

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

Regular Meeting

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

Absent: Vice-Mayor Marc W. Hunt

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance. She also asked for the public to recognize and honor Veterans Day.

**I. PROCLAMATIONS:**

**II. CONSENT AGENDA:**

At the request of Community & Economic Development Director Sam Powers, and consensus of Council, Consent Agenda Item P was added to the Consent Agenda.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 28, 2014**
- B. RESOLUTION NO. 14-251 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY MARKET ON DECEMBER 6 AND 13, 2014**

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Market on December 6 & 13, 2014.

Appalachian Sustainable Agriculture Project has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine on two occasions of the Asheville City Market and allow for consumption at those occasions.

Asheville City Market occasions with the sale of beer and/or unfortified wine will be held on Saturday, December 6 and Saturday, December 13, 2014, from 8:00 a.m. – 1:00 p.m. at the city-owned parking lot located at 161 S. Charlotte Street as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Appalachian Sustainable Agriculture Project.

Con:

- Potential for public safety issues

City staff recommends City Council adopt the resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Asheville City Market dates 12/6/14 and 12/13/14.

**RESOLUTION BOOK NO. 36 - PAGE 421**

**C. ORDINANCE NO. 4361 - BUDGET AMENDMENT FOR JULY 2013 SEVERE STORM CLEANUP**

Summary: The consideration of a budget amendment in the amount of \$101,107.33 to budget in the Special Revenue Fund for additional anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety for the declared disaster identified as FEMA-4146-DR-NC.

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

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

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

On March 25, 2014, City Council adopted Budget Ordinance Amendment No. 4292 in the amount of \$2,369,143.30 to (1) budget in the Special Revenue Fund \$2,303,481.10 in anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety; and (2) move \$65,662.20 in budget from the General Fund to the Special Revenue Fund for repair costs not covered through the reimbursements above.

Due to higher than anticipated contract expenses to complete the Bent Tree Rd. and Sunset Dr. wall projects, staff is requesting a budget amendment in the amount of \$101,107.33 to budget in the Special Revenue Fund for additional anticipated reimbursements. This is an overrun of the original estimates, but will be fully reimbursable.

1. Bent Tree Rd. Repair (K1423) – Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 75-ft-long x 20-ft-high x 5-ft-wide. Repair is underway and construction is on schedule. \$28,116.65 of the total estimated cost of \$817,583.91 has been received as reimbursement for expenses to date.
2. Sunset Drive Repair (K1422) - Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 110-ft-long x 20-ft-high x 5-ft-wide. Repair is underway and construction is on schedule. \$7,500 of the total estimated cost of \$1,008,720.15 has been received as reimbursement for expenses to date.

This budget amendment is necessary to properly allocate the disaster aid reimbursements to the correct project expenses, and to replenish City funds that have already been spent in the General Fund.

Pros:

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

Cons:

- Without transfer of funds to the identified accounts, infrastructure will further deteriorate.

- Failure to approve the amendment will prevent completion of the unfunded projects.

As noted above, repair costs for Bent Tree Road and Sunset Drive have exceeded initial estimates, and the budget for the two projects needs to be increased by a total of \$101,107.33. The budget amendment will be fully covered with reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety.

City staff recommends City Council adopt the budget amendment in the amount of \$101,107.33 to budget in the Special Revenue Fund for anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety for the declared disaster identified as FEMA-4146-DR-NC.

**ORDINANCE BOOK NO. 29 - PAGE 266**

**D. RESOLUTION NO. 14-252- RESOLUTION ACCEPTING 2014 EMERGENCY SOLUTIONS GRANT FROM THE STATE OF NORTH CAROLINA IN ORDER TO FUND LOCAL AGENCIES**

**ORDINANCE NO. 4369 - BUDGET AMENDMENT FOR 2014 EMERGENCY SOLUTIONS GRANT FUNDS**

Summary: The consideration of (1) a resolution accepting the 2014 Emergency Solutions Grant in order to fund local agencies; and (2) a budget amendment in the amount of \$194,492 to establish a budget for the grant in the City’s Special Revenue Fund.

In the process approved by Council at the September 9, 2014 Council meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant funding. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee. The recommendations were approved by the Housing and Community Development Committee.

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

	Emergency Response	Housing Stabilization	HMIS	Total
<b>Organization</b>				
ABCCM		\$ 68,500		\$ 68,500
Helpmate	\$ 22,000			\$ 22,000
Homeward Bound		\$ 71,992		\$ 71,992
Salvation Army	\$ 20,000			\$ 20,000
City of Asheville			\$ 12,000	\$ 12,000
<b>TOTAL REQUESTS</b>	<b>\$ 42,000</b>	<b>\$ 140,492</b>	<b>\$ 12,000</b>	<b>\$ 194,492</b>

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

Additionally, the State has awarded **\$50,000** to be used for either Rapid Re-housing or HMIS activities due to the high score of the City of Asheville’s original application. The Housing

and Community Development Committee recommends these additional funds be allocated to ABCCM for Rapid Re-housing for families with children to increase their award to **\$68,500** total funds.

Pro:

- ESG funding is a key funding resource for emergency shelter, and is now becoming an important resource for rapid re-housing of persons experiencing homelessness.

Con:

- None noted.

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

The recommendation is the acceptance of these funds, and subgranting of those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit; and adoption of a budget amendment in the amount of \$194,492 to establish a budget for the grant in the City's Special Revenue Fund.

**RESOLUTION BOOK NO. 36 - PAGE 424  
ORDINANCE BOOK NO. 29 - PAGE 297**

**E. RESOLUTION NO. 14-253 - RESOLUTION AUTHORIZING ADDITIONAL  
SUBORDINATION OF LOANS MADE TO MOUNTAIN HOUSING  
OPPORTUNITIES FOR THE EAGLE MARKET PLACE PROJECT**

Summary: The consideration of a request by Mountain Housing Opportunities for the City to additionally subordinate its loans to the Eagle Market Place development.

Mountain Housing Opportunities is requesting the City subordinate further its two loans for the Eagle Market Place development. The request has two elements:

1. To allow the additional subordination of the City's Urban Development Loan (UDL) of \$3.8 million during the construction period to the North Carolina Housing Finance Agency "RPP" loan, which would place our loan in fourth position during construction. This will allow the infusion of \$800,000 in RPP fund (funds already committed by the North Carolina Housing Finance Agency but not usually available in the construction phase) into the project during construction, reducing borrowing costs. Our agreement with MHO allows for the draw of \$1 million of the City's UDL during construction. Upon completion of construction, and the close of permanent financing, our UDL loan will be in second position, as indicated in our Loan Agreement with MHO.
2. To allow the additional subordination of the City's Housing Trust Fund (HTF) loan of \$800,000 to fifth position during construction, and to fourth position at the close of permanent financing. This requires both approval of the change in conditions of the HTF Loan Agreement (which indicates that the HTF loan will be in second position) and a waiver from our current HTF policy, which requires that our loan be in no less than third position. Staff thinks that the second position described in the Loan Agreement probably assumed that the HTF and UDL would be combined. Regardless, the fourth position post-construction is to allow the County's \$2 million loan to have a superior position. Post construction, the City will be adequately collateralized in any case. Because the County's funds will not be invested as cash into the project until after completion of construction,

the City's HTF funds are functionally in the same place as the City's UDL during construction.

The HCD Committee reviewed this request at its October 21, 2014 meeting and recommended approval.

Pro:

- The loan subordination will allow for the necessary investment of leveraged funds into the project during the construction phase, thereby reducing the need for borrowed funds.

Con:

- In the very unlikely event the project was terminated prior to completion of construction, the City's invested funds would be less secure.

