

Tuesday – April 14, 2015 - 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 Accreditation Manager - Battalion Chief Wes Rogers; Senior Firefighter Trey Young; Engineer Ken Myrick; Lieutenant Rich Rauschenbach; and GIS Technician Stephanie Osbourn for the reaccreditation of the Asheville Fire Department; and McCray Coates, Tim Bayless, Amy Deyton, Steve Shoaf, Al Kopf, Stephanie O'Conner, Erin Marie Wheeler, Tony McDowell, Greg Shuler, Cathy Ball, Dan Phairas, and Tony Rathbone for the roadway and river improvements project at Azalea Road.

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 APRIL AS "PARKINSON'S DISEASE AWARENESS MONTH"**

Councilman Bothwell read the proclamation proclaiming April, 2015, as "Parkinson's Disease Awareness Month" in the City of Asheville. He presented the proclamation to Nancy and Jim Hall, and others, who briefed City Council on some activities taking place during the month.

**C. PROCLAMATION PROCLAIMING APRIL 2015 AS "CHILD ABUSE PREVENTION MONTH"**

Mayor Manheimer read the proclamation proclaiming April, 2015, as "Child Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Ms. Jennifer Nehlsen, the current Chair of the Community Child Protection Team and Ms. Katie Swanson, Social Work Program Administrator for BCHHS, and others, who briefed City Council on some activities taking place during the month.

**D. PROCLAMATION PROCLAIMING APRIL 2015 AS "CHILD SEXUAL ABUSE PREVENTION MONTH"**

Councilwoman Wisler read the proclamation proclaiming April, 2015, as "Child Sexual Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Ms. Laura Warren, Membership Engagement Director, Asheville YMCA, who briefed City Council on some activities taking place during the month.

**E. PROCLAMATION PROCLAIMING APRIL 18, 2015 AS "ASHEVILLE NEIGHBORHOOD CLEAN UP DAY"**

Councilman Pelly read the proclamation proclaiming April, 17, 2015, as "Asheville Neighborhood Clean Up Day" in the City of Asheville. He presented the proclamation to Ms. Dawn Chavez from Asheville Greenworks, and others, who briefed City Council on some activities taking place during the month.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 24, 2015**

**B. ORDINANCE NO. 4400 - BUDGET AMENDMENT FOR DONATION FOR THE MAINTENANCE AND REPAIR OF THE WNC VETERANS' MEMORIAL LOCATED IN PACK SQUARE PARK**

**ORDINANCE NO. 4401 - BUDGET AMENDMENT FOR DONATION FOR COMMUNITY SERVICE WORKDAY MATERIALS IN CARRIER PARK**

Summary: The consideration of budget amendments in the amount of (1) \$10,860 from the WNC Veterans' Memorial Fund for improvements to the Western North Carolina (WNC) Veterans' Memorial located in Pack Square Park; and (2) \$5,000 from BB&T for materials for a community service workday in Carrier Park.

WNC Veterans Memorial - In 2011, the WNC Veterans' Memorial Board, a non-profit organization, donated the WNC Veterans' Memorial in Pack Square Park to the City. At the same time, the WNC Veterans' Memorial Board established two trust funds held by the Community Foundation of Western North Carolina. Both trust funds are designed to provide resources to support the perpetual upkeep and maintenance of the Memorial. \$10,860 will be used to repair the brick pavers, replace landscape materials, and other improvements in the Memorial.

Branch Banking and Trust Company (BB&T) Donation - In 2014, BB&T selected the City of Asheville's Carrier Park as its 2014 community service project to perform maintenance. Twenty five BB&T employees volunteered to sand and seal park furnishings and to spread mulch on trails. \$5,000 reimburses the city for its cost to provide the materials and supplies for the community service work day.

Pro:

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

Con:

- None

A budget amendment increasing the project budget authorizing recurring maintenance and repair to the WNC Veterans' Memorial located in Pack Square Park will authorize expenditures up to \$10,860. These expenditures will be fully funded with trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of \$10,860 that has been received; thus, there is no net fiscal impact to the City's operating budget.

