

Tuesday – August 26, 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; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized (1) Roger Massey whose actions played an important part in saving the homeowner's life by ensuring her safety; (2) Chris Coral who received one of only 10 scholarships awarded by the International Association of Venue Management (IAVM); (3) Karen Moss, Secretary Senior in the Public Works Department, received the North Carolina Chapter of American Public Works Association Solid Waste Division, 2014 Herman Drake Award; (4) Mark Foster, Jonathon Coates, Frank Stroupe, Bobby Hensley, Tim Bass, Bernard McDowell, Eric Suhren and Kirby Howell, who participated in the High Point, North Carolina, ice storm cleanup crew; and (5) Officer Ervin Hunter, Officer Scott Fry and Officer James French, who with their quick, decisive and brave actions eliminated the opportunity for the suspect to perpetrate any harm to the staff and citizens in the Asheville Mall.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING SEPTEMBER 8-12, 2014, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Manheimer read the proclamation proclaiming September 8-12, 2014, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to Mr. James Lee, and other Minority Enterprise Development Board Members, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 22, 2014

B. RESOLUTION NO. 14-171 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL ON AUGUST 31, 2014

RESOLUTION NO. 14-172 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY CUP EVENT ON AUGUST 31, 2014

RESOLUTION NO. 14-173 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL ON SEPTEMBER 12-13, 2014

RESOLUTION NO. 14-174 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE DOG DAY AFTERNOON EVENT ON SEPTEMBER 28, 2014

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Lexington Avenue Arts & Fun Festival on August 31, 2014; Beer City Cup on August 31, 2014; Goombay on September 12 & 13, 2014; and Dog Day Afternoon on September 28, 2014.

- Arts 2 People has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at Lexington Avenue Arts & Fun Festival and allow for consumption at this event.

Lexington Avenue Arts & Fun Festival will be held on Sunday, August 31, 2014 from 11:00 a.m. – 9:00 p.m. at Lexington Avenue, Walnut Street & Hiwassee Street.

- WNC Soccer Foundation has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Beer City Cup and allow for consumption at this event.

Beer City Cup will be held on Sunday, August 31, 2014, from 9:00 a.m. – 11:00 p.m. at Memorial Stadium as per the event area limits.

- YMI Cultural Center has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Goombay and allow for consumption at this event.

Goombay will be held on Friday, September 12, 2014, from 2:00 p.m. – 10:00 p.m. and Saturday, September 13, 2014 from 10:00 a.m. – 10:00 p.m. at Pack Square Park.

- Asheville Humane Society has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Dog Day Afternoon and allow for consumption at this event.

Dog Day Afternoon will be held on Sunday, September 28, 2014, from 1:00 p.m. – 5:00 p.m. at Carrier Park as per the event area limits referenced.

Pro:

- Allows fundraising opportunities for Arts 2 People, WNC Soccer Foundation, YMI Cultural Center, and Asheville Humane Society

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Lexington Avenue Arts & Fun Festival, Beer City Cup, Goombay, and Dog Day Afternoon.

**RESOLUTION NO. 14 -172 - RESOLUTION BOOK NO. 36 - PAGE 294
RESOLUTION NO. 14-173 - RESOLUTION BOOK NO. 36 - PAGE 297
RESOLUTION NO. 14-174 - RESOLUTION BOOK NO. 36 - PAGE 300**

C. RESOLUTION NO. 14-175 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 14, 2014, TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE SOUTH SLOPE

RESOLUTION NO. 14-176 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 14, 2014, TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE RIVER ARTS DISTRICT

RESOLUTION NO. 14-177 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 14, 2014, TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR NORTH CHARLOTTE STREET

Summary: The consideration of three resolutions to create three municipal service districts for the purpose of accelerating capital investment in the South Slope, River Arts District, and north Charlotte Street areas, and to set the public hearings for October 14, 2014.

The 2010 City of Asheville report titled "A Community Crossroads" recommended that a move toward more focused and strategic capital investments by the City could increase long term returns in community and economic development. In 2011 and 2012, staff began developing a long term Capital Improvement Plan strategy that aligned with Council's goals to support in-fill development, job creation, affordable housing, and multimodal transportation. This strategy or plan became known as the Economic and Community Development Capital Improvement Plan or EDCIP. To support the implementation of this plan, Council passed a three cent property tax increase in June 2013, two cents of which is reserved to implement the EDCIP.

Around the same time, the City contracted with Parker Poe and DEC Associates to review financing options and strategies that would leverage the taxpayers' new investment in EDCIP projects. While several types of debt financing are available, staff found that only a few are appropriate and allowable for the type of improvements the City wants to make. One option that the City has not previously utilized is the Special Obligation Bond (SOB). The benefit of financing CIP investments with SOBs is that they are appropriate for key infrastructure investments such as the River Arts District Transportation Improvement Project (RADTIP), and that they are an established best practice within municipalities across the state. Projects that are financed through SOBs must be located in a municipal service district as outlined in Article 23 of Chapter 160 A of the North Carolina General Statutes.

To identify potential districts, staff considered mixed use areas where proposed public infrastructure investments would be most likely to find leverage in private investment (thus creating the most economic and community development return); staff has identified the South Slope, River Arts District, and north Charlotte Street areas as potential municipal service districts, also referred to as Innovation Districts.

If Council desires to move forward with the process, the next step is for Council to set public hearing dates for each proposed municipal service district. On May 13, 2014, City Council directed staff to prepare a report for the creation of a Municipal Service District for this area.

The Planning and Economic Development Committee of Council reviewed this item at their March 2014 meeting and asked staff to move the item forward for Council consideration.

Pros:

- Adoption of three resolutions provides further direction to staff and advances the process for Council's consideration of adopting three municipal service districts forward.

Cons:

- None

The use of Special Obligation Bonds (SOB's) is a key financial component of the City's Economic and Community Development Capital Improvement Plan or EDCIP. The financial model being developed in conjunction with Parker Poe and DEC Associates uses revenue from the three cent property tax increase mentioned above, along with resources already dedicated to the City's existing debt service budget, to fund all additional debt service that may arise from the future issuance of SOB's.

City staff recommends City Council set the public hearings for the creation of municipal service districts on October 14, 2014.

Ms. Judy Strong asked when these items come up for public hearings on October 14, 2014, that staff include information about how much the additional debt that may arise from the future issuance of Special Obligation Bonds.

**RESOLUTION NO. 14-175 - RESOLUTION BOOK NO. 26 - PAGE 303
RESOLUTION NO. 14-176 - RESOLUTION BOOK NO. 26 - PAGE 304
RESOLUTION NO. 14-177 - RESOLUTION BOOK NO. 26 - PAGE 305**

**D, RESOLUTION NO. 14-178 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO A CONTRACT WITH ADECCO USA INC. FOR
INFORMATION TECHNOLOGIES SERVICES CONTRACT EMPLOYEES**

Summary: The consideration of a resolution authorizing the City Manager to sign a renewal contract to Adecco USA, Inc. for contract staffing in the amount of \$95,000 for fiscal year 2015.

IT Services has outsourced contract employees for over three years to provide Help Desk and administrative staffing. An increase of \$12,000 from Fiscal Year 2014 due to a slight increase in regular staffing cost, plus additional on-call staffing, brings the contract to the City Council review threshold.

IT Services outsources or insources services based on service levels, flexibility, and cost. During the Fiscal Year 2012 budget process, staff worked with Finance and HR to determine staffing levels for systems analysis and programming as well as administration and Help Desk. Some level of outsourced staff was recommended at that time instead of bringing on new full time employees. As part of the Fiscal Year 2015 budget process, this practice was reviewed by ITS.

Pros:

- Continued service levels for Help Desk customers
- Continued service levels for administrative needs

Con:

- None noted

The total cost of \$95,000 was included and adopted in Fiscal Year 2014-2015 budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a new contract with Adecco USA, Inc.

RESOLUTION BOOK NO. 36 - PAGE 306

E. RESOLUTION NO. 14-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS WITH COPELAND HOLDINGS (CH) SECURITY SERVICES INC. FOR CITY HALL SECURITY

Summary: The consideration of a resolution authorizing the City Manager to execute change orders with Copeland Holdings (CH) Security Services, LLC up to \$61,185 for on-going contracted Asheville City Hall armed security guard services.

The City of Asheville entered into a contract with Copeland Holdings (CH) Security Services, LLC in 2012 to provide armed security guard services for City Hall. The term of the contract is April 9, 2012 through June 30, 2013 with annual options to renew through June 30, 2016. The City's Risk Management Division, which manages the contract, is requesting authorization to amend the contract to pay anticipated fiscal year 2015 expenses. Since the total cost of the contract will now exceed \$90,000, this resolution requests the Mayor and City Council to grant the City Manager authority to execute change orders to said contract up to the annual budgeted amount.

Pro:

- Continued service levels to safeguard City Hall, it's occupants and visitors

Con:

- None noted

The total Fiscal Year 2014-15 cost of \$68,000 was included in the adopted budget in the Risk Management Division of the Finance Department.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign change orders for Copeland Holdings (CH) Security Services, LLC.

RESOLUTION BOOK NO. 36 - PAGE 307

F. RESOLUTION NO. 14-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH Cavanaugh & Associates, P.A., FOR THE NON-REVENUE WATER MANAGEMENT CONTRACT

Summary: The consideration of a resolution to renew the contract with Cavanaugh & Associates, P.A., for the non-revenue water program.

On August 13, 2013, City Council authorized the execution of a contract with Cavanaugh & Associates, P.A., for the Non-revenue Water (NRW) Management project in the amount of \$151,925.00. The Water Resources Department has an annual non-revenue water rate of approximately 30%. In an effort to reduce this percentage, the department has been working with Will Jernigan at Cavanaugh & Associates, P.A., to provide feedback and guidance on the department's Non-revenue Water (NRW) Program and Water Audit.

