

Tuesday – April 26, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burlison

Absent: Councilwoman Julie V. Mayfield (City business)

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING APRIL 26, 2016, AS "UNC-ASHEVILLE WOMEN'S BASKETBALL DAY"**

**PROCLAMATION PROCLAIMING APRIL 26, 2016, AS "UNC-ASHEVILLE MEN'S BASKETBALL DAY"**

Mayor Manheimer read the proclamations proclaiming April 26, 2016, as "UNC-Asheville Women's Basketball Day" and "UNC-Asheville Men's Basketball Day" in the City of Asheville. She presented the proclamations to Coaches Mick McDevitt and Brenda Mock Kirkpatrick, and several players.

**B. PROCLAMATION PROCLAIMING APRIL 26, 2016, AS "SUPPORT PUBLIC SCHOOLS DAY"**

Vice-Mayor Wisler read the proclamation proclaiming April 26, 2016, as "Support Public Schools Day" in the City of Asheville. She presented the proclamation to Mr. Steve Agan, Asheville City Schools Foundation Board Member; Ms. Debby Maugans, President of the ACS Foundation Board; Ms. Kate Pett, Executive Director of the ACS Foundation; Mr. Spencer Cranfill, ACS Foundation Advocacy Coordinator; and others who briefed City Council on some activities taking place during the day.

**C. PROCLAMATION PROCLAIMING MAY, 2016, AS "BUILDING SAFETY MONTH"**

Councilman Bothwell read the proclamation proclaiming May, 2016, as "Building Safety Month" in the City of Asheville. He presented the proclamation to Director of Development Services Jason Nortz and Chief Code Official Mark Matheny, who briefed City Council on some activities taking place during the month.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 12, 2016**

**B. RESOLUTION NO. 16-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE OF CITY-OWNED PROPERTY AT 224 LOUISIANA AVENUE WITH THE UNITED STATES OF AMERICA FOR CONTINUED OPERATIONS OF AN ARMY RESERVE CENTER**

Summary: The consideration of a resolution authorizing the City Manager to execute a lease of city-owned property at 224 Louisiana Avenue with the United States of America for continued operations of an Army Reserve Center.

The City of Asheville owns approximately 8.857 acres of real property at 224 Louisiana Avenue. The property has been leased to the USA for public purposes since 1950's. The existing improvements, including a single-story gym, office building and vehicle garage, were constructed by the USA. Currently, the 81<sup>st</sup> Regional Support Command (RSC) of the US Army Reserve operates out of the facility, serving as a base of operations for 3 units including an Engineering, Medical and Training Unit. There are 12 full-time staff on premises and approximately 200 soldiers reporting in to this site.

The City initially leased the property to the USA in 1950 for 50 years at a rental rate of \$1 per year. When the lease expired in 2000, both parties agreed to establish a new lease at fair market value, for a term of 6 years. In 2006 and thereafter in 2011, Council authorized lease arrangements for this use, at rental rates consistent with fair market value and at reasonable terms.

The current lease with the USA expired December 31, 2015 and the lease has continued on a month to month basis. At this time, the USA has requested a lease of the property for a period of 5 years. City staff procured an appraisal to determine the fair market value of the lease, and the new rental rate is recommended at the appraisal amount of \$110,000 per year. This rate is comparable to the current rate of \$99,700 per year. Over the five year term of the lease, staff recommends increasing this rate at 3% per year to maintain consistency with fair market value. The proceeds of the lease benefit the City's General Fund and are allocated as part of the Council budget process each year.

There are land use considerations that provide context to the recommendation concerning the lease proposal. The City of Asheville also owns the adjoining parcel to the west of 224 Louisiana Avenue, a 7+ acre tract known as the Falconhurst property. This parcel was donated to the City of Asheville by the Conservation Trust for North Carolina for the purpose of forest preservation. The deed into the City was accompanied by a conservation easement with several land use restrictions. The restrictions limit built improvements to a great degree, and specify that the property can be used for unpaved, mulched walking trails and passive recreational uses. The Southern Appalachian Highland Conservancy performs an annual audit of the property to monitor the City's compliance to the deed restrictions and the health of the forest. Currently the Falconhurst property is not accessible to the general public and the City has not allocated staff, maintenance or capital budget dollars to improve the property to allow for public access. The City property at the US Army Reserve Center is the only city-owned point of access into the Falconhurst property, however certain homeland security, safety, and control measures needed for the operation of the US Army Reserve Center discourages and prevents any public access to the Falconhurst property through the leased area.

The city-property at 224 Louisiana is in close proximity to the commercial corridor of Patton Avenue. Staff expects that the Comprehensive Planning efforts will inform the future vision and land use for the Patton Avenue corridor and in turn, provide land use considerations for the future use of the city property as well. The recent Council visioning process established that the creation of affordable housing and the maintenance of high-performing city-service facilities are critical to the City's future. This parcel of city-owned land, together with the Falconhurst Natural Area, presents an opportunity for the City to consider in terms of future use.

It is evident in discussions with the tenant that the relocation of an Army Reserve Center requires generous lead-time and an action by the U.S. Congress. The revenue from the property benefits the General Fund and is fair market value. The City planning efforts will inform the vision for the corridor and the site and the timeline for the Comprehensive Planning process is aligned with the term requested for the lease renewal.