A budget amendment in the amount of \$5,000 will reimburse the City of Asheville for cost of materials for a community service day at Carrier Park. The reimbursement is fully funded with a contribution from BB&T; thus, there is no net fiscal impact to the city's operating budget.

Staff recommends City Council to approve the budget amendments authorizing the City Manager to (1) accept the trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of \$10,860 for maintenance and repair of the WNC Veterans' Memorial located in Pack Square Park; and (2) accept the contribution from BB&T in the amount of \$5,000 for community service workday materials.

**ORDINANCE NO. 4400 - ORDINANCE BOOK NO. 29 - PAGE 411**  
**ORDINANCE NO. 4401 - ORDINANCE BOOK NO. 29 - PAGE 413**

**C. RESOLUTION NO. 15-59 - RESOLUTION ADOPTING THE BOND ORDER  
AUTHORIZING THE ISSUANCE OF WATER SYSTEM REVENUE  
REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA**

**RESOLUTION NO. 15-60 - RESOLUTION PROVIDING FOR THE ISSUANCE,  
SALE AND DELIVERY OF WATER SYSTEM REVENUE REFUNDING BONDS**

Summary: The consideration of (1) a Bond Order authorizing the issuance of not to exceed \$60 million Water System Revenue Refunding Bonds, Series 2015 of the City of Asheville, North Carolina (the "2015 Refunding Bonds"); and (2) a Resolution providing for the sale of the 2015 Refunding Bonds and setting the terms and conditions upon which the 2015 Refunding Bonds will be sold.

Based on internal analysis and advice from the City's financial advisor and bond counsel, staff is recommending that City Council take action to move forward with refunding the Water System Revenue Refunding and Revenue Bonds that were issued in 2005 and 2007, respectively (the "Refunded Bonds"). Based on current interest rates (at March 31, 2015), the refunding is expected to produce total debt service savings of approximately \$8.8 million. This figure may increase or decrease prior to the sale of the 2015 Refunding Bonds based on potential changes in interest rates and overall municipal market conditions.

The Bond Order provides the following:

- In order to raise the money required to refund the Refunded Bonds, the 2015 Refunding Bonds are authorized by City Council and shall be issued pursuant to North Carolina General Statutes, Section 159-80;
- The principal amount of the 2015 Refunding Bonds shall not exceed \$60 million;
- The 2015 Refunding Bonds shall be paid solely from revenues from the operation of the water system; NOT from general funds, credit or taxing power of the City;
- The proceeds from the sale of the 2015 Refunding Bonds shall be deposited in accordance with the Series Indenture; and
- The Bond order shall be effective upon adoption.

The resolution for the sale of 2015 Refunding Bonds provides the following:

- Makes certain statements of fact to support the City's application to the Local Government Commission (LGC) and approves the financing team;
- Approves the issuance of the 2015 Refunding Bonds in a principal amount not to exceed \$60 million;
- Approves, confirms and incorporates by reference the provisions of the General Indenture and Series Indenture; stipulates that the 2015 Refunding Bonds shall be special obligations of the City and shall not be payable from the general funds of the City;
- Authorizes and directs the Mayor, City Manager, City Clerk and Chief Financial Officer to execute and deliver the Series Indenture and other financing documentation and do all

things necessary to effect the issuance of the 2015 Refunding Bonds and to carry out and comply with the Series Indenture;

- Approves the form and content of the Bond Purchase Agreement and stipulates that the 2015 Refunding Bonds will be sold to the underwriters pursuant to the terms of the Bond Purchase Agreement; and
- Authorizes and approves the form and content of the Preliminary Official Statement and Official Statement and their use by the underwriters in the sale of the 2015 Refunding Bonds.

Pro:

- Anticipated total debt service savings based on current market conditions is approximately \$8.8 million. Actual savings level will be determined on the date the 2015 Refunding Bonds are sold, which is scheduled for May 12, 2015.