The request would have a fiscal impact only if the project were not to be constructed as planned. In that unlikely case, it would be in the best interests of all parties to ensure completion of a project on the site, and security position would have an impact on recovery of costs via the completed project. Assuming the completion of the project as planned, the City is well-protected, both by the nature of the project and its post-completion value.

City staff recommends approval of a resolution authorizing additional subordination of loans made to Mountain Housing Opportunities for the Eagle Market Place development.

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#### **F. RESOLUTION NO. 14-254 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO BE THE LOCAL GOVERNMENT PARTNER FOR THE ASHEVILLE AREA ARTS COUNCIL'S APPLICATION FOR THE 2015 NATIONAL ENDOWMENT FOR TH ARTS OUR TOWN GRANT**

Summary: The consideration of a resolution authorizing the City of Asheville to be local government partner for the Asheville Area Arts Council grant application to the National Endowment for the Arts 2015 *Our Town* grant and consideration of match funding request for this grant.

The National Endowment for the Arts (NEA) offers numerous grants in a variety of art and design categories. For 2015, the NEA is offering the *Our Town* grant for projects that contribute toward livability of communities and help to transform them into lively, beautiful and resilient places with the arts at their core. The NEA defines these efforts as *Creative Placemaking*. *Our Town* prioritizes partnerships with arts organizations and government, private and non-profit organizations to achieve livability goals for communities. *Our Town* offers support for projects in two areas:

1. Arts engagement, cultural planning and design, projects that represent the distinct character and quality of their communities and
2. Projects that build knowledge about *Creative Placemaking*.

*Our Town* grants will invest in creative and innovative projects in which communities, together with their arts and design organizations and artists, seek to improve their quality of life, encourage creativity, create community identity, a sense of place and revitalize local economies.

To submit an application, eligible primary partners must be eligible local governments and local arts agencies or other departments, agencies or entities within an eligible local government. Only one application per city/town/county will be accepted. The Asheville Area Arts

Council meets the criteria as an arts agency with proven three (3) year history of arts programming.

Initial application submission begins December 15, 2014, through Grants.gov. Then final application, program narrative and financial information will be due January 15, 2015. Applications will be reviewed in April 2015, award notification is July 2015 and earliest project start is October 1, 2015.

The grant requires a non-federal dollar for dollar match, which may include in-kind, cash and volunteering. Matching funds for this grant are not required at the initial submission of the application but must be confirmed prior to award (July 2015).

The AAAC has worked with the Buncombe Cultural Alliance to seek matching funds in addition to the funds requested from the City of Asheville. In kind support has been requested from the Economic Development Coalition and additional requests will be submitted to Buncombe County (\$25,000) and the Community Foundation of Western North Carolina.

City staff has been a working part of the recently formed Buncombe Cultural Alliance (BCA) since 2013. The BCA is a forum, not an organization. The Asheville Area Arts Council (AAAC), with the agreement of BCA partnering organizations, provides the coordination and infrastructure support necessary to maintain the vessel of the BCA. This allows the BCA to lend its full support to the collaborative efforts of arts organizations, artists and arts & cultural partners, and to not create a new, competing nonprofit organization or programming. The AAAC participates as an equivalent member in decisions works to capture and convey the work of the BCA through the annual Creative Sector Summit, and helps to facilitate partnership opportunities and the delivery of strategies that arise as a result of the BCA's work.

The BCA has agreed on an initial project to conduct a cultural asset inventory. It is a cross sector collaborative assessment of Buncombe County's cultural resources including but not limited to creative industry jobs and businesses, cultural amenities, public art, market opportunities, and arts and culture related resources such as nonprofit and educational programs and services, equipment, space, capital, and supply.

A Cultural Resources Asset Inventory captures important information about the scope of the economic activity of creative industry not captured in the area using traditional industry codes.

1. The data captured provides new information about the scale and nature of economic activity related to cultural and creative industry based businesses, such as the export and sale locally of creative product, the number of artisans and creative industry businesses in the area, supply chain information, related professional services industries supported, available and related real estate use, and the like.
2. Information gathered provides feasibility for arts based development and related uses, such as artist workforce housing and studios.
3. The inventory creates a common use, business to business database of arts and culture partners.
4. The process identifies need and resources for the creation and support of new and existing strategy in order to support long range cultural planning, as seen in planning efforts such as Imagine Chattanooga 2020 (<http://imaginechattanooga2020.org/>).
5. Supports the implementation of existing plans such as the Asheville Downtown Master Plan (<http://www.ashevellenc.gov/Departments/EconomicDevelopment/ProjectsInitiatives.aspx>).
6. Provides cultural resource data to enhance existing GIS based tools such as the WNC

Vitality Index (<http://www.wncvitalityindex.org/>) and GroWNC maps, similar to CultureBlocks.com in Philadelphia.

7. Increases the area's eligibility for additional Creative Place making funding from the National Endowment for the Arts, ArtPlace, SmArt Initiative, and similar funds.

The request to the National Endowment for the Arts will be \$75,000. Support is being sought from the City as part of the match in the amount of \$25,000. Additional support is currently being requested.

Staff Review:

- A successful grant application will provide funds for marketing, outreach, data collection and analysis, release and publication of reports.
- If awarded funds, AAAC and its partners will conduct a public process, coordinating with other national and local processes, to capture the scope of creative industry economic activity in Buncombe County. The AAAC and partners, including the North Carolina State Arts Council will identify data sets congruous with the NC Creative Economy work of 2007 and 2009, as well as the Economic Development Coalitions Arts and Economic Impact study, and the Americans for the Arts survey that produces Arts and Economic Prosperity V. The AAAC will manage the process with partners including public meetings, survey, marketing and outreach, the management of data, and reporting, and the creation of the database.
- This application will be presented to the Public Art & Cultural Commission in November 2014.
- Staff recognizes the need for the AAAC to build capacity in the performance of this grant. The AAAC understands that and understands that the ultimate goal of the NEA Our Town Grant is to support collaborative efforts that bring results for the entire community and addresses community goals.

Request for consideration of this grant partnership was presented to PED at their meeting on October 21, 2014. They approved this item to be place on your agenda for consideration and approval with the following:

- There should be outreach efforts made to other local government to assist in supporting the work and consideration of matching funds not just other arts agencies and non-profits as this project will benefit and have an impact to all of Buncombe County.
- If approved, the city's match will be contingent upon the outcome of this outreach and support from other local governments.

The grant will support City Council's goal to create economic development and community investment opportunities through partnerships, planning and incentives and to continue to support Asheville as a culturally diverse city.

Pros:

- The City of Asheville will not have fiduciary responsibility on this grant.
- The City would partner with the Asheville Area Arts Council and other arts, culture and entertainment agencies in the fulfillment of this grant programming.
- The inventory will provide important economic development data for future planning and funding.
- It will fulfill the inventory of this kind which was recommended in the 2009 Downtown Master Plan.
- It will serve to unify the creative sector around common goals and a great sense of viability.
- A work plan will be provided to the community for arts driven economic development.
- A framework/strategy will be provided for the support of creative industry entrepreneurship.
- It supports the fulfillment of Asheville's brand promise through enhanced cultural activity.
- It strengthens the community's eligibility for additional infrastructure funding.

- It provides a compass for the development of the identified Innovation Areas, especially the River Arts District.
- An opportunity is provided for marketing the importance of arts and culture, for citizen engagement.
- It builds on existing planning efforts and supports strategic implementation.
- It builds a greater level of partnership between City and creative constituency, County, and arts partners.
- Without the inventory, funds will be spent on creative industry activity with a long range vision and clearly identified goals and reduces the loss of valuable creative people and related businesses.
- It will reduce the impact of the loss of artists due to gentrification.

Cons:

- None noted at this time.