In the past year, Cavanaugh & Associates has helped Water Resources conduct a water audit and reduce water loss by approximately 10%. The renewal of this contract will continue the NRW program for another 13 months and focus on performing another Annual AWWA M36 Water Audit and continuing NRW Program Implementation and Support to include: (1) refining and advancing proactive leakage management practices; (2) refining and advancing proactive meter management practices; (3) making improvements to high-revenue customer meter assemblies for testing and maintenance purposes; and (4) developing long-term pressure

management strategies for pilot areas. Water Resources staff need continued guidance over the next 13 months to complete development of a comprehensive NRW Program that will continue to reduce the department's overall non-revenue water percentage. Contract renewal will cost the City \$93,520.00, which is in the Water Resources Operating Fund.

Pros:

- This project has helped reduce the department's water loss by approximately 10%. Completion of this project will continue to help the department reduce water loss.

Con:

- This action will add an additional 13 months of consulting to guide the Annual Water Audit and NRW Program Implementation. By doing so, Water Resources will have a more robust program.

Contract renewal funding is currently allocated within the Water Resources Operating Fund.

City staff recommends City Council authorize the City Manager to enter into a renewal contract with Cavanaugh & Associates for the non-revenue water program.

RESOLUTION BOOK NO. 36 - PAGE 308

G. RESOLUTION NO. 14-181 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH STEWART, INC., FOR THE FRENCH BROAD RIVER GREENWAY AND AMBOY BRIDGE CONNECTOR

Summary: The consideration of a resolution authorizing the City Manager to enter into a Professional Services contract with Stewart, Inc. for the development of the French Broad River Greenway and Amboy Bridge Connector for the City of Asheville.

The City is building a multi-use path, recommended in the Greenway Master Plan, in land that will be donated to the city by Duke Energy Progress, Inc. in the southwestern bank of the French Broad River. This greenway and the missing piece under the Amboy Bridge are connecting the French Broad River Park and Greenway with the Craven Street greenway, creating a continuous transportation corridor of approximately 4 miles.

The City issued a Request for Qualifications for Design and Construction Drawing Development for Various Greenway Connections and Transitional Corridors in August 2013. The RFP closed on October 11, 2013. Eleven proposals were received from the following firms:

1. Altamont Environmental, Inc., Asheville, NC
2. BWSC - Barge, Waggoner, Summer & Cannon, Knoxville, TN
3. Design Workshop, Inc., Asheville NC
4. Equinox Environmental Consultation and Design, Asheville, NC
5. Kaizen Collaborative, Atlanta, GA
6. LandDesign, Inc., Charlotte, NC
7. Leung Planning & Design, Atlanta-Decatur, GA
8. McGill Associates, PA, Asheville, NC
9. Milone & MacBroom, Inc., Greenville, SC
10. Stewart, Inc., Raleigh, NC
11. Vaughn & Melton Consulting Engineers, Asheville, NC (only bid on the greenway)

The evaluation committee recommended Stewart, Inc. as the firm to provide services for the design and construction drawings for these two projects. The firms were evaluated based on their experience, similar projects completed, team qualifications, and quality of proposal. Scope and cost were successfully negotiated with the recommended firm.

The project cost will be \$247,870.91 and \$2,129.09 in contingency. This plan will be completed in approximately 14 months after signing the contract.

A member of the Multimodal Transportation Commission has been part of the Evaluation Committee.

Pros:

- This project advances multi-modal transportation in the city and creates a network of continuous greenways of about 4 miles.

Cons:

- None noted.

The cost of the Design and Construction Drawings for the French Broad River Greenway and Amboy Bridge project will be approximately \$250,000. This project is already budgeted in the adopted FY 2014-15 CIP.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a general services agreement with Stewart, Inc. to develop the Design and Construction Drawings for the French Broad River Greenway and Amboy Bridge project for the City of Asheville.

RESOLUTION BOOK NO. 36 - PAGE 309

H. ORDINANCE NO. 4329 - ORDINANCE AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES TO REGULATE TRESPASS TOWING FROM PRIVATE PARKING LOTS

Summary: The consideration of amending Chapter 11 of the Code of Ordinances to the repeal of portions of Section 11-18(c1) of the Asheville City Code to comply with King v. Town of Chapel Hill, ___ N.C. ___, 758 S.E.2d 364 (2014).

1. King v. Town of Chapel Hill.

On June 12, 2014, the North Carolina Supreme Court issued an Opinion in King v. Town of Chapel Hill. Among other things, the King Court addressed the validity of certain provisions of the Chapel Hill's ordinance governing the towing of vehicles from private parking lots.

One of the provisions in the Chapel Hill towing ordinance which was addressed in King, allowed the Town Council to adopt a "fee schedule" which set the amount that towing companies could charge to vehicle owners (a "fee cap"). The Supreme Court held this provision to be unlawful. The Court held that there was; "no rational relationship between regulating fees and protecting health, safety or welfare. Further the fee schedule provision implicate[d] the fundamental right 'to earn a livelihood.'" 758 S.E.2d at 371. (quoting Roller v. Allen, 245 N.C. 516, 518-19, 96 S.E.2d 851, 854 (1957)). The Court stated that it could not construe N.C. Gen. Stat. § 160A-174 to permit the fee schedule because "[t]he prices that citizens pay for towing are wholly unrelated to the protection of citizen health, safety," or welfare. Id. at 371. "[B]y capping fees, the town inappropriately place[d] the burden of increased costs incident to the regulation solely on towing companies." See id. at 371. The Court concluded that Chapel Hill "exceeded its authority by imposing a fee schedule for nonconsensual towing from private lots," and declared these provisions unlawful. Id.

2. City of Asheville Ordinance and Policy.

Section 11-18 (c1) of the Asheville City Code (Ordinance Number 3728) governs “trespass towing.” “Trespass towing” is defined as the practice of towing, removing or storing a vehicle “that is parked or left on private property without the consent of the vehicle operator.” Section 11-18(c1)(2) states as follows:

(2) *Fees.* The fees for trespass towing services charged to the vehicle operator are subject to the following limitations:

- a. The fee for a completed tow (removal from a private lot) may not exceed \$100.00, and shall be all inclusive (herein "base fee").
- b. The fee for releasing vehicles as pursuant to subsection (3) below, may not exceed 50 percent of the base fee.
- c. The fee for storing a towed vehicle shall not exceed 25 percent of the base fee, and shall not begin to accrue until the vehicle has been stored at least 12 hours, beginning with the time of notification of the police.
- d. The fee for releasing an immobilized or "booted" vehicle shall not exceed 50 percent of the base fee.

Based on the analysis in King, the fee cap for towing in Section 11-18(c1)(2) appears to be unlawful and, thus, should be repealed. The remainder of Section 11-18(c1) is not impacted by the King decision.

In addition, there were some existing ambiguities in the enforcement provisions relating to the Trespass Towing ordinance, and we have used this opportunity to clear those up as well. These are also incorporated into the proposed amended ordinance.

Pros:

- Brings ordinance into compliance with Supreme Court precedent.

Cons:

- Enables towing companies to charge unlimited fees.

Adoption of the proposed ordinance is recommended.

ORDINANCE BOOK NO. 29 - PAGE 130

I. RESOLUTION NO. 14-182 - RESOLUTION AMENDING THE CITY'S LAND USE INCENTIVE POLICY

Summary: The consideration of amendments to the City's current Land Use Incentive Policy ("LUIP").

The City originally adopted its current Land Use Incentive Policy in November 2010; it was later amended in March 2011 to add a point system to the guidelines. The LUIP was again amended in 2012 to expand the eligible geographic area. Since its approval, the LUIP has been used infrequently and, in fact, although two projects have been approved, none have actually

been constructed, so in practice, the LUIP has never actually been utilized for its intended purpose. In order to encourage use of the LUIP and to clarify the applicable procedures, we would propose several amendments, including the deletion of an existing provision which requires the applicant-developer to assume all legal costs for challenges to the LUIP.

The statutory authority for the LUIP is found at N.C. Gen. Stat. § 158-7.1 and § 160A-456. N.C. Gen. Stat. §158-7.1 is entitled "Local Development." That provision provides, in part, as follows:

- (a) Each county and city in this State is authorized to make appropriations for the purposes of aiding and encouraging the location of manufacturing enterprises; making industrial surveys and locating industrial and commercial plants in or near such city or in the county; encouraging the building of railroads or other purposes which, in the discretion of the governing body of the city . . . will increase the population, taxable property, agricultural industries and business prospects of any city or county. . . .

Section 160A-456 is entitled "Community Development Programs and Activities" and allows the City to appropriate and expend funds for "community development programs and activities," including housing for "low and moderate income persons."

The LUIP provides developers the opportunity to request incentive grants from Council for developments that will further the City's annual strategic goals and other policies and plans and will further public purposes; specifically, projects which will provide the City with: additional work force and affordable housing; and/or increased "green" and energy saving projects. Among other things, work force and affordable housing aid in increasing the City's population, taxable property, and business prospects, because it allows more individuals to afford to live in the City and contribute to the work force, and as new development, provides for an increased tax base. "Green" development, which expends less energy, whether it be residential, commercial or industrial, also increases the tax base and encourages energy saving and environmentally conscious businesses to locate in the area and increases jobs. These objectives further valid and lawful public purposes, including economic development, energy conservation and the provision of affordable housing.

The proposed amendments clarify the LUIP and eliminate the previous requirement that the applicant-developer assume legal costs. We are hopeful this will encourage more applications and will increase and encourage housing for low and moderate income persons and energy saving development in the City.

The revised LUIP was presented to the HCD Committee on August 19, 2014.

Pro:

- The revised Land Use Incentive Policy clarifies the program and will encourage more applications.

Con:

- None noted.

Land Use Incentive Grants are decided on a case by case basis based on Council's discretion. Payment is from the City's General Fund. The City will be responsible for any legal challenges to the Policy.

Adoption of the proposed Policy is recommended.

RESOLUTION BOOK NO. 36 - PAGE 310

J. RESOLUTION NO. 14-183 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES WITHIN THE TERRITORIAL LIMITS OF THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asheville Humane Society (AHS) for animal shelter services within the territorial limits of the City of Asheville (City).

The City has contracted with AHS for animal shelter services. The cost for the animal shelter services to the City of Asheville for Fiscal Year 2014-2015 will be \$19,167.00 per month for total of \$230,004. The AHS contract amount has remained relatively unchanged over the past two years:

- FY13 \$230,004.00
- FY14 \$230,004.00

Pro:

- The City continues to have a safe and organized manner in which to care for impounded animals without incurring the costs of construction and operation of an animal shelter.

