – Fairview, NC
3. McGill Associates – Asheville, NC
4. Vaughn and Melton Consulting Engineers, Inc. – Asheville, NC

A review team, comprised of staff from the City of Asheville Water Resources Department reviewed these proposals and selected the firm Ellum Engineering, Inc.

Cost incurred as a result of these engineering services, up to the maximum amount of \$155,000, will be reimbursed to the City of Asheville Water Resources Department from Buncombe County. Funds for immediate payment for the services are available from the City of Asheville Water Resources Department's Capital Improvement Project budget.



Pros:

- The team put together by Ellum Engineering, Inc. has provided Engineering Services on various water system projects for the City of Asheville. Their experience and knowledge of our water system and project sites associated with the project area will minimize staff support and input during the process.
- This project will allow the City of Asheville Water Resources Department to meet the conditions of the Memorandum of Understanding with Buncombe County.

Con:

- Failure to award an engineering services contract would prevent the Water Resources Department from fulfilling the conditions of the Memorandum of Understanding with Buncombe County.

The funding needed for this agreement is currently allocated within the CTS Waterline 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 Ellum Engineering, Inc. for engineering services in the not-to-exceed amount of \$155,000.00 for the CTS Waterline Extension Construction Administration.

**RESOLUTION BOOK NO. 36 - PAGE 103**

**L. RESOLUTION NO. 14-52 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT CURVE STREET TO DUKE ENERGY PROGRESS INC.**

Summary: The consideration of a resolution authorizing the City Manager to convey an easement over a portion of City-owned property at Curve Street to Duke Energy Progress, Inc. for a residential overhead power line.

The City of Asheville owns real property at PIN 964868587800000 on Curve Street and the parcel is used for right-of-way purposes. Curve Street runs through the center of the parcel, with additional land area on either side of the street. The total parcel measures 0.17 acres. The highest and best use of this parcel is right-of-way, given the placement of the roadway and the limited residual value of the remaining land.

One of the adjacent vacant lots is currently being developed for a single-family residence. Duke Energy Progress, Inc. has requested an easement for an overhead powerline to benefit the adjacent lot. The area of the easement is not currently being utilized by the city, and presents no apparent conflict with future use.

The proposed easement area is approximately 30 feet wide running a length of 36 feet, for a total of 1080 square feet.

Pro:

- The easement is appropriate for the current use of the right-of-way and would not interfere with any relevant future plans.

Con:

- None noted.

Staff recommends that City Council approve a resolution authorizing the City Manager to convey a 1080 square foot easement over a portion of City-owned property at Curve Street to Duke Energy Progress, Inc.

**RESOLUTION BOOK NO. 36 - PAGE 104**

**M. ORDINANCE NO. 4290 - BUDGET AMENDMENT FOR IMPROVEMENTS TO THE WNC VETERANS MEMORIAL IN PACK SQUARE PARK**

Summary: The consideration of a budget amendment in the amount of \$4,080 for improvements to the WNC Veterans' Memorial located in Pack Square Park.

In 2011, the WNC Veterans' Memorial Board, a non-profit organization, donated the WNC Veterans' Memorial in Pack Square Park to the City. At the same time, the WNC Veterans' Memorial Board established two trust funds held by the Community Foundation of Western North Carolina. Both trust funds are designed to provide resources to support the perpetual upkeep and maintenance of the Memorial.

To date, the City has received \$4,080 in contribution from the trust fund. Funds will be used to replace landscape materials and purchase new flags for the Memorial.

Pro:

- Provides funds for improvements WNC Veterans' Memorial located in Pack Square Park.

Con:

- None

A project budget authorizing recurring maintenance and repair to the WNC Veterans' Memorial located in Pack Square Park will be established with approval of this budget amendment. The project budget will authorize expenditures up to \$4,080. These expenditures will be fully funded with trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of \$4,080 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of \$4,080 for maintenance and repair of the WNC Veterans' Memorial located in Pack Square Park.

**ORDINANCE BOOK NO. 29 - PAGE 7**

**N. ORDINANCE NO. 4291 - BUDGET AMENDMENT TO SET UP CAPITAL PROJECT BUDGETS FOR CERTAIN FISCAL YEAR 2014 PARKS AND RECREATION MAINTENANCE ITEMS**

Summary: The consideration of a technical budget amendment in the amount of \$237,949 to transfer funds from Parks and Recreation's deferred maintenance operating budget to three capital project, the Velodrome Improvements in the amount of \$27,000, Carrier Park Restroom Construction in the amount of \$22,850, and Montford Recreation Center Basketball Floor for \$188,099.

Parks and Recreation's deferred maintenance cost center in the General Fund is used for minor repairs and improvements for parks and recreation facilities. However, there were several items budgeted there in the current fiscal year that relate to large projects that will become fixed assets in the future. These items include: the design, easement acquisition, and surveying costs of \$27,000 for the future improvement of the Velodrome; design costs of the \$22,850 related to the future construction of restrooms at Carrier Park; and basketball floor design and construction at the Montford Recreation Center for \$188,099.

In order to properly account for these future fixed assets, staff recommends that the budgets for these items being move from the General Fund to the General Capital Projects Fund. Therefore, staff is requesting City Council to approve a technical budget amendment to transfer \$237,949 from the Parks deferred maintenance budget in the General Fund to three individual capital projects in the General Capital Project Fund.

Pros:

- This action will allow each capital project to reflect all the expenditures related to the construction and design related to it.

Cons:

- None

The technical budget is a one-time transfer that will increase the budget in the individual capital projects, while decreasing budget in the Parks and Recreation Deferred Maintenance budget.

Staff recommends City Council approve the technical budget amendment authorizing the City Manager to transfer \$237,949 from the Parks and Recreation's deferred maintenance operating budget to the Velodrome Improvements, Carrier Park Restroom Construction, and the Montford Recreation Center Basketball Floor capital projects.

#### **ORDINANCE BOOK NO. 29 - PAGE 9**

#### **O. ORDINANCE NO. 4292 - BUDGET AMENDMENT TO ADDRESS FEDERAL EMERGENCY MANAGEMENT AGENCY'S REIMBURSEMENTS TO COVER THE COST OF SEVERE STORMS THAT OCCURRED IN JULY 2013**

Summary: The consideration of a budget amendment in the amount of \$2,369,143.30 to: 1) budget in the Special Revenue Fund \$2,366,706.81, in anticipated reimbursements from the Federal Emergency Management Agency and N.C. Dept. of Public Safety for the declared disaster identified as FEMA-4146-DR-NC; and 2) move \$63,225.71 in budget from the General Fund and the Stormwater Fund to the Special Revenue Fund for repair costs not covered through the reimbursements above.

During the period of July 3-13, 2013, Western North Carolina including Buncombe County and the City of Asheville experienced severe storms leading to flooding, landslides, and mudslides.

On September 25, 2013, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced that federal disaster aid has been made available to the State of North Carolina and ordered federal aid to supplement state and local efforts in the areas affected by severe storms, flooding, landslides, and mudslides during the period of July 3-13, 2013.

On October 11, 2013, staff met with the N.C. Division of Public Safety (NCDPS) and FEMA, and concluded that the City of Asheville would be eligible for financial assistance under declaration number FEMA-4146-DR-NC.

The damages to City infrastructure include:

1. Gashes Creek Rd. Dam Debris (K1426) – Torrential rains during the event caused heavy debris to flow down the Swannanoa River to pile up at the Gashes Creek Rd. Dam. Debris totaled 280 yards of vegetative debris and 200 tons of mixed debris. City crews

completed the work at a cost of \$29,313.04. Work complete and 100% of reimbursement received.

