

Tuesday – May 26, 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. RECOGNITION OF ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE PRESIDENT DR. DENNIS KING

Mayor Manheimer was pleased to recognize Dr. Dennis King who became the 6th President of Asheville-Buncombe Technical Community College on August 1, 2014. Dr. King spoke about the work of the College and thanked City Council for their support.

B. RECOGNITION OF THE USS ASHEVILLE SSN 758

Mayor Manheimer said that carrying on a significant tradition for the City of Asheville, a fourth U. S. Navy ship named after the city was commissioned on September 28, 1991, and continues on active and commendatory service to our country. The USS ASHEVILLE SSN 758 and her crew maintain the legacy of the three previous U. S. Navy ships named after this city and continue a strong bond with the citizens of the City of Asheville. That connection with the City of Asheville is manifested in the current visit to the city by the Commanding Officer, Commander Paul R. Pampuro, Chief of the Boat Machinist Mate Chief Robert Campbell, Logistics Specialist 2nd Class Torey Walker and Machinist Mate 2nd Class Dalton Moore. The Asheville City Council, in session on this the 26th day of May, 2015 warmly welcomes and recognizes the Commanding Officer of the USS ASHEVILLE SSN 758 and his three crew members to the City of Asheville. In their continuing deployments in service to our country, we wish the entire crew of the USS ASHEVILLE much success and "Fair Winds and Following Seas".

She thanked Mr. Ken Vasilik for his work with the USS Asheville. They then exchanged gifts.

C. PROCLAMATION PROCLAIMING JUNE 1-7, 2015, AS "HEMP HISTORY WEEK"

Mayor Manheimer read the proclamation proclaiming June 1-7, 2015, as "Hemp History Week" in the City of Asheville. She presented the proclamation to Mr. Timothy Sadler, and others, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 12, 2015

B. ORDINANCE NO. 4413 - ORDINANCE TO ENACT SPEED LIMIT CHANGES ON SUNSET DRIVE, GLENDALE AVENUE, LIBERTY STREET AND PINECROFT ROAD

Summary: The consideration of an ordinance to enact a 20 mph speed limit on Sunset Drive from Baird Street to Griffing Boulevard-North; and a 25 mph speed limit on (1) Glendale Avenue from Dogwood Road to Fairview Road, (2) Liberty Street from Fairview Road to Merchant Street, and (3) Pinecroft Road from Beaverdam Road to the end of City Maintenance.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 20 mph speed limit on Sunset Drive from Baird Street to Griffing Boulevard-North, and a 25 mph speed limit on Glendale Avenue from Dogwood Road to Fairview Road, Liberty Street from Fairview Road to Merchant Street, and Pinecroft Road from Beaverdam Road to the end of City Maintenance would be reasonable and safe.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- This action will also bring some of the roads into line with our speed limit policies.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about \$500.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about \$500.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 20 mph speed limit on Sunset Drive from Baird Street to Griffing Boulevard-North, and a 25 mph speed limit on Glendale Avenue from Dogwood Road to Fairview Road, Liberty Street from Fairview Road to Merchant Street, and Pinecroft Road from Beaverdam Road to the End of City Maintenance.

ORDINANCE BOOK NO. 29 - PAGE 478

C. RESOLUTION NO. 15-94 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR THE 2015 TOURISM PRODUCT DEVELOPMENT FUNDS TO SUPPORT RIVERFRONT DESTINATION DEVELOPMENT

Summary: The consideration of a resolution authorizing the City Manager to submit a grant application to the Buncombe County Tourism Development Authority (TDA) for the Tourism Product Development Funding (TDPF) to support riverfront destination development.

The Buncombe County TDA's 2015 grant cycle for the TDPF opens in June of this year. TDPF grants support construction of brick and mortar projects that will add new or increase existing room nights in Buncombe County lodging facilities. The City of Asheville (City) intends to submit a Phase I preliminary application on June 3, 2015. The grantor will review applications to determine eligibility and will invite potential grantees to submit a more extensive Phase II application. Phase I applicants will receive notification of eligibility on June 24, 2015. If the City receives an invitation to continue with the grant process, a more extensive Phase II application is due on August 26, 2015. The Buncombe County TDA will announce grant awardees and amounts on October 28, 2015.

For Phase I, staff recommends applying for \$2.5 million in grant funds that will support Capital Improvement Project construction costs of over \$5.4 million. The City submitted a successful application in 2014 and was awarded \$1.8 million for riverfront redevelopment projects. The projects proposed for the 2015 application are a continuation of that effort.

The City's application proposal is to construct a comprehensive set of brick and mortar projects that will help transform the River Arts District and its gateways from a place that has scattered and hard to find attractions, into a fully developed destination where points of interest and experiences are easy to find, attentive to visitor needs, and easily accessed.

The recommended application would include the following project elements:

- 1) River to Ridge Greenway Trail Connection (\$1 Million)
Beaucatcher Greenway – construction of a greenway trail from historic Helen's Bridge trailhead to recreational facilities at McCormick Field and Memorial Stadium
- 2) French Broad River Greenway Network (\$1 Million)
French Broad River Greenway West Bank connection -- This one-and-a-half mile multi-use path will connect the city's most beautiful riverfront park and the three miles of existing riverfront greenways and parks beyond it with the production and visitor's facilities and tasting room for the United States third largest craft brewery (New Belgium Brewing Asheville).
- 3) Improvements to connect visitors to riverfront recreation (\$500,000)
 - o Velodrome rebuild – park and track improvements to the existing Carrier Park velodrome, including complete resurfacing of the track
 - o Crosswalk and river access – development of improved safety features across Amboy Rd. into Carrier Park, as well as construction of a river access point

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city.
- The TPDF is a significant funding opportunity that would leverage the City's investment to move forward on these investments.
- The City has already shown a commitment to implementing these projects as part of the Economic Development Capital Improvement Program.

Con:

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

The Buncombe County TDA may choose to not award, partially award, or fully award the grant request of \$2.5 million. If any award is offered and accepted, the city would experience a positive impact to the budget. Any award is contingent upon the availability of matching funds. These funds have been identified by staff.

An announcement of an award would begin the process of the City developing a grant agreement with Buncombe County TDA that further defines the specific funding amounts and project elements included in the partnership effort. Through proposed partnerships like these, staff continues to develop diverse funding sources for riverfront redevelopment capital investments that will increase the City's fiscal sustainability and the anticipated economic impact of the plan.

Staff recommends that the City Council adopt a resolution authorizing the City Manager to submit a grant application to the Buncombe County Tourism Development Authority for the Tourism Product Development Fund.

RESOLUTION BOOK NO. 37 - PAGE 128

D. RESOLUTION NO. 15-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A 0.947 ACRE EASEMENT LOCATED AT THE ASHEVILLE REGIONAL AIRPORT TO THE N.C. DEPT. OF TRANSPORTATION FOR RIGHT-OF-WAY PURPOSES

Summary: The consideration of a resolution authorizing the City Manager to convey a 0.947 acre easement located at the Asheville Regional Airport to the N.C. Dept. of Transportation for right-of-way purposes.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). In order to convey real property at this location, the City of Asheville must execute the deeds of conveyance. Because the property was acquired with FAA financial assistance, and has been held for use by the Airport, all financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale of an easement must be utilized for airport capital projects.

In this instance, the N.C. Dept. of Transportation (NCDOT) has requested an easement on the southernmost property boundary of the airport. The roadway project involves the realignment of Old Fanning Bridge Road and the development of Ferncliff Park Drive. Overall, the project is substantially completed, with finalization of right-of-way acquisition underway. At this time, NCDOT has requested to purchase right-of-way and associated property rights at the Asheville Regional Airport, as follows.

Property Right	Area	Value
Permanent Right-of-way (easement)	0.947 acres	\$93,000

The total offer is \$93,000 for the real property needs of NCDOT. This value is based on an independent MAI fair market appraisal. The Airport is amenable to the transaction and will seek approval from the FAA for this conveyance.

Pro:

- The sale of property will support NCDOT's plans to improve traffic efficiency and safety.

Con:

- None.

All financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, the proceeds of sale of an easement must be utilized for airport capital projects.

Economic Development staff recommends adoption of the resolution to convey real property at the Asheville Regional Airport to the NCDOT.

RESOLUTION BOOK NO. 37 - PAGE 129

E. RESOLUTION NO. 15-96 - RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO DISPOSE OF SURPLUS CITY-OWNED PERSONAL PROPERTY (2004 JOHN DEERE 410G BACKHOE) VALUED AT \$30,000 OR MORE

Summary: The consideration of a resolution authorizing the sale of one John Deere 410G Backhoe deemed surplus City personal property.

The City's Water Resources Department, Division of Maintenance, identified a John Deere 410G Backhoe, as surplus personal property, with no anticipation of utilization by the City. Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at \$30,000 or more must be approved by City Council. The City's Purchasing Manager has authority to dispose of personal property valued at less than \$30,000 by private negotiation and sale. The estimated blue book value of the John Deere 410G Backhoe is listed at \$5,000. Bids were solicited and received from several potential purchasers. The final bid amount at the close of the Auction on Monday, May 11, 2015, was \$34,100. City Council is being asked to approve the sale of the Backhoe for \$34,100.

Pros:

- Promotes City of Asheville fiscal responsibility of disposing of surplus property which generates revenue.
- Space utilization eliminates the need to store large, unused equipment.
- Competitive process yielded market price, statute contemplates.