On March 22, 2016, the Finance Committee recommended approval of the lease proposal from the USA of 5 years, \$110,000 per year, with 3% annual increases, for the continued use of the property as an Army Reserve Center. This action aligns with the City Council 2036 Vision by complying with the goal of being a 'Smart City' in that lease revenue allows the City to diversify its revenue base. This action also supports the City's intent to be a 'Connected and Engaged Community', through a continued relationship with the Federal Government and local/regional reservists via this lease arrangement.

Pros:

- Lease rate at fair market value that benefits the City's General Fund
- Lease term aligns with City Comprehensive Planning efforts

Con:

- None noted.

Consistent lease revenue benefits the general fund at \$110,000 per year plus 3% annual increases in that rate each year thereafter.

Staff recommends adopting the following resolution to authorize the City Manager to execute a lease of city-owned property at 224 Louisiana Avenue to the United States of America for continued operations of an Army Reserve Center – 81<sup>st</sup> RSC.

Councilman Smith hoped that at the conclusion of this lease that the City tries to repurpose the site for housing or other City uses, including the greenway linkage.

#### **RESOLUTION BOOK NO. 38 - PAGE 1**

#### **C. RESOLUTION NO. 16-89 - RESOLUTION WHITE ASH DRIVE EAST AS A CITY-MAINTAINED STREET**

Summary: The consideration of a resolution to accept White Ash Drive East 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. Biltmore Park agreed to a voluntary annexation contingent to the acceptance of the streets in Biltmore Park provided they are constructed to City standards. White Ash Drive East was constructed to City standards but inadvertently never accepted by the City for public maintenance (Previously, Yellowood Lane, a section of Red Cedar Lane, a section of White Ash Drive, and Shortia Lane were inadvertently not accepted but City Council approved these streets as city-maintained streets on May 24, 2011).

White Ash Drive East from White Ash Drive to Viburnum Lane / Dearborn Street is a developer-constructed street that has an average width of 23 feet with valley curb, a length of 0.22 mile, and a right-of-way width of 45 to 50 feet.

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

Pros:

- Complies with the voluntary annexation agreement with Biltmore Farms that the City would accept streets built to City standards.
- 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 White Ash Drive East as a city-maintained street.

## **RESOLUTION BOOK NO. 38 - PAGE 2**

### **D. RESOLUTION NO. 16-90 - RESOLUTION ACCEPTING OCASO DRIVE, PACIFICO DRIVE AND VERANO COURT AS CITY-MAINTAINED STREETS**

Summary: The consideration of a resolution to accept Ocaso Drive, Pacifico Drive, and Verano Court as city-maintained streets.

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. When originally constructed, the Bonito Ocaso Subdivision was a gated, private community and the streets were privately-maintained. The Bonito Ocaso Homeowners Association has removed the gates and asked the city to accept the streets as city-maintained streets.

Ocaso Drive from Crowell Farms Drive to Pacifico Drive is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.29 mile, and a right-of-way width of 45 feet.

Pacifico Drive from Crowell Farms Drive to Ocaso Drive is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.25 mile, and a right-of-way width of 45 feet.

Verano Court from Pacifico Drive to its dead-end is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.04 mile, and a right-of-way width of 45 feet.

City staff has inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject streets 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 streets provide 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 Ocaso Drive, Pacifico Drive, and Verano Court as city-maintained streets.

**RESOLUTION BOOK NO. 38 - PAGE 4**

**E. RESOLUTION NO. 16-91 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA CORNERSTONE CONSTRUCTION INC. TO RENOVATE THE CARRIER PARK MULTI-PURPOSE BUILDING**

**ORDINANCE NO. 4493 - BUDGET AMENDMENT FOR CARRIER PARK MULTI-PURPOSE BUILDING RENOVATIONS**

Summary: The consideration of 1) a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction, Inc. to renovate the Carrier Park multi-purpose building in the amount of \$274,108.00 plus a contingency of \$15,892.00 for a total of \$290,000.00; 2) a budget amendment in the amount of \$290,000.00 from Parks and Recreation Department General Fund deferred maintenance operating budget to establish a capital project in the General Capital Projects Fund.

The existing structure, including registration areas, storage, systems and restrooms at Carrier Park have exceeded their life expectancy, are in poor condition and have conditions that constitute code violations. As a result, funding has been identified within the City's capital improvement plan and the Parks and Recreation Department deferred maintenance cost center for the renovation.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received three bids plus alternates.

1. Carolina Cornerstone Construction, Inc., Asheville, NC (\$274,108.00)
2. B. Allen Construction, Candler, NC (\$275,783.84)
3. Patton Construction Group, Inc., Arden, NC (\$288,600.00)

After thorough review and evaluation, staff selected Carolina Cornerstone Construction, Inc., PO Box 6779, Asheville, N.C., as the lowest, responsible bidder. The base bid plus alternates accepted was \$274,108.00.

The Parks and Recreation Department deferred maintenance cost center in the General Fund is designated for minor repairs and improvements for parks and recreation facilities. There are projects budgeted on the cost center in the current fiscal year that relate to capital projects. This includes \$290,000 for the cost of renovation of the Carrier Park Multi-Purpose Building (\$274,108.00) plus contingency (\$15,892.00).

Staff requests City Council to approve the budget amendment in the amount of \$290,000.00 to increase the capital project for the Carrier Park multi-purpose building renovation in the General Capital Project Fund from the Parks and Recreation Department deferred maintenance budget.