2. City-Wide Culvert Debris (S1421) – Torrential rains and heavy overland flows during the event caused mixed debris to be deposited in storm drains and in culverts throughout the City of Asheville. Mixed debris totaled 294 cubic yards. City crews completed the work at a cost of \$38,007.45, of which \$34,476.22 was received as reimbursement.
3. City-Wide Debris (K1428) – Torrential rains and heavy overland flows caused sediment and rock to be deposited onto City roadways and parks. Debris totaled 192 cubic yards. City crews completed the work at a cost of \$41,869.12, of which \$41,798.74 was received as reimbursement.
4. Asheville Fire Department Emergency Protective (K1427) – City of Asheville Firefighters barricaded roadways that were flooded, blocked with debris and had power lines down; performed water rescues and pumped out flooded basements at a total cost of \$3,499.66. 100% Reimbursement received.
5. Bent Tree Rd. Repair (1423) – Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 75-ft-long x 20-ft-high x 5-ft-wide. Retaining wall plans are complete, road design is underway, and the contract is currently being reviewed. \$28,116.65 of the total estimated cost of \$648,806.15 has been received as reimbursement for expenses to date.
6. Sunset Drive Repair (K1422) - Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 110-ft-long x 20-ft-high x 5-ft-wide. Retaining wall plans are 95% complete. Home condemnation will likely cause a delay in beginning construction. \$7,500 Of the total estimated cost of \$562,326.95 has been received as reimbursement for expenses to date.
7. Stormwater Infrastructure Repair, Multiple Sites (S1420) – 8 Of 11 sites have been repaired with \$176,380.20 of the estimated \$347,684.24 reimbursement received.
8. Spooks Branch Rd. (K1424) – Due to the heavy rains from 7/3/13 through 7/13/13 embankments at three sites were damaged on Spooks Branch Road. Surface runoff from the roadway and flooding of Spooks branch caused embankments to slip and embankments to have shear cracking. City crews and contract workers completed the work at a cost of \$278,255.93 which is to be fully reimbursed. \$208,692.00 has been received to date.
9. City-Wide Street Repair (K1429) – Seven roadways suffered minor damage and have been repaired by City crews at a cost of \$46,192.64. Work complete and 100% reimbursement received.
10. Skyview Place (K1425) - Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The hillside slid onto Sunset Drive below, which caused two roadways to be affected. Work has been completed at a total cost of \$373,188.12, of which \$311,127.53 is reimbursable. \$233,345.60 has been received as reimbursement to date.

This budget amendment is necessary to properly allocate the disaster aid reimbursements to the correct project expenses, and to replenish City funds that have already been spent in the General Fund. The balance not covered by FEMA, estimated at \$63,225.71 will come from the City's General Fund (\$59,694.48) and Stormwater Fund (\$3,531.23).

Pros:

- Recovery of costs associated with declared disaster.
- This will allow the City to pay contractors for work yet to be completed.

Cons:

- Without transfer of funds to the identified accounts, infrastructure will further deteriorate.
- Failure to approve the amendment will prevent completion of the unfunded projects.

Funds received will be reimbursement for General Fund and Stormwater Fund expenditures. This will relieve budget to allow additional projects to be completed. The \$65,662.20 in non-reimbursable expenses in the General Fund and Stormwater Fund will be covered within the existing budgets in those two funds.

City staff recommends City Council adopt the budget amendment in the amount of \$2,366,706.81, to: 1) budget in the Special Revenue Fund \$2,303,481.10 in anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety for the declared disaster identified as FEMA-4146-DR-NC; and 2) move \$63,225.71 in budget from the General Fund and the Stormwater Fund to the Special Revenue Fund for repair costs not covered through the reimbursements above.

**ORDINANCE BOOK NO. 29 - PAGE 11**

**P. ORDINANCE NO. 4293 - BUDGET AMENDMENT TO ACCEPT DONATION FROM NESTLE PURINA PET CARE COMPANY FOR IMPROVEMENTS TO THE DOG PARK LOCATED AT FRENCH BROAD RIVER PARK**

Summary: The consideration of a budget amendment in the amount of \$25,000 for improvements to the dog park located at French Broad River Park.

The City of Asheville in the Parks and Recreation Department has received a \$25,000 contribution from the Nestle Purina Pet Care Company to support improvements at the dog park located in the French Broad River Park.

Each year Purina designates a dog-friendly city, and selected Asheville as the dog-friendly city USA 2014. As part of the designation, Purina made a contribution to the City to support a public service that benefits Asheville area dogs and their owners. Funds will be used to make improvements to the dog park located in French Broad River Park which will relocate and renovate the main entrance to the dog park, reconfigure the large dog and small dog lots, and add new signage and mulch.

Pro:

- Provides funds to for improvements in the dog park located in French Broad River Park.

Con:

- None

A project budget authorizing one-time improvements to make improvements to the dog park at French Broad River Park will be established with approval of this budget amendment. The project budget will authorize expenditures up to \$25,000. These expenditures will be fully funded with a contribution from the Nestle Purina Pet Care Company in the amount of \$25,000 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Nestle Purina Pet Care Company in the amount of \$25,000 for improvements to the dog park at French Broad River Park.

**ORDINANCE BOOK NO. 29 - PAGE 15**

**Q. ORDINANCE NO. 4294 - BUDGET AMENDMENT TO ACCEPT DONATION FROM FRIENDS OF WNC NATURE CENTER FOR A PICNIC PAVILION AND RESTROOM AT THE WNC NATURE CENTER**

Summary: The consideration of a budget amendment in the amount of \$28,170 for the design and construction of the picnic pavilion and restroom at the WNC Nature Center.

The City of Asheville in the Parks and Recreation Department has received a \$28,170 contribution from the Friends of the WNC Nature Center to support the design and construction of a picnic pavilion and restroom at the WNC Nature Center. The picnic pavilion and restroom continues to build out the play plaza that opened in 2012 with the construction of the Arachnid Adventure Playground.

The Friends of the WNC Nature Center, a 501c3 non-profit charity, is a community group of individuals, businesses and grantors who together support the WNC Nature Center with funding to provide an enriching and educational experience for the Center's visitors.

Pros:

- Provides funds to support capital improvements at the WNC Nature Center.
- Provides funds to enhance special projects and guest services at the WNC Nature Center.
- Provides funds to assist in fulfilling standards and maintaining WNC Nature Center accreditation with the Association of Zoos and Aquariums.

Con:

- None

A project budget authorizing one-time improvements to design and construct the picnic pavilion and restroom will be established with approval of this budget amendment. The project budget will authorize expenditures up to \$28,170. These expenditures will be fully funded with a contribution from the Friends of the Nature Center in the amount of \$28,170 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Friends of the WNC Nature Center in the amount of \$28,170 for a picnic pavilion and restroom at the WNC Nature Center.

#### **ORDINANCE BOOK NO. 29 - PAGE 17**

#### **R. ORDINANCE NO. 4295 - BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR BUILDING MAINTENANCE AND TRAFFIC SAFETY PROJECTS THAT WAS HELD IN CONTINGENCY AT THE END OF FISCAL YEAR 2012-13**

Summary: The consideration of a budget amendment, in the amount of \$300,453, from unassigned General Fund fund balance to appropriate funding for building maintenance and traffic safety projects that was held in contingency at the end of Fiscal Year (FY) 2012-13.

In May 2013, the North Carolina General Assembly passed legislation to transfer Asheville's water system to an independent authority, an action that could potentially cost Asheville's General Fund \$1.9 million due to the loss of the water system's contribution to shared central services. The Asheville City Council unanimously voted to legally challenge this legislation. Because the length and outcome of the legal case was unknown at that point, and the City was nearing the end of the FY 2013-14 budget process, staff recommended and City Council endorsed a plan to hold \$1.9 million in contingency. This contingency plan included delaying and deferring projects from both FY 2012-13 and FY 2013-14.