Con:

- None noted.

As noted above, anticipated total debt service savings based on current market conditions is approximately \$8.8 million.

City staff recommends City Council adopt (1) a Bond Order authorizing the Issuance of Water System Revenue Refunding Bonds, Series 2015 of the City of Asheville, North Carolina; and (2) Resolution authorizing the issuance and sale of City of Asheville, North Carolina Water System Revenue Refunding Bonds, Series 2015.

**RESOLUTION NO. 15-59 - RESOLUTION BOOK NO. 37 - PAGE 68  
RESOLUTION NO. 15-60 - RESOLUTION BOOK NO. 37 - PAGE 70**

**D. RESOLUTION NO. 15-61 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO ENTER INTO A CONTRACT WITH CODE STUDIO TO  
DEVELOP A FORM BASED CODE FOR THE GREATER RIVER ARTS  
DISTRICT**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Code Studio to develop a Form Based Code.

In 2014 Asheville City Council allocated \$100,000 in the FY 2015 general fund budget for the development of the next area-specific Form Based Code. Council was supportive of staff's recommendation that the next new code be developed for the greater River Arts District, and an RFQ was released in January 2015 to hire a consultant to lead the process. Three members of staff plus Mr. Karl Koon, a Planning and Zoning Commission member that also sits on the Asheville Area Riverfront Commission (AARRC), and Mr. Tim Schaller, a member of the River Arts District Business Association, evaluated the proposals. The selection process is complete, and staff desires to contract with the top ranked consultant, Code Studio. If authorization is received by Council, the project will be managed by Urban Planner II Sasha Vrtunski.

The Asheville Area Riverfront Commission endorsed this as an implementation item when recommending Council adopt the Riverside Drive Development Plan.

Pros:

- Implements parts of Council Strategic Operating Plan and the Riverside Drive Development Plan
- Updates zoning regulations in a market based manner that complies with City's Comprehensive Plan

Cons:

- Requires use of City funds to pay consultant
- Requires use of City employees to manage process

As noted earlier, funding for this contract is already included in the FY 2015 general fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Code Studio to develop a Form Based Code for the greater River Arts District.

**RESOLUTION BOOK NO. 37 - PAGE 74**

**E. RESOLUTION NO. 15-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THRESHOLD ACOUSTICS LLC FOR ACOUSTICAL AND STRUCTURAL ANALYSIS OF THE THOMAS WOLFE AUDITORIUM**

**ORDINANCE NO. 4402 - BUDGET AMENDMENT TO REDIRECT FUNDING FOR THE ACOUSTICAL AND STRUCTURAL ANALYSIS OF THE THOMAS WOLFE AUDITORIUM**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with Threshold Acoustics LLC for Acoustical and Structural Analysis of the Thomas Wolfe Auditorium; and (2) a technical budget amendment in the amount of \$60,000 to redirect funding from the US Cellular Center Capital Fund to the US Cellular Center Operating Fund to fund the contract.

In December of 2014 the U.S. Cellular Center issued a Request for Qualifications for professional services associated with analysis of structural and acoustical conditions of the Thomas Wolfe Auditorium. The RFQ requested that responding teams have the ability to:

- Complete a site inspection;
- Review existing data;
- Interview key staff members and tenant (Asheville Symphony);
- Investigate and measure the existing acoustical conditions of the auditorium, including the solicitation of input from the Asheville Symphony;
- Evaluate the structural capabilities and acoustical enhancements required, current code compliance requirements and cost estimation for implementation any identified condition improvements;

Six firms responded and through a two phase interview process by a review panel, Threshold Acoustics LLC of Chicago, Illinois, was deemed as the most responsive and qualified firm. Staff was able to negotiate an acceptable scope of services and price.

The proposed Contract is not to exceed \$60,000. The terms of this contract were discussed at the Civic Center Commission meeting on March 3, 2015, and the Civic Center Commission supported staff's recommendation to enter into a contract with Threshold Acoustics LLC.