Pros:

- 
- Corrects accessibility and code compliance issues.
- Improves security of storage of equipment used for roller-hockey, cycling and other park uses.
- Improves security and function of the registration area.
- Improves safety and service of restrooms, including replacement of outdated/broken fixtures and finishes.

- Creates a gender neutral, family changing and restroom area

Con:

- During renovation, alternative arrangements will be required for on-site storage and event registration.
- Portable restrooms will be required during renovation.

The \$274,108.00 plus contingency of \$15,892.00 to support the Carolina Cornerstone Construction, Inc. contract to renovate the Carrier Park multi-purpose building is budgeted in the Parks and Recreation Department General Fund operating budget as part of the deferred maintenance budget. Due to the nature and size of the project, Finance staff recommends the contract be budgeted in the General Capital Projects Fund rather than the General Fund. A budget amendment is required to move the funding between the two funds.

Staff recommends that the City Council adopt 1) a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction, Inc., to renovate the Carrier Park multi-purpose building for an amount of 274,108.00 plus a contingency of 15,892.00 for a total of \$290,000.00; and 2) a budget amendment in the amount of \$290,000.00 from Parks and Recreation Department General Fund deferred maintenance operating budget to establish a capital project in the General Capital Projects Fund.

**RESOLUTION BOOK NO. 38 - PAGE 6**  
**ORDINANCE BOOK NO. 30 - PAGE 274**

**F. RESOLUTION NO. 16-92 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICE/INTERN PROGRAM FOR FISCAL YEAR 2016-17**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Apprentice/Intern Program for Fiscal Year (FY) 2016-17.

The NCDOT Public Transportation Apprenticeship Program gives current college seniors the opportunity to work in the field of public transportation management upon receiving their undergraduate degree. The 12-month program, which starts July 1<sup>st</sup>, provides exposure to all aspects of a transit system and allows apprentices to gain experience in managing public transportation operations.

The City applied for this program and was granted funding. A selection program will be conducted by the NCDOT before the beginning of the fiscal year. The apprentice will work in the Transportation Planning Division, Transportation Department, performing transit specific tasks, as required by the grant. The apprentice will assist with route planning, analysis of transit related surveys and procurement processes and special projects.

FY 2016-17 funding totals \$32,432. The NCDOT will provide 90% of the anticipated funding (\$29,188), and the City will provide the remaining 10% (\$3,244). The grant funding and the City's local match in the amount of \$3,244 are currently budgeted in the Transportation Department's proposed budget for Fiscal Year 2017.

Pros:

- The subject grant supplements funding for an apprentice position for FY 2016-17.
- The subject grant enables the City of Asheville to use \$29,188 in State funds for transit planning activities.

Con:

- A 10% local match in the amount of \$3,244 is required.

The total grant funding for Fiscal Year 2016-17 is \$32,432. The City is required to provide a 10% local match in the amount of \$3,244. The anticipated grant funding and the City's local match in the amount of \$3,244 are currently budgeted in the proposed Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT to fund the Apprentice/Intern program for FY 2016-17.

**RESOLUTION BOOK NO. 38 - PAGE 7**

**G. RESOLUTION NO. 16-93 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH ROGERS GROUP INC. FOR THE ASPHALT PAVING IMPROVEMENTS 2016 PROJECT**

**ORDINANCE NO. 4494 - BUDGET AMENDMENT FOR THE ASPHALT PAVING IMPROVEMENTS 2016 PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of \$1,798,261.65 plus a contingency of 11.47% (\$206,255.95) with Rogers Group, Inc. for the project known as Asphalt Paving Improvements – Fiscal Year 2016, City of Asheville Project #ST-15-16-002, and further authorizing the execution any change orders to said contract which may arise during construction of said project up to the budgeted amount of \$2,004,517.60; and (2) a budget amendment in the amount of \$110,517.60 to appropriate previously unbudgeted revenue from the Metropolitan Sewerage District (MSD) and Buncombe County Schools associated with the paving program, and to move savings from FY2014-15 projects in the General Fund over to the FY 2015-16 paving project in the General Capital Projects Fund.

The following list of streets was put together to be addressed by this contract:

Asphalt Paving FY16			
Street	From	To	Length (LF)
Braddock Way	All		4,000
Lakeshore Drive	Merrimon Avenue	Mt. Vernon Place	1,125
N. Bear Creek Road	Patton Avenue	Old County Home Road	6,534
N. Oak Forest Drive	All		2,211
Westridge Drive	N. Oak Forest Drive	Springside Road	1,200
Old Haw Creek Road	Middlebrook Road	Bethesda Road	5,026
Middlebrook Road	Old Haw Creek Road	New Haw Creek Road	1,216
Patton Avenue	N. French Broad	College Street	1,257
Washington Road	All		1,900
Broad Street	Washington Road	N. Liberty Street	425
Victoria Road	Meadow Road	McDowell Street	5,685
W. Chapel Road	Hendersonville Road	Marietta Street	1,188
Woodland Road	Sunset Parkway	Ridgewood Place	2,200
		<b>Total</b>	<b>33,967</b>

The project was advertised on February 26, 2016, and due to an insufficient number of bids, advertised again on March 23, 2016. Bids were opened on March 31, 2016, with the following results:

Rogers Group, Inc. of Nashville, TN,	\$1,798,261.65
Harrison Construction Company of Asheville, NC	\$2,099,495.36

A 11.47% contingency (\$206,255.95) has been added to allow payment for any unforeseen costs that typically arise during construction and to do additional street resurfacing. The work produced from this contract would fix a number of roads that are in need of repair.