Based on the current timeline for court action on the City's lawsuit, it is anticipated that the City will continue to own and operate the water system through the remainder of FY 2013-14. For this reason, staff is recommending that the funding for the projects that were delayed be returned to departmental budgets. The portion of the funding held from FY 2012-

13 will need to be restored via budget amendment due to the fact that the annual spending authorization for these projects lapsed on June 30, 2013. The budget amendment will appropriate from General Fund unassigned fund balance a total of \$300,453 for building maintenance and traffic safety projects that were deferred in FY 2012-13. The amount appropriated for building maintenance is \$230,453 and the amount for traffic safety projects is \$70,000.

Pro:

- Restored funding for high priority building maintenance and traffic safety projects that was deferred in FY 2012-13.

Con:

- Requires an appropriation from unassigned fund balance.

This budget amendment includes the appropriation of \$300,453 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. To date this fiscal year, Council has approved the use of \$205,000 in unassigned fund balance from the General Fund. With this additional \$300,453 fund balance appropriation for the budget amendment, the City will have appropriated a total of \$505,453 from unassigned fund balance in the current fiscal year. Unassigned fund balance will still be approximately \$1.8 million above the 15% policy target.

City staff recommends City Council adopt a budget amendment, in the amount of \$300,453, from unassigned General Fund fund balance to appropriate funding for building maintenance and traffic safety projects that was held in contingency at the end of Fiscal Year (FY) 2012-13.

**ORDINANCE BOOK NO. 29 - PAGE 19**

**S. ORDINANCE NO. 4296 - BUDGET AMENDMENT TO ACCEPT ENERGY EFFICIENCY REBATES FROM DUKE ENERGY PROGRESS**

Summary: The consideration of a budget amendment, in the amount of \$11,229, from Duke Energy Progress for energy efficiency rebates.

The funds received are from Duke Energy Progress for the ongoing energy efficiency retrofits across the city, such as lighting improvement, and will be used to augment the Green Capital Improvement Plan, and also to provide resources for the Chief's Energy Challenge – an Asheville Fire Department initiative to reduce energy usage at fire stations that Sustainability is assisting with.

The \$11,229 will be used as revenue to further fund energy programming.

City staff recommends City Council accept \$11,229 from Duke Energy Progress for energy efficiency rebates.

**ORDINANCE BOOK NO. 29 - PAGE 21**

**T. ORDINANCE NO. 4297 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF NORTH CAROLINA STATE DRUG SEIZURE FUNDS FOR ELECTRONIC MONITORING, SURVEILLANCE EQUIPMENT AND FORENSIC SOFTWARE FOR THE ASHEVILLE POLICE DEPARTMENT**

Summary: The consideration of a budget amendment, in the amount of \$28,000 to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of electronic

monitoring and surveillance equipment and forensic software to aid in criminal investigations of motor vehicle theft, vehicle breaking and entering thefts, and other crimes investigated by the Asheville Police Department.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

The City of Asheville Police Department has received \$28,000 in North Carolina State drug seizure funding. This amendment will authorize the use of that funding to fully fund the purchase of electronic monitoring and surveillance equipment and forensic software not covered by the APD operating budget. This equipment is related to vehicle theft and cellular device data recovery.

Pros:

- North Carolina State drug seizure revenue used to purchase electronic monitoring and surveillance equipment and forensic software at no cost to city taxpayers.

Cons:

- None

The increase of \$28,000 for purchasing electronic monitoring and surveillance equipment and forensic software. Accepting and allocating these funds is a financial benefit to the APD allowing us to better equip our employees. There is no immediate impact to the General Fund budget. There will be minimal future maintenance costs (\$500-\$1,000).

City staff recommends City Council adopt a budget amendment in the amount of \$28,000 authorizing the use of North Carolina State Drug Seizure Funds to purchase electronic monitoring and surveillance equipment and forensic software for the Asheville Police Department.

#### **ORDINANCE BOOK NO. 29 - PAGE 23**

#### **U. ORDINANCE NO. 4298 - BUDGET AMENDMENT FOR OUTSIDE LEGAL SERVICES**

Summary: The consideration of a budget amendment in the amount of \$95,000 from unassigned fund balance to appropriate funding for outside legal services that have exceeded the initial budget.

The City Attorney Office's adopted FY 2013-14 budget included \$30,000 in funding for outside legal services. In a typical year, this level of funding provides adequate resources to meet the City's outside legal counsel expenses. In the current fiscal year, however, the City has had to engage additional outside legal counsel due to staff turnover in the City Attorney's Office and a higher than normal case load. As a result, expenses for outside legal services have exceeded the adopted budget. Staff estimates that an additional \$95,000 in budget is needed to meet outside legal expenses for the current fiscal year. The budget amendment appropriates \$95,000 from unassigned fund balance to meet this need.

Pro:

- Provides budget authorization for FY 2013-14 outside legal expenses.

Con:

- Requires an appropriation from unassigned fund balance.



This budget amendment includes the appropriation of \$95,000 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. To date this fiscal year, Council has approved the use of \$205,000 in unassigned fund balance from the General Fund. With this additional \$95,000 fund balance appropriation for the budget amendment and the \$300,453 fund balance appropriation associated with a separate budget amendment on this same meeting agenda, the City will have appropriated a total of \$600,453 from unassigned fund balance in the current fiscal year. Unassigned fund balance will still be approximately \$1.7 million above the 15% policy target.

City staff recommends City Council approve the budget amendment in the amount of \$95,000 from unassigned fund balance to appropriate funding for outside legal services that have exceeded the initial budget.

#### **ORDINANCE BOOK NO. 29 - PAGE 25**

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 Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

#### **ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

##### **B. RESOLUTION NO. 14-43 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF ASHELAND AVENUE AND SETTING A PUBLIC HEARING ON APRIL 22, 2014**

At the request of Councilman Pelly, Vice-Mayor Hunt moved to recuse Councilman Pelly from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Wisler and carried unanimously.

Summary: The consideration of a resolution of intent to permanently close a portion of Asheland Avenue and setting a public hearing on April 22, 2014.

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

Pursuant to this statute, adjoining property owners, 86 Asheland, LLC have requested the City of Asheville to permanently close a portion of Asheland Avenue

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of a portion of Asheland Avenue.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Asheland Avenue and set the public hearing on April 22, 2014.

Councilwoman moved for the adoption of Resolution No. 14-43. This motion was seconded by Councilman Bothwell and carried unanimously (with Councilman Pelly being recused).

## **RESOLUTION BOOK NO. 36 - PAGE 92**

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

#### **A. AMERICAN WATERWORKS ASSOCIATION VALUE OF WATER CAMPAIGN**

Director of Water Resources Steve Shoaf said that the American Water Works Association (AWWA) has launched a "Value of Water" campaign. The purpose of the campaign is to increase people's awareness of the ways that water impacts their lives. The City of Asheville Water Resources Department will be engaging AWWA materials to help further the understanding of the importance of water to our community.

The AWWA has promoted several awareness campaigns. Two that were recently promoted were "Water is Life" and "Only Tap Water Delivers". The new campaign is intended to illustrate the "Value of Water" by linking the importance of water to some very common uses.

Water industry professionals worldwide are paying close attention to the effects of climate change. Topics frequently associated with the impact of climate change are water shortage and drought. Recently, large areas of the United States have experienced drought. Regardless of whether you ascribe to the arguments related to global warming and climate change, the importance of preparing for water supply shortages is recognized by all water systems.