Con:

- None identified.

The FY 2014-2015 contract, which maintains the FY 2013-2014 cost, reflects the new quarantine fee adopted by the Council on April 8, 2014 and became effective on July 1, 2014. The contract requires the AHS to levy the quarantine fee, and permits the AHS to retain, waive or enter into payment plans with individuals regarding the quarantine fee. Funding for the contract is included in the adopted FY 2014-15 Police Department budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Asheville Humane Society for Animal Shelter Services for the term of July 1, 2014, through June 30, 2015.

RESOLUTION BOOK NO. 36 - PAGE 315

K. RESOLUTION NO. 14-184 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH DR. PAUL MARTIN, MD, D/B/A ASHEVILLE ADDICTION CONSULTANTS, PA, FOR PHYSICIAN SERVICES

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement for physician services provided through the City's Health Services Division.

In January 1995, Council authorized the City Manager to enter into an agreement for part-time physician services in the Health Services division. Dr. Paul Martin entered into a contractual agreement with the City of Asheville to provide 3 clinic days to City employees and retirees and dependents covered by the City's health plan. These clinic days have been very successful for Health Services.

Pros:

- The Health Services Clinic provides on-site care for non-critical health needs.
- Onsite care and services for employees, covered retirees and dependents saves the City of Asheville money in expenses that are not paid in unnecessary doctor, urgent care and emergency room visits

- The on-site employee health clinic is a valuable benefit for City employees. Their dependents and retirees.
- Dr. Martin is a trusted member of the Health Services staff team.

Con:

- There are no foreseen cons for these services

This is a one year \$120,000 contract. Funding for the contract is included in the adopted FY 2014-15 Health Care Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an agreement for physician services with Dr. Paul Martin, MD, DBA Asheville Addiction Consultants, PA to continue to provide physician services to employees, covered retirees and covered dependents.

RESOLUTION BOOK NO. 36 - PAGE 316

L. RESOLUTION NO. 14-185 - RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH THE MASTER CONTRACT WITH RIVERSIDE STUMP DUMP INC. FOR THE BRUSH AND LEAF DISPOSAL FOR THE CITY OF ASHEVILLE

Summary: The consideration of a resolution to proceed with the second year and third year for master contract number 91400115 with Riverside Stump Dump Inc. for brush and leaf disposal.

The City of Asheville utilizes Riverside Stump Dump Inc. providing brush and leaf disposal services.

At Riverside Stump Dump Inc the brush and leaves the City of Asheville delivers are ground to several different sizes of mulch and then sold to residents for use in their gardens, around trees and prevent weed growth. Over time the mulch is reduced to a material like soil and enhances the quality of the soil.

Brush and leaves are also provided to Danny's Dumpster located at the Azalea Road beneficial fill site. Danny's Dumpster is a pilot composting operation using mulch as an ingredient along with food waste collected from local restaurants. The process ends with a rich compost material used to enhance soils and gardens.

The second year and third year of a three year master service contract number 91400115 with Riverside Stump Dump Inc. is a not to exceed amount of \$97,440 in Fiscal Year 2015 and Fiscal Year 2016 is based on approved budgets in a not to exceed amount of \$97,400, combined, equaling \$194,800. All Departments participating in this master contract have funds allotted Fiscal Year 2015 and Fiscal Year 2016 for brush and leaf disposal

Pros:

- Diversion of brush and leaves from Buncombe County landfill
- Provides City staff with opportunities to investigate composting processes
- Supports green and sustainability goals
- Supports a local business

Con:

- Non identified

Funding for the Fiscal Year 2015 contract amount is already included in departmental adopted budgets.

Staff recommends City Council adopt a resolution to approve the second and third year of master contract number 91400115 with Riverside Stump Dump Inc. in the amount of \$97,400 Fiscal Year and \$97,400 Fiscal Year 2016 totaling \$194,800.

RESOLUTION BOOK NO. 36 - PAGE 317

M. RESOLUTION NO. 14-186 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE CONCRETE REPAIR - MAINTENANCE AND ADA IMPROVEMENTS CONTRACT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$195,475 with Patton Construction Group, Inc. for the project known as Concrete Repair – Maintenance and ADA Improvements, and to authorize the City Manager to execute any change orders that are required to provide full sidewalk maintenance service for the full fiscal year.

This contract provides for the repair of a number of known sidewalk and curb issues found throughout the City. The project was advertised on July 10, 2014. Below are the list of the bidders:

Patton Construction Group, Inc., Arden, NC – \$195,475
Appalachian Paving and Concrete, Asheville, NC - \$208,475
Armen Construction, Inc, Charlotte, NC - \$298,870

Bids were opened with Patton Construction Group, Inc. of Arden, NC, being the lowest responsible bidder with a bid of \$195,475. The work produced from this contract would resolve some known concrete infrastructure problems that need to be addressed and provide a greater level of customer service.

Pros:

- Will continue reducing a backlog of concrete infrastructure in need of repair.
- Address pedestrian safety by providing the required maintenance.

Con:

- This contract will not be able to address the entire backlog.

Funding for this concrete repair and maintenance contract is included in the adopted Fiscal Year 2014-15 Public Works General Fund budget.

City staff recommends City Council adopt the resolution awarding the contract to Patton Construction Group, Inc. and authorize the City Manager to execute a contract in the amount of \$195,475, with any change orders that are required to provide full sidewalk maintenance service for the full fiscal year.

RESOLUTION BOOK NO. 36 - PAGE 318

N. RESOLUTION NO. 14-187 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT AGREEMENT WITH BUNCOMBE COUNTY AND BOARD OF TRUSTEES OF A-B TECHNICAL COMMUNITY COLLEGE TO EXPAND THE COMMUNITY COLLEGE'S LAW ENFORCEMENT JURISDICTION TO THE ALLIED HEALTH BUILDING

Summary: The consideration of a resolution authorizing the Mayor to enter into a joint agreement with the Board of Trustees of Asheville Buncombe Technical Community College ("AB Tech") and Buncombe County to provide for AB Tech's Police Department to perform law

enforcement activities and have the powers of arrest for the real property identified as Pin No. 9648-33-4217, the Allied Health Building.

Asheville Buncombe Technical Community College is currently in the process of constructing an Allied Health Building on real property owned by Buncombe County. The Allied Health Building will be part of the AB Tech Campus and the AB Tech Police Department will need authority to perform law enforcement activities on the property of the Allied Health Building as well as the powers of arrest. The Asheville Police Department will continue to support the AB Tech Police Department by continuing to provide additional public safety response to crimes in progress and technical law enforcement services such as investigative support or forensic processing upon request.

Pros:

- Provides the AB Tech Police Department with consistent jurisdiction, authority to perform law enforcement activities and the powers of arrest on the property of the Allied Health Building.
- Minimizes the need for law enforcement response from the Asheville Police Department or other area law enforcement agencies to the Allied Health Building.

Con:

- None

City staff recommends that City Council adopt a resolution authorizing the Mayor to enter into a joint agreement with Asheville Buncombe Technical Community College and Buncombe County to allow the AB Tech Police Department to have limited jurisdiction to perform law enforcement activities and have the powers of arrest on real property described as Pin # 9648-33-4217, and more particularly described in Deed Book 5188 at Page 994 of the Buncombe County Registry.

RESOLUTION BOOK NO. 36 - PAGE 319

O. ORDINANCE NO. 4330 - FIRST READING OF ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY BIKE TOUR SERVICE WITH ASHEVILLE BIKE TAXI LLC WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance renewing a franchise agreement for the operation of a pedal bicycle taxi service within the City of Asheville.

City Council approved ordinance # 4131 on October 23, 2012 (first reading) and on November 13, 2012 (second and final reading) granting a franchise agreement for the operation of a pedal bicycle taxi service.

The service has been operating for two years now and it has become a popular attraction. The Asheville Police Department and the Transportation Department are not aware of any negative traffic-related or public safety issues regarding the service.

The only other change to the Agreement provisions is that the term of the Agreement will be indefinite, rather than annual, subject to the City's right to terminate at any time if there is a violation of the terms of the Agreement, or with 30 days notice for any reason.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of \$365 per year.

Con:

- Could impact vehicular traffic flow (No significant traffic-related or public safety issues during the first year of operation).

The City of Asheville receives franchise agreement fees in the amount of \$365 per year.

Staff recommends that City Council approve an ordinance renewing a franchise agreement to Asheville Bike Taxi, LLC for the operation of a pedal bicycle taxi service within the City of Asheville.

Councilwoman Wisler supported the renewal of the franchise agreements; however, asked that, in connection with the budget process, staff revisit the fees so that they support the administrative costs.

ORDINANCE BOOK NO. 29 - PAGE 131

P. ORDINANCE NO. 4331 - FIRST READING OF ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A PEDAL BICYCLE TAXI SERVICE WITH AMAZING PUBCYCLE WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance renewing a franchise agreement for the operation of a trolley bike tour service (pub-cycle) within the City of Asheville. In addition, a River Arts District Route is being added to the agreement.

City Council approved ordinance # 4149 on December 11, 2012 (first reading) and on January 8, 2013 (second and final reading) granting a franchise agreement for the operation of a trolley bike tour service (pub cycle). Next, City Council approved ordinance # 4205 on June 25, 2013 (first reading) and on July 23, 2013 (second and final reading) changing the beginning date of the franchise agreement from March 1, 2013 to the date of commencement of operations. That actual date was August 17, 2013.

The service has been operating for a year now and it has become a popular attraction. The Asheville Police Department and the Transportation Department are not aware of any negative traffic-related or public safety issues regarding the service.

Amazing Pubcycle would like to add another route identified as the River Arts District Route. At first, the route would only be used during weekends and by request. Since the primary terminal point is the New Belgium site, the route would probably not be fully implemented until 2015 or 2016. The route has been reviewed and approved by the Asheville Police Department and the Transportation Department.