Pros:

- Will repair approximately 6.43 miles of roadways within the Asheville City limits.
- Will improve mobility and safety on city streets.

Con:

- Construction will be disruptive to adjacent residences and businesses.

The total budget for this project, including contingency, is \$2,004,517.60. The budget amendment allows for the use of previously unbudgeted revenue along with savings from FY 2014-15 projects.

City staff recommends City Council adopt (1) the resolution awarding the contract to Rogers Group, Inc. for the Asphalt Paving Improvements – Fiscal Year 2016 Project and execute any change orders; and (2) adopt the associated budget amendment.

At the request of Councilman Smith, Public Works Director Greg Shuler spoke about how the City rates streets for repaving, the condition of Michigan Avenue (cost to repave the entire section is \$650,000), and their attempt to communicate with citizens on when their streets may be expected to be paved.

Mr. Alan Ditmore felt that if roads are repaved, they only encourage speeding.

**RESOLUTION BOOK NO. 38 - PAGE 8  
ORDINANCE BOOK NO. 30 - PAGE 276**

**H. RESOLUTION NO. 16-94 - RESOLUTION SETTING A PUBLIC HEARING ON  
MAY 10, 2016, TO CONSIDER THE ISSUANCE OF 2016 LIMITED  
OBLIGATION BOND ANTICIPATION NOTES**

Summary: The consideration of a resolution authorizing and directing the City Manager or the Chief Financial Officer, with advice from the City Attorney and Bond Counsel, to proceed and negotiate on behalf of the City for the financing of the 2016 Projects for a principal amount not to exceed \$46,000,000 under the Contract Amendment to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina.

The issuance of Limited Obligation Bonds (LOBs) represents a construction debt issue in the City's draw-program financing for the City's Capital Improvement Program (CIP). Proceeds will replenish City funds for reimbursement resolutions in place that have allowed interim funding of the City's CIP adopted in FY 2013-14 through Treasurer's cash. The LOBs will also allow projects to continue as scheduled in the CIP.



Representatives from the City and the City's Financial Advisors, DEC Associates, met with the LGC on April 8, 2016, and received preliminary approval to proceed with an RFP for the bonds. A formal LGC application will be filed for approval at the June LGC meeting.

Pro:

- Allows the City to move forward with the draw program funding of the CIP.

Con:

- None noted.

Fiscal Impact: This is the first debt issued as part of the long-term capital program. This short-term draw LOBs issue is expected to be refinanced with long-term obligations next year. This issue will reimburse Treasurer's cash and provide funding for ongoing projects. Debt service is conservatively estimated at \$540,000 in interest beginning in FY 2016-17. The first principal payment is due in FY 2018-19 and will be approximately \$1.8 million. Principal payments will remain at \$1.8 million from FY 2019-2026 while shorter-lived assets are amortized. Principal payments will drop below \$1 million after FY 2025-26.

Staff recommends that City Council approve the resolution as it is proposed.

#### **RESOLUTION BOOK NO. 38 - PAGE 9**

#### **I. ORDINANCE NO. 4495 - BUDGET AMENDMENT TO INCREASE THE BUDGET TO PURCHASE A VAN ON BEHALF OF HENDERSON COUNTY'S APPLE COUNTRY TRANSIT SYSTEM**

Summary: The consideration of a budget amendment in the amount of \$5,233, from the N.C. Dept. of Transportation and Henderson County, to increase the budget to purchase a van on behalf of Henderson County's Apple Country Transit System.

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

The estimated total cost of the subject project is \$59,161. Federal funds will provide \$38,046 covered with grant NC-90-X395; this grant requires a match of \$18,315 provided by the North Carolina Department of Transportation (\$5,112) and Henderson County (\$13,203), plus \$2,800 for the title and tag. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A State contract is in place and City staff will order the van as soon as the budget is amended.

Pros:

- The van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 67% of the total estimated project cost.
- Henderson County provides 23% of the total estimated project cost plus tag and title's costs and the NCDOT provides close to 10%.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

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

The total estimated project cost is \$59,161, with 67% or \$38,046 coming from Federal funds, 23% or \$13,203 and tag and title in the amount of \$2,800 coming from Henderson County and 10% coming from NCDOT in the amount of \$5,112. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council to adopt the budget amendment to increase the budget to purchase a van for Henderson County's transit system.

**ORDINANCE BOOK NO. 30 - PAGE 278**

**J. RESOLUTION NO. 16-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND A CONTRACT WITH SITEWORK STUDIOS, PLLC, FOR GEOTECHNICAL ASSESSMENTS FOR THE TOWN BRANCH GREENWAY**

Summary: The consideration of a resolution authorizing the City Manager to amend an existing architectural and engineering services contract with Sitework Studios, PLLC in the amount of \$37,000 for geotechnical design services along the Town Branch Greenway portion of the "Clingman Forrest and Town Branch Greenways" Project.

City Council had previously adopted a resolution authorizing the City Manager to enter into a contract with Siteworks Studios in January 2013, for \$370,000. That original contract was amended to \$495,000 in September 2013 to include preparation of engineering construction documents for the Five Points Roundabout. The contract was amended in March 2016 to \$540,000 to update the plans, specifications, and engineering estimates in order to comply with Federal (versus State) procurement requirements.