Past decisions by community leaders have prepared the City of Asheville to meet the challenges to provide safe, reliable water. The City of Asheville Water Resources Department has taken several steps to prepare for water shortages and drought. The Department engaged consultants to assist in developing a Water Shortage Response Plan that provides operational guidance based on the status of our water supply. The Department is currently engaged in an initiative to identify causes of water loss and conduct annual water audits to quantify and benchmark our Non-revenue Water. Our ISO 14001 certification is also aimed at protecting the environment and precious resources like water.

The Asheville community is engaged in conserving and protecting our resources including water. The "Value of Water" campaign is intended to reinforce the community's link to water as it relates to our quality of life and the economic well-being of our citizens. As a reminder of this link, I have provided you with a coffee mug with the slogan "No Water No Coffee". The Water Resources Department will be distributing mugs in City Hall in hopes that employees and visitors will see the connection of water and the quality of their life.

At present, there is no fiscal impact. The AWWA awareness campaign is beneficial for water systems throughout North America.

This staff report is for informational purposes. No action is required.

### **IV. PUBLIC HEARINGS: None**

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

**A. MOTION APPROVING A REQUEST FOR QUALIFICATIONS/REQUEST FOR PROPOSALS PROCESS FOR CITY-OWNED PROPERTY AT 68-76 HAYWOOD STREET**

Economic Development Director Sam Powers said that this is a review of city owned property located at 68-76 Haywood Street and PED Committee recommendation for redevelopment for economic development purposes.

This staff report offers a brief history of the site and a review of the previous RFQ/RFP process utilized for the site. At their February 18, 2014, meeting, PED Committee considered the disposition methods available to local governments in North Carolina, considered options available for the site, and recommended an economic development use of the property through a negotiated sale with an RFQ/RFP process for the subject property.

1. **Background.** The subject property consists of approximately 3/4 of an acre located on the southern side of the intersection of Haywood Street and Page Avenue in downtown Asheville. The U.S. Cellular Center, Vanderbilt Apartments, and Pack Memorial Library are across Haywood Street to the east. Property owned by the Catholic Church, currently vacant, is located immediately across Page Avenue to the North, slightly beyond that, and across Haywood Street, as it curves to the west is St. Lawrence Basilica. The Battery Park Apartments are across Page Avenue to the west. Immediately adjacent to the South are building in various commercial and office uses. The Grove Arcade is located to the south and west. The property is traversed by Battery Park Alley, running north to south.

The City acquired this property in several transactions occurring during 2001 to 2004 in connection with a parking facility that was planned but not built. The property was to be used initially for staging for the parking deck construction. Upon completion of the parking deck, the property was to be developed for commercial or mixed use purposes.

2. **Previous Process.** In 2005-06, City Council asked staff to undertake a review of all city owned property that could be considered for redevelopment to help achieve Council strategic goals, including creation of workforce and affordable housing, higher and better uses of property, returning public property to the tax base, quality job creation, private capital investment, and development of public-private partnerships. After an extensive staff and Council review, the list of properties was narrowed to three sites, all of which were considered "low-hanging fruit" with fewer impediments to redevelopment. The 68-76 Haywood Street site, along with the Parks Maintenance site on Hilliard Avenue, and the Eagle-Market Street sites were the three sites selected. The City also retained a national real estate consulting firm to conduct an overview of the market conditions and to provide recommendations on appropriate development opportunities for each site.

In 2007 – 2008, the City undertook a two-part process; an RFQ process to prequalify potential developers, and after the prequalified developers were selected, an RFP which solicited proposals from developers for the development of the subject property. In February of 2008, the City selected the proposal submitted by McKibbon Hotel Group ("MHG") for a 140 room hotel as the one with which it wished to proceed. The proposal was revised to delete public parking at the request of adjacent property owners and City Council and resubmitted in September of 2008.

The timeline from 2009-2011 included numerous interactions with PED, City Boards and Commissions, RENC1, and the public during the development for the Downtown Master Plan. There was also mutual agreement between City Council and McKibbon Hotel Group to prioritize development efforts on a public/private partnership to construct a city parking deck and private hotel project at 51 Biltmore Avenue, which had been identified in the city's parking study as a top location for development of public parking, but which had been

previously unavailable for redevelopment. There was mutual agreement that 68-76 Haywood Street would proceed after 51 Biltmore was complete.

In December 2011 the City received an unsolicited offer to purchase the subject property from the Catholic Diocese of Charlotte. The City spent the next several month reviewing the process, and in August 2012 confirmed the city's position and entered into an agreement with MHG to purchase the property and undertake a due diligence period prior to execution of the option. During this period, a lawsuit was filed against the MHG and City. The lawsuit was later withdrawn by the plaintiffs, but MHG has maintained the right to continue the proceedings to recover damages they consider incurred as a result of the suit. MHG in late 2013 notified the city, as allowed in the purchase agreement, that they would not purchase the site.

3. **Disposition Process.** North Carolina General Statutes control the procedures for selling city-owned property, which make several competitive methods of sale available to cities, as well as negotiated sales for certain public purposes. Public methods of sale include upset bids, sealed bids and public auctions. The City of Asheville has most often utilized the upset bid method, although most of those sales have been for small parcels of property. A brief summary of the methods is as follows:
  - a. Public Auction - After advertisement at least 30 days prior to the sale, a public auction may be conducted. City Council may accept or reject the highest offer within 30 days after the sale.
  - b. Sealed Bid - The property is advertised for sale not less than 30 days before a scheduled bid opening, a bid deposit of not less than five percent is required, and the highest responsible bid must be accepted unless all bids are rejected.
  - c. Upset Bids - The process begins when a bid is received whether unsolicited, the result of negotiations or in response to a solicitation for bids. If City Council proposes to accept the bid, the bid is advertised for upset bids. For a period of 10 days after the advertisement, a sealed upset bid may be submitted. If at the end of the 10 days, an upset bid is received, the new bid becomes the current high bid and the process is repeated. This continues until no upset bids are received. A bid deposit of not less than 5 percent is required. Once a final qualifying offer is received, Council must either accept or reject it.
  - d. Economic Development Property - The statute pursuant to which the City proposed to sell the Subject Property to MHG was N.C.G.S. 158-7.1, which authorizes the sale of property by private negotiation and sale for economic development purposes. In order to dispose of property pursuant to this provision, the City must first hold a public hearing with advertised public notice.
    - i) Consideration/Fair Market Value - Another requirement of the statute is that the consideration for the property cannot be less than the fair market value, subject to the conditions placed on the property. An appraisal prepared by Francis Naeger, MAI, dated March 9, 2012, established the value of the property at \$2,526,000. This appraisal was performed with the following assumptions: (1) The existing parking garage ( 68 Haywood Street ), restaurant building ( 76 Haywood Street ), and office building ( 33 Page Avenue ) have been demolished and removed, (2) The public alleyway located in between the four separate parcels has been relocated to the southern border of the parcels (exiting onto Page Street) to allow for a contiguous site, and (3) The development potential of the property is subject to certain limitations as to the use of the property and the height of the new structures. MHG had offered \$2,526,000 for the Subject Property, subject to a capped reimbursement from the City for the expense of the demolition and removal work that the appraisal assumes has been done. A new appraisal was performed in October 2012 by Kevin Rimbault, MAI of the Marwin Group. This appraisal was subject to the same set of assumptions, and suggested a fair market value of \$2,600,000.
    - ii) Economic Development Purpose - Another requirement of the statute is that the conveyance of the property must be consistent with the economic development

purposes of the statute, which specifically include commercial and business uses, or otherwise in the public interest. There are some specifics in the statutes that must be met.

Economic development/planning considerations.