Cons:

- None

The backhoe is fully depreciated and the Water Resources Fund will recognize the entire \$34,100 as revenue from the sale of assets.

City staff recommends City Council adopt a resolution approving the sale of the John Deere 410G Backhoe to the perspective purchaser for the amount of \$34,100.

RESOLUTION BOOK NO. 37 - PAGE 130

F. RESOLUTION NO. 15-97 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A SPECIAL MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO ALLOW PUBLIC PARKING UNDER A SECTION OF BRIDGE #322 AND #323 ON THE EAST SIDE OF THE FRENCH BROAD RIVER IN THE RIVER ARTS DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to execute a special maintenance agreement between the North Carolina Department of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 on the east side of the French Broad River in the River Arts District.

Bridge # 322 and # 323 are known as the Capt. Jeffrey Bowen Bridges and they provide access for I-26, I-240, US 19-23, and US 74-A across the French Broad River. In addition, the bridges provide a critical connection between downtown Asheville and West Asheville. As a part of the overall improvements in the River Arts District, public parking will be needed and the identified areas will help to satisfy that need.

The City and the North Carolina Department of Transportation have similar agreements at other locations including the public parking under the I-240 bridge adjacent to North Lexington Avenue, the public parking under the US 25 (McDowell Street) bridge adjacent to SR 3556 (Meadow Road), the public parking under the SR 3548 (Haywood Road) bridge adjacent to Riverside Drive, the public parking under the subject bridges on the west side of the French Broad River (approved by City Council on January 14, 2014 via Resolution # 14-2), and the public parking adjacent to Cherry Street.

Pros:

- Increases the parking supply in the River Arts District.
- Establishes parking in an area that is not currently being used.

Cons:

- The City is responsible for all maintenance and liability responsibilities including security measures.
- The City is required to return the area to its previous condition upon termination of the agreement by either party.

There will be no immediate fiscal impact because an actual parking area has not been designed. Staff is considering adding this work to the ongoing design of the RADTIP project.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a special maintenance agreement between the North Carolina Department of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 on the east side of the French Broad River in the River Arts District.

RESOLUTION BOOK NO. 37 - PAGE 131

G. RESOLUTION NO. 15-98 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A FOUR-YEAR LEASE AGREEMENT WITH JOHN DEERE CREDIT FOR MOWING AND BALL FIELD MAINTENANCE EQUIPMENT

Summary: The consideration of a resolution authorizing the City Manager to enter into a four-year lease agreement with John Deere Credit for mowing and ball field maintenance equipment.

The lease with John Deere Credit, which includes two commercial mowers, two utility vehicles, four ball field groomers, and maintenance and equipment replacement, will cost \$98,528.72 for the four-year term of the lease, or \$24,632.18 per year.

Although not required by North Carolina General Statute for leasing, two competitive quotes were solicited from two commercial equipment companies, John Deere Credit and Toro. John Deere was higher than Toro by \$60 annually. Due to the nominal difference in pricing, staff would opt to contract with John Deere Credit due to existing equipment, supplies, and staff's previous experience operating John Deere equipment providing substantial cost savings and efficiency to the city operations.

- Pros:
- Investment to maintain and care for city-owned park facilities.
 - Provide quality service for ongoing, core facility maintenance services.
 - Fulfill commitment for maintenance of the park system.

Con: ▪ None

The four-year equipment lease, maintenance and equipment replacement cost will be \$98,528.72 or \$24,632.18 per year. The \$24,632.18 per year to support the lease agreement is budgeted in the operating budget in the Parks and Recreation Department.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a four-year lease agreement with John Deere Credit for park maintenance equipment not to exceed \$98,528.72.

RESOLUTION BOOK NO. 37 - PAGE 132

H. RESOLUTION NO. 15-99 - RESOLUTION ACCEPTING GRATITUDE DRIVE AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept Gratitude Drive as a city-maintained street

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on August 1, 2014 asking the City to accept the subject street as a city-maintained street.

Gratitude Drive from Burk Street/Grinnell Street to a point 0.03 mile east of Burk Street/Grinnell Street is a developer-constructed street that has an average width of 20 feet with grass shoulders, a length of 0.03 mile, and a right-of-way width of 25 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the engineer of record has certified that the street has been constructed to current standards via a letter dated March 30, 2015.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The street provides access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept Gratitude Drive as a city-maintained street.

RESOLUTION BOOK NO. 37 - PAGE 133

I. RESOLUTION NO. 15-100 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT FOR THE ASHEVILLE REGIONAL AIRPORT FOR RUNWAY CONSTRUCTION, PHASE 2

Summary: The consideration of a resolution authorizing the Mayor to approve a Grant Offer from the Federal Aviation Administration (FAA) in the amount of \$12,560,480

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in the amount of \$12,560,480 is for construction runway (Phase 2 Construction - Temporary Runway 16/34 Paving, Lighting and NAVIDs).

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-45-2015.

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

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

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

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE 2015-16 ANNUAL OPERATING BUDGET

Director of Finance Barbara Whitehorn provided an overview of the Fiscal Year 2015-16 Operating and Capital Budget. She reviewed the revenue strategies to a balanced budget, recommending (1) a 1.5 cent increase per \$100 valuation to offset the loss of privilege license; (2) decreasing taxpayer subsidy of programs and services (a) Nature Center Changes to include new gate admission rates, and membership contribution to operations; (b) Aston Park Tennis Center new membership rates; and (3) decreasing taxpayer subsidy of programs and services - planned increase in solid waste fee of \$3.50/month to a monthly charge of \$10.50.

General Fund expenditures include (1) investment in human capital of (a) Classification and Compensation Study; (b) living wage evaluation; (c) Health Care; (d) planned increase in City contribution to OPED; and (e) maintain current level transfer from General Fund to Workers Compensation/Liability Fund. Expenditure strategies consist of (1) managed savings; and (2) reengineering and saving. Overall, the General Fund expenditures are anticipated to increase 3.6% over Fiscal Year 2014-15. Long term options include (1) evaluation of City property, departmental needs and possible efficiencies; and (2) inter-departmental shared services. City staff will continue to seek and implement innovative cost savings models.

Enterprise Funds include (1) Water Fund (a) continued stable performance; (b) minor rate adjustments based on financial model were approved on April 14, 2015; and (c) \$12 Million pay-go investment in water capital improvements; (2) Transit Fund (a) continued financial pressure (4% increase in operating costs); (b) no service changes budgeted; and (c) General Fund support increased by \$90,000; (3) Parking Fund (a) strong revenue growth; (b) no adjustment to garage or meter rates; (c) maintain \$616,000 in support to Transit Fund; and (d) capital program being developed; (4) US Cellular Center Fund (a) moderate performance in Fiscal Year 2014-15 - revenue and expenses adjusted down to reflect lighter event load; (b) no increase in General Fund operating support; and (c) Thomas Wolfe acoustic study funded; and (5) Stormwater Fund (a) 5% rate increase approved April 14, 2015; (b) additional crew added for enhanced maintenance program; and (c) continuation of service and capital investment.

Current CIP includes the following for Fiscal Year 2016 (1) Affordable Housing - \$5,502,748; Public Safety - \$6,083,424; Multi-Modal Transportation - \$6,008,147; Economic Development - \$400,000; Quality of Life - \$2,171,863; and Infrastructure & Maintenance - \$7,111,651.

CIP funding project totals for Fiscal Years 2014-2020 include (1) Affordable Housing - \$9,868,787; Public Safety - \$12,505,794; Multi-Modal Transportation - \$30,158,850; Economic Development - \$7,445,170; Quality of Life - \$8,738,865; and Infrastructure & Maintenance - \$38,771,912.

Water System Refunding Bonds include (1) refunding 2005 and 2007 Revenue Bonds; and (2) Green Bonds. CIP Water projects for Fiscal Year 2015-16 total \$11,985,500.

Vice-Mayor Hunt confirmed that the living wage evaluation of \$250,000 is currently included in the budget and will be complete within the next several weeks.

Councilman Smith said that when Council implemented Sunday transit service, the idea was to look at that for a year, look at demand, and then re-evaluate what that level of service might need to be. It doesn't appear that there is any money budgeted should Council decide an expansion of that service would be warranted. He hoped there was flexibility in the budget mid-year since this Council has been steadfast in maintaining the transit budget.

In response to Councilman Smith, Director of Transportation Ken Putnam said that there has been a positive response to the Sunday transit service and that since the six months it has been implemented, the ridership has been solid.

In response to Councilwoman Wisler, Mr. Putnam said that over the past 4-5 years, we are hovering around 1.5 million riders a year. For the 10 months this Fiscal Year, we are running 2.3% higher than last year at the same time. He predicted that we will finish out this Fiscal Year with an increase in ridership.

Councilman Bothwell asked to see a breakdown of the community programs budget for this Fiscal Year.

In response to Councilwoman Wisler, City Manager Jackson said that for the budget presentation for 2016-17, the budget documents will include a column where we compare not only the projected budget to last year's budget, but also a column to show our estimate on where we think we will finish the year.

In response to Councilman Smith, Ms. Whitehorn explained the affordable housing funding with regard to the Housing Trust Fund and the Economic Development Capital Improvement Program (EDCIP). City Manager Jackson also said that staff will analyze the current estimate of the EDCIP (Parks Maintenance Relocation Project) to see if there is some leeway to reduce the EDCIP dollars, which will allow the reprogramming of those funds to either the Housing Trust Fund or other housing projects. He said that he would provide that information to Council at their June 9 meeting.