A retaining wall is planned along Old Asheland Ave for the Town Branch Greenway as part of the project. The geotechnical engineering assessment (soil samples, analysis, and design adjustments) related to the retaining wall were intended to be a responsibility of the contractor in the construction phase. Staff recommends performing this analysis now, prior to the start of construction. Both options are acceptable contracting practices, in line with previous City and DOT projects. Performing this assessment now mitigates the potential for interruptions during construction, and provides an opportunity for more favorable bid pricing.

Pros:

- Provides additional information to potential bidders, resulting in more favorable total construction cost.
- Mitigates the potential for interruptions during construction, which affects both construction costs and disruptions to the community.

Con:

- Consuming staff time during design phase rather than during construction phase.

Sufficient budget is included the adopted CIP to fund the change order request for this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to amend the current contract with Sitework Studios to provide geotechnical design services for the Town Branch Greenway for an amount not to exceed \$37,000.

## RESOLUTION BOOK NO. 38 - PAGE 13

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

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

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

#### **A. UPDATE ON DOWNTOWN PLANNING AND DEVELOPMENT POLICIES**

Director of Planning and Urban Design Todd Okolichany said that this is a staff briefing that summarizes public input and results from a community forum held on March 23, 2016, concerning Central Business District (CBD) related topics, including development review thresholds, preferred review process for the largest projects (Level III projects) and considerations for lodging facilities.

At the December 8, 2015, City Council meeting, staff gave a presentation to Council regarding the aforementioned topics. Staff provided an additional presentation to the Planning & Economic Development Committee on January 26, 2016, concerning these issues. With support from the Downtown Commission, staff held a CBD Development Forum on March 23, 2016. The agenda covered an overview of the CBD, history of the 2009 Downtown Master Plan, current development review thresholds and recent development trends. At the forum, public input was also sought on the following items:

- Levels of review for projects in the CBD:
  - Level II (projects between 20,000 square feet and 175,000 square feet and below 145 feet tall) v. Level III projects (projects greater than 175,000 square feet and taller than 145 feet)
  - Rationale for the current development review process
  - Are the current development review thresholds appropriate?
  - What would the impacts be if the thresholds were changed?
- The process for Level III projects in the CBD:
  - Conditional zoning v. conditional use permits. Pros/cons of both tools
  - Should the city consider expanding conditional zoning within the CBD?
- Hotels in/around the CBD:
  - The current review process for hotel proposals
  - What are the public's concerns?
  - Should hotels be evaluated differently than other development proposals?

There was a large turnout for the forum with attendance estimated at about 125 people. Attendees were invited to fill out comment cards regarding the three subject areas and to participate in table discussions specific to each topic. The results from the forum have been transcribed and a summary provided below:

#### **1. Review thresholds**

In general there was not clear consensus that the review thresholds need to be adjusted at all. In fact most of the responses from the comment cards did not favor moving the threshold. The staff notes indicate a wide range of opinion on this topic from: leaving the thresholds in place because things are working smoothly; expanding requirements for quality design; and adjusting the maximum height and Level II thresholds. One particular item of note was broad interest from attendees to have additional communication about large scale projects. Some ideas focused on wider public notice for the required developer-sponsored neighborhood meeting or for meeting information to be posted to

the City web site for example. One participant summarized that concern about development seems to relate to the need for additional communication.

## **2. Process for reviewing large projects**

When projects do qualify for the Level III threshold, Council reviews projects in the Traditional Downtown Core as conditional zoning (CZ) applications. For project outside of the core, they are reviewed as conditional use permits (CUPs). Although there were not many comment cards received regarding this topic (six cards received in total), four of the responses indicated a preference for expanding the conditional zoning option. The staff notes on this issue provide a recommendation that City Council have a meeting with the developer early on in the review process.

## **3. Consideration for hotels**

Attendees were asked if there was any concern about hotels and what if any changes should be made to the review process. Of the meeting attendees who filled out a comment card specific to hotels, the majority did not feel that hotels should be singled out or treated differently from other development proposals. Some people did not agree with this and felt that Council should review all hotels, with one person suggesting a trial period of three years.

After the forum, staff was invited to attend a local chapter meeting of the North Carolina Lodging Association on April 7, 2016. Staff provided the same presentation that was shared at the CBD Development Forum. There were some comments from attendees about the way Council reviews projects using the CZ process. Hoteliers seem to be concerned that they may not know what to provide within the project scope during a CZ process and that City Council may exact requirements that they may not be able to meet. The CUP process, which requires seven standards to be met for project approval, was preferred, as well as the predictability of design standards.

At the North Carolina Lodging Association meeting, there was also broad comment about the need for hotels to provide sufficient parking for their projects. Hoteliers realize that since most guests arrive at their destination by private automobile, then parking should be sufficiently provided for.

Staff presented the results of the CBD Development Forum to the Downtown Commission meeting on April 8, 2016. The Commission's discussion focused on the various meeting notification options for the developer-sponsored meeting throughout the development review process and the notification process currently in use.