*Consistency with economic plans.* Development of the Subject Property is consistent with the City's economic development plans and the economic development purposes of the statute.

City's 2025 Plan states (p.71) that promotion of infill development ...is absolutely essential in addressing the tax equity, tax base enhancement, and Smart Growth development goals of the City.

Goal VIII of the Economic Development Chapter of the City 2025 Plan (p. 203): Create an inventory of property suitable for development or redevelopment for targeted industrial and commercial uses and implement a program to encourage development or conversion to these uses.

City Council in Nov 2006 agreed to make clearly known and that responders clearly understand that their opportunity to obtain City-owned property for development is dependant on their prior experience and success in meeting similar goals in other situations:

- Consistency with City Plans or policies, including Smart Growth and environmentally friendly/green building development practices
- Place-making design that complements our unique downtown business and residential communities and takes constructive public input into consideration
- Provision of strategically sited public parking
- Ability to accommodate all modes of transportation
- Potential for significant tax base enhancement
- Potential to promote new or revitalized entertainment venues

Downtown Master Plan.

The Downtown Master Plan indicates a need for new development downtown, stating (p. 19) that "...excellent compatible infill projects within the historic fabric must be a high priority," and that "there is a need for a new focus on larger, more complex projects targeted to sites in the traditional Downtown...". The Plan places this site in the "Traditional Downtown District." It states (p. 68) that in this area "thoughtfully designed new buildings are appropriate..." and that "continued investment in existing and new buildings is necessary for the District to continue to thrive." It further states that "Adding appropriate new development on Haywood can help existing properties - historic or not – gain value." This area is a designated "Intermediate Height Zone", which would allow a 12-13 story building on the site. All projects proposed in the downtown area also have a number of architectural requirements to improve the compatibility of new projects with the existing building fabric. These requirements include windows and doors along street frontages, a building setback at between two and four stories and for taller structures a reduction in the scale of the building tower to assure light and air, improve views and limit shadows.

The site is near a designated "gateway" point – indicated on the page 67 map as being at the intersection of Haywood and O.Henry and the off and on ramps to 240. The Parks and Greenways map in the Appendix (S3-29) notes a recommended park for the tip of that intersection, across from the Basilica (north of the recommended redevelopment site). At some point in time a reconsideration of the street alignments in that area, developed in cooperation

with all landowners, could result in more graceful intersections, pedestrian amenities, and the potential for the type of “pocket park” envisioned on the Parks and Greenways map.

- (iii) Conditions/Development Agreement. Council may direct that certain conditions be placed on the property intended to ensure that development there meets the economic development purposes for which it is being sold. These could include some broad design criteria. The contract to be signed by the parties could include a development agreement whereby the purchaser would prepare and submit a development schedule, to include the process for performing due diligence work, getting zoning and building approvals, and obtaining financing.
- (iv) Other Issues. Depending of the size of any development, a project might or might not come to city council for approval. Nevertheless, the City owns the property, and may exercise design control through restrictions or covenants in connection with the sale of the property.
- Design Control - There are two main vehicles for doing this: (a) deed restrictions; and (b) contractual provisions. Deed restrictions should include conditions, such as the use of the property and broad dimensional restrictions, that are not likely to change, and may be necessary to ensure that the property is used for the purposes for which it is sold. The contract for the purchase and sale of the property covers such basic terms as price, description, and due diligence requirements. It will also specify a design preparation and review process - - following the UDO - - that will result in an approved final design for the project. The final design approval will be incorporated into a development agreement for the property. The property will then be conveyed for development in accordance with the agreement.
  - Financial Assurance - It is difficult and prohibitively expensive to procure a guarantee of completion in a project of a large size and nature. Commercially reasonable practices include (a) obtaining a list of similar completed projects (b) a requirement for a commitment for financing from a recognized financial institution prior to closing; (c) evidence of satisfaction of financing conditions; (d) a requirement that construction be started by a certain date and completed by a certain date; (e) regular construction progress reports; (f) a right to repurchase the property if the project stalls or is abandoned; (g) a bond for removal or demolition of incomplete improvements, if necessary. It would be appropriate to include some combination of these provisions in a development agreement.
  - Damage to Surrounding Buildings - The subject property is near or adjacent to several historically significant and structurally sensitive buildings, notably St. Lawrence Basilica, the Grove Arcade, and the Battery Park Hotel, all of which are on the National Register of Historic Places. A development agreement could include a requirement for seismic monitoring.

When the City began the City-owned property redevelopment process it retained a real estate research consulting firm (RERC) to conduct an assessment of the market potential for the sites being considered for redevelopment. RERC's research focused on residential and commercial development including retail, office, hotel/hospitality, and multifamily residential product uses. While a detailed market analysis was not performed for each of the sites, RERC's work was intended to generally test the market support for redevelopment concepts based on prevailing market conditions. The purpose of this analysis was to provide an overview of the identified market sufficient to distinguish land uses and development program implications for the subject sites and to support the development of a real estate asset management strategy that made economic sense, reflecting the prevailing market environment and general economic conditions. The site analysis for 68-76 Haywood Street property suggested (but didn't limit)

market appropriate use for an upscale hotel (150 rooms), retail/limited office (10,000 SF), and structured parking.

The Downtown Master Plan, which included months of intense public input, identified the subject site as appropriate for thoughtful, dense development. The property has repeatedly been shown through independent appraisals to have significant fair market value. The removal of distressed buildings from the site removed one of the constraints for a potential purchaser of the property. Land assembly can be the most prohibitive component of urban development projects, and the offering of City owned property reduces risk of the developer and should promote increased response.

At their meeting on March 7th, the Downtown Commission received an update from staff on the PED recommendation, timeline and anticipated discussions regarding the process options for the site. The Commission unanimously passed a resolution, based on their purposes and powers as stated in Section 2-77 regarding advising City Council on downtown development, requesting that they be involved in the process of creating the RFP.

The most recent independent appraisal placed Fair Market Value of the property at \$2.6 Million. As part of the process, an updated independent appraisal would establish FMV. Additional substantial real estate and property taxes should be generated from development at the property.

At the February 18<sup>th</sup> PED Committee meeting staff sought PED direction for an appropriate process to achieve Council goals. PED considered two primary options based on the disposition methods available for local governments. The two options considered were:

(1) Negotiated Offer and Upset Bid - If the primary goal of Council is to return the property to the private sector, have limited conditions on the sale, generate substantial income from the disposition which would be used to further community and economic development goals, staff recommends marketing the property for an upset bid sale. Prior to advertising the property for sale, Council would establish the terms of sale (e.g. minimum price, amount for deposit, conditions of sale, timeline for closing). In accordance with the general statutes, this method of sale is designed to yield the highest and best return on the property, and as such a local government may not restrict by deed the uses to be made of the property if the restrictions will depress the price offered for the property. A notice representing the terms of sale would be published online and in the local newspaper. Council may direct staff to contract with a private real estate broker to perform marketing services and negotiate offers for the property. Any formal qualifying offer that meets the terms of sale would initiate an upset bid process, with the final bid being subject to Council approval. Council retains the right to withdraw the property from sale at any time and reject any and all bids that were not in the city's best interest.

(2) Request for Qualifications and Private Sale through Economic Development statute – If the primary goal of Council utilize the property to promote a greater Economic Development purpose, generate fair market value for the property and have greater input over the commercial/business use, then Council may elect to sell the property under the Economic Development Statute. This process requires that the property be sold at Fair Market Value and other requirements as previously discussed. A common method to solicit interest in purchasing property via this process is through a Request for Qualifications/Request for Proposals process. Once qualifications have been reviewed, a subset of fully qualified developers may be invited to submit a proposal for development within the context of the economic development purpose. The proposals would be evaluated and an offer would be negotiated with the developer deemed most responsive to RFP. When the offer is ready to be presented to Council, a public hearing is held on the conveyance. After the hearing is complete, Council may proceed with the transaction.