There is only one change to the Agreement provisions, this is to make the term of the Agreement indefinite, rather than annual, subject to the City's right to terminate at any time if there is a violation of the terms of the Agreement, or with 30 days notice for any reason.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of \$365 per year.
- Revenues to the Parking Enterprise Fund in the amount of \$1,680 per year.

Con:

- Could impact vehicular traffic flow (No significant traffic-related or public safety issues during the first year of operation).

The City of Asheville receives franchise agreement fees in the amount of \$365 per year. In addition, the Parking Enterprise Fund receives \$140 per month (\$1,680 per year) from Amazing Pubcycle for a dedicated parking space in the Biltmore Avenue Parking Garage to store the vehicle when it is not being used.

Staff recommends that City Council approve an ordinance renewing a franchise agreement to Peech Development, Inc. d/b/a Amazing Pubcycle for the operation of a trolley bike tour service (pub-cycle) within the City of Asheville including the addition of a River Arts District Route.

Councilwoman Wisler supported the renewal of the franchise agreements; however, asked that, in connection with the budget process, staff revisit the fees so that they support the administrative costs.

ORDINANCE BOOK NO. 29 - PAGE 138

Q. ORDINANCE NO. 4332 - FIRST READING OF ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY SERVICE WITH GRAY LINE TROLLEY TOURS WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance renewing a franchise agreement for the operation of a trolley service within the City of Asheville.

City Council approved ordinance # 3531 on August 28, 2007 granting a franchise agreement for the operation of a trolley service to Asheville Trolley Company, LLC d/b/a Gray Line Trolley Tours of Asheville.

The service has been operating for seven years now and it is a popular attraction. The Asheville Police Department and the Transportation Department are not aware of any negative traffic-related or public safety issues regarding the service.

There is only one change to the Agreement provisions, this is to make the term of the Agreement indefinite, rather than annual, subject to the City's right to terminate at any time if there is a violation of the terms of the Agreement, or with 30 days notice for any reason.

It should be pointed out that although the franchise agreement has not officially been renewed since it was originally approved, the owner has been pro-active and he has paid the annual franchise agreement fee through July 31, 2013.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of \$365 per year.

Con:

- Could impact vehicular traffic flow (No significant traffic-related or public safety issues during the seven years of operation).

The City of Asheville receives franchise agreement fees in the amount of \$365 per year.

Staff recommends that City Council approve an ordinance renewing a franchise agreement to Asheville Trolley Company, LLC d/b/a Gray Line Trolley Tours of Asheville for the operation of a trolley service within the City of Asheville.

Councilwoman Wisler supported the renewal of the franchise agreements; however, asked that, in connection with the budget process, staff revisit the fees so that they support the administrative costs.

ORDINANCE BOOK NO. 29 - PAGE 143

R. RESOLUTION NO. 14-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A BUNCOMBE COUNTY TOURISM DEVELOPMENT PRODUCT DEVELOPMENT FUND GRANT FOR THE RIVERFRONT DESTINATION DEVELOPMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to submit a grant application to the Buncombe County Tourism Development Authority to support Riverfront Destination Development.

The 2014 grant cycle for Tourism Product Development Funding (TPDF) opened in May of this year. TPDF is for the purpose of construction projects that will add new or increase existing room nights in Buncombe County lodging facilities. Phase I of the grant process included the City's preliminary application to the TPDF to determine eligibility. City staff received notification of eligibility and an invitation to submit to Phase II of the process in late June of this year; Phase II Applications are due August 20, 2014. The Buncombe County TDA will announce grant awardees and amounts on October 31.

For Phase II, City Staff proposes to apply for \$3 million in grant funds that will support Riverfront Redevelopment Capital Improvement Project construction costs of over \$10 million. If TPDF grant funds are obtained, this high impact project- part of a much larger set of riverfront revitalization investments being made by the City and the private sector, long term- will start construction in April 2015 and finish construction around April 2017.

In essence, the City's application proposal is to construct a comprehensive set of projects that will help transform the River Arts District and its gateways from a place that has scattered and hard to find- yet stellar- attractions, into a fully developed destination where points of interest and experiences are easy to find, attentive to visitor needs, and a pleasure to get to. The City of Asheville application will include the following project elements:

- 1) Construction of a signed and marketed network of riverfront walk and bike ways that will help people explore and connect to the district; this network will effectively knit together major attractions and also functions, like San Antonio's Riverwalk, as a destination in itself. Projects include:
 - o *French Broad River Greenway West Bank connection: New Belgium Brewing Asheville to French Broad River Park*- This one- and-a-half mile multi-use path will connect the city's most beautiful riverfront park and the three miles of existing riverfront greenways and parks beyond it with the production and visitor's facilities and tasting room for the United States third largest craft brewery (New Belgium Brewing Asheville).
 - o *French Broad River Greenway East Bank connection: Craven Street to 14 Riverside Drive*- This experience-filled multi use path through the heart of the most urbane section of riverfront will connect visitors to 170 local artists, a constructed wetland that doubles as public art, and the future site of 300,000 to 1 million square feet of new mixed use development on Riverside Drive.
 - o *Clingman Forest Greenway*- This half mile of hilly urban forest is populated by a plethora of native plants and a small stream. It takes visitors from the heart of the River Arts District into downtown Asheville's western edge via Aston Park.

- *5 points roundabout pedestrian connection*- This will be a future landmark that serves to connect and orient visitors between the Clingman Forest and Town Branch Greenways.
 - *Town Branch Greenway*- This mile of relatively flat walking path takes you from the independent restaurants, galleries and studios lining Depot Street, to the south slope of downtown and the medical district, all while interpreting local history.
- 2) Construction of critical public amenities like restrooms , safe pedestrian connections, boat ramps and “visitor launch pads” that keep people in the district longer, and link and leverage the existing and the proposed tourism attractions built by the private sector. Projects include:
- *Public restrooms*- There will be four public toilets at the 14 Riverside Drive Arts and Culture Dispensary.
 - *Visitor Launch Pad*- This will be an unstaffed, high tech place to learn about shopping, studios, galleries, events and eateries in the River Arts District, with cross referencing to the visitor launch pad at Craven Street.
 - *Visitor Launch Pad at the Public Parking Lot at Craven Street Bridge*- This will be an unstaffed, low tech place to learn about trails, greenways, river history and outdoor recreation, with cross referencing to the info kiosk at 14 Riverside Drive.
 - *Boat Ramp at Amboy Road* –This new river access point will give anglers and motorized boat enthusiasts ample parking and easy access to a day on the French Broad River.
 - *Improved Boat Ladder and park amenities at Jean Webb Park*- This improvement will give kayakers and canoeists a highly visibly and easy place to put-in or take out after a day on the river, or serve as a great place to “people-on-the-river” watch.
 - *Amboy Road Crosswalk to Smoky Mountain Adventure Center*- This project will create a safe passage between a new climbing center/ outdoor recreation hub and the public parking, public boat ramp, and public river access just across the street.
- 3) Construction of two new attractions: a new riverfront arts and culture dispensary that also supports river access and river use; and a set of train viewing platforms trackside at Lyman Street that will draw visitors in with the promise of an entertaining and an educational trackside experience, all while providing protection from the elements, a place to rest for a while, and a safe way to navigate across the tracks to the River Arts District’s other desirable attractions.
- *14 Riverside Drive Arts and Culture Dispensary*, When completed, this historic waterfront building will be renovated to support highly visible arts and culture programming and increase awareness of, and connection to, the French Broad River.
 - *Train Viewing Platforms*- These artist built shelters on either side of the Lyman Street at-grade railroad crossing that are the perfect place to watch the trains go by and learn about the contributions of the railroad industry to the history of Asheville and Western North Carolina.

The Asheville Area Riverfront Redevelopment Commission reviewed this item at their August 14, 2014 meeting. The Commission voted unanimously to: (1) Authorize Chairperson Pattiy Torno to write a letter of support for the City’s application and (2) To advise City Council that the AARRC strongly supports the City’s proposed application, and that if a grant is awarded, that the AARRC strongly recommend City Council accept the funds as part of a fiscally sustainable strategy for the implementation of the riverfront portions of the City’s 5 year CIP.

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city.

- The TPDF is a significant funding opportunity that would allow the City to move forward on these investments.
- The City has already shown a commitment to implementing these projects as part of the Economic Development Capital Improvements Program.

Con:

- If awarded, the City is required to partner on marketing efforts for the French Broad riverfront as a destination, which may require shifting of current priorities or addition of resources not provided by this grant fund.

The Buncombe County TDA may choose to fully award the grant request of \$3 million, not award, or partially award funds. If any award is offered and accepted, the city would experience a positive impact to the budget. However, because of grant construction timing requirements, and because certain grant projects are additions to the current 5 year CIP, funding allocations project-by-project may nominally shift. An announcement of an award would begin the process of the City developing a grant agreement with BCTDA that further defines the specific funding amounts and project elements included in the partnership effort. Through proposed partnerships like these, staff continues to develop diverse funding sources for riverfront redevelopment capital investments that will increase the City's fiscal sustainability and the anticipated economic impact of the plan.

City staff recommends City Council adopt a resolution authorizing the City Manager to submit a grant application to the Buncombe County TDA Tourism Product Development Fund to support Riverfront Destination Development.

RESOLUTION BOOK NO. 36 - PAGE 320

S. RESOLUTION NO. 14-189 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ESRI, INC. FOR A THREE-YEAR CONTRACT FOR GIS SOFTWARE MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to sign a new Enterprise License Agreement with ESRI, Inc. in the amount of \$150,000 over 3 years payable in \$50,000 yearly installments for Geographic Information Systems (GIS) software.

The City of Asheville has used ESRI GIS software for 13+ years as a keystone software information system. Many internal processes including asset management, code enforcement, public safety dispatch, stormwater utility billing, infrastructure maintenance, sanitation service, development services, etc., rely on GIS expertise and software. Citizens also rely on GIS for Internet information portals such as the mapAsheville applications (Development Mapper, Crime Mapper, and Priority Places, etc). City Council also relies on the City's GIS via planning and development decision visualizations.