The current notification process for Level II and III projects in the CBD includes:

- Developer meeting with the neighborhood prior to project submittal
- Development plans are posted to the city website and are available to the public throughout the review process
- Notice of public meetings (Planning and Zoning Commission and City Council published in newspaper no later than 10 days before the meeting)
- Mailed notices to adjacent property owners within 200 feet of the subject property (for developer/neighborhood meeting, Downtown Commission, Planning and Zoning Commission and City Council) no later than 10 days before the meeting
- City "Z" signs posted at the property (Planning and Zoning Commission and City Council)
- Meeting agendas posted to city website Downtown Commission, Planning and Zoning Commission and City Council)

At the Downtown Commission meeting, it was discussed that even though the city notification process exceeds state requirements that some nearby property owners are not aware

of some projects in the CBD. For example, an interested citizen residing outside the 200 foot radius for notifications would need to find the information on the city website among the other postings and announcements. As a limitation to the mailed notice, tenants of a property do not receive notice, only the property owner. Also, the developer meetings with the neighborhood often do not occur until just before the Technical Review Committee submittal.

On April 19<sup>th</sup>, staff presented the results of the CBD Development Forum and prior Commission meetings to the Planning & Economic Development Committee. The Committee instructed staff to provide options to City Council for strengthening the public notification process for developments in the CBD.

Based on the input received at the CBD Development Forum, as well as input received from the Planning and Economic Development Committee and Downtown Commission, staff is providing the following options for improving the public notification process in the CBD:

1. City "Z" sign (or similar style sign) posted for developer/neighborhood and Downtown Commission meetings
2. Developer/neighborhood meetings required to take place no later than a certain date before the Technical Review Committee submittal (e.g. one month prior)
3. Developer preparation of a summary report of the developer/neighborhood meeting
4. Recommend the use of a professional facilitator for developer/neighborhood meetings
5. Use of city website for improved communication with the public
6. Archive documents, reports and plans from past public meetings on the city's website

This report is being provided for informational purposes. Staff seeks guidance from City Council based on the information in this report, including consideration of options for improving public notification of Level II and Level III development projects in the CBD.

In response to Councilman Bothwell, Mr. Okolichany said that over the past couple of years, approximately 20 projects were proposed in the downtown area. Out of that 20, only 4 were over the 175,000 sq. ft. threshold and three of those four were Buncombe County projects. If the threshold was 100,000 sq. ft., he guessed that possibly 8 would have required City Council review.

Councilman Haynes felt that Council should be reviewing hotels differently.

Councilman Smith felt that back in 2010 when Council changed the review thresholds it was to start the economic engine downtown. Since that has now shifted, he felt it was an appropriate time to revisit the threshold limits. He also supported conditional zonings as it give Council/developer/public opportunities to craft solutions to community concerns. He advocated for a study with a third party around tourism with participation with the City, County and Tourism Development Authority.

City Attorney Currin responded to Councilman Bothwell about making minimum wage requirements a condition on a conditional use permit or a conditional zoning.

After discussion about the conditional zoning vs. conditional use permit process in the traditional core of downtown, it was the consensus to wait until more public comment is received before making any decision on that topic.

Former Mayor Terry Bellamy explained to Council several reasons why the thresholds were raised.

There was considerable discussion regarding the need to expand public input into this process. In summary, it was the consensus of Council to (1) have staff work with the Communication and Public Engagement Division about using the tool of Open City Hall to expand

public input on these topics (including a menu of options for additional notice requirements, the conditional use permit vs. conditional zoning in the traditional downtown core area, and the downtown design review guidelines); and (2) have staff look at other cities that have different review processes to see if the level of review changes the kind of development they see.

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT**

At the applicant's request, Councilman Bothwell moved to continue this public hearing until June 14, 2016. This motion was seconded by Councilman Young and carried unanimously.

**B. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2016-17 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS FOR THE COMING YEAR**

**RESOLUTION NO. 16-96 - RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2016-17 TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT**

Community Development Manager Heather Dillashaw said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2016-17, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development. This public hearing was advertised on April 15 and 21, 2016.

The City will have \$1,074,541 in CDBG funds and \$1,332,304 in HOME funds available for the fiscal year beginning July 1, 2016. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties).

Below is the summary of annual action plan for 2016-17:

**CDBG PROGRAM**

**Proposed Use of Funds:**

<b>2016-2017 PROGRAM</b>	<b>Funding Recommend.</b>
Asheville Area Habitat for Humanity - Home Repair	\$ 40,000
Asheville Area Habitat for Humanity - Homeowner Education	\$ 50,000
Asheville City Schools Foundation - Improving Success for Asheville's Youth	\$ 18,000
Bountiful Cities - Urban Agriculture Partnership	\$ 28,000

Eagle Market Street Development Corporation - Empowering Residents	\$ 30,000
Green Opportunities - Job Training and Placement	\$ 125,000
Helpmate - Domestic Violence Services	\$ 19,000
Homeward Bound - AHOPE Coordinated Assessment	\$ 48,904
Homeward Bound - Pathways to Permanent Housing	\$ 80,000
Housing Authority of the City of Asheville - Lee Walker Heights	\$ 135,720
Mountain BizWorks - Business Training	\$ 60,000
Mountain Housing Opportunities - Tier 1 & 2 Emergency Home Repair	\$ 110,000
OnTrack - Financial Capabilities	\$ 20,000
Pisgah Legal Services - Homelessness Prevention Project	\$ 41,000
The Support Center - Reaching Innovative Solutions for Entrepreneurs	\$ 40,000
YWCA - Drop in Childcare	\$ 13,000
City of Asheville - Section 108 Repayment	\$ 15,567
City of Asheville - Program Administration	\$ 200,350
<b>RECOMMENDED FUNDING</b>	<b>\$ 1,074,541</b>