The fiscal impact of the City's support to this grant application is grant matching funds in the amount of \$25,000. If Council approves this request, staff will include funding for the match in the Proposed FY 2015-16 Budget that is presented to Council next spring. As recommended by PED Committee, City matching funds will be contingent upon financial support from other local governments. Additionally, staff time and resources will be required in the performance of this grant.

Approval by City Council for the community partnership for the Asheville Area Arts Council's 2015 NEA *Our Town* grant application; and consideration of the matching funds requested in the amount of \$25,000 which will be budgeted for Fiscal Year 2015-16, subject to (a) other local government match funding; and (b) combination of cash (no amount specified) and in kind.

#### **RESOLUTION BOOK NO. 36 - PAGE 426**

#### **G. RESOLUTION NO. 14-255 - RESOLUTION AUTHORIZING THE STANDARDIZATION PURCHASE OF SAFARILAND BALLISTIC VESTS FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY IN THE ASHEVILLE POLICE DEPARTMENT**

Summary: The consideration of a resolution authorizing the Asheville Police Department to purchase, through standardization, Safariland Second Chance Body Armor through Fiscal Year 2019.

The Asheville Police Department (APD) has been utilizing Second Chance Concealable Body Armor Vests exclusively since 2009. During this time, APD officers have experienced consistent performance while wearing these vests on a daily basis in conducting their policing duties, which have included various force scenarios. The updated version of ballistic vest recommended for standardization is the Safariland Second Chance Summit threat level II and IIIA.

Currently, APD has a long-standing relationship with Lawmen's Safety Supply as a distributor for our equipment needs. North Carolina General Statute 143-129 (e) allows exceptions to formal bidding when standardization or compatibility is the overriding consideration; Lawmen's Safety Supply is identified as the only Safariland authorized distributor eligible to place bids for the State of North Carolina.

Lawmen's has consistently provided excellent customer service, and representatives from both Safariland and Lawmen's have exceeded the Department's expectations with support and assistance.



Pros:

- Reduction in cost to the City of Asheville for the purchase of ballistic vests
- Increase in officer safety by providing crucial safety equipment
- Consistency in equipment when replaced or inventory is increased

Con:

- None

The exception to bid will have no adverse fiscal impact.

City staff recommends City Council adopt a resolution authorizing the Asheville Police Department to purchase, through standardization, Safariland Second Chance Summit Body Armor through Fiscal Year 2019.

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**H. RESOLUTION NO. 14-256 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NHM CONSTRUCTORS, LLC, FOR THE FINALEE AVENUE RETAINING WALL CONSTRUCTION PROJECT**

**ORDINANCE NO. 4362 - BUDGET AMENDMENT FOR THE FINALEE AVENUE RETAINING WALL CONSTRUCTION PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$658,578.50 plus a contract contingency of 15% (\$98,786.78) with NHM Constructors, LLC for the project known as Finalee Ave. Retaining Wall Construction; and (2) a budget amendment in the amount \$386,403 from debt proceeds to fully fund costs associated with the project.

From January 1, 2013, to July 8, 2013, the Asheville area received 41.67 inches of rainfall, exceeding the City's normal annual rainfall for the same time period by 4.68 inches. The stretch of Finalee Ave. adjacent to and above the property located at 760 Biltmore Ave. experienced structural damage to the soils adjacent to the road surface.

Several large and complicated landslides required consultation outside the City workforce, and several consultants were chosen for the more extensively damaged areas. To reinforce the road surface, a design including a soldier pile and lagging retaining wall was chosen for this site, and includes some road rebuilding. The project was advertised on September 9, 2014. Bids were opened and the following bids were received:

NHM Constructors, LLC	Asheville, NC	\$658,578.50
Graham County Land Company	Robbinsville, NC	\$818,115.50

NHM Constructors, LLC was the lowest responsible bidder with a bid of \$658,578.50. Adding in a 15% contingency, the total required budget for construction is \$757,365. Project design consultants, right of way expenses, utility relocation, and construction observation consultation total an additional \$88,738. Finally, City of Asheville labor costs are budgeted at \$90,300; bringing the total budget for the project to \$936,403. The work produced from this contract would resolve liability issues associated with a deteriorating road structure and rebuild the road's underlying support.

Pro:

- Will remove a potential liability issue from the City's transportation network.

Cons:

- Project management and contract administration will consume staff time.
- Financial obligations of project work.

In June 2014, City Council adopted an initial budget for this project that totaled \$550,000.00. Staff now anticipates that the total cost for this project will be \$936,403, which includes design costs, internal labor, easement acquisition, utility relocation, and the contract with NHM Constructors, LLC. The budget amendment tonight in the amount of \$386,403 will fully fund the contract and other costs associated with the project. The project will be funded with debt proceeds with an anticipated twenty year amortization schedule.

City staff recommends City Council adopt (1) the resolution awarding the contract to NHM Constructors, LLC and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$658,578.50 plus a contingency of 15% (\$98,756.78), for a total of \$757,335.28, with NHM Constructors, LLC for the project known as Finalee Ave. Retaining Wall Construction; and (2) a budget amendment in the amount of \$386,403 from debt proceeds to increase the existing project budget to cover the contract, right of way expenses, utility relocation, construction observation consultation, City of Asheville labor, and the 15% contingency.

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ORDINANCE BOOK NO. 29 - PAGE 268**

**I. RESOLUTION NO. 14-257 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO ENTER INTO A CONTRACT WITH ARMEN CONSTRUCTION  
LLC, FOR THE SHILOH ROAD SIDEWALK IMPROVEMENTS PROJECT**

**ORDINANCE NO. 4263 - BUDGET AMENDMENT FOR THE SHILOH ROAD  
SIDEWALK IMPROVEMENTS PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a contract with Armen Construction, LLC, for the amount of \$138,000 plus 15% contingency and any change orders within the project budget for the project known as Shiloh Road Sidewalk Improvements, City of Asheville Project #ENG-12-13-003; and (2) a budget amendment, in the amount of \$73,550 from savings in other sidewalk projects, to provide adequate funding for the proposed bid and the cost of staff time for this project.

This project will build a much needed sidewalk along Shiloh Road and provide connectivity along from the Community Center to Hendersonville Road. Pedestrians currently walk along the road shoulder or in the street itself. The project is ready to begin. All easements have been donated to the City. The scope of work includes the installation of sidewalk, ADA ramps, driveway aprons, and utility relocations. The bids were opened on October 29, 2014, and the results were as follow:

Armen Construction, LLC, Charlotte, NC	\$138,000.00
Patton Construction Group Inc., Asheville, NC	\$183,990.00

Pros:

- Improves pedestrian safety.
- Encourages walking, thereby reducing carbon emissions.

Con:

- Project management and contract administration will consume staff time.

The project budget will be \$189,775. The budget amount consists of \$116,225.00 that was previously budgeted in the City's CIP, and \$73,550 that will be allocated from savings in other sidewalk projects.

City staff recommends that City Council adopt a resolution awarding the contract to Armen Construction, LLC; authorizing the City Manager to execute the contract and any change order within the budgeted amount of \$189,775; and adopt the associated budget amendment in the amount of \$73,550.

**RESOLUTION BOOK NO. 36 - PAGE 429  
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**J. RESOLUTION NO. 14-258 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO CONVEY AN EASEMENT TO DUKE ENERGY PROGRESS  
INC. OVER A PORTION OF CITY-OWNED PROPERTY AT JOHNSON  
BOULEVARD**

Summary: The consideration of a resolution authorizing the City Manager to convey an easement to Duke Energy Progress, Inc. over a portion of City-owned property at Johnston Boulevard and Roger Farmer Park.

The City of Asheville owns real property at PIN #9628663324 and it is currently in use as a recreational park called Roger Farmer Memorial Park. It contains 9.24 acres and the entrance to the park is on Johnston Boulevard. This property is improved with three ballfields, a picnic shelter, concession and restrooms.