Pros:

- City will receive deliverable; in the form of acoustical models of the Thomas Wolfe
- City will receive a list of suggested needed improvements along with pricing for each item

Con:

- None.

Funding for the contract was included in the adopted FY 2014-15 US Cellular Center Capital Fund budget. Since the analysis will not result in the acquisition of a fixed asset, staff is recommending that the budget for the contract be moved to the US Cellular Center's operating budget.

Staff recommends that City Council adopt: 1) a resolution authorizing the City Manager to enter into a professional services contract with Threshold Acoustics LLC; and 2) a technical budget amendment in the amount of \$60,000 to redirect funding from the US Cellular Center Capital Fund to the US Cellular Center Operating Fund to fund the contract.

**RESOLUTION BOOK NO. 37 - PAGE 75  
ORDINANCE BOOK NO. 29 - PAGE 415**

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

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

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

**III. PRESENTATIONS & REPORTS:**

**A. LEGISLATIVE UPDATE**

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: sales tax redistribution; local planning and development regulation; Building Code regulation reform bill; amongst others. She will continue to track legislation with trips to Raleigh to get a better feeling of what becomes a reality in this session.

In response to Councilman Smith, Mayor Manheimer said that nothing has been introduced or addressed about the privilege tax replacement.

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 7 OF THE CODE OF ORDINANCES TO INCLUDE REASONABLE ACCOMMODATION PROCEDURES**

**ORDINANCE NO. 4403 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO INCLUDE REASONABLE ACCOMMODATION PROCEDURES**

Assistant City Attorney Catherine Hofmann said that this is the consideration of amendments to the Unified Development Ordinance ("UDO") to provide for a procedure for handicapped and disabled persons to request and obtain a reasonable accommodation from UDO provisions, pursuant to federal law. This public hearing was advertised on April 3 and 10, 2015.

**A. Summary of Federal Law.**

The federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.* ("FHA") and the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* ("ADA") are intended to eliminate discrimination against protected individuals. The FHA applies specifically to discrimination in housing opportunities, while the ADA applies more generally to discrimination against disabled individuals.

The FHA makes it unlawful to discriminate, make unavailable or otherwise deny a dwelling to any person because of a handicap. See 42 U.S.C. § 3604(f). A “handicap” is defined as “(1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment.” However, the term handicap “does not include current, illegal use of or addiction to a controlled substance.” Id. Prohibited discrimination includes a municipality’s refusal to make a reasonable accommodation in its rules, policies, practices, or services, when such accommodation may be necessary to afford a person an equal opportunity to the use and enjoyment of a dwelling.

Similarly, the ADA prohibits discrimination against persons with a disability. Under the ADA, a disability is defined in the same way that the FHA defines a handicap. Like the FHA, the ADA also does not consider an individual who is currently engaged in the illegal use of drugs to be a person with a disability. The ADA makes it unlawful for a local government to discriminate against any qualified individual with a disability, by reason of such disability.

B. Department of Justice’s Investigation into Asheville’s Housing Practices.

On July 7, 2011, the United States Department of Justice (“DOJ”) informed the City that it opened an investigation into the zoning and land use practices of the City, pursuant to the FHA and ADA. The DOJ’s investigation is focused generally on the City’s treatment of residential housing for persons in recovery from substance abuse. This investigation was initiated by a complaint from the owners of 22 Brucemont Circle, who claim to be operating a “family care home.” The DOJ informed the City in July 2011 that their investigation was preliminary in nature, and the DOJ has still not made any determination as to whether the City has violated the FHA or the ADA.