After discussion at the PED meeting, and public input from attendees at the meeting, PED voted 3-0 to recommend to City Council that the City Manager be authorized to proceed with development of an RFQ/RFP process for disposition of the property. Staff recommends confirmation of the PED recommendation for an RFQ/RFP process for this property.

Mr. Powers stated that the Downtown Commission adopted the following resolution at their March 14, 2014, meeting: "Whereas, the Downtown Commission met on Friday, March 14, 2014; and Whereas, the discussion of the disposal of buildings known as the Handi-Park and Flying Frog and the process for future development on this site was discussed; and Whereas, the Commission expressed their interest in being involved to the extent described in their purposes and powers of organization (Section 2-77), in the future decisions for the property. Therefore; the Commission voted that should City Council move ahead with the sale of the property, that the Downtown Commission should be involved in the process to develop the request for qualifications/ proposals (RFQ/P) for the property based on the design guidelines for downtown and the purposes and powers assigned to the Downtown Commission."

In response to Councilman Bothwell, Mr. Powers said that there has been no study regarding the comparable tax value of a park vs. adjacent residential parcels.

Mr. Powers responded to Councilwoman Wisler when she asked about how the RFQ/RFP process would work, noting that there will be a number of steps involved, but that staff would follow the process they undertook before for this property with an updated market assessment and an updated appraisal. At the RFQ stage, he felt we would want to involve groups, like the Downtown Commission who would be appropriate in some of the stakeholder meetings and public information sessions, and possibly use the Downtown Commission to review the statements of qualification and looking at the criteria that would be used to pre-qualify firms.

When Councilman Pelly asked if we would limit our RFP to non-hotel proposals, Mr. Powers said that after the market assessment is updated, that would determine whether additional hospitality might or not be an appropriate use on that site.

Councilman Smith said that since we have in place a policy regarding requirements in our economic incentives, he would be interested in learning more about how a similar requirement would look in this sort of arrangement.

Vice-Mayor Hunt moved proceed with an RFQ/RFP process for the City-owned property at 68-76 Haywood Street, with the following preferences (allowable under the law) to help our development partners understand the specifics of what the City leadership is interested in: (1) that the development must support the goals of the Downtown Master Plan; (2) that the project preferably be developed for expanding the tax base; (3) that the street level of the project incorporate uses that adds a vibrancy and public activity on the streets; (4) that the development move forward in the near term and that we avoid partnering with a developer that would acquire the property with a view that they may develop it multiple years down the road; (5) that the development would compliment the use of the U.S. Cellular Center; (6) that the development would protect and respect the Basilica and the Basilica's architecture; and (7) that the development favor the creation, along with the development of a publicly-accessible plaza, and that in order to achieve the plaza, that a public-private partnership be pursued to make that economically feasible. This motion was seconded by Councilman Smith.

Councilman Bothwell felt that inclusion of some type of plaza for this space is a good ideas. He felt that Council should set a referendum for November on whether voters want a city park on this property.

In response to Councilwoman Wisler, it was the consensus of Council to have the RFQ be brought back to City Council for final approval.



Mr. Henry M. Harris felt that the property should be some type of park as it is a valuable piece of public space.

Ms. Rebecca Hecht, member of the Downtown Commission, urged City Council to pause until they have a broader conversation about this property, noting that she felt a hotel is not the highest use of the property. If the property is sold, she would like to see the money go into workforce housing or back into the Parking Enterprise Fund.

Mr. Timothy Sadler wanted to see something family-oriented on that property.

Mr. Jonathan Wainscott urged Council to consider replacing the \$2 Million investment into the Asheville Art Museum and donating this property instead.

The motion made by Vice-Mayor Hunt and seconded by Councilman Smith carried on a 6-1 vote, with Councilman Bothwell voting "no."

## **VI. NEW BUSINESS:**

### **A. RESOLUTION NO. 14-53 - RESOLUTION ADOPTING REVISIONS TO THE TRAFFIC CALMING POLICY AND ADOPTION OF AN ACTION PLAN FOR THE CURRENT FISCAL YEAR'S REGULAR CAPITAL IMPROVEMENT PLAN FOR TRAFFIC CALMING PROJECTS**

Interim Public Works Director Ken Putnam said that this is the consideration of a resolution revising the Traffic Calming Policy and adopting an action plan for the current fiscal year's regular Capital Improvement Plan for traffic calming projects.

Staff from various internal departments has been meeting on a regular basis to discuss and suggest changes to the Traffic Calming Policy in anticipation that construction funding would be restored in the future. In the adopted budget for FY 2013-14, \$100,000 has been approved to begin to address the "backlog" of traffic calming projects.

Staff initially provided the subject information to the Public Safety Committee on June 24, 2013, with a recommendation that the committee accept the staff report and instruct staff to continue to meet with affected stakeholders and then come back to the Public Safety Committee. Staff has met with the Asheville Police Department (the Community Resource Officers), the Neighborhood Advisory Committee, and the Bicycle and Pedestrian Task Force sub-committee and has received valuable input that has been incorporated into the recommended changes.

The Traffic Calming Policy was approved by City Council on February 22, 2000, (Resolution # 00-39). It is important to note that the policy only addresses residential local and collector-type streets. Throughout the early years, projects were completed that resulted in the installation of traffic calming devices on several city-maintained streets. In addition, several projects have been completed involving private funding sources including conditions placed on developer led projects. Public funding has not been available since about FY 2006-07.

Since public funding has not been available for several years the suggested changes are primarily intended to maximize the funds as staff works through the "backlog" list. These changes include the following items:

- **The only traffic calming devices that will be considered include speed humps, speed cushions, and/or other low-cost treatments that might be developed.** During March 2008, City Council discussed traffic calming (a major traffic calming project was underway at the time) and suggested that due to limited financial resources and the overall controversial nature of traffic calming, it might be better to concentrate on lower cost treatments. That way more money could be used for the actual construction phase

instead of the design phase. All projects will still be designed and constructed following established engineering guidelines and policies such as the Institute of Transportation Engineers (ITE) recommended practice for the Design and Application of Speed Humps and Speed Tables and the city's engineering standards and drawings. Most stakeholders agreed with this approach especially in addressing the existing backlog of potential projects. Staff recommends this change.

- **Eliminate the 40% petition and substitute a structured neighborhood awareness campaign and education process that would last for a minimum period of six months.** Much effort is required by staff and the affected stakeholders to fully implement a traffic-calming project including involving the neighborhood in a public meeting process to help with the actual design. The subject change would provide a more positive approach towards that effort by encouraging an actual shift in driving habits and patterns. Simply signing a petition typically does not affect driving habits and patterns. In addition, the awareness campaign and educational process should solidify a community because they will be working together towards a common goal. Stakeholders expressed concern about the effectiveness of this type of program since many of the drivers live outside of a specific neighborhood. Staff recommends this change for all new projects (projects that are not included on the "backlog" list as of June 30, 2013).
- **Allow projects to be constructed with partial private funding that would be matched with public funding.** Currently, projects are either funded with 100% public or private funds. The change would enable communities to provide partial funding as an additional option. Stakeholders expressed concern that affluent communities would have an advantage over non-affluent communities. Staff recommends this change in order to provide more flexibility and to be able to "stretch" the available public funding.
- **Traffic calming devices will not be installed on city-maintained streets that are in areas of the city that the Asheville Fire Department Standard of Cover Performance is less than 90%.** It is critical for the city to maintain an adequate standard of cover performance for fire and medical emergency response and in areas where that -- performance would be negatively affected, traffic calming devices should not be installed. Staff recommends this change.
- **Allocate a maximum of 3% of the annual construction funds to be used for the neighborhood awareness campaigns and education processes as well as offsetting some of the operating budgets cost for low-cost alternatives prior to a traffic calming project (for example, signs, pavement markings, and pavement markers).** The city would provide the materials for a community to participate in the neighborhood awareness campaign and education process in order to maintain structure and consistency. The monies would be used for pamphlets, pledge cards, window stickers, etc. and appropriate signs. Stakeholders expressed mixed concerns with the subject change ranging from "it is worth trying it out" to "it would have very little impact on driver behavior". Staff recommends this change beginning in FY 2014-15 with the idea that it could be tested on one or two new projects (projects that are not included on the "backlog" list as of June 30, 2013).