The existing contract has held maintenance flat for the past 3 years. Typical increases in such software maintenance contracts average approximately 5% per year. With the execution of another 3 year contract, we will be able to hold our maintenance costs at \$50,000 per year for next 3 years. Annual maintenance payments are required in order to keep software in a reliable and supported state. This contract also means that the City may provide unlimited staff installations as well as server software installation of this software thus saving money on additional licensing fees as a result of expanded services.

Pros:

- Increased support of departmental business requirements via greater options for GIS software licensing.
- Ability to install additional software without additional purchases.

- Hold the line on increasing software maintenance costs.

Con:

- If continued funding for future years is not appropriated, some staff will lose ability to utilize some GIS software.

The first year cost of \$50,000 was included in the adopted FY2014-2015 budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an Enterprise License Agreement with ESRI, Inc.

RESOLUTION BOOK NO. 36 - PAGE 321

T. RESOLUTION NO. 14-190 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CITY OF ASHEVILLE BEING IDENTIFIED AS THE DESIGNATED RECIPIENT FOR SECTION 5310 FUNDS

Summary: The consideration of a resolution authorizing the Mayor to accept the City of Asheville being identified as the designated recipient for Section 5310 Funds.

The current Federal Transportation Bill which is known as MAP-21 (Moving Ahead for Progress in the 21st Century) consolidates the former Elderly and Disabled Program and the New Freedom (Section 5317) program into a single program intended to enhance mobility for seniors and persons with disabilities by providing funds to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services.

The Section 5310 program is designed to supplement FTA's other capital assistance programs for seniors and persons with disabilities. This program would continue the goals of Elderly and Disabled and New Freedom programs by funding alternative forms of transportation where traditional services are unavailable, inappropriate, or insufficient. Funds can be used for capital planning and operations. The apportionment to the region is about \$325,000 per year.

To be eligible, the program requires a Coordinated Public Transportation and Human Services Transportation Plan (CPT-HSTP), which is developed by the French Broad River Metropolitan Planning Organization, which assesses current transportation needs, identifies gaps and sets goals. The plan is adopted by the French Broad River MPO's Board. Projects will be selected following a competitive process.

The City will be responsible as designated recipient for the program management including overseeing the use of these funds according to Federal Transit Authority (FTA) regulations. Program management will require the use of city resources including staff. As a designated recipient, the city can use 10% of the funds for administrative purposes.

The program can address some of the transportation challenges faced by the elderly and disabled population in the region and it will benefit the region by providing funds that would otherwise not be available. Therefore, staff recommends accepting the designation.

Pros:

- Increases the ability of transportation providers to meet the needs of transit-dependent populations.
- Enables funds to be used in the region that would otherwise not be available.
- Since the city is the designated recipient for Section 5307 Funds, staff is familiar with the various responsibilities involved.

Cons:

- Increases staff workload.
- Might require additional part-time staff (analyze during the first year)

The City can use 10% of the funds for administrative purposes.

Staff recommends that City Council approve a resolution authorizing the Mayor to accept the City of Asheville being identified as the designated recipient for Section 5310 Funds.

RESOLUTION BOOK NO. 36 - PAGE 322

U. RESOLUTION NO. 14-191 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MOTOROLA INC. FOR RADIO SYSTEM MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system.

Motorola, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. The service agreements are renewed annually. The maintenance cost per unit of equipment for the renewal period of August 1, 2014 through July 31, 2015.

The renewal agreement reflects an annual charge of \$144,305.88 and covers additional equipment purchased by the City to equip new vehicles and replace broken equipment. The agreement also covers infrastructure that has come out of the installer's warranty during the past year.

Pros:

- The primary benefit of this contract is to keep the City's radio system reliable and operational for public safety officers. By keeping the radio system in optimal condition the City is also able to provide communication services to several outside agencies, thereby improving interagency communications.

Con:

- None noted.

Funding for this contract was appropriated in the adopted Fiscal Year 2014/15 Information Technology Services departmental budget.

City staff recommends City Council authorize the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system for the term of August 1, 2014, through July 31, 2015.

RESOLUTION BOOK NO. 36 - PAGE 323

V. RESOLUTION NO. 14-192 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING AIR RIGHTS FOR THE PROPERTY LOCATED ALONG THE BACK AREA OF S. LEXINGTON STREET OF THE ALOFT/51 BILTMORE PARKING DECK TO KING JAMES PROPERTIES LLC

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 227.94 square feet of air rights at 56 S. Lexington Avenue to King James Properties, LLC.

The City of Asheville controls the sidewalk and street right-of-way located at 56 South Lexington Avenue, and in turn controls encroachments into the overhead airspace above the sidewalk. At this time, King James Properties, LLC is planning to construct a multi-story apartment building along the back property line of the Aloft Hotel and 51 Biltmore Public Parking garage. This apartment building includes balconies for each unit that extend into the City-controlled air space. Being that balconies are permanent, this encroachment into the public air space must be treated as a sale, and therefore the City requires that the sale of air rights follow certain disposition procedures; specifically, the upset bid process.

On August 4, 2014, a qualifying bid was received from King James Properties, LLC in the amount of \$1,550 for the purchase of 227.94 square feet of air space for the purpose of constructing permanent balconies to a proposed building at 56 S. Lexington Avenue. This bid was based on a 2014 MAI appraisal of the property and reflects fair market value for the air rights. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of \$1,550. The statutes require that a qualifying bid must increase the current offer by 10% of the first \$1,000 and 5% of the remainder (i.e. \$1,677.50 or higher.) Since the function of the upset bid process is to confirm fair market value, this resolution provides that if no qualifying, competing bid is received, then City Council agrees to convey this specified area of air rights to King James Properties, LLC for \$1,550. The statute also provides that the Council may at any time reject any and all offers.

Pros:

- The sale will be at fair market value.

Con:

- There is no negative impact.

Financial proceeds associated with the real property disposition are to benefit the Economic and Community Development Capital Improvement Project budget.

Staff recommends adoption of the resolution directing the City Clerk to advertise for upset bids for air rights located at 56 S. Lexington Avenue.

RESOLUTION BOOK NO. 36 - PAGE 324

W. RESOLUTION NO. 14-193 - RESOLUTION TO AMEND RESOLUTION NO. 13-42 TO INCLUDE THE BIDDING AND CONSTRUCTION SERVICES IN THE EXEMPTION FROM THE ARCHITECTURAL ENGINEERING AND SURVEYING ANNOUNCEMENT REQUIREMENT OF N.C. GEN. STAT. SEC. 143-64.31 FOR THE NORTH FORK DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT; AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR BIDDING AND CONSTRUCTION SERVICES FOR SAID PROJECT

Summary: The consideration of a resolution to amend Resolution No. 13-42 dated March 12, 2013, to include the bidding and construction services in the exemption from the architectural, engineering and surveying announcement requirement of NCGS §143-64.31 for the North Fork Dam Intake Tower and Conduit Repairs Project; and to authorize the City Manager to execute a professional engineering services agreement with Schnabel Engineering South, PC, for the proposal amount of \$302,400.00 for bidding and construction services for said project.

On March 12, 2013, City Council awarded the Engineering Design Services Contract to Schnabel Engineering for the North Fork Water Treatment Plant Dam/Tunnel Project in the amount of \$408,190.00. In the initial design services contract with Schnabel Engineering, the bidding and construction services phase of the contract was inadvertently excluded. Water Resources is ready to move into the bidding and construction phase of this project and is seeking an amendment to the previously approved exemption.

Schnabel has presented a scope of work and cost proposal in the amount of \$302,400.00 for engineering services associated with bidding and construction services for the Intake Tower and Conduit Repairs at the North Fork Water Treatment Plant. Due to their intimate knowledge of the North Fork Dam, Schnabel Engineering is the most qualified firm to complete the additional scope of services. The additional scope of services will include: assistance with advertising, bidding, and the selection of a contractor; inspection and testing services; construction observation and reporting; contract administration; development of record drawings; and additional tasks as outlined in their proposal.

Overall, while the project itself is not a large job, the interruptions of service, designed work and risks involved make it a complex project from an engineering perspective. Due to such complexity and risk, the cost estimates appropriately and reasonably considered the involvement of personnel such as Senior Engineers, Project Engineers, technicians, and support staff. As a result, engineering services will cost about \$710,500 for a project estimated at a construction cost of \$1.5 million dollars. Such estimates, while significant, are reasonable in staff's experience.

Water Resources is seeking a new contract with Schnabel Engineering under an amendment of the previous exemption given in Resolution No. 13-42 dated March 12, 2013, for the design phase of the project, with said amendment being retroactive to March 12, 2013.

This item appeared on the July 22, 2014, City Council agenda with a different approach. The July 22 action approved a contract amendment for Schnabel Engineering utilizing the exemption that was approved on March 12, 2013. As a technical correction to meet the intent of the regulations, today's action amends the exemption and approves a new contract for Schnabel Engineering. Upon approval of the proposed resolution, the July 22, 2014 approval becomes void.

Pros:

- Continued use of Schnabel Engineering as the most qualified engineering firm to assist with the bidding and construction phase of the project.
- Schnabel Engineering is the most qualified firm to complete the bidding and construction services.

Con:

- The cost for the additional scope is notable for an exemption and contract amendment.

The funding needed for the contract and the contingency is currently allocated within the project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution amending Resolution No. 13-42 dated March 12, 2013, to include the bidding and construction services in the exemption from the architectural, engineering and surveying announcement requirement of NCGS §143-64.31 for the North Fork Dam Intake Tower and Conduit Repairs Project; and to authorize the City Manager to execute a professional engineering services agreement with Schnabel Engineering South, PC, for the proposal amount of \$302,400.00 for bidding and construction services for said project, retroactive to March 12, 2013.

City staff recommends that upon adoption of the resolution of amendment, that resolution no. 14-161 be repealed.

RESOLUTION BOOK NO. 36 - PAGE 325

X. ORDINANCE NO. 4333 - ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES REGARDING UNAUTHORIZED RIGHT-OF-WAY CUTS

ORDINANCE NO. 4334 - ORDINANCE AMENDING APPENDIX B OF THE CODE OF ORDINANCES TO INCREASE THE CIVIL PENALTIES OF UNAUTHORIZED RIGHT-OF-WAY CUTS

Summary: The consideration of an ordinance amending (1) Chapter 16, Article II (Public Right of Way Cuts), and (2) Appendix B (Schedule of Civil Penalties) of the Code of Ordinances of the City of Asheville to update the penalties for cutting into City Streets/Sidewalks without a permit.