Between July 7, 2011, and January 24, 2013, the DOJ requested additional information from the City regarding the City’s zoning practices, which the City provided. Having heard nothing from the DOJ for several years, our office contacted the DOJ to inquire about the status of the investigation last fall. This was prompted, in part, by continued complaints from neighbors related to 22 Brucemont Circle and its residents. In or around November 2014, the DOJ informed the City that, in order for the DOJ to finalize their investigation, among other things, the DOJ would like to see the City’s process for disabled or handicapped persons to request a reasonable accommodation pursuant to the FHA and ADA. While the City had provisions and practices which could allow reasonable accommodations, the DOJ provided us with examples of ordinances from other jurisdictions, which it had accepted in the past. Since that time, the City Attorney’s office and Development Services have had several conversations with the DOJ regarding the adoption of an ordinance which would provide the Board of Adjustment with authority to grant a reasonable accommodation and would be in keeping with other DOJ approved provisions.

C. Current Proposed UDO Amendments.

After discussions with the DOJ, and after reviewing several reasonable accommodation ordinances from municipalities throughout the country, it is our recommendation that the City adopt the proposed reasonable accommodation ordinance to allow the Board of Adjustment to hold a quasi-judicial hearing on applications for a reasonable accommodation. This process would require applicants for a reasonable accommodation to present competent, material and substantial evidence that the proposed accommodation will be used by persons defined as disabled or handicapped under federal law and is both reasonable and necessary.

Other provisions of the UDO would also need to be amended in order to adopt the reasonable accommodation ordinance. These provisions include the title to UDO Article VI, as well as, portions of Section 7-3-3, which addresses the Board of Adjustment’s powers, and

Section 7-16-1(31), which addresses family care homes. We have provided copies of these proposed amendments to the DOJ, and have incorporated all of their suggested comments.

D. Planning and Zoning Commission.

On March 19, 2015, the Planning and Zoning Commission held a public hearing on the proposed UDO amendments. At the hearing, the Planning and Zoning Commission voted unanimously, on a 6-0 vote, to approve the proposed UDO amendments.

Pros:

- Provides a specific procedure for handicapped and disabled persons to obtain a reasonable accommodation from UDO provisions as required by federal law.
- Furthers completion of DOJ investigation and ensures compliance with federal law, including the FHA and ADA.

Con:

- None noted.

Adoption of the UDO Amendments specifying and setting forth a quasi-judicial procedure for qualified individuals to request and obtain a reasonable accommodation from UDO provisions, pursuant to federal law.

Mayor Manheimer opened the public hearing at 5:43 p.m., and when no one spoke, she closed the public hearing at 5:43 p.m.

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

Councilman Smith moved to approve text amendments to the UDO which add Section 7-6-3, and which revise Article VI, Section 7-3-3 and Section 7-16-1(3) and find that these amendments are reasonable, in the public interest and are consistent with the Comprehensive Plan and other adopted plans because they provide a procedure to protect individuals against discrimination and to request a reasonable accommodation under federal law. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 29 – PAGE 417**

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 15-63 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO AMEND THE INTERLOCAL AGREEMENT WITH HENDERSON COUNTY AND EFFECTUATE THE SALE OF THE FERRY ROAD PROPERTY TO BUNCOMBE COUNTY**

Executive Director of Planning & Multimodal Transportation Cathy Ball said that this is the consideration of a resolution authorizing the Mayor to execute any and all documents necessary to amend the Interlocal Agreement with Henderson County and effectuate the sale of the Ferry Rd. property to Buncombe County.

Beginning in late 2008, elected officials and staff of the City of Asheville and Henderson County held meetings to discuss the Regional Water Supply and Water Service Agreement between Henderson County and the Asheville Buncombe Water Authority (and its participating



members) to supply water to parts of Henderson County (herein "1995 Agreement"). Included in the 1995 Agreement was a provision for the City to transfer to Henderson County a piece of property approximately 137 acres in size. The property is located near Brevard Road, off of Ferry Road, on the west side of the French Broad River, across the entrance to the Arboretum (herein "Ferry Road Site" or the "Property"). Pursuant to a Consent Judgment entered into in Buncombe County Superior Court in 2002 (file number 01 CVS 344), the property was conveyed by the City to Henderson County by deed recorded July 15, 2002, in Book 2852, Page 775, Buncombe County Registry. Subsequently, the City and Henderson County entered into an Interlocal Agreement (approved by City Council per Resolution No. 14-83) on April 16, 2014, in order to modify certain conditions of the 1995 Agreement regarding conveyance of the property by Henderson County.