City Manager Jackson also said that staff will provide Council with further detail on the Fund Balance regarding the 5-10 year trend and what the City presented to the bond rating agencies.

Mayor Manheimer said that the public hearing will be held on June 9, 2015, with final budget adoption on June 23, 2015.

B. FINANCIAL REPORT

The following third quarter of 2014-15 Quarterly Financial Report was provided to Council by Budget Manager Tony McDowell:

"The following financial information reflects the City's overall financial position for the fiscal year through March, 2015.

Amendments. The General Fund budget presented in this third quarter report reflects the adopted budget of \$99,547,954 along with eleven budget amendments approved by City Council. A summary of the budget amendments is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk.

Adopted Budget	99,547,954
Budget Amendments:	
Parks & Recreation Grants/Donations	53,795
WNC Diversity Engagement Coalition Support*	10,000
Energy Efficient Lighting Community Centers*	48,500
Traffic Signal Pole Replacement	16,590
City Workforce Investments	500,000
Energy Assessment US Cellular Center*	55,000
Thomas Wolfe Auditorium Roof Repairs*	60,000
Senior Center and Harvest House Grants	7,786
Parks Equipment	73,000
Document Imaging	32,750
Civil Service Legal Fees*	45,018
3/31/2015 Budget	<u>\$100,450,393</u>

* Fund Balance Appropriation

Revenues. Through March 31, 2015, the City has collected \$83,671,068 in General Fund revenue, which represents approximately 85% of the total General Fund revenue budget. Revenue collections through the first three quarters of this fiscal year are very similar to where they were one year ago in terms of budget versus actual. The City has received eight months of sales tax revenue, and collections are up 14.3% compared to the prior year. Sales tax revenue growth has far exceeded budget projections to date, and as a result, staff is projecting that sales tax revenue will come in over budget by \$600,000. In the intergovernmental category, utility tax revenue is projected to exceed budget by \$500,000 due to changes in the formula the state uses to distribute that revenue. Development Services Department (DSD) revenue continues to perform well; as of the end of March, DSD revenues were at 84% of budget. With the bulk of property tax revenue received in December and January, that revenue source is now at 95% of budget. Overall, staff is currently projecting that **FY 2014-15 General Fund revenue will exceed budget by \$1.1 million or 1.1%.**

Expenditures. General Fund expenditures through March 31, 2015 total \$69,104,784 or 69% of the budget, which is slightly ahead of where expenditures were last fiscal year after three quarters. Personnel expenses, the largest component of the General Fund budget, are slightly under budget through the first three quarters. Expenditures for fuel, fleet maintenance, health care, and utilities continue to perform better than budget through the first three quarters. **Based on current trends, staff is projecting that expenditures will finish the year under budget by approximately \$1.1 million (98% of budget).**

Fund Balance. The City ended FY 2013-14 with \$17.0 million in unassigned fund balance. The adopted FY 2014-15 budget included a \$2.0 million fund balance appropriation, which brought that total down to \$15.0 million. Since the start of the fiscal year, an additional

\$218,518 has been appropriated from fund balance. Based on the positive revenue and expenditure trends observed through the first three quarters, staff is projecting that instead of decreasing, fund balance will actually increase slightly this fiscal year. ***Current revenue and expenditure projections for FY 2014-15 indicate that unassigned fund balance at June 30, 2015 will be \$17.7 million or 18.0% of estimated expenditures.***

Ms. Whitehorn responded to Councilman Pelly as it related to Fund Balance and the 1.5 cent staff recommended property tax increase.

C. NATIONAL CITIZEN SURVEY RESULTS

Community & Public Engagement Director Dawa Hitch said that in the High Quality of Life focus area, City Council outlined 5 goals. One of those goals was to continue to develop City Council communications and partnerships with citizens, community leaders, the media and elected officials. Administering a citizen's survey was one of the actions steps identified to achieve that goal.

The National Research Center Inc. (NRC) was chosen because it allowed comparisons with the responses given in the 2008 survey. The NRC also maintains a large database of cities for benchmarking.

The survey was mailed to 1200 homes within the city limits and responses were accepted both online and through return mail. All surveys were completed in English although a Spanish language survey was made available online. The sampling method was designed to closely mirror the overall housing unit density, including oversampling of multi-family housing units as residents of this type of housing typically respond to surveys at a lower rate than residents of single-family homes. A total of 337 surveys were received, yielding a 29% response rate. Response rates for citizen surveys are typically in the 25-40% range. She explained that 95% confidence interval means in most cases the true answers is within +/- 5 points around a given percentage. As we move into the results you will see that % positive response is what is reported.

While this presentation does not go into the subgroup comparisons, she thought it was worth mentioning for those in the community that want to dig further into the data. Zip codes were used to define geographic areas. Demographic information included number of years in Asheville; rent or own; annual household income; and age.

Of the 17 questions presented in the 2015 survey, 13 were benchmarked against other cities. Benchmark cities included 540 cities in the NRC database. As another benchmark comparison, Asheville responses were compared to a narrower subset of other destination/resort communities with populations less than 175,000. There were 42 cities in this subset.

Finally, the sampling method was designed to closely mirror the overall housing density, including oversampling of multi-family housing units since the survey administrators have found residents of multi-family housing typically respond to surveys at a lower rate than residents of single family homes.

The NRC captured resident's opinions within three pillars of community. The first is Community Characteristics. In other words, what makes a community livable, attractive and a place where people want to be? In responding to Asheville as a place to live, there was an 89% positive response. (similar to benchmark cities across the county.) The information in the chart digs a little deeper into the data and shows how Asheville compares against other benchmark cities.

The second pillar is Governance. This pillar relates to how well government meets the needs and expectations of its residents. In responding to overall quality of city services, 63% of

responses were positive. (similar to benchmark cities across the county.) Over 30 individual services were evaluated.

In summary, governance trends from 2008 to 2015 show (1) bus or transit services decreased from 2008 to 2015 from 45% to 33% (lower to benchmark cities across the county); (2) street repairs decreased from 2008 to 2015 from 27% to 20% (lower to benchmark cities across the county); (3) traffic enforcement decreased from 2008 to 2015 from 58% to 47% (lower to benchmark cities across the county); (4) emergency preparedness increased from 2008 to 2015 from 41% to 60% (similar to benchmark cities across the county); (5) natural area preservation increased from 2008 to 2015 from 20% to 47% (similar to benchmark cities across the county); and land use, planning and zoning increased from 2008 to 2015 from 16% to 31% (lower to benchmark cities across the county).

We couldn't cover all of them here and chose the following based on the greatest percent change in responses from 2008 to 2015.

The third pillar is Participation. Survey questions under this pillar relate to residents and their connections to the community and each other. 66% of residents responded positively when responding to feeling a sense of community (similar to benchmark cities across the county).

In addition to the standard questions in NRC's database. The City of Asheville opted to ask a few open ended questions. She reviewed the summary of the responses for a question that asked respondents to rank the importance of the city investments. Eight facets of Community included: Mobility, Safety, Natural Environment, Economy, Built Environment, Recreation and Wellness, Education and Enrichment, and Community Engagement. Natural Environment and Economy were identified as priorities.

Many of the areas identified with favorable responses below national benchmarks and/or those areas trending down in favorable responses from 2008 and 2015 are areas where actions are being taken as demonstrated in the City of Asheville 2-year work plan. This includes areas in which City Council has current strategic goals as well as projects addressed in the operations section of the work plan. Staff will share this information with boards and commissions. Finally, in the realm of management strategies, she said that some items addressed in the City Manager's proposed budget.

D. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: film tax credit; tiered historic preservation tax credit; renewable energy tax credit extension; funding for JDIG; no language on sales tax distribution; and graffiti vandalism punishment increase. She noted that the City's water lawsuit is pending with oral arguments next week.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING FROM URBAN PLACE DISTRICT/CONDITIONAL ZONING TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO AMEND A PREVIOUSLY APPROVED MIXED-USE DEVELOPMENT PROJECT LOCATED AT 146 AND 99999 ROBERTS STREET

ORDINANCE NO. 4414 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING FROM URBAN PLACE DISTRICT/CONDITIONAL ZONING TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO AMEND A PREVIOUSLY APPROVED

MIXED-USE DEVELOPMENT PROJECT LOCATED AT 146 AND 99999 ROBERTS STREET

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend a previously approved conditional zoning from Urban Place District/Conditional Zoning to Urban Place District/Conditional Zoning to amend a previously approved mixed-use development project located at 146 and 99999 Roberts Street. This public hearing was advertised on May 1 and 8, 2015. On May 12, 2015, this public hearing was continued to this date.

Ms. Bernstein said that, RAD Lofts, LLC, is requesting review of a conditional zoning request from Urban Place Conditional Zone (UP-CZ) to Urban Place Conditional Zone (UP-CZ), in accordance with Section 7-7-8 of the UDO, to amend a previously approved mixed-use development project. This is a revision to the earlier proposal, which was approved by City Council on October 22, 2013, under Ordinance No. 4241.

The project site at 146 Roberts Street consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue Extension and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and the second parcel (0.379 acres) is located across Roberts Street to the south (PINs 9648.07-2183 & 9648.06-1953). The parcels (previously zoned CI and River) were conditionally rezoned to Urban Place by City Council in 2013.

The project area is currently vacant but was most recently the site of Dave Steel. All remaining structures (railroad tracks, walls and a small building) are to be removed.