The City of Asheville requires utility companies and contractors when placing or repairing utilities, to obtain a permit prior to cutting into any of its streets, sidewalks, alleys, squares or other public right-of-ways. Each application for a cut permit shall be accompanied by the required permit fee as set forth in the City's fees and charges manual. The penalty for failure to obtain a cut permit would be \$250 initially and \$100 daily thereafter. If the cut work extends beyond ten working days, a penalty of \$100 per day up to a maximum of \$5,000 per permit, shall be assessed in addition to the regular permit fee. In addition, any person who cuts into a public right-of-way without first obtaining the cut permit required shall be monetarily penalized.

The increased penalty fees will help deter contractors and individuals from doing work in the City right of way without a permit, and keep the work within the permitted time frame. Staff has evaluated the costs involved with delivering the services associated with this fee, and recommends a fee increase to allow for full cost recovery.

Pros:

- Increased penalties will deter work from occurring without a valid permit
- The Street Cut Enterprise Fund will be able to fully recover costs involved with the service

Con:

- None

Any additional revenue generated will be recorded in the Street Cut Enterprise Fund.

City staff recommends City Council adopt an Ordinance amending (1) Chapter 16, Article II (Public Right of Way Cuts), and (2) Appendix B (Schedule of Civil Penalties) of the Code of Ordinances of the City of Asheville to update the penalties for cutting into City Streets/Sidewalks without a permit.

ORDINANCE NO. 4333 - ORDINANCE BOOK NO. 29 - PAGE 147
ORDINANCE NO. 4334 - ORDINANCE BOOK NO. 29 - PAGE 148

Y. ORDINANCE NO. 4335 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS FOR POLICE VEHICLES

Summary: The consideration of a budget amendment in the General Capital Projects Fund in

the amount of \$21,447.94 from insurance recovery funds from two non-Asheville Police Department at-fault auto accidents to utilize towards the purchase of a new Police Department vehicle.

On July 29, 2013, a City of Asheville Police vehicle was involved in a non-City at-fault accident that resulted in the vehicle being totaled and the City received \$13,747.94 to settle the property damage claim. In addition, on May 11, 2014, a City of Asheville Police vehicle was involved in a non-City at-fault accident that resulted in the vehicle being totaled and received \$7,700.00 to settle the property damage claim. The Police Department seeks to utilize the insurance recovery funds from the two settlements totaling \$21,447.94 towards the purchase of a new Police vehicle.

Pro:

- Provides funding for Police Department vehicle purchase to support operational effectiveness.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the City's General Capital Projects Fund, where the vehicle purchase will be made.

City staff recommends City Council adopt the budget amendment in the General Capital Projects Fund in the amount of \$21,447.94 from insurance recovery funds to be utilized towards the purchase of a Police Department vehicle.

ORDINANCE BOOK NO. 29 - PAGE 149

Z. ORDINANCE NO. 4336 - BUDGET AMENDMENT TO PURCHASE FIVE ADDITIONAL BUS SHELTERS UNDER THE STIMULUS FUNDING GRANT

Summary: The consideration of a technical budget amendment in the amount of \$60,662 to create a new project in the City's Special Revenue Fund to purchase five additional bus shelters under the stimulus funding grant.

The City of Asheville was awarded \$2,590,439 under the economic stimulus funding, as published in the Federal Register Volume 74, No. 42, page 9675 on March 5, 2009. The city used those funds to purchase five diesel buses, ten shelters, and three CNG buses and one van for Henderson County. All of the projects were finished before the deadline of September 30, 2013.

After finishing the projects, \$60,662 of ARRA funds were left unspent. The Federal Transit Administration issued a waiver to all grantees that had still funds left in ARRA and asked for all the funds to be spent by September 30, 2015. \$35,902 of those funds are part of the City's apportionment, the rest are part of Henderson County's apportionment.

The only project that can be accomplished by the deadline is the acquisition of additional shelters. The City is planning to acquire approximately five more shelters and spend all the funds remaining in the grant, two for the county and three for the city. The city has developed specs to bid the project if this budget amendment is approved.

This project will be completed in approximately 6 months after signing the contract.

Pros:

- All the funds allocated to the region will be used.
- Funds cover 100% of the expense.
- This project increases transit infrastructure and quality of service.

Cons:

- None.

The cost of acquiring 5 new shelters will be approximately \$60,662. These funds will cover 100% of the expense. City staff recommends that a new project be created in the Special Revenue Fund to account for these expenses and the offsetting ARRA revenue. The technical budget amendment will provide authorization to create and budget for this project.

City staff recommends that City Council adopts a technical budget amendment in the amount of \$60,662 to create a new project in the City's Special Revenue Fund to purchase five additional bus shelters under the stimulus funding grant.

ORDINANCE BOOK NO. 29 - PAGE 151

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

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

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

RESOLUTION NO. 14-197 - RESOLUTION ADOPTING THE LEGISLATIVE ADVOCACY PROPOSAL

Mr. Jack Cozort, the City's legislative representative, summarized the 2013 legislative session. He said the 2013 Session of the North Carolina General convened on May 14, 2013, and adjourned on August 20, 2013.

There were issues on the table that affected municipalities in many respects: regulatory, economically, budget matters, zoning, etc. It is anticipated that the balancing of the authority of cities and the amount of control exercised by the General Assembly will continue to be a substantial issue for consideration in the 2015 session of the General Assembly.

The following matters affect all municipalities: (1) Restrict the authority of cities to enact tree ordinances (H1191) - never heard in committee; (2) Restrict the authority of city or county to enact ordinances related to design and aesthetic controls (H150) - passed house, passed senate committee, not heard on senate floor; (3) Limitation of local government sales tax (H1224) - passed senate, defeated in house. (4) Repeal protest petitions (S493) - long history, died in committee at end of session; (5) Increase penalties for graffiti (S594, among others) - passed house, died in senate; (6) Regulate mopeds (H1145) - passed and signed by governor; (7) Enact ethics requirements for local officials (S493) - passed house, died in senate; (8) End of business privilege tax on July 1, 2015 (H1050) - passed and signed into law by governor.; (9) Extend use of tax credits for historic rehabilitation (various house bills) - passed house in multiple bills, died in senate; and (10) Extend film credits (various bills) - final version that passed was a \$10 million grant program.

Matters unique to Asheville include: (1) Sale of growlers by certain ABC permittees (H829) - passed; (2) Bent creek property Sullivan act exemption (H1113) - passed; (3) Spirituous liquor tastings/City of Asheville (H1156) - died in house; (4) Asheville Regional Airport (H1247) - passed; and (5) ETJ clarification (H531) - passed.

Matters to consider for 2015 include: (1) replace revenue from business privilege tax; (2) re-enact tax credits for historic rehabilitation; (3) cities continue to be able to regulate and manage their own utilities; (4) possible increase in punishment for graffiti and indecent exposure; (5) transportation and local education funding; (6) regulating "b&b" places where people are just opening up their homes/short term home rental; (7) digital dispatching services (uber/lyft); (8) analyze study committees to determine scope of issues likely to be considered in 2015; and (9) film industry incentives.

Mayor Manheimer said that the N.C. League of Municipalities would like our items by this Friday. Because of the tight deadline, she has asked Executive Assistant to the Assistant City Manager Alex Carmichael gather the following items for consideration: (1) Stormwater - Preserve municipal authority to regulate environmental standards such as erosion control or stormwater quality; (2) Municipal Operations - Support measures which maximize the ability of local governments to provide and manage high quality services to meet the needs of the community. This includes but is not limited to utilities, enterprise funds; etc.; (3) Regulation of Car Sharing Services - Grant municipalities the authority to regulate digital dispatching services; (4) Aesthetic and Design Controls - Preserve municipal ability to regulate design and aesthetic controls in historic districts; (5) Preserve Municipal Fiscal Health - Identify means to generate increased revenues for public education and transportation infrastructure without impacting municipalities' dwindling revenue; (6) Restore Lost Revenues - Restore revenue lost due to the repeal of Privilege License Tax authority; (7) Restore Economic Development Incentives with Impact on Local Communities - Restore programs such as film tax credits and historic building tax credits; (8) Coal Ash - Continue to seek legislation that strengthens the requirements for the appropriate clean up and disposal of coal ash in coal ash ponds that is equitable to rate payers; (9) Graffiti Vandalism - Seek to strengthen and/or clarify state law to more efficiently deter and punish perpetrators who damage property, such as by committing vandalism with graffiti; and (10) Clarify Laws related to Public Toplessness - Clarify laws related to public toplessness including but not limited to, clarification of indecent exposure law, N.C. Gen. Stat. sec 14-190.9.

Mayor Manheimer said that the Governance Committee will develop the agenda with broad policy provisions.

Councilman Smith suggested we send a letter of thanks to all the municipalities that supported Asheville, and the League of Municipalities for standing with us, on our fight for the water system. He also supported graffiti crimes be a misdemeanor and not a felony.

Councilman Bothwell hoped that the legislature does not attempt to make toplessness a felony. He felt that we should demand appropriate clean up and disposal of coal ash in coal ash ponds. Mayor Manheimer noted that earlier City Council adopted a more thorough resolution on coal ash and suggested we attach that resolution to the City's agenda that we send to the League.

Mr. Cozort said there will be opportunities to fine-tune this agenda, but it's important that we get these items in front of them as soon as possible.

Vice-Mayor Hunt moved to adopt Resolution No. 14-197 adopting the legislative advocacy proposal to the N.C. League of Municipalities, being the ten items outlined above by Mr. Carmichael, with the following amendments (1) attachment of the City's previously adopted resolution regarding coal ash; and (2) that graffiti crimes be a misdemeanor and not a felony. This motion was seconded by Councilman Davis and carried unanimously.

When Mayor Manheimer asked for public comment, no one spoke.