Duke Energy is rebuilding an obsolete feeder line along Johnston Blvd. in order to improve reliability to this West Asheville community. The lines will be replaced and voltage increased. The current lines will be relocated to the park side of Johnston Blvd. to facilitate maintenance of the infrastructure from the roadway. This is part of a larger project that extends from Patton Avenue to Bear Creek. This project will only affect road frontage on Johnston Blvd. Access to the park could be affected during the installation of the poles, but it should not constitute a significant amount of time. A guard rail could be affected by the project, but restoration is promised as a part of the provisions of the easement document.

The easement area being requested extends 267 feet along the road frontage. The total width of the easement is 15' on either side of the line and the City is being asked to absorb 9' of the total thirty. This is approximately 2,403 square feet of permanent easement that is being requested. As a result of input from the City Transportation Director, we are stipulating that the poles be at least 7 feet from the edge of pavement. In this way, the new infrastructure will not inhibit the City's ability to install a sidewalk or greenway at a later date. The assistant city attorney has reviewed the easement document.

Pros:

- Granting of the easement will allow Duke Energy to upgrade power infrastructure to provide improved service to the West Asheville neighborhood.
- Granting of the easement will not affect the long range use of the park for public recreation.

Cons:

- The only cons are short term in nature and will take place only during installation of the poles, guide wires and anchors.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a 2,403 square foot easement over a portion of City-owned property at Johnston Boulevard to Duke Energy Progress, Inc.

**RESOLUTION BOOK NO. 36 - PAGE 430**

**K. RESOLUTION NO. 14-259 - RESOLUTION ACCEPTING A GRANT FROM THE N.C. DEPT. OF PUBLIC SAFETY FOR THE PURCHASE OF EQUIPMENT FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE**

**ORDINANCE NO. 4364 - BUDGET AMENDMENT FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE**

Summary: The consideration of the following items relative to a grant for the Hazardous Materials Regional Response Team: (1) a resolution authorizing the City Manager to accept a non-matching grant from the N.C. Department of Public Safety, Division of Emergency Management, for the procurement of equipment to be used by Hazardous materials Regional Response Team 6 – Asheville; and (2) the associated budget amendment, in the amount of \$27,400.

The U.S. Department of Homeland Security Grant Program (HSGP) has made funds available through State Homeland Security Grant Number: EMW-2014-SS-00069-S01 to implement the State Homeland Security Strategy. The strategy identifies the NC Hazardous Materials Regional Response Teams (RRT) as an integral component of North Carolina's preparation and response to manmade and natural emergencies and disasters. The purpose of the grant is to purchase specialized equipment to be used on-scene and to prevent, protect against, respond to, mitigate, and recover from potential acts of terrorism and other hazardous or catastrophic events.

There are seven Regional Response Teams (RRT) strategically located throughout the state. Asheville Fire Department hosts one of the seven state funded teams - RRT 6. The team responds to hazardous materials incidents in the twenty westernmost counties of North Carolina.

Each of the seven RRTs will receive an equal amount of non-matching funding and each will procure comparable equipment. The equipment consists of a handheld thermal imaging camera, a propane gas burn-off kit and LED scene lighting for the RRT-6 vehicle.

The grant is non-matching and all equipment provided through this grant will become the property of the Asheville City Government.

This grant has been reviewed by the Public Safety Committee and has been recommended for consideration by Council.

Pros:

- The Department of Public Safety, Division of Emergency Management, will provide \$27,400 in non-matching funds for the purpose of upgrading Asheville and Western North Carolina's terrorism response capabilities.
- The equipment is state of the art and will better address the risk of terrorist's attacks and hazardous materials incidents.
- All statewide regional response teams will be comparably equipped and interoperability will be realized should an event require the resources of additional teams.
- This equipment is immediately available to Asheville residents and businesses. This level of equipment would most likely not be able to be obtained through the city's general budget process.
- Firefighter and citizen safety will be enhanced.

Con:

- The City of Asheville will be responsible for maintenance and upkeep of the equipment.

There is no fiscal impact associated with the receipt of this grant, as it is non-matching. However, the City of Asheville takes ownership of the purchased equipment, necessitating routine maintenance and upkeep costs to be incurred by the City, which will be absorbed by our annual operating budget.

City staff recommends that City Council take the following action: (1) authorize the City Manager to accept the non-matching grant from the NC Department of Public Safety, Division of Emergency Management, to enhance AFD's capabilities to protect Asheville and Western North Carolina; and (2) adopt the associated budget amendment.

**RESOLUTION BOOK NO. 36 - PAGE 431  
ORDINANCE BOOK NO. 29 - PAGE 272**

**L. RESOLUTION NO. 14-260 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S  
HIGHWAY SAFETY PROGRAM FOR YEAR 2 OF THE MULTI-  
JURISDICTIONAL DWI TASK FORCE**

**ORDINANCE NO. 4365 - BUDGET AMENDMENT TO ESTABLISH YEAR 2 OF  
THE MULTI-JURISDICTIONAL DWI TASK FORCE**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund Year Two of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO); and (2) a budget amendment in the amount of \$411,331 to establish a budget for the second year of the grant.

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

In reviewing these statistics, the NCGHSP contacted APD and suggested a DWI Task Force with a goal of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. A request for continuation of Year Two of a four year grant in the amount of \$411,331 in FY 2015 that would cover the of cost, to pay for six officers on DWI enforcement and training. The City of Asheville and Buncombe County will match this grant at 15%. For the City, the FY 2014-15 15% match will total \$40,999. Under this grant, APD would supply one sergeant and three officers while BCSO would supply two officers. These six officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. The appointed officers would also hold educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance.

Pros:

- NCGHSP grant funds for training and 85% of the costs of salary and benefits to officers participating in the DWI Task Force.

- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond the first year.
- In Year Two, the City of Asheville will be required to cover 15% of the grant of personnel costs. The grant will continue to decrease each year with the City of Asheville responsible for 100% of personnel costs at the end of the four-year grant period.

As noted above, the general fund impact in FY 2014-15 is \$40,999. This amount is already included in the Police Department’s adopted budget. At the end of the grant, the general fund impact will be approximately \$267,325 per year to permanently add one sergeant and three officers to the APD roster. The chart below outlines the estimated general fund impact in future budget years.

FY 2016	\$80,197
FY 2017	\$133,662
FY 2018	\$267,325

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor’s Highway Safety Program; and (2) a budget amendment in the amount of \$411,311 to establish a budget for Year Two of the grant.

**RESOLUTION BOOK NO. 36 - PAGE 432  
ORDINANCE NO. 29 - PAGE 274**

**M. RESOLUTION NO. 14-261 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE A BUS.**

**ORDINANCE NO. 4366 - BUDGET AMENDMENT TO SET THE BUDGET TO PURCHASE A REPLACEMENT COMPRESSED NATURAL GAS BUS FOR HENDERSON COUNTY’S TRANSIT SYSTEM**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease a Compressed Natural Gas (CNG) bus; and (2) budget amendment in the amount of \$143,600.40 to set the budget to purchase a replacement CNG bus for Henderson County’s transit system.

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

The estimated total cost of the subject project is \$143,600.40. Federal funds will provide \$112,828 covered with grant NC-90-X439; this grant requires a match of \$28,206 provided by Henderson County, plus \$2,566.40 for the title, tag and graphics. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A contract is in place and staff will order the bus as soon as the budget is amended.

Pros:

- The bus will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 80% of the total estimated project cost.
- Henderson County provides 20% of the total estimated project cost plus tag, title's costs and graphics.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

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

The total estimated project cost is \$143,600.40, with 80% or \$112,828 coming from Federal funds, 20% or \$28,206 and tag and title in the amount of \$2,566.40 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one CNG Bus; and (2) adopt the associated budget amendment.