The Interlocal Agreement contained the following terms and conditions: 1) Henderson County was authorized to secure a Purchase and Sale Agreement for the Ferry Road Site Property at a purchase price not less than the fair market value; 2) the Property was to be conveyed with specific conditions on the use of the property for an economic development purpose, pursuant to NCGS 158-7.1 (Economic Development) and with the condition that an easement on the Property be granted to the City of Asheville for use as a greenway and related recreational purposes (exact location to be determined by the City); 3) Henderson County and Asheville are to divide the proceeds from the sale equally; 4) Asheville's share of the proceeds from the sale are to be paid to Buncombe County for use for public safety purposes; and 5) Henderson County is to use its share of the proceeds from the sale for the purchase and construction of a local law enforcement training center.

At this time, Buncombe County has been working with a potential economic development partner which is considering expanding its operations into Buncombe County which requires a large tract with nearby highway access and therefore, Buncombe County has agreed to purchase the Ferry Road Property from Henderson County for the appraised fair market value price of \$6,815,00 (County Commissioner Resolution 15-04-01 dated April 7, 2015) and in accordance with the other aforementioned conditions of the Interlocal Agreement. Henderson County will consider the sale of the Property at their April 15, 2015, Commission meeting. Therefore, the purpose of this resolution is to grant City Council's approval of this sale and acknowledgment that the terms of the Interlocal Agreement have been met. Additionally, Henderson County has requested that the Interlocal Agreement be amended to delete the condition that limits its use of the proceeds from the sale to the purchase and construction of a local law enforcement training center as this is no longer a need at this level of funding for the County.

Pro:

- The sale of the Property is accordance with the terms of the Interlocal Agreement and as such is at fair market value will be used for economic development purpose which in turn will be likely to benefit the City in terms of increased taxed base and potential new job creation.

Con:

- There is no negative impact.

As per the terms of the Interlocal Agreement, the City's share of the proceeds from the sale of this Property will go to Buncombe County for use for public safety purposes. However, the eventual use of the property for economic development purposes should benefit the City in terms of increased revenues from an expanded tax base.

City staff recommends adoption of the resolution authorizing the Mayor to execute any and all documents necessary to amend the Interlocal Agreement with Henderson County as described and to effectuate the sale of the Ferry Road property to Buncombe County.

Mr. Tim Harrison said that since the agreement is contingent upon the property being conveyed to Buncombe County for economic development use, he asked if that would be an ongoing provision if this potential buyer does not work out. Assistant City Attorney Jannice Ashley replied that it will be an ongoing provision, regardless of the buyer.

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

Councilman Smith moved to adopt Resolution No. 15-63. This motion was seconded by Councilman Davis and carried unanimously.

## **RESOLUTION BOOK NO. 37 - PAGE 76**

### **B. ORDINANCE NO. 4404 - ORDINANCE ADOPTING THE FISCAL YEAR 2015-16 FEES AND CHARGES**

Budget and Financial Reporting Manager Tony McDowell said that this is the consideration of an ordinance adopting fee adjustments for Fiscal Year 2015-16.

The major types of revenue available to North Carolina counties and municipalities are local taxes (including property taxes); local fees, charges and assessments; and intergovernmental and miscellaneous revenue. Local governments have increasingly looked for appropriate opportunities to implement local fees and charges because they have the advantage of aligning service provision directly with payment; therefore, the person or entity receiving the benefit of a service pays for the service. In Asheville, these fees make up about 10% of the City's General Fund revenue and 36% of city-wide revenue. These fees generally fall into three major categories: general user fees and charges; regulatory fees, and; public enterprise fees and charges.