Councilwoman Wisler hoped that next year Council will have more time to work through the process and timing of the N.C. League of Municipalities' needs.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

RESOLUTION NO. 14-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

Executive Director of Planning & Multimodal Transportation Cathy Ball said the owners/developers of RAD Lofts have applied for a Land Use Incentive Grant per the City's Land Use Incentive Policy. She then presented an overview of the RAD Loft project, including all of the partnership opportunities between the developer and the City.

RAD Lofts LLC has contracted to purchase the 2.88 acre site formerly home to the Dave Steel Company. The site is located at 146 Roberts Street, at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The developer estimates a total development cost of \$52 million. The project consists of

- 209 residential rental apartments (144 one-bedroom apartments and 65 two-bedroom apartments). 220 of the parking spaces within the parking structure noted below will accommodate residents of the community;
- A two story parking deck for residents and for the public (on an hourly rental basis), street front retail spaces, live work spaces and second floor office space. This commercial component will be 48,500 sq. ft. plus 136 parking spaces.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- Equity: A 20% equity contribution is required. The project developers indicate they will contribute at least 30% equity to the project.
- Energy Star Certification: The developers indicate the project will achieve Energy Star certification.
- Location: The project is located within 1/8 of a mile of a designated major transportation corridor (Riverside Drive).

Public Benefit

The project proposes the following Public Benefit Elements:

- Workforce Housing units, assuming an annual rental increase of 3%, for the proscribed period: 100% of total units for which the developer requests 20 points.
- Affordable Housing units assuming an annual rental increase of 3%, for the proscribed period: 5 % (11 units), for which the developer requests 10 points.
- Green Building/Energy: *Energy Star certified* (5 points)
- Includes a minimum 20% non-residential (5 points)
- Within the Sustainability Bonus area (5 points)
- Brownfield Redevelopment (5 points)

The developer has scored the project with 50 points. Based on this score, the project would be eligible for a 5 year Land Use Incentive Grant. Staff notes that the developer has requested 15 more points for Workforce and Affordable Housing than in the published guidelines. Per the Land Use Incentive Policy, City Council is authorized to allow more or less points on any

particular factor, depending upon, among other things, the character and potential benefits and/or detriments of an individual project.

Staff supports funding the RAD Lofts development with a five year Land Use Incentive Grant for the following reasons:

- The project will make an approximate \$38,000,000 construction investment in the River Arts District. Impact:
 - 300 or more jobs created during the development and construction period;
 - Approximately \$16,000,000 in direct wages to construction workers;
- The project will add 209 units to the City's permanent housing stock. That housing:
 - Will be "locationally efficient," costing residents between 15% and 25% less in transportation costs than most other locations currently being developed for rental housing;
 - Will include 5% affordable units;
 - Will include 95% "workforce" units affordable to housing earning 120% of median income.
- The project will add almost 50,000 square feet of commercial space. Impact:
 - The creation of approximately 50 new permanent jobs;
 - The infusion of \$2 million or more annually into the local economy.

Also they feel this project will spur additional investment in both residential and commercial development- RAD Lofts in the leading transformational development for this area.

The project meets the following 2013-14 Strategic Plan Goals: (1) *Economic Growth and Financial Sustainability*: The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District. (2) *Affordable Housing and Community Development*: the project creates locationally efficient affordable and workforce housing.

The project furthers the goals and objectives of the LUIP and N.C. Gen. Stat. §§ 158-7.1 and 160A-456 by providing housing for low and moderate income persons and energy saving development, which serve to further public purposes, increase the tax base and population and business prospects of the City.

The project meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location "along major transit corridors..." ; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Fiscal Impact: Estimated maximum value of Land Use Incentive: The current assessed value of the property is \$501,800 (land only). The developer's estimate of completed project value is \$40,000,000, and he has estimated the taxable value on which the LUIG is made at 80% of that (\$32,000,000). The current annual City tax, based on current assessed value, is \$2,308. The annual estimated City tax post completion, based on the developer's estimate of value is \$147,200. Thus, the estimated annual Land Use Incentive Grant would be the difference between the current City tax and the estimated post-completion City tax, \$144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be \$724,458.60.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is \$81,806.40. The value of each 10% of the fee rebate would be \$8,181. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be \$40,903.20.

As noted in the developer's cover letter, the project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately \$823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over the five year period, as opposed to equal payments over the requested five-year period. This would result in a grant disbursement that would increase annually over the five year term; it would not change the amount of the grant.

The Housing and Community Development Committee voted 2-1 to recommend approval of the request. Staff recommends that Council act upon the request of RAD Lofts LLC for a Land Use Incentive Grant.

Mr. Harry Pilos, developer, explained his request for the additional 15 points for workforce and affordable housing. He said he will be using part of the taxes to help subsidize the small business rents. That is a benefit that goes beyond affordable housing. The program is that 138 spaces will be available to the public for \$1/hour in a secured garage. He said they are trying to battle a lot of odds - provide parking, bring more small businesses to the area, promote the River Arts District, bring in residential, and provide a neighborhood grocery store. He said they are trying to create a good product and to hold down the rents, he needs the additional 15 points, for a total of 50 points.

In response to Councilman Smith, Mr. Pilos explained how this is a \$50 Million investment.

When Councilwoman Wisler asked what the period of time is for a developer to commit to affordability, Mr. Pilos said it is 10 years.

Mr. Pilos responded to Vice-Mayor Hunt regarding the possible tenants, stating that he has five letters of intent. They are trying to be picky in deciding the tenants because they do not want to take away from the local businesses already located in the area. They will not have national tenants.

Mayor Manheimer opened the public hearing at 6:23 p.m.

Mr. Timothy Sadler felt it was important to curve gentrification in Asheville and this is a step in the right direction. He suggested hiring local workforce as much as possible and to include, as part of the contract, working with Asheville Green Opportunities. He asked City Council to consider an incentive for the Oak Street Commons that will be moving forward in the future.

Mr. Charles Worley, attorney for Mr. Pilos but speaking on behalf of himself, spoke in support of this development and Mr. Pilos' request for the extra 15 points on the incentive grant. Mr. Pilos redeveloped the Sawyer Building and it has benefitted all of Asheville. The project is a combination of affordable housing, retail space and parking. All components are critical in a project of this size. He felt this project is good for the River Arts District and Asheville.

Ms. Pattiy Torno, Chair of the Riverfront Redevelopment Commission but speaking as an individual, was pleased to see the area being developed. However, she expressed concern about the lack of affordable studio space and parking. She felt that more projects in the River Arts District will be moving forward and hoped that Council will not spend all they have to offer on this project alone.

Mayor Manheimer closed the public hearing at 6:32 p.m.

Vice-Mayor Hunt felt we need to be more proactive and the City is eager to advance in the RADTIP and add lots of infrastructure that will have the effect of inspiring more developers to develop in the area. Our policy approach does not make it so that a developer has to include

studio space. He supported the additional 15 award emphasizing we are not revising the policy because the policy allows City Council the latitude to award additional points based on different factors. There are many compelling features in this project, most of which is the stimulus it will provide in the River Arts District, teamed with the infrastructure improvements we will make under the RADTIP.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-197, to award RAD Lots a land use incentive grant with a total of 50 points. This motion was seconded by Councilman Davis.

Councilman Davis favored the 50 points and felt the policy is a good guideline with granting the City Council the flexibility to consider other factors.

Councilman Bothwell felt that we might be overbuilding parking and if it proves there is too much, that the extra parking might be converted into studio spaces. He felt the people living there and working nearby may not have a need for a car.

Councilman Smith said there is a lot of good development in the area and Mr. Pilos is bringing in an exceptional project. He said that Council has been seeking to inject more predictability into approval processes and into our policies. The difference between 35 points (\$510,000) and 50 points (\$725,000) is \$215,000. He proposed that we stay within the 35 points and if Council wants to see the other \$215,000 go towards this project that we get it from General Fund. He felt we need to create predictability. He could not support 50 points, but did support the project at 35 points.

Councilwoman Wisler also supported the project, but only with the award of 35 points. She was uncertain on whether we have identified what the flexibility factors, should another person come in with a request for additional points under this policy.

Councilman Pelly felt that soon there will be a lot going in the River Arts District. City Council was prepared to provide incentives for New Belgium (understanding that was a different program) to locate in that area, and he felt this is a significant enough project for him that it warrants 50 points.

Mayor Manheimer supported the 50 points for the project. When Council adopted the policy, one thing that was difficult was trying to know where the numbers would land when developers start preparing their pro forma. We were not certain what that number was so we built in some flexibility so we could look at each project as they came forward and make adjustments as needed, depending on the nature of the project, the mix of the project, and how the different components of our policy fit into that project. This is the first time we are applying this policy and Council knew that when the policy was adopted it would need to be adjusted due to market changes, costs of construction changes, what is affordable or workforce, retail rental market changes, etc. It's difficult to adopt a hard-fast policy that is relevant over time. She felt this project is a good fit for the future of the River Arts District. She wanted to be clear that everyone understands that this incentive grant is only rebated back to the developer once this project is brought on line and we are only talking about the increase in tax revenue that the land then produces. It is essentially a rebate of the additional tax revenue that the project itself generates.

Councilman Smith said that this policy will be revisited by the Housing & Community Development Committee so hopefully it will be a finer instrument.

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

The motion made by Vice-Mayor Hunt and seconded by Councilman Davis to adopt Resolution No. 14-195 to award RAD Lofts with a land use incentive grant with a total of 50 points, carried on a 5-2 vote, with Councilman Smith and Councilwoman Wisler voting "no."

RESOLUTION BOOK NO. 36 - PAGE 328

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE THREE LEVELS OF TIERING FOR DETACHED SINGLED FAMILY PROPERTIES

ORDINANCE NO. 4337 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE THREE LEVELS OF TIERING FOR DETACHED SINGLED FAMILY PROPERTIES

Stormwater Services Manager McCray Coates said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance regarding stormwater utility to provide three levels of tiering for detached singled family properties. This public hearing was advertised on August 15 and 22, 2014.

This past summer, the City of Asheville received record rainfall. As staff was investigating many areas of concern, citizens were asking staff to perform additional maintenance activities and perform more watershed analysis which would help identify flood mitigation projects. Staff continued to make the repairs to the aging infrastructure and damages associated with the summer rainfall events. Following several individual meetings with citizens concerning specific items, staff decided to have a public meeting to discuss the vulnerabilities of the city.