Staff has developed the following action plan and is prepared to move forward once approved by City Council:

- City Council will consider the recommended changes to the traffic calming policy and the action plan on March 11, 2014.
- Staff will hold internal department meetings during March to be sure that the top five to seven potential projects on the "backlog" list do not have any major issues (all projects on the "backlog" list have been analyzed and are listed in priority based on the established "point" system).

- Staff will define the actual petition areas and prepare the maps and petition forms for the top five to seven potential projects for the 60% petition process during March and April.
- Staff will meet with the appropriate neighborhood groups for the top five to seven potential projects to review the proposed projects and to instruct them on the 60% petition process during March and April (the neighborhood groups will be responsible to obtain the appropriate signatures). It should be pointed out that since the “backlog” list is quite old, interest in traffic calming on some of the streets might have declined due to a variety of reasons. Staff will make every reasonable effort to work with the affected stakeholders including helping them to establish neighborhood groups before dropping a street from the “backlog” list.
- The contract and construction phase will occur during May and June and it is anticipated that \$100,000 will be obligated towards the top five to seven potential projects. At this time, it is uncertain if a single contract will be awarded or if multiple contracts will be awarded. In addition, staff does not anticipate that all of the work will be completed by June 30, 2014 (for the current fiscal year only) but that in future years, the work will be started and completed within the specific fiscal year. One of the unknowns is the 60% petition process and how long it might take to complete it. The top two streets on the “backlog” list (Bear Creek Road and Riverview Drive) will help staff determine how successful the overall process will be since they both have established neighborhood groups that are ready to move forward. Throughout the process, staff will constantly seek input from these neighborhood groups to determine what, if any, improvements should be made for the future projects.
- Staff will develop a structured neighborhood awareness campaign and education process including the appropriate materials during the first half of FY 2014-15 including input from the Asheville Police Department (the Community Resource Officers), the Neighborhood Advisory Committee, and the Bicycle and Pedestrian Task Force sub-committee.

This action was reviewed by the Public Safety Committee on June 24, 2013, and January 27, 2014, and it has received the committee’s endorsement. One committee member asked that the requirement for the 60% petition (petition required before moving to the construction phase) be lowered to 50% + 1. The committee agreed to forward this suggestion to City Council for review and consideration. It is very reasonable to conclude that traffic calming can be a controversial issue within a community. Typically, there are citizens who strongly favor traffic calming devices as well as citizens who strongly oppose them. As a result, most traffic calming policies that staff is aware of include a petition process with a higher threshold of support in order to demonstrate consensus for a specific project. Remember, the petition process only includes the actual properties that are directly affected for a specific project. When City Council approved the Traffic Calming Policy during February 2000, they lowered the recommended threshold of 70% to 60%.

The fiscal impact for FY 2013-14 is \$100,000 and the funds are included in the current budget. The fiscal impact for the neighborhood awareness campaign and education process and the low-cost alternatives beginning in FY 2014-15 is estimated to be about \$3,000 +/- per year based on an annual CIP total of \$100,000 (for traffic calming projects).

Staff recommends that City Council approve a resolution revising the Traffic Calming Policy and instructing staff to move forward with the action plan that is included as an attachment to the resolution. In addition, staff asks that City Council consider the request from the Public Safety Committee regarding the 60% petition requirement.

Mr. Rich Lee, west Asheville resident, felt that this traffic calming revision is long overdue, and thanked Council for making the process quick and easy and sustainable.

Councilman Pelly thanked staff for bringing these revisions forward. He was pleased that we are going to integrate a neighborhood awareness campaign and allow partial funding to help them.

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

Councilman Bothwell moved for the adoption of Resolution No. 14-53. This motion was seconded by Councilman Pelly and carried unanimously.

## **RESOLUTION BOOK NO. 36 – PAGE 105**

### **B. RESOLUTION NO. 14-54 - RESOLUTION REGARDING I-26 CONNECTOR**

Councilman Davis recognized and thanked the members of the committee that worked with him on pulling together consensus on this resolution: Vice-Mayor Hunt, County Commissioner Joe Belcher, County Commission Holly Jones, County Commissioner Brownie Newman, Julie Mayfield from the WNC Alliance, and several representatives from the N.C. Dept. of Transportation (NCDOT). He noted that the I-26 funding has not done well in the past as we were competing with loop funding. That changed last year and we now feel that this resolution benefits our community in a number of ways. He did note that Alternate 3c is not a perfect alternative, but it's the one that comes closest to getting funding and getting the job done. Backing the route is not a final decision, but would improve the chances of getting the road built soon. He noted that the Buncombe County Commissioners adopted this resolution last week.

Vice-Mayor Hunt noted that in December City Council adopted amendments to the City's Greenway Master Plan largely to make sure that certain elements of connectivity would be acknowledged by the NCDOT as the project moved forward. He said the resolution addresses the need to identify a funding amount for the competitive funding formula and that the project is still very much a work in progress.

Vice-Mayor Hunt then read the resolution as follows: "Whereas, traffic congestion and safety are increasing problems along 1-240 and I-26 through Asheville, a critical route for regional commerce and tourism; and WHEREAS, local and regional residents, visitors, interstate travelers and commercial freight haulers rely on this route in ever increasing numbers; and WHEREAS, improvements to the I-240 and I-26 corridor should be minimally disruptive to the local community and should enhance the quality of life for residents and visitors wherever possible; and WHEREAS, North Carolina Department of Transportation (NCDOT) in its planning of TIP Project I-2513 (the project), has indicated preliminary commitment to alternatives that, compared to earlier proposals, reduce relocation of homes and businesses, reduce sound impact through better deployment of sound walls and provide critically needed bicycle, pedestrian and neighborhood connectivity infrastructure consistent with local government master plans; and WHEREAS, the NCDOT and the Federal Highway Administration have expressed openness to consider design alternatives that reduce scale and cost of the project, including the number of lanes required, should upcoming traffic demand studies warrant and justify reductions; and WHEREAS, in the event that the selected design alternative does not include modifications to the I-240 infrastructure on the east side of the French Broad River to support urban redevelopment, improved connection of neighborhoods, and improvements to local traffic patterns; local governments will evaluate a separate future project through the French Broad River Metropolitan Planning Organization (FBRMPO) to address those concerns; and WHEREAS, various detailed alternatives for design and implementation of the project are to be fully evaluated and provided to decision makers for formal consideration as required under the National Environmental Policy Act in the Environmental Impact Statement in the coming months; and local leaders, working rough the FBRMPO, can only then provide their final endorsement of any alternative; and WHEREAS, the City of Asheville, in its five-year capital improvement plan, has designated \$1 million in co-funding for the project to support critically needed community-connectivity features; and WHEREAS, members of the community have expressed their strong preference that the project soon be funded and constructed in a way that solves current congestion and safety problems while mitigating negative project impacts and addressing community needs; and WHEREAS,

NCDOT is conducting preliminary cost benefit evaluations of similar projects statewide under the Strategic Prioritization Process to establish specifically which projects will be eligible for near-term funding of design and construction under the recently adopted Strategic Mobility Formula. THEREFORE BE IT RESOLVED by the Board of Commissioners for the County of Buncombe and the City Council of the City of Asheville, as follows: That the Board of Commissioners for the County of Buncombe and the Asheville City Council, along with the FBRMPO, hereby recommend that for the purpose of the upcoming scoring and ranking process, NCDOT use the estimated cost of \$230 million associated with the preliminary 3c alignment alternative for the B section of the project; and, in preparation of the draft Environmental Impact Statement for the project, NCDOT clearly include elements that will address community needs for sound barriers and bicycle, pedestrian and neighborhood connections, including location, design, and the funding methodology of associated infrastructure elements.