#### **Proposed FY 2015-16 Fee Changes:**

1. ***Continuation of Planned Multi-Year Adjustments to Water and Stormwater Fees.*** Based on financial analyses completed in prior years, staff is proposing the following rate adjustments:
  - a. Water Resources:
    - Single Family, Multi-Family, Small Commercial/Manufacturer: 1.5% increase
    - Large Commercial/Manufacturer (>1,000 CCF/month): 3.5% increase
    - Wholesale & Irrigation: 5.0% increase
    - Capital Improvement Fee: 1.5% increase (all meter sizes)
  - b. Stormwater: 5% increase
    - Single Family properties 225-2,000 sq ft: \$2.50/mo. to \$2.63/mo.
    - Single Family properties 2,001-4,000 sq ft: \$4.00/mo. to \$4.20/mo.
    - Single Family properties >4,000 sq ft: \$5.50/mo. to \$5.78/mo.
    - Non-Single Family properties: \$4.00/mo. to \$4.20/mo.
2. ***Minor Changes to Other General Fund and Transit Services Fund Fees.*** Staff is recommending minor changes to several fees in these two funds.

The proposed FY 2015-16 fee adjustments were reviewed by the City Council Finance Committee on March 24, 2015. A full summary of the proposed fees and charges was provided to Council. The proposed Solid Waste fee adjustment, which was presented to the Finance Committee on March 24, will be discussed at a future Council budget worksession, and is

therefore not included in the fee package under consideration tonight. As staff continues preparation of the FY 2015-16 Manager's Recommended Budget, there may also be additional fee adjustments that are brought forward as part of the budget presentation in May.

Fees	FY15 Annual Cost	FY16 Annual Cost	Increase
Water - Single Family (5 CCF avg. monthly usage)	\$315.24	\$319.44	\$4.20
Stormwater – Single Family (2,001-4,000 Sq. Ft.)	\$48.00	\$50.40	\$2.40
Total Avg. Cost	\$363.24	\$369.84	\$6.60

The chart below summarizes by fund the additional revenue that will be generated by the proposed FY 2015-16 fee changes:

Fund	Additional Revenue
General Fund	\$450 decrease
Transit Services Fund	\$200
Stormwater Services Fund	\$239,600
Water Resources Fund	\$465,130

City staff recommends City Council adopt fee adjustments for Fiscal Year 2015-16.

Regarding water fees, Councilman Smith said that Council years ago hired a consultant group to look at all our water charges. As a result of the study, it was discovered that residential users were paying out of proportion to commercial users. So, Council set a multi-year course to correct that inequity. What this is now is the next step in the multi-year plan.

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

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

Councilman Bothwell moved for the adoption of Ordinance No. 4404. This motion was seconded by Councilwoman Wisler and carried unanimously.

**ORDINANCE BOOK NO. 29 - PAGE 423**

**C. BOARDS & COMMISSIONS**

Regarding the Civil Service Board vacancies, the following individual has applied for a vacancy on the Board: Pamela Holcombe. It was the consensus of Council to re-advertise for the vacancies on said Board.

Regarding the HUB Community Economic Development Alliance, the following individuals applied for a vacancy: Kendra Penland, Ted Figura, Hunter Goosmann, Ed Manning, Grant Millin and Adrian Vassallo. It was the consensus of Council to interview Kendra Penland, Hunter Goosmann, Ed Manning, Adrian Vassallo and Ted Figura.

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

Rev. Christopher Chiaromonte commented about no prayer at the beginning of the City Council meetings and panhandling.

Ms. Sabrah n'haRaven said that the Transit Subcommittee reviewed recommendations to eliminate the downtown fare free zone at their last meeting, but had asked that the item be tabled until their next meeting for real public discussion. Councilman Smith said that fees and charges must be included in the budget cycle in order to adopt the budget prior to the end of the fiscal year. In response to the elimination of the downtown fare free zone, at the Finance Committee, staff responded that (1) it is difficult for the drivers to monitor when people would get on and off; and (2) there are very limited numbers of users.

**Closed Session**

At 6:05 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 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. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 6:57 p.m., Vice-Mayor Hunt 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 6:57 p.m.

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CITY CLERK

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MAYOR