**RESOLUTION BOOK NO. 36 - PAGE 433  
ORDINANCE BOOK NO. 29 - PAGE 276**

**N. REPORT ON ONE-YEAR UPDATE ON UNIFIED DEVELOPMENT  
ORDINANCE AGRICULTURAL AMENDMENT**

Summary: This is a one-year review of the Agriculture Amendment that was presented and approved by City Council on September 24, 2013 (Ordinance 4233). The impetus for the amendment came from local citizens interested in food policy issues such as food security, sustainability and the expansion of agricultural production. Efforts were made to review code items that may have been hindering the creation or expansion of farming activities throughout the city.

The code changes are outlined below:

- 'Agriculture' as a land use was added to the table of uses in the UDO as either a permitted use in non-residential districts or a *use by right subject to special requirements* (USSR) in residential districts.
- Structure sizes for agricultural uses in non-residential districts are only limited by general structure limitations for the zoning district in which they are located.
- Standards for residential districts as a USSR were amended to:
  - Allow a farm stand to operate on a daily basis on the farm property to sell items produced on site.
  - Allow animals as a part of an agricultural activity by permit
  - Create a standard for stand-alone structures on a community garden space

- Provide special provisions for structures used in agricultural production with building sizes that are separate from other accessory standards on the same property

The ordinance was greeted with enthusiasm when it was adopted in September 2013. Staff has reviewed the development records over the past year and initially found that there were no permits issued to build agricultural structures or establish an agricultural use. After attending a food policy council meeting in September and speaking with some members of that group, staff learned that there have been several storage sheds constructed on garden sites. Since the structures are smaller in scale and do not require a building permit, there is no record of the construction.

Other suggestions shared by the group to encourage additional urban farming activity:

- Encourage changes in state law to expand the range of eligible properties to participate in the *present use valuation* method instead on market value to determine property taxes. This method which typically applies to larger farm tracts, usually reduces the property tax burden for property owners engaging in agricultural activities. If the qualifying regulations were changed, smaller tracts could receive some tax relief and subsequently less pressure to sell off excess land for redevelopment. This change would require revamping the regulations at the state level.
- Farmers need access to affordable land and so an idea was offered with a suggested name- 'farm my yard' where property owners on a voluntary basis would allow local farmers to undertake agricultural activities on their excess property. There are no required changes to city regulations to allow this type of exchange to occur. In some situations, a grading permit may be required depending on the size of the area.
- One local farmer mentioned the need for flexibility in housing accommodations on a farm to house farm workers (often volunteers). The zoning for many farm operations is residential and single-family residential zoning limits the number and types of residential units allowed on a single parcel. Also normal building code and housing standards need to be met for the construction of safe housing units which can make the cost of housing more expensive. Some rural farms utilize recreational vehicles and manufactured housing (mobile homes) to provide accommodations for farm workers. There are not many options for permitting recreation vehicles for occupancy (RVs or similar structures) except where temporary accommodations are allowed such as camp grounds. Asheville does permit manufactured housing which is limited by location as an overlay as either an individual manufactured housing site or manufactured housing communities. There has not been much discussion to expand the overlay for manufactured housing.
- Other ideas from the Food Policy group related to permitting distribution sites for local CSAs (*community supported agriculture* farm operations) at neighborhood sites for the convenience of local members. This type of activity is already allowed by existing ordinances.
- There was one request from the past year where a woman wanted to operate a mobile farm vending truck and that was approved and issued under a temporary use provision already in the ordinance.

In developing the City's legislative agenda, it is recommended that any legislative changes be directed to the Governance Committee for their review. For suggested changes to the Unified Development Ordinance, it is recommended that those be forwarded to the City Council Planning & Economic Development Committee for their review.

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

**O. MOTION AUTHORIZING THE MAYOR TO SIGN A LETTER TO SUPPORT ACTION TO HELP STOP GLOBAL WARMING**



**p. RESOLUTION NO. 14-264 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WNC ROOFING INC. FOR REPAIR WORK TO THE THOMAS WOLFE AUDITORIUM**

**ORDINANCE NO. 4370 - BUDGET AMENDMENT FOR THE REPAIR WORK TO THE THOMAS WOLFE AUDITORIUM ROOM**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with WNC Roofing Inc. for repair work on the roof of the Thomas Wolfe Auditorium; and (2) a budget amendment in the amount of \$185,000 from US Cellular Center and General Fund available fund balance to appropriate funding for the repair work.

Staff at the U.S. Cellular Center has been repeatedly working with roofing vendors for over one year repairing leaks in the roof of the Thomas Wolfe Auditorium. Over the past year and a half the venue has spent \$5,000 on roof repairs. New leaks are found after every hard rain. Currently the roof has at least three active leaks. Recently during a very heavy rainfall storm a leak over the seating section of the Auditorium caused a section of the plaster ceiling to crumble and fall into the seating area. For public safety reasons, staff believes that patches to the roofing material are no longer a viable option.

Staff recommends install a Hydro-Stop Premium Coat System on the room of the Thomas Wolfe Auditorium. This roof system comes with a 15 year labor and material warranty, has a high reflectivity and does not require the removal of the current roof.

This item has been reviewed the by the Civic Center Commission and at their meeting on November 4, 2014, and they recommended approval.

Pros:

- Repair to leaking roof
- 15 year labor and material warranty

Cons:

- \$185,000 cost is a non-budgeted expense.

Funding for this unanticipated repair work will be split between the General Fund and the US Cellular Center Fund, using the same percentage basis as the General Fund's subsidy of the US Cellular Center operating budget. Therefore, \$125,000 will be appropriated from US Cellular Center available fund balance, and \$60,000 will be appropriated from General Fund unassigned fund balance. Fund balance levels in both funds will continue to exceed city policy targets after these appropriations.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract with WNC Roofing Inc. of 15 Loop Rd Arden NC, 28704, to install a Hydro-Stop Premium Coat System on the room of the Thomas Wolfe Auditorium; and (2) a budget amendment in the amount of \$185,000 from US Cellular Center and General Fund available fund balance to appropriate funding for the repair work.

**RESOLUTION BOOK NO. 36 - PAGE 436  
ORDINANCE BOOK NO. 29 - PAGE 299**

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

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

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

#### **A. ABC BOARD UPDATE**

ABC Board Chairman Jim Ellis thanked Council for allowing him to serve as Chairman of the ABC Board. He then introduced General Manager Mark Combs who said that the ABC Board (1) Responsible Sales (a) new point of sale system; (b) best credit card data protection available; and (c) modern, efficient stores and operations; and (2) Return Resources to our Community (a) local alcohol and drug rehabilitation grants (\$166,000); (b) statutory funding to (i) Buncombe County rehabilitation services (\$74,289); and (ii) N.C. Dept. of Health Services (\$72,046).

Mr. Combs then reviewed the ABC Board's financial information for Fiscal Year 2013-14 vs. Fiscal Year 2012-13. Distributions to City and County in Fiscal Year 2013-14 were \$1,457,860 vs. \$1,322,523 in Fiscal Year 2012-13. Profit Percentage to sales were 9.44% in Fiscal Year 2013-14 vs. 8.98% in Fiscal Year 2012-13.

ABC Board projects include a new store on Hendersonville Road, customer focus and alcohol education.

On behalf of City Council, Mayor Manheimer thanked Mr. Ellis for his service, and the entire Board for their dedication and hard work.