Summary of Changes:

The applicant is proposing an amendment to the previous approval. The project is for the construction of a mixed-use development including residential, retail and office spaces and parking, both structured within the development as well as a separate surface lot.

- **Residential:** Plans indicate a total of 243 residential units with 146 1-bedroom and 97 2-bedroom units. This is an addition of 34 units or an approximately 16% increase. The previous approval was for 209 units.
- **Retail:** The retail component has decreased to 19,378 SF from 36,974 SF (a 55% reduction). The previous approval included retail spaces along both street frontages but now this use is only along Roberts Street.
- **Office:** The office component has decreased to 8,578 SF from 11,656 SF (26% reduction).
- **Access:** same as previous – 2-way driveway on each façade
- **Height:** similar – 5 levels with 2 parking below
- **Building Size:** The previous plan visually functioned as seven buildings above ground; the revision is just one building on the site.
- **Parking:** There is an increase from 338 spaces to 343 spaces (parking is proposed in the structured garage, surface lot across street & on-street spaces)
- **Pedestrian Activity:** The interior pedestrian promenade has been eliminated and streetscape activity is greatly decreased on Clingman Avenue Extension.

The design has been changed to one large building on the base of structured parking (rather than what previously appeared as seven buildings and two large pedestrian areas through the site). There are two levels of parking and five levels of retail/office/residential spaces but with the existing grade change on site, the overall height varies. The building is 60' on Clingman and 68' from Roberts Street.

The access is mostly unchanged from the previous proposal - there are two access

points into the site, one two-way driveway from Roberts Street and the other two-way driveway from Clingman Avenue. The parking lot has two single-access driveways off Roberts Street. New sidewalks are shown along both sides of Roberts Street (6.5' on the parking side and 10' minimum on the building side) as well as the project frontage on Clingman Avenue and range from 7.5 to 12 feet in width. Additionally, the project has been designed to incorporate areas of pedestrian amenities both at the corner of Clingman and Roberts; however the public pedestrian promenade through the site has been eliminated.

This project incorporates parking in several locations; there is a 343-space parking structure within the development (*previously 338 spaces*); the separate parcel across Roberts Street to the south is shown as a standalone parking lot with 24 spaces (2 HC accessible) and approximately 8 on-street spaces will be delineated through streetscape enhancements (*previously 15*). Bike parking is also included throughout the site. The increase in residential units balances out with the decrease in retail and office space to result in approximately 83 hourly spaces available to the public in the deck (not counting public spaces in the lot or on-street).

Landscaping is required on the site and includes street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area. There is a requested condition related to landscaping.

Urban Place zoning includes specifics for building design and includes well-defined operable entrances at regular intervals, fenestration requirements for the ground and upper levels and treatments to break up long façades. The project design requires two conditions related to design and operational standards as detailed below.

Conditions: The current proposal includes the following conditions requested by the applicant that will need to be approved by City Council:

1. **Density** - The maximum density allowed by right in Urban Place is 64 units per acre, or 209 units for this site. The applicant is requesting an additional 34 units (a 16% increase - up to approximately 75 units per acre). Five percent of the units will be designated as affordable by the City's standards.
2. **Building Size** – For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000. The proposed footprint of the building is 82,531 SF (an increase of 65%) and the gross floor area is 421,489 SF (an increase of 111%). Similarly with the previous proposal, this condition is a result of building upon a base of structured parking.
3. **Sidewalks** - Sidewalks in the Urban Place District are required to be a minimum of 10' in width. Sidewalks are shown down to 6.5' along the surface parking on Roberts Street and between 7.5' - 12' along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue which will remain.
4. **Landscaping** – The applicant is requesting to greatly reduce parking deck landscaping requirements based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting.
5. **Setback** on Roberts Street - The maximum front setback is 15' and there is an area along Roberts Street that exceeds this standard.
6. **Fenestration/Windows and Entrances** - The plans do not comply with requirements in the design and operational standards section of the code relating to entrances (to be placed at regular intervals not exceeding 60') along both frontages as well as the requirement for windows to be evenly distributed at the pedestrian level across the length

of the facade on the first floor of the building and make up at least 40% of the first floor area along Clingman (due to the parking structure and “brownstone” style access).

	UDO Requirement	Applicant Request	Condition
Distance between entrances	Well defined operable entrances required at intervals not exceeding 60 feet apart	Roberts Street: one instance of 85 feet between entrances Clingman Ext: 102’7.5” from end of building to door; 153’ 3.5” from door to driveway opening heading north; two residential stair intervals spaced 64’1.5”	Roberts Street: requesting 25 feet additional distance Clingman Ext: requesting up to 93’ 3.5” additional distance between entrances
Even distribution of windows and percent of fenestration	Windows required to be evenly distributed across the length of the façade and to make up 40% of the street facing façade	Clingman only: 22% provided from Roberts Street corner to parking entrance; 23% provided from parking entrance to northern end of building	Clingman only: requesting a reduction of up to 18% less of the fenestration requirement

The Urban Place zoning district was created to foster “higher density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the City...to enhance the streetscape and offer a wide range of complementary land uses and employment opportunities... [and] intended in areas where the appearance of the built environment is important to the vitality of the area.” Additionally, the zoning district was created with areas along the French Broad River in mind. Staff believes that this location in the River Arts District is ideal for Urban Place zoning. The proposed amendment is increasing residential density and decreasing commercial area, which are acceptable under the district and goals for the area; however, the design has greatly lessened the level of pedestrian interaction and activity along Clingman Avenue Extension which is concerning to staff.

This proposal was approved with conditions by the Technical Review Committee on March 16, 2015; recommended for approval by the Planning & Design Review Committee on March 11, 2015, and approved for design by the Asheville Area Riverfront Redevelopment Commission on March 12th. The Planning & Zoning Commission reviewed this proposal at their meeting on April 1, 2015, and voted unanimously to support this request, including the requested conditions as noted above, as well as with a condition that the sidewalk on the building side of Roberts Street be widened to 10 feet. The applicant agreed to make this revision and the current plans reflect the change.

Staff has received comment from representatives of the River Arts District Business Association regarding the need and high demand for parking in the general area, both on-street spaces as well as in surface lots and structures. There have been ongoing discussions regarding the potential to make Roberts Street and/or Clingman Avenue Extension one-way, which could result in more on-street parking spaces.

A Level II project was recently approved in the vicinity (95 Roberts Street, BP 14-16524).

This type of mixed-use, high density development is ideal (and intended) for areas such as the River Arts District and is expected to complement the adjacent shops, studios and uses and add to the fabric of the District in a valuable way. Streetscape improvements will greatly improve the pedestrian experience along Roberts Street and Clingman Avenue and the addition of parking in several locations will be a benefit to the area. While the building is taller and significantly larger than most in the immediate area, the scale of the building is mitigated through façade planes, roof line differentiation and changes in materials.

This site was previously developed and has a +/- 35 foot grade change from Park Avenue down to the Roberts Street / Clingman Avenue intersection with a steep bank along the northern end. The proposal focuses development activity (retail spaces, pedestrian plaza, parking garage entrances) down towards the previously graded areas and leaves the rear bank intact, more or less, functioning as the “back” of the site. Working with the grade changes on the parcel, the structured parking is only “exposed” along the rear of the site where there is no public interaction, integrating the design into the natural and topographic features on the parcel.

The design standards in Urban Place zoning are crafted to promote activity along the ground level and this amendment has a greatly reduced level of activity along the Clingman Avenue Extension façade. The applicant has indicated that they will create an active pedestrian feel along this corridor by the inclusion of street furniture, public art attached to the building, interpretive signage regarding the history of the area and creative screening on the parking deck openings.

This proposal is aligned with numerous aspects of the *City Development Plan 2025* including smart growth policies such as mixed-use buildings; higher density infill development; promoting a sustainable pattern (parking structured underneath building) and strengthening neighborhoods close to downtown (pg. 31). Land use and site planning goals stress encouraging “the mixing of residential and commercial development to increase walkability and reduce automobile dependence” and siting uses close to public transit and bicycle paths. The streetscape improvements will aid in safety for pedestrians in this highly-trafficked area and the additional parking in the deck, on-street and the small surface lot will be helpful. Lastly, the *Plan* addresses quality of life as an economic development incentive and the River Arts District is certainly a target area for enhancing cultural, residential and commercial activity for residents as well as tourists.

The WECAN Master Plan (2008) recommends infill development within the River Arts District, specifically for a mix of uses along Roberts Street with retail at the ground level and residential above.

Based on the above findings and the analysis provided in the staff report and as stated in the recommendation below, staff finds this request to be reasonable, consistent with the comprehensive plan and within the best public interest.

Considerations:

- The requested conditions exceed otherwise applicable structure size, density and setback maximums and reduce standards for sidewalk width, fenestration and landscaping.
- City goals support mixed-use, infill development, especially providing residential uses in a walkable location proximate to transit and the Central Business District.
- Streetscape improvements will enhance the pedestrian experience along Roberts Street and Clingman Avenue Extension.
- Urban Place zoning sets forth specific design and operational standards to ensure a development that will relate to and enhance activity at the street level. The amendment is problematic with meeting these goals along the Clingman Avenue Extension façade, however design elements proposed by the applicant should mitigate this somewhat.

Staff recommends approval of the proposed conditional zoning request to amend a previously approved project for the construction of a mixed-use development, including the conditions as proposed by the applicant as detailed above. Staff recommends the inclusion of conditions as suggested by the River District Design Review Committee to better activate the blank section of brick façade along the street level of Clingman Avenue Extension (included in Exhibit B.1, No. 14).