#### **HOME INVESTMENT PARTNERSHIP PROGRAM**

##### **Proposed Use of Funds:**

<b>2016-2017 PROGRAM</b>	<b>Funding Recommend.</b>
Asheville Area Habitat for Humanity - Direct Homeowner Assistance	\$ 50,000
FGM Development – Perry Lane	\$ 355,431
Henderson County Habitat for Humanity – Dodd Meadows Phase 4	\$ 130,800
Homeward Bound – Asheville Tenant Based Rental Assistance	\$ 55,000
Housing Assistance Corporation - Oklawaha Village Apartments	\$ 100,000
Housing Authority of the City of Asheville – Lee Walker Heights	\$ 400,000
Mountain Housing Opportunities – East Haven Apartments	\$ 143,472
City of Asheville - Program Administration	\$ 97,601
<b>RECOMMENDED FUNDING</b>	<b>\$ 1,332,304</b>

Allocations are consistent with the Consolidated Strategic Housing & Community Plan for 2015-2019, adopted by City Council April 28, 2015.

##### **Pros:**

- Approval of the Action Plan paves the way for the receipts of over \$2,400,000 of HUD funding to the City and region, which will be used to create affordable housing and create jobs.
- HUD funding will leverage approximately \$34,900,000 of additional funding for these projects.

- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2016-17 to the U. S. Dept. of Housing and Urban Development.

Councilman Smith, Chair of the Housing & Community Development Committee, noted that we have many more requests than funding, which funding dwindles down year after year.

Mayor Manheimer opened the public hearing at 6:18 p.m.

Mr. Alan Ditmore stressed that we need to focus on affordable housing.

Mr. Christopher Chiaromonte spoke about the need of smaller affordable houses.

Mr. Timothy Sadler hoped Council would think about the "My Dad Taught Me That" Program.

Mayor Manheimer closed the public hearing at 6:25 p.m.

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

Councilman Bothwell moved for the adoption of Resolution No. 16-96. This motion was seconded by Councilman Haynes and carried unanimously.

#### **RESOLUTION BOOK NO. 38 – PAGE 14**

**C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 11 WAYSIDE DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING FOR THE OPERATION OF A SHORT-TERM RENTAL WITHIN AN EXISTING STRUCTURE**

Mayor Manheimer said that on Friday, April 22, 2016, Mr. George Tsiros, the applicant, withdrew his conditional zoning application.

**D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 50 WILBAR AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/ CONDITIONAL ZONING FOR THE REDEVELOPMENT OF AN EXISTING HOUSING COMMUNITY, EXTENSION OF PUBLIC INFRASTRUCTURE, AND THE CREATION OF PASSIVE AND ACTIVE RECREATION AND OPEN SPACE**



**ORDINANCE NO. 4496 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 50 WILBAR AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/ CONDITIONAL ZONING FOR THE REDEVELOPMENT OF AN EXISTING HOUSING COMMUNITY, EXTENSION OF PUBLIC INFRASTRUCTURE, AND THE CREATION OF PASSIVE AND ACTIVE RECREATION AND OPEN SPACE**

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to conditionally zone property located at 50 Wilbar Avenue from RM-16 Residential Multi-Family High Density District to Urban Place District/Conditional Zoning for the redevelopment of an existing housing community, extension of public infrastructure, and the creation of passive and active recreation and open space. This public hearing was advertised on April 15 and 22, 2016.

Ms. Tuch said that the applicant is requesting conditional zoning for one parcel located at 50 Wilbar Ave. from Residential Multi-Family High Density (RM-16) to Urban Place Conditional Zone (UP - CZ) in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO) to allow for the redevelopment of an existing residential community that will provide: 199 new residential units; 10,975 square feet of non-residential/commercial space; new road, sidewalk, open space and outdoor amenity areas; and the extension of new transportation and public utility infrastructure.

The site is located south of the city’s Central Business District (CBD) in the southeast corner of the intersection of Short Coxe Ave. and McDowell St./Southside Ave. The subject property is 11.59 acres that sits above the surrounding area but is shielded from view by a thick vegetated buffer that surrounds the community on three sides while relatively open to the east where it abuts the commercial properties fronting Biltmore Ave. The property is also relatively flat with mild topography across most of the site until it reaches the edges where it drops in elevation down to the surrounding streets. The PIN is 9648-36-5793 and the property owner is listed as the Asheville Housing Authority.

The applicant is proposing to rezone the property from RM-16 to UP-CZ to allow for a complete redevelopment and expansion of the existing Lee Walker Heights community through the construction of seven new, multi-story buildings that will house 199 residential units constructed in two phases. There are four building types proposed with the building details and phases represented in the table below:

<b>Building Type</b>	<b>Number of Units</b>	<b>Square Footage</b>	<b>Number of Stories</b>	<b>Buildings in Phase I</b>	<b>Buildings in Phase II</b>
<b>Building 1</b>	51	54,759	3	0	1
<b>Building 2</b>	100	116,118	4	1	0
<b>Building 3</b>	8/each	9,646	2	1	2
<b>Building 4</b>	12/each	13,476	3	1	1

In addition to the residential units, this project will provide: 10,975 square feet of nonresidential community or commercial space; the extension of public infrastructure (road, water lines, sewer lines, stormwater, and sidewalk); off-street parking; walking paths; active recreation space and passive open space.