During this meeting, which took place in November, several citizens came forward and asked the city to increase the level of services for the stormwater program. One focus of the citizens was to increase the maintenance activities which could include having two maintenance crews. The work these crews would perform could include perform ditching activities, additional replacement of existing drainage structures, and more frequent inspections to the current system. Also included would be the opportunity to evaluate the current status of the stormwater system throughout the public easements and rights of way and develop a priority needs list.

An additional focus area was the evaluation of the watersheds for flood control opportunities. This watershed analysis could include finding areas that would promote water quality and also provide flood mitigation areas also. Detailed analysis of the hydraulic system would be conducted for the watershed studies. Also, priority lists would be developed from this program.

Shortly following the meeting, the city hired the team of McGill Associates and Martin-McGill to investigate the current status of the program and to also look at what would be necessary to expand the program to meet the needs the citizens were asking for. City Staff presented options from the McGill Team to the finance committee who provided direction to staff.

On June 10, 2014, City Council held a public hearing on the 2014-15, proposed City Budget. Concurrent with that public hearing was the public hearing on revising the stormwater utility ordinance to adopt a new fee schedule. The new fee schedule was adopted by City Council on June 24, 2014, and authorizes the assessment of fees against detached single family properties based upon the square footage of impervious surface. The square footage is broken down into three tiers for single family properties, Level I: 225-2000 at \$2.50 per month; Level II: 2001-4000 at \$4.00 per month; and Level III: 4000+ at \$5.50 per month. The implementation of the new fee schedule for detached single family properties was delayed for sixty (60) days to provide sufficient time to amend the UDO to allow for a 3 tier fee assessment. The approved fee for non-single family properties was approved and is moving forward. This fee is based on impervious area. The fee is \$4.00 per month per Equivalent Residential Unit which is equal to 2,442 square feet.

Staff presented the amended language to the Planning and Zoning commission on August 6, 2014, and received unanimous approval.

Pros:

- Citizens will be receiving a higher level of services from additional maintenance activities.
- The City is able to provide a higher level of service by prioritizing critical needs of the stormwater system.
- The City is able to provide the revenue sources to implement larger scale projects, such as the Biltmore Ave Bridge flood mitigation project.
- The City is able to provide preventative maintenance activities which should increase the life cycle of the infrastructure.
- This program will provide a visioning tool which staff can work toward and address future needs and prioritize those needs.

Con:

- The citizens' stormwater utility fee will increase.

As noted earlier in the report, the new tiered stormwater utility fee structure has already been approved by council, and revenue from the new fee structure is included in the FY 2014-15 adopted budget. This action would allow these increases to take place.

City staff recommends the City Council to approve the revisions to the Stormwater Service Utility and Enterprise Fund Ordinance (7-12-6) of the Unified Development Ordinance.

Mayor Manheimer opened the public hearing at 6:48 p.m., and when no one spoke, she closed the public hearing at 6:48 p.m.

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

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4337. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 153

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-196 – RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Civic Center Commission.

The terms of John West, Carol Ann Lydon and Flora Marr, expire on June 30, 2014.

The following individuals applied for the vacancy: Gary Herndon, Geoff Mohney, Yvonne Cook-Riley, Greg Duff, Anthony Mitchell, Bill Russell, Brian Rowland and Harris Livingstain.

On July 22, 2014, it was the consensus of the Boards & Commissions Committee and City Council to (1) reappoint Carol Ann Lydon; (2) arrange interviews for Greg Duff and Yvonne Cook-Riley; and (3) acknowledge that Bill Russell is a candidate; however, it is not necessary to bring him in for an interview.

After commenting on the qualified candidates, Bill Russell received 6 votes, Greg Duff received 4 votes and Yvonne Cook-Riley received 4 votes. Another vote was taken to break the tie and Greg Duff received 3 votes and Yvonne Cook-Riley received 4 votes. Therefore, Bill Russell and Yvonne Cook-Riley were appointed to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed. In addition, Councilman Bothwell moved to reappoint Carol Ann Lydon to serve an additional three-year term, term to expire June 30, 2017, or until her success is reappointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 330

B. BOARDS & COMMISSIONS

Regarding the Affordable Housing Advisory Committee, the following individuals applied for the vacancy: Michael Sule, Randall Barnett, James Mastrogiacomo and Laura Simmelink. It was the consensus of Council to (1) reappoint Jayden Gurney (incumbent) and Mae Creadick (incumbent); and interview (2) interview William Irby (incumbent), Brian Alexander (incumbent), Randall Barnett, James Mastrogiacomo and Laura Simmelink.

RESOLUTION NO. 14-198 – RESOLUTION APPOINTING A MEMBER TO THE AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the African American Heritage Commission.

Dr. Lamar Hylton has resigned from the Commission, thus leaving an unexpired term until July 1, 2016.

The following individuals applied for the vacancies: Donnell Sloan, Rebecca Bernstein, James E. Lee III, Warren G. Smith, Sheneika Smith, Sandra Elaine Kilgore, Annie Burton, Mychal Bacoate, Jesse Junior, Georgia M. Shannon, Alfred J. Whitesides Jr., Daniel Jonas Young, Viola Spells, Damita Jo Wilder, Willie Cameron Jr., DeWayne Barton, and Tiffany DE'Bellott.

On August 26, 2014, it was the consensus of the Boards & Commissions Committee to appoint Alfred J. Whitesides Jr.

Councilman Smith moved to appoint Alfred Whitesides to the African American Heritage Committee to serve the unexpired term of Dr. Hylton, term to expire July 1, 2016, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 332

RESOLUTION NO. 14-199 – RESOLUTION APPOINTING MEMBERS TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Citizens-Police Advisory Committee.

The terms of Carol Rogoff Hallstrom, Larry Holt, Allen Brailsford and Debbie Applewhite expire on June 30, 2014.

The following individual applied for the vacancy: Buck Bragg.

It was the consensus of the Boards & Commissions Committee to reappoint Ms. Hallstrom, Mr. Holt, Mr. Brailsford and Ms. Applewhite.

Councilman Smith moved to reappoint Carol Rogoff Halstrom (representing north Asheville), Larry Holt (representing central Asheville); Allen Brailsford (representing west Asheville) and Debbie Applewhite (representing east Asheville), to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 333

RESOLUTION NO. 14-200 – RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Community Relations Council (CRC).

The term of Tracy Miles expired on December 31, 2013.

The following individuals applied for the vacancy: Fyffe Aschenbrenner and Kate Sampson.

The CRC requested any consideration of vacancies be delayed until April 8 in order for the Board to participate in a board profile process. On April 8, May 13 and July 22, the CRC requested a one-month delay in order to complete a recruitment event.

The CRC recommended appointment of Fyffe Aschenbrenner and it was the consensus of the Boards & Commissions Committee to appoint Fyffe Aschenbrenner.

Councilman Smith moved to appoint Fyffe Aschenbrenner to serve a three-year term, term to expire December 31, 2016, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 - PAGE 334

RESOLUTION NO. 14-201 – RESOLUTION APPOINTING MEMBERS TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Multimodal Transportation Commission.

The terms of Itiyopia Ewart, Marcia Bromberg and Till Dohse expired on July 1, 2014.

The following individuals applied for the vacancy: David Allen Wilson, Meredith Gregory, Till Dohse, Steven Obremski and John Stuart Ridout.

Because of the recent amendment to the members, all three vacancies will be for at-large members. It was the consensus of the Boards & Commissions Committee, with recommendation from the Multimodal Transportation Commission, to reappoint Till Dohse and appoint Steven Obremski and John Ridout.

Councilwoman Wisler moved to appoint the following three at-large representatives: Till Dohse, Steven Obremski and John Ridout, to each serve a three-year term, terms to expire July 1, 2017, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 335

**RESOLUTION NO. 14-194 - RESOLUTION APPOINTING A MEMBER TO THE
BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY**

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Buncombe County Tourism Development Authority.

The term of Jim Ellis (individual who is involved in the tourist business and who has demonstrated an interest in tourism development but who does not own or operate a hotel, motel or other taxable tourist accommodation) expires on August 30, 2014.

The following individuals have applied for this vacancy: Brian Rowland, Michael Adams, Rebecca Hecht, W. Ken Stamps, Elizabeth Button, Kitty Love and Michael Whalen.

The Boards & Commission Committee recommended reappointing John Ellis.

When Councilman Smith noted the number of high qualified candidates that applied for this position and that he would prefer to interview them to get their views, Mayor Manheimer said that she and Vice-Mayor Hunt spoke with Mr. Ellis regarding his potential representation of Asheville and felt comfortable in his reappointment.

At Mayor Manheimer's request, Councilwoman Wisler moved to recuse Mayor Manheimer from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Smith and carried unanimously.

Mr. Timothy Sadler felt that even though Mr. Ellis is an outstanding member, he felt it would be more appropriate for Council to look at appointing a brewer to the Authority.

Councilman Pelly moved to reappoint John Ellis (individual who is involved in the tourist business and who has demonstrated an interest in tourism development but who does not own or operate a hotel, motel or other taxable tourist accommodation) to serve an additional three-year term, term to expire August 30, 2017, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried on a 5-1 vote, with Councilman Smith voting "no" and Mayor Manheimer being recused.

RESOLUTION BOOK NO. 36 - PAGE 327

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Judy Strong spoke to Council about fiscal issues and felt that we should be spending the City's taxpayer dollars on making sure that the Asheville Police Department is well funded and equipped.

Mr. Timothy Sadler suggested a plain clothes initiative in the Police Department. He also suggested the City dedicate 1-2 seats on the Tourism Development Authority for the brewing community.

Mr. Warren Furmann was concerned that Splashville has not been functioning for two weeks. He also spoke in strong support of transit service on Sundays. City Manager Jackson said that he would provide an update on Splashville via e-mail to City Council before the end of the week. Councilman Smith noted that City Council has budgeted for limited Sunday transit service.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:15 p.m.

CITY CLERK

MAYOR