Mr. W. Louis Bissette, attorney for the applicant, said that this will be a key to the redevelopment of the River Arts District. The developer has agreed to all conditions, with one exception - the developer agreed to 5% of the units being designated as affordable by the City standards, but because of their financing, the developer has requested an allowance of up to a 3% increase in the workforce housing allocation rents per year.

There was considerable discussion regarding the 3% increase in the workforce housing allocation rents per year. Assistant Community & Economic Development Director Jeff Staudinger felt that giving the developer the potential to increase those rents to meet rising costs within the workforce category is a reasonable approach to looking this pro forma in this project. He said it's not to say that the developer would increase those rents 3% on an annual basis, but the ability to do so is an essential element of obtaining the financing for the project.

In response to Councilman Smith, Mr. Staudinger said that workforce rents for a one-bedroom unit, including utilities - \$1,344/month; and for a two-bedroom unit, including utilities - \$1,513/month. He said that the developer's rents in the pro formas he has seen were below those workforce rents upon initiation.

After Mr. Harry Pilos, developer, explained his need for the potential 3% increase, Mr. Bissette said that the workforce housing for year one (95% of the units) will be at or below the City's standards for workforce housing, and then beginning in year two, the developer is asking for the potential 3% increase each year for the workforce units up to 10 years, after which time the condition will no longer be applicable.

Mayor Manheimer opened the public hearing at 6:42 p.m. and when no one spoke, she closed the public hearing at 6:42 p.m.

Councilman Smith said that this is an ambitious project and there is a lot to support, especially with the brownfield site, but regarding the incentive numbers, when it comes down to the affordability piece, we are talking about going over and above maximum density with 12 affordable units. We have approved over the past years thousands of apartment units in the City with fewer than a 100 of those mixed-income developments having meaningful affordable units.

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

Vice-Mayor Hunt moved to recommend approval of the conditional zoning request for RAD Lofts, LLC for property located at 146 Roberts Street from Urban Place Conditional Zone (UP-CZ) to Urban Place Conditional Zone (UP-CZ) including the requested conditions and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that (1) The proposal supports the strategies found in the City's comprehensive plan on encouraging mixed-use development, especially in areas walkable to downtown and proximate to transit; (2) The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; (3) The design and uses create a pedestrian-oriented streetscape along Roberts Street and part of Clingman Avenue Extension; and (4) an amendment to the Condition No. 8 providing that five percent of the units will be designated as affordable by the City's standards; and the remaining 95% of the units will be leased at or below the City's rates for workforce housing for the first full year of operation and following the first year, rental rates can be increased in an amount not to

exceed 3% per year as indicated, per unit, for a period of ten years. At the end of the ten year period, this Condition will no longer apply. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 479

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

RESOLUTION NO. 15-101 - RESOLUTION APPROVING AN AMENDMENT TO THE LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a resolution to amend the land use incentive grant for 146 Roberts Street (RAD Lofts) for a five-year grant and a 50% fee rebate. This public hearing was advertised on May 15, 2015.

The owners/developers of RAD Lofts have applied for an amendment to their Land Use Incentive Grant for 146 Roberts Street (RAD Lofts).

On August 26, 2014, City Council approved a Land use Incentive Grant (LUIG) for the RAD Lofts development. In summary, the RAD Lofts LLC proposed a 209 unit residential, 48,500 square foot commercial development on the 2.88 acre site formerly home to the Dave Steel Company, located at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The developer estimated a total development cost of \$52 million. The project consisted of 209 residential rental apartments, a two story parking deck with 356 parking spaces, and street front retail spaces, live work spaces and second floor office space.

Council approved a five-year (50 points) LUIG, based on the following:

Eligibility Requirements:

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

Public Benefit:

Council awarded 50 Public Benefit Elements points, as follows:

- Affordable Housing units: 10 points for providing 5% (11 units) affordable residential units;
- Workforce Housing units: 20 points for providing 95% (231 units), workforce residential units.
- Green Building/Energy: *Energy Star certified*, 5 points.
- 20% non-residential, 5 points.
- Within the Sustainability Bonus area, 5 points.
- Brownfield Redevelopment, 5 point.

The developer has slightly altered the composition of the project, and needs an amended Land Use Incentive Grant approval from City Council. The proposed development now consists of

243 residential units, an increase of 34 units. The developer will continue to provide 5% affordable units, which increases the number of affordable units by one unit, to 12 units. The percentage of workforce units does not change, while the number of workforce units increases to 231. He did note that in the conditional zoning, the amended condition provided that five percent of the units will be designated as affordable by the City's standards; and the remaining 95% of the units will be leased at or below the City's rates for workforce housing for the first full year of operation and following the first year, rental rates can be increased in an amount not to exceed 3% per year as indicated, per unit, for a period of ten years. At the end of the ten year period, this Condition will no longer apply.

Concurrently, the developer proposes to reduce the commercial square footage by approximately 20,000 square feet, reducing the total square footage to approximately 30,000 square feet. This reduces the total commercial space to 16% of the total development.

The developer requests that the Land Use Incentive Grant, as awarded by City Council, remain unchanged.

The project meets the following 2014-15 Strategic Plan Goals as follows: (1) *Economic Growth and Sustainability*: The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District; and (2) *Affordability and Economic Mobility*: the project creates locationally efficient affordable and workforce housing. The project also meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location "along major transit corridors..." ; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Exemption Request:

Fiscal Impact: Estimated maximum value of Land Use Incentive: The current assessed value of the property is \$501,800 (land only). The developer's estimate of completed project taxable value is \$40,000,000, and has estimated the value on which the LUIG is made at 80% of that (\$32,000,000). The current annual city tax, based on current assessed value, is \$2,308. The annual estimated city tax post completion, based on the developer's estimate of value is \$184,000. Thus, the estimated annual Land Use Incentive Grant would be \$144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be \$724,458.60.

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

The project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately \$823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over its five year period, as opposed to equal payments for the requested five-year grant. This would result in a grant disbursement that would increase annually over the five year term and may lead to an extension of the grant period until the total maximum grant amount is paid. The total payout period is estimate to be eight years. However, the amount of the grant would not change, only the time frame for payment of it.

Staff recommend that Council approve an amendment to the Land Use Incentive Grant, as requested, and approve a five-year grant and a 50% fee rebate Land Use Incentive Grant for 146 Roberts Street (RAD Lofts).

In response to Councilwoman Wisler, Mr. Staudinger said that the total land use incentive grant for \$144,891 will not change, since the estimate of the project value is the same.

Councilman Bothwell noted that the original land use incentive grant varied from the policy of 35 public benefit points.

In response to Councilman Smith, Mr. Staudinger said that as of today, the project has 35 public benefit points as follows: 5 points for 5% of affordable housing; 15 points for greater than 75% workforce housing; and 20 points for the energy star, the 20% non-residential, Sustainability Bonus area, and the brownfield redevelopment. But, because the total commercial space was decreased to 16%, there is a reduction of 5 points for a total of 35 points. He did note that the project does meet all of the eligibility requirements of the policy.

City Attorney Currin said that Council does have the flexibility under the policy to award more or less points, depending on the project.

Councilman Smith acknowledged that Council agrees that the land use incentive policy is not perfect and that staff will be bringing forward a revised policy in the near future for more predictability in the process.

Mayor Manheimer felt we need to allocate more points for affordability housing. As a Council and community we have learned that we value affordable housing more than the ratio that is reflected in this policy. This is an important policy for the transformation of the River Arts District. We need to welcome this kind of growth and this is the kind of project we were hoping to see incentivized through our land use incentive policy.

Councilman Bothwell felt it was best to be predictable when dealing with developers and he felt we need to adhere to the rules that are currently in place. He acknowledged that the policy might need to be revised, but Council should not be deviating from it over and over. Since the current policy would result in 35 points, he would not be able to support any points above that.

Mayor Manheimer opened the public hearing at 6:58 p.m. and when no one spoke, she closed the public hearing at 6:58 p.m.

Because Council agrees that the policy needs to be revisited and because he felt 35 points is an arbitrary number, Councilman Davis moved to approve an amendment to the Land Use Incentive Grant, with 50 points, and approve a five-year grant and a 50% fee rebate Land Use Incentive Grant for 146 Roberts Street (RAD Lofts).

Councilwoman Wisler and Councilman Smith both supported awarding 35 points.

Councilman Davis withdrew his motion.

Councilman Pelly then moved to approve an amendment to the Land Use Incentive Grant with 40 points, for four years, for a total of \$579,653. This motion was seconded by Vice-Mayor Hunt and carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no."

RESOLUTION BOOK NO. 37 – PAGE 136

C. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR RIVER MILLS LOFT LOCATED AT 300 MILL RIVER DRIVE

RESOLUTION NO. 15-102 - RESOLUTION WAIVING THE LOCATION ELIGIBILITY REQUIREMENTS AND APPROVING A LAND USE INCENTIVE GRANT FOR RIVER MILLS LOFT LOCATE DAT 300 MILL RIVER DRIVE

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a resolution to waive the location eligibility requirements and approve a land use incentive grant for River Mills Lofts, located at 300 Mill River Drive. This public hearing was advertised on May 15, 2015.