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

#### **A. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AN AMENDMENT TO THE 2014-15 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS**

##### **RESOLUTION NO. 14-262 - RESOLUTION TO SUBSTANTIALLY AMENDED THE 2014-15 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS**

Assistant Director of Community and Economic Development Development Jeff Staudinger said that this is the consideration of a resolution to substantially amended the 2014-15 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME funds to (1) Grant an additional \$9,326 to Asheville Buncombe Community Christian Ministries for their Homelessness Prevention and Rapid Rehousing (HARP) program, for a total 2014-2015 award of \$20,000; (2) Grant an additional \$140,000 to Asheville Area Habitat for Humanity for their Shiloh Taft Avenue single-family home construction program, for a total 2014-2015 award of \$150,000; (3) Grant an additional \$50,000 to Madison County for the Rural Housing Rehabilitation Program in partnership with the Community Housing Coalition of Madison County, for a total 2014-2015 award of \$90,000; (4) Grant an additional \$62,837 to Mountain Housing Opportunities as a CHO for their proposed 60-unit East Haven Apartments affordable housing development in Swannanoa, for a total 2014-2015 award of \$162,837; and (5) Grant \$162,837 to the Housing Assistance Corporation as a CHO for their proposed 66-unit Mud Creek Villages affordable housing development in Hendersonville. This public hearing was advertised on October 31 and November 7, 2014.

He said that \$425,000 of HOME funds awarded to the Housing Assistance Corporation in Hendersonville for multi-family rental development needs to be reallocated. The Community Development Division, at the direction of the Asheville Regional Housing Consortium, sought proposals from those HOME subrecipients originally awarded funds for less than their 2014 request, and for developments proposed by Community Housing Development Organizations (Cho's). Five applications were received requesting a totaling \$1,049,326.

Applicant	Project	Original Request	Amount Originally Funded	New Request	Total Request
AMAH	Shiloh Taft Avenue Project	\$ 150,000	\$ 10,000	\$ 140,000	\$ 150,000
ABCCM	HARP	\$ 20,000	\$ 10,674	\$ 9,326	\$ 20,000
Madison County	Rural Rehab	\$ 90,000	\$ 40,000	\$ 50,000	\$ 90,000
MHO	East Haven Apartments	\$ 328,000	\$ 100,000	\$ 425,000	\$ 525,000
HACK	Mud Creek Village			\$ 425,000	\$ 425,000

After reviewing applications, hearing presentations by applicants and Board discussion, the Consortium recommends the following allocations:

1. Asheville Area Habitat for Humanity, Shiloh Taft Avenue development. Additional allocation, \$140,000 for a total 2014 allocation of \$150,000. Habitat will develop 10 new, affordable, Green Built NC and System Vision certified homes to be sold at 0% interest loans to qualified low-income families and individuals ("Partner Families").
2. Asheville Buncombe Community Christian Ministries, Homelessness Prevention and Rapid Rehousing. Additional allocation, \$9,326, total allocation, \$20,000. ABCCM will assist 28 households who are homeless or in imminent danger of becoming homeless obtain or retain permanent housing, through providing tenant-based rental assistance and case management services.
3. Madison County, Rural Housing rehabilitation. Additional allocation, \$50,000, total allocation, \$90,000. Madison County will contract with the Community Housing Coalition of Madison County to rehab 2-4 homes belonging to low and very low income homeowners to eliminate the threat to life, health or safety and incorporate energy efficiency improvements.
4. Mountain Housing Opportunities, East Haven Apartments. Additional allocation, \$62,837, total allocation, \$162,837. MHO will develop 60 units of rental housing in Swannanoa affordable to low-income households.
5. Housing Assistance Corporation, Mud Creek Village, Allocation, \$162,837. HACK will develop 66 units of rental housing in Hendersonville affordable to low-income households.

In accordance with the City's Citizen Participation Plan, the proposed allocations have been available for public review and comment for 30 days. Contracts for HOME funds are executed only when the project is ready for implementation and all other funding is firmly committed. Disbursement of grant funds occurs after contracts are signed, and on a reimbursement basis.

Pros:

- The development projects, if all go to completion, will create 136 units of new affordable housing for low-income households in the Consortium area; and will provide significant construction employment;
- Additionally, 28 households will be housed who would otherwise be homeless, and at least two households living in substandard conditions will have their homes repaired.

Con:

- None.

All funds being allocated in this process are federal HOME funds received by the City of Asheville for the purpose of affordable housing. No City of Asheville general funds are affected by this process.

Staff concurs with the recommendation of the Asheville Regional Housing Consortium that the Asheville City Council approve the proposed Substantial Amendment to the 2014-2015 Annual Action Plan for CDBG and HOME.

Councilman Smith said that the HOME Consortium agreed unanimously on these amounts.

Mayor Manheimer opened the public hearing at 5:18 p.m.

A gentleman questioned why these funds for affordable housing are going outside the City of Asheville.

Ms. Judy Strong questioned if the organizations have made assurances that the rents will remain low and if there is a different way to allocate the money in the Madison County area.

Mayor Manheimer closed the public hearing at 5:22 p.m.

Councilman Smith said that the funds are HOME Consortium funds. The federal government apportions these to a four-county area. The City of Asheville is the primary entity that disperses the dollars, but the intent is to have that money create affordable housing across the four counties. The City of Asheville has its own Housing Trust Fund and Community Development Block Grant funds.

Mr. Staudinger responded to Ms. Strong's inquires, noting that there are federal requirements for the use of those funds.

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

Councilwoman Wisler moved for the adoption of Resolution No. 14-262. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 36– PAGE 434**

#### **B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING 593 AZALEA ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING TO ALLOW AN EXISTING RESIDENTIAL STRUCTURE TO BE USED FOR OFFICE SPACE FOR ASHEVILLE-BUNCOMBE YOUTH SOCCER ASSOCIATION**

#### **ORDINANCE NO. 4367 - ORDINANCE TO CONDITIONALLY ZONE 593 AZALEA ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING TO ALLOW AN EXISTING RESIDENTIAL STRUCTURE TO BE USED FOR OFFICE SPACE FOR ASHEVILLE-BUNCOMBE YOUTH SOCCER ASSOCIATION**

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone 593 Azalea Road from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning to allow an existing residential structure to be used for office space for Asheville-Buncombe Youth Soccer Association. This public hearing was advertised on October 31 and November 7, 2014.

The subject property consists of a 14.16 acre parcel (zoned RM-16) located at 593 Azalea Road East in East Asheville. The property contains an existing residential structure that is currently vacant. [Parcel Identification Number is 9668.25-1574]. The property slopes steeply up from Azalea Road and is heavily wooded.

The applicant, Asheville Buncombe Youth Soccer Association (ABYSA), proposes to convert an existing single-family dwelling to an office building with accompanying parking at 593 Azalea Road East. [Property is owned by AVL Investment Properties LLC]. The building is one story in height (with a basement) and has a gross floor area of 4,479 square feet. The structure is served with well water and a septic system.

Access to the site is currently via a gravel/dirt drive off of Azalea Road East. It is proposed that this drive be improved to meet City of Asheville standards. The improved access will lead to the office building and to a parking area containing eighteen spaces. Sidewalks are not required on Azalea Road due to rock impediments on the property. This stretch of Azalea Road is part of a comprehensive infrastructure improvement project being undertaken by the City of Asheville. Sidewalks were proposed not to be constructed through this stretch of the improvements due to the presence of rock.

Landscaping is required for the project and includes street trees, buffering, and vehicular use area landscaping. Street trees and needed buffers are provided for through the extensive existing vegetation. Additional detail is needed on the landscaping plan but can easily be shown compliant. Open space information needs to be provided but will clearly be compliant. Both of these will be shown for the Final TRC review if the conditional zoning is approved.

The Technical Review Committee (TRC) reviewed this application at their meeting on September 15, 2014, and approved it with conditions. [The developer has addressed many of the conditions noted by TRC in the submittal that is before the Asheville City Council]. The application was reviewed by the Asheville Planning and Zoning Commission at a meeting on October 16<sup>th</sup> and was recommended for approval unanimously (5-0). The matter will return to the Technical Review Committee, if approved by Asheville City Council, for Final TRC review. To date, staff has had no comments from the public on this matter.