Mr. Ricky Tipton, the NCDOT Division Construction Engineer, provided the timeline for the I-26 Connector as follows: (1) open house meeting in spring of 2014; New Draft Environmental Impact Statement - winter of 2015; (3) Public hearing - spring 2015; (4) Right of Way (section A) - late 2018 (10-year work plan); and (5) construction letting (Section A) - late 2020 (10-year work plan). He then showed a map of the differences of Alternate 3 vs. Alternate 3c. From Alternate 3 to Alternate 3c, residential relocations are down from 46 to 19 and the business relocations are about the same. The total cost for Alternate 3c is \$230,000,000, and the total cost for Alternate 3 was \$250,864,000.

In response to Councilman Bothwell, Mr. Tipton felt that Alternate 3c will have an impact to reduce the congestion westbound on the Bowen Bridge.

Councilman Davis felt it was significant to know that the NCDOT has been interested in helping us with the greenway pieces and that the City has set aside Capital Improvement Project funds to make those greenways and connectivity pieces come together. The City is stepping forward with actual dollars to help.

Mr. Tom Leavesley, business owner in Asheville, encouraged City Council to move this project forward.

Mr. Mike Bertrum, representing the Asheville Board of Realtors, said that any project that will offer more safety for motorists is a good thing. He felt that with a known plan, then people will know what real estate will be affected.

Mr. Rich Lee, west Asheville resident and member of I-26 Connect Us Project, felt it was premature to endorse an alternative prior to the Environmental Impact Statement. He felt that endorsing the least expensive alternative creates a risk that the community will be locked into that alternative.

Mr. Alan McGuinn, representing the Asheville Design Center, provided Council with a statement regarding the I-26 resolution. In summary, they "are concerned that the new formula for ranking statewide projects favors the least expensive alternative over other important design requirements that will impact our community for years to come. Alternatives for the project should be based on fulfilling programmatic requirements first, then the project can be refined to address budgetary constraints." They suggested withholding any recommendations prior to the completion of the Environmental Impact Statement.

Mr. Tom Muncy encouraged Council to adopt the resolution.

Mr. Nathaniel Cannady supported the resolution.

Mr. Matthew Burril felt it was time to get this project moving forward.

When Councilman Smith asked how the drawings will be shared with the public, Mr. Tipton said that the maps are on-line and that they will have very large detailed printed maps available at the public hearing.

Councilman Smith said that given the fact that no one wants a furtherance of the injustices done during urban renewal, he hoped that the NCDOT would incorporate the Burton Street Neighborhood Plan into future design characteristics of the construction and work with the community on the forced relocation process. Mr. Tipton responded how the NCDOT purchases right-of-way necessary to move forward with a project. They will offer a fair market value and then try to reach a negotiated agreement, noting that typically they settle in the high 90% of all their right-of-way takes through negotiation. For relocations, they look for comparable housing close to the area as possible and if there is not comparable housing within the same price range, there is assistance to help bridge the gap.

Vice-Mayor Hunt reiterated that the amount in the resolution is only for the purpose of ranking projects state-wide. After the draft Environmental Impact Statement is complete there will be another more fine-tuned number for each alternatives. He said we are not locking ourselves into some threshold dollar amount. Mr. Tipton agreed in that this is an estimate based on the knowledge we have today.

Councilman Bothwell agreed that everyone worked in good faith to move this project forward, however; he felt we are being told to opt for a much less expensive project, pointing out that this plan is a highway through Asheville, but it doesn't really address the issues Asheville has been seeking to address since 1992. There are social justice issues. This will also prevent making Patton Avenue into the boulevard that the Asheville Design Center envisioned. He felt that Asheville is not getting much from this project. He was resigned that this is what will probably go forward, but he didn't think it was the right thing for Asheville.

Mayor Manheimer talked to the N.C. Secretary of Transportation and highlighted the upcoming vote and the importance of this project to our community, but to also emphasize to him that one of the important components to Asheville that is included in this project is the bike/ped component and that our resolution would include language about that. She stated that the N.C. Secretary of State supported multimodal transportation, and was encouraged by his support for a more modern view of transportation.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-54. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

#### **RESOLUTION BOOK NO. 36 – PAGE 107**

#### **C. RESOLUTION NO. 14-55 - RESOLUTION ADOPTING A POLICY FOR NAMING CITY OF ASHEVILLE STRUCTURES**

Fire Chief Scott Burnette said that this is the consideration of a resolution adopting a policy for naming City of Asheville structures for employees who die while carrying out their duties for the City of Asheville

The City of Asheville does not currently have a written policy for naming a publicly owned property in honor of those that have served. There are numerous properties owned by the City of Asheville that do have this distinction. Examples are; 300 Merrimon Ave is now named the Harley E. Shuford Building, 161 South Charlotte is named the William F. Wolcott Jr. Building, and there are several parks and ball fields named to honor those that have served.

On February 24, 2014, the City Council Public Safety Committee reviewed this request and unanimously supported it.

Development of the policy would be of minimal fiscal impact. Fiscal impact of the actual naming would be determined on a case by case basis and would be included within each individual request to name a City of Asheville owned facility.

Staff recommends that City Council adopt a policy for naming City of Asheville structures for employees who die while carrying out their duties for the City of Asheville

Councilman Davis said that this is only a guideline reserved for extraordinary occasions, like loss of life on duty.

Vice-Mayor Hunt moved to adopt the policy with the following deletion: "The suggestion shall be in writing, and if the suggestion is from a member of the public, it must be supported by thirty (30) or more registered voters of the City, as evidenced by their signatures on the request. Upon receipt of a naming request or upon a consensus of the Council to name a particular property or portion thereof, the Council shall make an announcement at a schedule public hearing. So as to provide for an opportunity to receive input from appropriate sources, the Council will delay making a decision until the next regularly scheduled meeting, at the earliest." He felt that the language reads that any 30 people want to name public property after anyone, that they can bring that forward and that Council must vote on it. He felt it would be better to simply say that "Any proposal from the public or otherwise, can bring their request forward to either the Mayor or City Manager or any three members of Council, as is the normal process for placing items on the agenda." This motion was seconded by Councilman Smith.

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.

The motion made by Vice-Mayor Hunt and seconded by Councilman Smith carried unanimously.

## **RESOLUTION BOOK NO. 36 – PAGE 109**

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

Mayor Manheimer noted that at Council's special meeting on March 18, 2014, City Council adopted (1) a resolution in memory of Senator Martin L. Nesbitt Jr., and (2) a resolution in memory of Laurey Masterton.

Mr. Timothy Sadler felt that Asheville should be a leader in customer service in the Development Services Center and encouraged customer service training for the staff in that Department.

### **Closed Session**

At 7:19 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The 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); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:22 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 8:22 p.m.

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CITY CLERK

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MAYOR