River Mill Lofts LLC, led by Pace Burt, seeks to develop the 9.52 acre site at 300 Mill River Drive. The site is located at the intersection of Thompson Street and Stoner Street, east of Biltmore Village. The developer estimates a total development cost of \$25 million. The project consists of (1) 254 residential rental apartments (248 two-bedroom apartments and 6 three-bedroom apartments), in two buildings; and (2) 8,000 square feet of commercial space, with 4,000 square feet located in each building.

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

- Equity: A 20% equity contribution is required. The project developer indicates he will contribute at least 20% equity to the project.
- Energy Star Certification: The developer indicates the project will achieve Energy Star certification.
- Residential development: The development consists of at least two residential units.
- Location: The project is located within the City of Asheville city limits.

The project is not located within 1/4 of a mile of a designated major transportation corridor (Biltmore Avenue/Hendersonville Road). The project is located .4 mile from Biltmore Avenue. The developer requests a waiver of this policy eligibility requirement.

Public Benefit: The project proposes the following Public Benefit Elements:

- Green Building/Energy: Energy Star certified, 5 points.
- Affordable Housing: 18 units, which is 7% of the total units. The developer requests 10 points.
- Workforce Housing units: 216 units, which is 85% of total units. The developer requests 15 points.
- Mixed Use Development/Sustainability/Brownfield: The developer requests 20 points. The developer does not qualify for these points based upon existing policy. The developer asks for consideration of the following:
 1. The project is a mixed-use development that will be a pioneer for “early adapter mixed-use project.”
 2. The project meets City-goals of sustainability- it requires no new utility infrastructure; it is served adequately by the existing traffic systems; it will use “best management practices (BMPs) in treatment of storm water runoff; it will enhance public access to the Swannanoa River.

The developer has scored the project with 50 points, and requests a 5 year Land Use Incentive Grant.

According to LUIP Policy, the project qualifies for 25 points:

- Green Building/Energy: Energy Star certified, 5 points
- Affordable Housing: 18 units, which is 7% of the total units. 5 points.
- Workforce Housing units: 216 units, which is 85% of total units. 15 points.

This assumes that the project is deemed eligible by Council. A waiver of the eligibility requirements has been requested by the developer. As mentioned above, the project is .4 miles from a major commercial corridor named in the policy (Biltmore Avenue/Hendersonville Road). Rationale for waiver of the policy includes:

- The development and others proposed for that area have the potential to create significant new transit demand. Over 500 units are now being planned for this area. Three transit routes are within .4 mile of the site.
- A multi-modal route, via the Wilma Dykeman Riverway, is master-planned contiguous to the site.
- Therefore, the location of the project meets the goals of the program, and a waiver of the eligibility requirement is justifiable.

The project meets the following 2014-15 Strategic Plan Goals as follows: (1) *Economic Growth and Financial Sustainability*: The project invests and leverages investment in community infrastructure; and creates economic development and community investment opportunities through partnerships, planning and incentives. (2) *Affordability and Economic Mobility*: The project expands Asheville's supply of quality, affordable homes for current and future residents. This proposal also aligns with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to bike paths. Infill development along transit corridors is also highlighted but this site is a little over 2,000 feet to three routes that cross in Biltmore Village. The plan also supports projects that design landscapes to absorb stormwater using bio-swales and natural stormwater filters. Affordable housing options are highlighted throughout the Plan as a strong community need.

The area is included in the planning for the Wilma Dykeman Riverway Master Plan and infill development, recreation amenities and roadway improvements are a part of that proposal. Planning for roadways has occurred in the River Arts District area but has not proceeded to this section of the river at this time. The proposed development though seems to fit in with the intent of the Dykeman plan with the inclusion of the river yard and the wide sidewalk along Thompson Street.

Pros:

- The proposed development will provide 18 units of housing affordable for ten years, and 216 units of workforce housing.
- The proposed development is located close to jobs and services.
- The proposed development is located within the Wilma Dykeman Riverway corridor, and proposes public benefit through alignment with planned multi-modal transportation ways.

Cons:

- The development does not meet with minimum policy requirement to be located within .25 miles of a named transportation corridor.
- The development is not currently connected by sidewalk or pathway to Biltmore Avenue.
- The proposal creates 18 units of affordable housing, 7 units short of the 25 units that would yield a 10% affordable composition.

Estimated maximum value of Land Use Incentive: The current assessed value of the property is \$705,000 (land only). The developer's estimate of completed project taxable value is \$25,000,000. The current annual city tax, based on current assessed value, is \$3,243. The annual estimated city tax post completion, based on the developer's estimate of value is \$115,000. Thus, the estimated annual Land Use Incentive Grant would be \$111,757, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed

value of the development upon completion. If approved for 5 years, the estimated Grant would be \$558,785. If approved for three years, the amount would be \$335,271.

300 Mill River Drive	
Current Value	\$ 705,000
Current Tax	\$ 3,243
Est Value	\$ 25,000,000
Minus current value	\$ 24,295,000
Est Tax	\$ 111,757
Value of LUIG for 5 years	\$ 558,785
Value of LUIG for 3 years	\$ 335,271

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is \$50,000. The value of each 10% of the fee rebate would be \$5,000. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be \$25,000; at a three year level, \$15,000.

The Housing and Community Development Committee reviewed the proposal and discussed it with Pace Burt at their January 20, 2015, meeting. Both the Committee and developer agreed at that meeting to take no action. The developer has since requested that the proposal as described above be moved forward to Council. The Housing and Community Development Committee again reviewed the proposal at their May 18, 2015, meeting and decided to move the proposal forward to City Council without a recommendation regarding either the waiver of the location eligibility requirement or approval of the grant.

Staff recommends that Council approve a waiver of the location eligibility requirements, and approve a three-year Land Use Incentive Grant for the River Mill Lofts development.

Vice-Mayor Hunt noted that a future greenway along Swannanoa River Road is on the draft N.C. Dept. of Transportation Improvement Plan. That would be the opportunity the community has to make sure that bikeability and walkability is included. There is not a lot of room to squeeze a greenway in, so it would have to be integrated with the State's project.

Councilman Bothwell said that he would have to oppose this grant because it is an exception to our land use incentive grant policy.

Councilman Smith said that at the Housing & Community Development Committee meeting there was discussion on whether or not to waive the eligibility requirement. He would lean towards waiving that because there are so many options nearby and because of the future transportation plan in that area. Regarding the points, he felt that he could support 25 points.

When Vice-Mayor Hunt asked when staff would be bringing forward a revised policy on the land use incentive grant, City Attorney Currin said that a re-write could be as soon as two months. Mr. Staudinger also noted that their plan is to bring it to the Housing & Community Development Committee and the Planning & Economic Development Committee in June for review prior to City Council consideration.

Mr. Clay Mooney, landscape architect representing the developer, explained how they arrived at the points for the public benefit elements. He asked for their support of the waiver of the eligibility requirements as they are at the mercy of transportation, noting they are only 800 feet from a major commercial corridor. He said this is a pioneer development in the area. He

said the developer is working diligently to accommodate affordable and workforce housing in the project, but financing is a reality all developers must face. He clarified and explained their request as follows: (1) Workforce Housing units - The developer is requesting 20 points, not 15 as noted by Mr. Staudinger; and (2) Mixed Use Development/Sustainability/ Brownfield - The developer is requesting 15 points, not 20 as noted by Mr. Staudinger. The developer feels that the 50 points requested is the only means which he could provide the affordable and workforce housing. He said that if through the re-working of the land use incentive grant policy that it becomes such that they might be able to achieve the 50 points, they are willing to voluntarily come back (within a limited timeframe) and try to work something out. He noted that one of the conditions in the conditional use permit process was to proceed through the land use incentive grant process. He said that part of the land use incentive grant guidelines is that no project that has pulled its building permit would be able to apply. He hoped to get started as soon as all permits were in hand, but from the building permit standpoint they may be 4 months away.

In response to Councilman Bothwell, City Attorney Currin said that the policy reads that unless granted an exemption from City Council, no grant will be allowed under this policy for projects which have received building permits.

Mayor Manheimer opened the public hearing at 7:27 p.m., and when no one spoke, she closed the public hearing at 7:27 p.m.

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

Councilwoman Wisler moved to approve a waiver of the location eligibility requirements, and approve 30 points (three-year Land Use Incentive Grant) in the amount of \$335,271, for the River Mill Lofts development, for the following reasons: (1) The proposed development will provide 18 units of housing affordable for ten years, and 216 units of workforce housing; (2) The proposed development is located close to jobs and services; and (3) The proposed development is located within the Wilma Dykeman Riverway corridor, and proposes public benefit through alignment with planned multi-modal transportation ways. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Bothwell voting "no."

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D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 53 LOGAN CIRCLE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 16 TOWNHOME UNITS, WITH CONDITIONS REGARDING SETBACKS, SIDEWALKS AND INFRASTRUCTURE IMPROVEMENTS

ORDINANCE NO. 4415 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 53 LOGAN CIRCLE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 16 TOWNHOME UNITS, WITH CONDITIONS REGARDING SETBACKS, SIDEWALKS AND INFRASTRUCTURE IMPROVEMENTS

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 53 Logan Circle from RM-8 Residential Multi-Family Medium Density District to RM-16/CZ Residential Multi-Family High Density District/Conditional Zoning for the construction of 16 townhome units, with conditions regarding to setbacks,

sidewalks and infrastructure improvements. This public hearing was advertised on May 15 and 22, 2015.