The site is bordered by properties zoned RS-2 to the south (Recreation Park), RS-8 and RM-8 to the north and east (containing single-family homes) and RM-16 to the west (containing townhouses). While most of the surrounding properties are residential in nature there are City of Asheville offices and other facilities in the immediate area.

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

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

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

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

The proposed use and development of the land are reasonably compatible with the natural features and topography of the site. The developer is using an existing structure and doing minor site work (drive widening and parking); no disturbance will occur on the majority of the property. Most of the existing vegetation will remain on the site.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*  
The development is not expected to injure the value of adjoining or abutting properties. The portion of the site that will be used for offices is greatly removed from all surrounding properties and buffered with existing vegetation. The Office District anticipates the development of small scale office uses adjacent to residential uses. It limits hours of operation to between the hours of 7:00 a.m. and 9:00 p.m. The proposed use should not add significant vehicular usage to a busy roadway which is currently being improved to better handle the traffic.
4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*  
The use of the existing home as an office is in harmony with the area in which it is located. There are other offices and a wide variety of uses found in the immediate vicinity. The scale of the office will be in keeping with the residential structures in the area.
5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*  
The *Asheville City Development Plan 2025* encourages compatible adaptive reuse in appropriate areas (pg. 149).
6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*  
The proposed use is located near major roadways and along a road that is undergoing major infrastructure improvements. Basic infrastructure appears adequate and issues identified by the major service providers have been or are being addressed.
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
The proposed project has been reviewed by the City Traffic Engineer and it has been determined that the project should not cause undue traffic congestion along the existing street infrastructure.

The *Asheville City Development Plan 2025* encourages compatible adaptive reuse in appropriate areas.

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

Considerations:

- The project proposes adaptive reuse of a currently vacant building for a use compatible with the surrounding area.
- The proposal results in the loss of a housing unit in the city; however, this unit has been vacant in the recent past.
- The use of the property for an office will be well buffered from surrounding residential properties and hours of operation are limited.
- While the proposed use of the property is perhaps not the highest and best ultimate use of this underutilized parcel (especially when all the road improvements in the area are completed), staff does not find it to be an inappropriate use for a period of time until a more

significant development is proposed. Such a development will require major infrastructure extensions/improvements. The property owner has provided an affidavit indicating their interests concerning the future of the property.

Staff recommends approval of the proposed conditional zoning, finding it consistent with City-adopted plans and strategic goals for development.

Mayor Manheimer opened the public hearing at 5:28 p.m.

Ms. Margie Mann, representing the owner, said that the property will be used as office space. She also noted that they have met with the Viewpoint Homeowners Association and they are pleased with what they are doing with the property.

Mr. Karl Koon, property owner, asked for City Council's support of the conditional zoning.

Ms. Judy Strong asked if City funds will be used for this renovation.

Mayor Manheimer closed the public hearing at 5:31 p.m.

In response to Councilman Bothwell, Ms. Fields said that the conditional zoning is site specific, not the entire 14.16 acre parcel.

In response to Ms. Strong, Ms. Mann said that only ABYSA funds will be used to renovate the home.

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

Councilman Smith moved to approve the conditional zoning request for the ABYSA office at 593 Azalea Road from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following way: the plans propose the compatible adaptive reuse of a property from vacant residential to office. This motion was seconded by Councilman Pelly and carried unanimously.

**ORDINANCE BOOK NO. 29 - PAGE 278**

**C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING SIX LOTS ON KLEPPER DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING FOR ROAD CONSTRUCTION, MODIFICATION AND FLEXIBLE DEVELOPMENT REQUEST FOR LOT SIZE**

**ORDINANCE NO. 4368 - ORDINANCE TO CONDITIONALLY ZONE SIX LOTS ON KLEPPER DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING FOR ROAD CONSTRUCTION, MODIFICATION AND FLEXIBLE DEVELOPMENT REQUEST FOR LOT SIZE**

Interim Planning Director Alan Glines said that this is the consideration of an ordinance to conditionally zone 6 lots on Klepper Drive from RM-8 Residential Multi-Family Medium Density District to RM-8/CZ Residential Multi-Family Medium Density District/Conditional Zoning for road construction, modifications and flexible development request for lot size. This public hearing was advertised on October 31 and November 7, 2014.

He said that the site is located on Charlotte Street at Hazzard Street and consists of 6

existing non-conforming lots with limited access. The PINs include 9649-50-8286, 9649-50-9208, 9649-50-9332, 9649-50-9372, 9649-60-0311, 9649-60-0298. The properties have a complicated history as they were remnant properties that were sold to the current owner by the City of Asheville from excess ROW areas left over from the creation of South Charlotte Street by the NC DOT. Portions of these same parcels were originally created by T.W. Patton by a plat recorded in 1901. The current owner improved the area of these lots by purchasing additional excess ROW directly from the NC DOT and then recombining a portion to each remnant parcel to make them more compliant and more buildable. A recombination plat was approved and recorded in 2011. The surrounding area is zoned RM-8 (residential multi-family medium density) but many of the surrounding uses are single family residences along with a place of worship along Circle Street. This area was originally part of the Eagle Street neighborhood that was closely associated with 'The Block' located in downtown Asheville.

The applicant is proposing to create a new private street to provide access to 6 residential lots. The lots are existing but non-conforming due to lot size and frontage width and will be made smaller by the creation of the improved right of way access. The paved access drive is proposed to be 17 feet wide within a dedicated 20 foot wide right of way space (ROW). Some of the areas of the right of way are wider than 20 feet but the ROW will be 20 feet at its narrowest point near Hazzard Street. The pavement width (17') is the minimum width to allow on-street parking. The movement of traffic will be one-way from Circle Street and the size and flow of the street has the approval of the TRC members including Fire and Transportation. The proposed lot sizes will be smaller than RM-8 standards defined in 7-8-6 of the UDO. Standard lots are generally 5,000 square feet with 50 feet of frontage on an improved ROW.

The new private street, Klepper Drive will be accessed from Circle Street. The traffic flow will be one-way from Circle Street and will connect at the bottom with Hazzard Street. Circle Street is a quiet street that has access from the intersection with Hazzard Street and Max Street. There is an important neighborhood pedestrian connection and bridge from Circle Street that crosses Charlotte Street connecting to Davidson Street downtown. There are no other sidewalks in the project area except for along Hazzard Street and Max Street and none are required as a part of this subdivision due to the limited number of lots. Even though the street width is small, Klepper Drive will help to improve connectedness throughout the neighborhood.

*Landscaping, Open Space and Tree Save* standards are not required for this subdivision because only six lots are proposed and with the proposed smaller lot area these features will be more difficult to provide on-site. In spite of this the developer is proposing a street tree for each of the lots.

*Modifications:*

- **Area:** All 6 lots are already undersized to the lot area standard for RM-8 (standard 5,000 square feet). To create improved access for the lots, some area is being removed for each parcel making them smaller. The proposed lots will range in size from 3,147 to 4,720 square feet. It is expected that even with the smaller area, the lots will be able to accommodate a site-designed house.
- **Access:** The developer is seeking approval and use of a ROW of 20' which will be wider near the top at its connection with Circle Street but will establish a more consistent connection to Hazzard Street. The city standard for new streets is 50' ROW which affords two-way movement, sidewalks and on-street parking. It is not unusual though for residential developments to request modifications to ROW widths which can range from 25 to 40 feet depending on the proposal and neighborhood context. With the limited number of lots, no concerns were raised by technical review committee members.
- **Setbacks:** The developer is seeking flexible development standards for the front and rear setback allowed under Article 11 in the UDO (7-11-7). The UDO specifies that should



flexible standards be granted, then at least a ten foot setback be maintained. Since four of the six lots have frontage on two streets, these are considered to be through-lots so the 10' front setback request applies to both fronts (15 foot setback is the standard in this district). The two remaining lots near Hazzard Street will only need a 10' setback reduction for the **front** of their proposed lot. An approved setback reduction should expand the space on the lots for a house since the building envelop is expanded.