She said the applicant is requesting conditional zoning from RM-8 (Residential Multi-Family Medium Density) to RM-16 CZ (Residential Multi-Family High Density Conditional Zoning District) for a single parcel located at 53 Logan Circle to allow for the construction of 16 townhomes. The proposal includes conditions relating to setbacks, sidewalks and infrastructure improvements.

The site is a 1.054 acre site (PIN 9638.87-3150) on Craven Street and is bordered to the west by Georgia Street and is across the street from the New Belgium Brewery. There is a grade change on the site with a steep hill toward the middle of the site that curves parallel to the streets. The upper portion of the site fronts on Logan Circle and includes 53 Logan Circle. Adjacent parcels are zoned RM-8 to the East, West and South. Across Craven Street to the North, New Belgium Brewery property is zoned River.

Currently there is one house occupied by the owners/applicants on the site, and one block and frame building on the corner of Craven and Georgia Streets.

The applicants/owners, Wanda and Joel Wingerter, are proposing the construction of 16 townhomes on just over 1 acre of land across the street from the New Belgium Brewery. There are two clusters of four units facing Craven Street, all with 2 bedrooms each. Along Georgia Street there are four units in one cluster, all with 2 bedrooms each. From Logan Circle, there are two clusters of two units, with 3 bedrooms each. All of the units are 3 stories tall with a maximum height of 37 feet above ground level. This height meets the standard for all residential districts.

In the middle of the site is a woodland garden used as a common area with landscaping and a 4 foot mulched path. There are several retaining walls on the site, the tallest being 16 feet high and located on the northeast corner of the site. The majority of the steep areas of the site are left as undisturbed open space.

Vehicular access to the site is proposed via all three street frontages. A driveway on Logan Circle accesses the upper four townhomes; townhomes on Georgia Street are proposed with individual driveways and garages, and the eight townhomes on Craven Street have pedestrian access on Craven Street, and parking areas to the rear and side.

The proposed project meets parking requirements with 1 space per 2 bedroom unit supplied either to the side, rear or in front garages. The 3 bedroom units have 1 space in a front garage and a second space in a parking area to the side. The project proposes to have 7 on-street parallel spaces on Craven Street.

The project will improve Georgia Street to be a 20 foot paved surface and a six-foot sidewalk will be provided along Georgia and Craven Streets. Staff is working with the applicants to coordinate Craven Street improvements with improvements needed for this project. . The applicants have proposed to rename Georgia Street to Brewery River Row, which will be handled either through Final TRC or a separate process.

Landscaping is required for this project and includes street trees, building impact and retaining wall landscaping and tree save areas. Street trees are provided along Georgia and Craven Streets in bulbouts and in front of the townhome units.

The proposal meets and exceeds open space requirements. Plans show 9185 sf of open space that has less than a 25% slope, and an additional 2812 sf of open space that has a slope greater than 25%. The total requirement for this development is 8000 sf.

This proposal was approved with conditions by the Technical Review Committee on March 16, 2015, and requires review by the City Council and Final TRC prior to zoning approval. Many of the TRC comments have been addressed in the plans that are before City Council.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on April 1, 2015. At this meeting, the commission voted unanimously (6-0) to recommend approval of this conditional zoning to Asheville City Council with the conditions as presented (Exhibit B-1).

The applicant met with neighbors at the March 13, 2015 meeting of the East West Asheville Neighborhood Association (EWANA). At this time, staff has received two comments from neighbors on Logan Circle that they are concerned about townhomes on the Logan Circle side, but not other concerns from neighbors. The owner recently met with one of these neighbors and showed them revised architectural elevations for the Logan Circle townhomes, and the neighbor was pleased with the changes.

The applicant is proposing to conditionally rezone the site from RM-8 to RM-16 in order to achieve a higher density on the site. The parcel is outside of the River Design review area.

Current zoning to the east, west and south of the site is currently RM-8. The property is directly across from the New Belgium Brewery project on Craven Street. Staff anticipates increased visitors to the area, and Craven Street is currently being rebuilt with improved widths, bike lanes and sidewalks. Development with higher density is more appropriate along this corridor than single family detached housing. Adjacent property owners on Craven Street to the west have indicated that they are interested in a more dense development as well.

Townhomes are a suitable use in the zoning district as well as in this location. The requested conditions for reduced setbacks are evaluated on a case-by-case basis and while they may not be appropriate for the portion of the site deeper within the neighborhood, they are less objectionable given the context of this location.

On the Logan Circle portion of the site, the properties to either side all contain single-family houses that are two and three story structures. The townhomes will be set somewhat back with an access driveway, and their height will be compatible with these adjacent structures. The setback and greenspace in front will keep the new buildings from overwhelming the other houses on Logan Circle. The architecture of these townhomes has been revised to be more compatible with the neighboring homes.

The proposal supports strategies found in the *City Development Plan 2025* of allowing more intense infill development where appropriate and enhancing the pedestrian-environment. The project will provide sidewalk along Craven and Georgia Streets.

The proposal supports strategies found in the *City Development Plan 2025* of infill development occurring in areas with existing infrastructure, and where alternative transportation routes are available. The project is within a quarter mile of Haywood Road (Transit line) and will be very close to the greenway system that will run along the west side of the French Broad River.

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:

- Infill development furthers the goals and objectives of the comprehensive plan.
- Besides the requested setbacks, the proposal is meeting the requirements of the RM-16 zoning district.
- Public investment in the Craven Street infrastructure and nearby greenways anticipate an increased urbanization of this corridor, and this higher density project will be compatible with the area.

- The applicant is working with the City to ensure that the Craven Street project is compatible with their plans.

Staff recommends approval of the proposed conditional zoning to allow for the construction of the 16 townhomes.

Mr. Gerald Green, representing the project team, stated how the developer worked hard to blend the townhouse development into the neighborhood, noting that the project developers currently live on the site, and will live on the site after completion. He noted Ms. Vrtunski showed images on Logan Street where they changed to a craftsman-style design to blend in with that community, and a more modern industrial style along Craven and George Streets to blend in with the brewery. He hoped that staff will look at possible ordinance amendments to allow townhome developments along certain streets in those areas that are appropriate. They will benefit the community by providing housing and contributions to the public infrastructure. Regarding costs, these units will be market rates. They are excited to be a part of the improvements in the River Arts District.

Councilman Smith said that townhome developments are an efficient use of space.

Mayor Manheimer opened the public hearing at 7:40 p.m.

An area resident on Logan Avenue is concerned that the top part of Logan Avenue is a single family neighborhood and this development will radically change that footprint.

Mayor Manheimer closed the public hearing at 7:42 p.m.

Councilman Pelly understood the concern of the houses off Logan Avenue, but felt this will be a relatively small change from the overall character of the neighborhood.

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

Councilman Bothwell moved to approve the conditional zoning request of Asheville Property, Inc. for property located at 53 Logan Circle from RM-8 (Residential Multi-Family Medium Density District) to RM-16 CZ (Residential Multi-Family High Density District Conditional Zoning) including the requested reduced setbacks on Georgia and Craven Streets, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; and (2) The proposal supports the goal found in the City's comprehensive plan of infill development that takes advantage of existing infrastructure and is close to transit and alternative transportation options. This motion was seconded by Councilwoman Wisler and carried unanimously.

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- E. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 29 OAK HILL DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 72 RESIDENTIAL UNITS IN THREE BUILDINGS WITH ASSOCIATED INFRASTRUCTURE, AND CONDITIONS FOR REDUCED BUILDING SETBACKS, REDUCED PARKING COUNTS, AND INCREASE IN RESIDENTIAL DENSITY**

At the request of City staff, and concurrence by the developer, Councilman Pelly moved to continue this public hearing until June 9, 2015. This motion was seconded by Councilwoman Wisler and carried unanimously.

F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ARTICLE 13 TO EXPAND OPTIONS FOR REAL ESTATE AND CONSTRUCTION SIGNAGE

ORDINANCE NO. 4416- ORDINANCE TO AMEND ARTICLE 13 THE UNIFIED DEVELOPMENT ORDINANCE TO EXPAND OPTIONS FOR REAL ESTATE AND CONSTRUCTION SIGNAGE

Development Services Process Manager Chris Collins said that this is the consideration of an ordinance to amend Article 13 of the Unified Development Ordinance to increase the current allowances for real estate and construction signage. This public hearing was advertised on May 15 and 22, 2015.

In December of 2014, City Zoning Enforcement staff served a notice of violation (NOV) to the City Centre and Hilton Garden Inn projects for construction signage in excess of that allowed by Section 7-13-2(d)(7) at 301 and 309 College Street. The NOV was generated due to the fact that the above listed construction projects are currently displaying construction signage that is in violation of the UDO allowance of two (2) signs with a maximum of 32 square feet in area per sign face with a required ten (10) foot setback from the right-of-way.

In response to the serving of this NOV, the developer met with City staff and subsequently submitted a formal request for a wording amendment to Section 7-13-2(d)(7) to increase the allowed number of and size of construction signs when attached to construction fence screening materials. The request noted the following benefits of allowing further construction signage when attached to screening materials:

- Screening attached to construction fencing makes for a much better appearance to the public; and
- This type of signage assists in vendor and delivery identification for construction sites; and
- The ability to advertise on construction screening helps mitigate the cost to developers of installing the screening material itself.

In receipt of this request which is centered on an active construction site within the Central Business District (CBD) zoning district, staff prepared a report and proposed wording amendment for presentation to the City's Downtown Commission. On February 13, 2015, staff presented the option of allowing unlimited 32 square foot sign panels on construction fencing screening materials when said panels were spaced at least 50 linear feet apart and eliminated the requirement of a 10 foot setback for this type of signage within the CBD. The majority of the Downtown Commission members demonstrated support for increasing the allowance for the construction signage. Several members identified the possibility of allowing a greater size and quantity than that identified in the staff report.