- **Frontage:** The standard lot width is 50 feet in the RM-8 district. Four of the lots; lots numbered 4,6,8, and 10 Klepper Drive have widths proposed to range between 35 and 43 feet. Designing a house to meet the smaller lot widths is possible and accounting for the **side** setbacks of 6 feet (12 feet total) provides a minimum house width of at least 22 feet wide or larger.

The existing zoning is RM-8 (residential multi-family medium density) district and the proposed zoning request is RM-8 CZ (conditional zoning) to accommodate the development of smaller parcels on a smaller right of way.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions.

The proposal is for smaller residential lots in an area that is primarily residential in nature. Although the lots border or are close to South Charlotte Street, their access and orientation is from the residential side. Due to their limited size, use of the lots will be limited to one single-family residence and typical residential accessory structures in a similar way that other non-conforming lots are permitted to be developed.

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

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*  
The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*  
The applicant is proposing to provide better access for existing lots using a narrower one-way street. The residential uses proposed for the parcels will be a good fit for the topography of the site since each house can be designed to fit each individual lot owing to its unique slope and configuration. No access to the development will occur directly from Charlotte Street.
3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*  
The proposal for single family subdivision is not expected to injure the value of properties in the area. The proposed lots will be similar to some other historic lots in the vicinity of the development accessed from neighborhood streets.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*  
The proposed site is a part of the historic Eagle-Market Street district known as 'The Block' and was the residential edge of Eagle Street. An original plat was recorded in 1906 and included Eagle Street and Circle Street. The six parcels were remnants of some of those original parcels and when South Charlotte Street was created and the neighborhood altered, these were excess parcels. The city acquired these parcels from the NC Department of Transportation and later sold them to the current owner. The current owner approached NC DOT about acquiring additional land to make each lot more buildable. The lots are compatible with the scale of the surrounding area and with a number of the original parcels that were part of the 1906 plat. The new residential development will contribute to the neighborhood fabric now known as the *East End* neighborhood.
  
5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*  
The Comprehensive Plan recommends higher density residential infill development at locations that are suitable for such development with basic infrastructure. The proposal is adjacent to the central business district area and is close to jobs, parks, transportation options and shopping. The area is currently vacant and as noted in the Comprehensive Plan, such infill properties can be developed without changing the existing character of the area. Smaller lot sizes were once more common in Asheville before minimum zoning standards were adopted so in some ways this development reflects historic patterns especially for neighborhoods near downtown.
  
6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*  
This project poised near the edge of downtown is has direct access to a pedestrian bridge crossing South Charlotte Street to provide access to downtown. Multiple modes of transportation are available to the area including bus lines that run along College Street and Martin Luther King Jr. Boulevard. All other urban services are available to this parcel as well.
  
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
The proposed uses on the site are not expected to create undue traffic congestion or create a traffic hazard. The small number of residential parcels in the subdivision will not create traffic congestion.

The Comprehensive Plan recommends higher density residential infill development at locations that are suitable for such development with sufficient basic infrastructure. The proposal is adjacent to the central business district area and is close to jobs, parks, transportation options and shopping. The area is currently vacant and as noted in the Comprehensive Plan, such infill properties can be developed without changing the character of the area. Smaller lot sizes were once more common in Asheville before minimum zoning standards were adopted so in some ways this development reflects historic patterns especially for neighborhoods near downtown.

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

Considerations:

- The project proposes improved access for existing vacant residential lots.
- Infill residential parcels close to downtown, transportation options and jobs will be available for new housing development.
- Sidewalks are not proposed (or required) as a part of this subdivision and are limited in the surrounding area.

- An important pedestrian bridge over S. Charlotte Street close to this site links the neighborhood to the downtown area.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions. The Planning and Zoning Commission met on October 16, 2014, and recommended unanimous approval.

Staff recommends approval of the proposed RM-8 CZ conditional zoning to allow for six residential lots with improved right of way access as proposed in the site plans, to allow for single-family residences and typical residential accessory structures and, finding that the request is consistent with City-adopted plans and strategic goals.

Mayor Manheimer opened the public hearing at 5:38 p.m., and when no one spoke, she closed the public hearing at 5:38 p.m.

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

Councilwoman Wisler moved to approve the conditional zoning request for the Klepper Drive Development from Residential Multifamily Medium Density (RM-8) to Residential Multifamily Medium Density conditional zone (RM-8 CZ), based on the site plan with the proposed modifications, compliance with TRC requirements and conditions agreed upon by the applicant and outlined in Exhibit B.1, and find that the request is reasonable, and is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) higher density residential infill development at locations that are suitable for such development with sufficient basic infrastructure is supported; (2) The proposal is adjacent to the central business district area and is close to jobs, recreation, transportation options and shopping; (3) The land is currently vacant and will contribute to the fabric of the existing East End neighborhood. This motion was seconded by Councilman Pelly and carried unanimously.

#### **ORDINANCE BOOK NO. 29 - PAGE 293**

#### **D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE**

At the request of the applicant, Councilman Smith moved to continue this public hearing until December 9, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

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

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

#### **A. BOARDS & COMMISSIONS**

Regarding the Noise Ordinance Appeals Board, no one applied for the vacancy and therefore, City Council instructed the City Clerk to re-advertise.

**RESOLUTION NO. 14-263 - RESOLUTION APPOINTING A MEMBER TO THE ABC BOARD**

Councilman Davis, member of the Boards & Commissions Committee, said that this is the consideration of appointing members to the ABC Board and also to appoint a Chair.

The terms of Jim Ellis and John Menkes expire on November 13, 2014. Mr. Ellis is currently Chairman and City Council must appoint a new Chair.

The following individuals applied for a vacancy: Lewis Isaac and Charles R. Worley.

The Boards & Commissions Committee recommended reappointing Mr. Menkes; appointing Lewis Isaac; and appointing John Menkes as Chairman.

All members of Council expressed their appreciation to Mr. Ellis for his service as Chairman.

Councilman Davis moved to reappoint John Menkes to serve a 3-year term, term to expire November 13, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

Councilman Davis moved to appoint Wilfred Lack to serve as Chairman of the ABC Board until his term expires on November 13, 2016, or until City Council appoints a replacement. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Bothwell moved to appoint Lewis Isaac to serve a 3-year term, term to expire November 13, 2017, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

**RESOLUTION BOOK NO. 36 – PAGE 435**

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

Mr. John Robert felt that City Council should censor Councilman Bothwell for his comments related to issues at the Asheville Police Department.

Mr. Andrew Clark, Sawyer Motor Condominium on Coxe Avenue, Dr. Bryan Edwards, 32 Broadway Condo Association, and Mr. Larry Shames, Aston Condominium on Church Street, asked City Council to reconsider their January 8, 2013, decision to lift the ban on outdoor amplified music in the Central Business District. Mr. Shames also read a letter from the President of 21 Broadway Condo Association requesting Council to restore the ban on external speakers in the Central Business District. Mayor Manheimer said that the Downtown Commission will be reviewing the matter at their meeting on November 14, 2014. After their recommendation, the matter will be heard by the City Council Public Safety Committee. If any amendment is recommended, the matter will need to go before the Planning & Zoning Commission, prior to the public hearing by City Council.

A woman urged City Council to consider a plan to assist families who will be displaced and evicted when Lee Walker Heights is renovated.

**Closed Session**

At 5:57 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132

of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Resurgence Development Company and the City of Asheville; and State of North Carolina and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4); and (4) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:10 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:10 p.m.

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CITY CLERK

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MAYOR