On March 4, 2015, the City's Planning & Zoning Commission unanimously adopted a motion to recommend approval of an amended and less restrictive ordinance allowing unlimited sign faces that are no more than 50 square feet in area and no closer than 20 linear feet to the next sign face.

On March 24, the request and Planning & Zoning Commission recommendation were heard by the Mayor and City Council. The council stated differing positions ranging from support for the recommended ordinance change to support for exempting this type of signage from regulation. The end result was a unanimous vote for denial of the text amendment as presented

and recommended. In response to this, the original applicant for this amendment has submitted a revised request to allow both freestanding construction signage and construction screening signage to exist simultaneously on the same site and exempt construction screening signage from regulations as to size and quantity.

Research by City Staff has found that many other cities have a regulation in place mirror our current 32 square foot requirements. Research has also indicated that this type of construction screening materials is often not regulated nor enforced by other cities. Larger jurisdictions such as the City of Atlanta (where a prevalence of urban projects creates a high incidence of this type of screening and signage) regulate the time of placement and content of the signage rather than the area of the sign. The use of construction screening material on construction fencing is not required by City ordinance.

During the May 6 meeting of the Planning & Zoning Commission, the revised request and staff recommendation were presented. The Planning & Zoning Commission unanimously approved the wording amendment presented in and recommended by this text.

Currently, the text of Section 7-13-2(d) (7) reads as follows:

- 7) *Construction Signs.* Construction signs shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of ten feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of the issuance of a certificate of compliance. A minimum setback of ten feet is required.

This proposed UDO text amendment adds one new definition to Section 7-2-5. These definitions are as follows:

Construction Screening- Temporary and opaque material attached to a perimeter fence or barrier surrounding an active construction site for the purpose of minimizing the visual nuisance and safety issues of the subject site.

Additionally, the proposed text amendment revising the wording of Section 7-13-2(d)(7) as follows (additions are underlined):

- 7) *Construction Signs.*
 - a. *Freestanding Construction Signs:* Shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of ten feet in height. ~~Construction signs shall not be erected prior to the issuance of a building grading permit and shall be removed within seven days of the issuance of a certificate of compliance.~~ A minimum setback of ten feet is required.
 - b. *Construction Signs Attached to Construction Screening:* When used in lieu of a Freestanding Construction Sign, construction signage may be attached to construction screening materials. Signs may only show the following:
 - i. Images and/or renderings of the project as it is to be constructed;

- ii. Approved site and / or landscaping plans;
 - iii. The name and contact information of developer(s), contractors and/or financiers engaged in work on the site.
- c. Construction signs shall not be erected prior to the issuance of a building grading permit and shall be removed within seven days of the issuance of a certificate of compliance.

Considerations:

- Provides a specific definition for *Construction Screening* within the UDO.
- Incentivizes the use of construction screening material thereby assisting with the aesthetics of active construction sites and reducing the risk of an attractive nuisance.
- Signage affixed to screening materials eliminates the more commonly used free-standing signs which may contribute to visual clutter.
- Higher allowances may improve project recognition within the community and communicate valuable information.
- Benchmarking from the standards of other jurisdictions has produced mixed results. The large majority of those surveyed enforce a similar standard to that currently found in the UDO. However, many of those surveyed noted that signage affixed to screening is not commonly regulated.

City staff recommends approval of the revised wording of Section 7-13-2(d)(7) to increase the allowed number of and size of construction signs when attached to construction fence screening materials.

Councilman Smith understood the aesthetic and safety pros of the screening, but felt essentially this would allow a series of billboards along a street.

Councilman Bothwell felt that a developer could put up a white or green cloth over the fencing and it would be cheaper than the \$20,000 cost claimed for the screening at the City Centre. He was opposed to changing an ordinance to make one project legal.

Mayor Manheimer opened the public hearing at 7:54 p.m.

Mr. Brian Walker, representing Vannoy Construction, said that they want to keep a clean, presentable and safe site as much as possible during the construction process. Screening becomes expensive, so in order to help mitigate that cost, it is helpful to create opportunities for advertising and branding for the people involved with the construction process. They also want to incentivize other contractors to screen their areas. For their project along Long Shoals Road for a medical building they used this same screening process and was surprised when they found out they were in violation at this site. He said the \$20,000 cost does include printing of the images. Their intent is not to clutter, but to provide images to the public of the project. He asked for City Council's support.

Mayor Manheimer closed the public hearing at 8:00 p.m.

Councilman Smith said that there are many prospectives on what signs should look like, but ultimately feels it is an incentive to provide screening for aesthetic improvement.

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 proposed wording amendment to Sections 7-2-5 and 7-13-2(d)(7) of the UDO of the City of Asheville; and find that this request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, and is reasonable and in the

public interest in that it provides for a method of project identification while protecting pedestrians and motorists from visual distraction and public safety concerns presented by an active construction site. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

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G. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO SECTION 7-8-1 TO ALLOW REPLACEMENTS OF TELECOMMUNICATION TOWERS AND SUPPORT STRUCTURES IN ALL ZONING DISTRICTS

ORDINANCE NO. 4417 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO SECTION 7-8-1 TO ALLOW REPLACEMENTS OF TELECOMMUNICATION TOWERS AND SUPPORT STRUCTURES IN ALL ZONING DISTRICTS

Interim Planning Director Alan Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance for Section 7-8-1 to allow replacements of telecommunication towers and support structures in all zoning districts. This public hearing was advertised on May 15 and 22, 2015.

Currently, the definition for Section 7-2-5 of the UDO provides the following definition:

“Telecommunication tower/ support structure- Replacement tower- means a telecommunication tower intended to replace an existing approved tower where such replacement is (1) at or within 100 yards of the existing tower base, and (2) no higher than the existing tower.”

Although this definition is provided in the UDO, there is not a corresponding use provision in the Table of Permitted Uses (7-8-1(d)) showing where this replacement tower is allowed. This may have been the result of an accidental omission during a prior amendment but no conclusive documentation has been discovered. This ordinance amendment then, would specify replacement towers as a use for all districts since the specific cell towers are located where they were originally permitted.

Replacing cell towers has become more of a burden since revisions for replacing cell towers was amended in the building code. Cell towers must now comply with higher wind loads and structural standards for the tower base. This is affecting both private carriers and the City of Asheville.

Providing cell towers at a new location is generally a *conditional use permit* that has a large number of requirements that need to be met and must be approved by City Council through a quasi-judicial process. Replacing these previously approved towers should be reviewed through submittal of new building permits but need not follow the extensive public hearing process required when the original towers were permitted.

Therefore, this ordinance amendment clarifies that cell towers may be replaced where they are located provided they meet the UDO definition for replacement. The Table of Uses under ‘*other use types*’ will be changed to reflect this.

The proposed amendment is not directly addressed in the Asheville City Development Plan 2025. But telecommunications towers may be interpreted to be a part of the basic needed infrastructure of the community that supports economic development, public safety and other basic city services and is something that everyone has come to expect.

The proposed amendment most closely complies with Focus Area 1: *Economic Growth and Sustainability* - since the replacement of aging cell towers will encourage maintaining emergency communications infrastructure and reinvestment in basic community infrastructure which is stated as the second goal in the plan.

At their meeting on May 6, 2015, the Planning and Zoning Commission voted unanimously to recommend approval.

Staff recommends approval of this proposed amendment because it aligns the Table of Permitted Uses with the existing definition for replacement towers and clarifies where these are permitted.

Mayor Manheimer opened the public hearing at 8:04 p.m. and when no one spoke, she closed it at 8:04 p.m.

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

Councilman Bothwell moved to approve the proposed amendment to Section 7-8-1(d) as outlined in this report and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, because it allows for community infrastructure to be maintained, enhances public safety and encourages economic growth and investment. This motion was seconded by Councilwoman Wisler and carried unanimously.

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-103 - RESOLUTION APPOINTING MEMBERS TO THE CIVIL SERVICE BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Ms. Carolyn Worthington and Ms. Lynn Moffa, members on the Civil Service Board, expire on May 21, 2015.

The following individuals have applied for a vacancy on the Board: Pam Holcombe, Mychal Bacoate, John P. Miall Jr. Thomas R. Duckett, Alan Escovitz, Kevin West and Carol Goins. Mr. West has not been separated from City of Asheville employment long enough, and is, therefore, not eligible for appointment. Ms. Holcombe and Mr. Bacoate were unavailable for the interview time and date.

After speaking highly of all candidates, Pam Holcombe received no votes; Mychal Bacoate received no votes, Thomas Duckett received no votes, Alan Escovitz received 7 votes; and Carol Goins received 7 votes. Therefore, (1) Alan Escovitz and Carol Goins were appointed as members of the Civil Service Board to each serve a two-year term respective, terms to expire May 21, 2017, or until their successors have been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Rowdy Keelor, co-founder of a cigarette recycling organization called Friends Against Butts, offered to recycle the City's cigarette butts, collected at the recycling cans, at no cost to the

City. Mayor Manheimer suggested Mr. Keelor meet with City Manager Jackson to discuss his recycling request.

Mr. Jonathan Robert spoke to Council about the need to provide a living wage to all City employees.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:12 p.m.

CITY CLERK

MAYOR