Access to the property remains unchanged and is from Short Coxe Ave. via Wilbar Ave.

where Wilbar Ave. will be renamed and re-built as part of the project, and a new 50-foot public right-of-way will be extended throughout. Sidewalks are required for the re-construction of the new roads and along all existing road frontages. The Urban Place zoning district requires sidewalks that are a minimum of 10-feet in width, although the applicant is requesting a reduction in the required width at various locations throughout the site. Additional internal sidewalks, courtyards and walking paths also help to provide access throughout the whole development.

179 parking spaces are scattered throughout the development and are found in a combination of traditional parking lot spaces with on-street parking spaces. The Urban Place zoning district allows for a 50% reduction in required parking which is utilized with this project, although not to its fullest, and the UDO requirement for off-street parking is satisfied.

Landscaping is required as part of the redevelopment and includes street trees along all road frontages; building impact, street buffer and parking lot landscaping on the site; and dumpster screening around all dumpster locations. Full landscape compliance is shown with the exception of some street trees where topographic and site constraints prevent full compliance. The project also includes the preservation of the existing natural, wooded buffer that surrounds the property on north, west and south sides.

Open space is also required in this zoning district with a requirement equal to 5% (0.57 acres) of the lot area to be designated as open space. Open space is provided and is well in excess of the minimum required.

The Urban Place zoning includes specific *Design and Operational Standards* that address building orientation, well-defined operable entrances at regular intervals, and fenestration requirements for the ground and upper levels and treatments to break up long façades. All design and operational standards will be met with the following exceptions:

- 1) Ground level window/opening fenestration totaling less than 40% at the ground floor for the residential portions of the facades,
- 2) Upper story window/opening fenestration totaling less than 25% of the total façade, and
- 3) Failing to evenly distribute the glazing across the ground levels of Buildings 1 and 2.

As an alternative, the project proposes to meet a minimum fenestration requirement of 20% for all residential street-facing facades (ground level and upper story) and 40% for the non-residential or commercial ground floor portions of the façade. The project will also be requesting to exceed the maximum 0 to 15-foot setback in certain locations for Building 2, or where additional space is desired due to front porch stoops for building types 3 & 4.

This proposal was approved with conditions by the Technical Review Committee (TRC) on March 21, 2016, and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning approval. No communication has been received from the public as of the writing of this report.

The Planning and Zoning Commission reviewed this project at their April 6, 2016 meeting and voted 5:0 (two members absent) to approve the conditional zoning request. Members of the development team added detail and context regarding the project and answered several questions from the Commissioners.

The applicant wishes to rezone the residential RM-16 property in order to allow for a denser, mixed-use urban development.

*Conditions* - This project includes a number of recommended conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. The minimum 10-foot wide sidewalk is proposed on either side of Walker Plaza Ave. and

on one side for a portion of Lee Garden Ave.; 6-foot wide back-of-curb sidewalks are proposed in all other locations.

2. A reduction in the street tree requirement along a portion of Lee Garden Ave. (10 trees total).
3. Building 2 and building types 3 & 4 exceed the maximum setback in designated areas. Building 2 is setback 16-32 feet; Building types 3 & 4 are setback 15-25 feet in designated areas.
4. Sidewalk adjacent to some of the on-street parking spaces is not provided (note: these spaces are in excess of the minimum required).
5. All buildings will provide openings totaling a minimum of 20% on all street facing residential facades, and a minimum of 40% on all non-residential or commercial street facing facades.
6. At least 96 units will be affordable to households earning at or below 60% of the Area Median Income (AMI) for a minimum period of 30 years.

There is a separate but simultaneous Level II application for an 18-unit townhome development directly north of the subject property (zoned CBD) known as *88 Southside*. There have also been a number of individual rezonings along Asheland Ave. that have occurred over the last several years which has, in turn, influenced the initiation of the *CBD Expansion and Zoning Study for Asheland Ave. and Southside Ave.* that is currently on the Planning & Urban Design's departmental work plan.

The property is zoned RM-16 and surrounded on all sides by non-residential zoning including: Central Business District (CBD) to the north; Regional Business (RB) to the east; Institutional (INST) and Office Business (OB) to the south; and OB to the west. The surrounding uses are a mix of office and institutional uses, mostly healthcare related, with a few undeveloped or vacant properties to the north and east of the project area. The undeveloped property directly north of the subject property is currently in review for an 18-unit, multi-story townhome development.

The Asheville City Development Plan 2025 highlights the importance of smart growth and very specifically identifies 1) the need for, and value of, affordable housing in Asheville and, 2) the benefits of new urbanism. This project supports the goal of providing safe and affordable housing through a redevelopment that increases the number of affordable and workforce units available in the city. The project also includes elements of new urbanism through the use of higher density, multi-story building designs leaving room for public open and community spaces and by including the improvement and extension of pedestrian and transportation infrastructure making the community more walkable, livable and interconnected.

The redevelopment of the Lee Walker Heights community aligns with the 2036 Council vision in the following areas:

- **A diverse community** – the new units will increase the supply of housing to those who earn below the area median income making living in the heart of the city attainable to a greater number of people.
- **A well-planned and livable community** – the redesign of this community applies principles of new urbanism through well designed higher density residential construction, the creation and preservation of open recreation and community space, and significant pedestrian and transportation infrastructure that provides connections within the community with the opportunity for additional connections to the larger community in the future.
- **Quality affordable housing** – the older public housing units will be replaced with new, well designed units that achieve a higher construction standard through innovative financing and other subsidies. Almost half of all units are committed to be affordable for a period of 30 years to households earning at or below 60% of the AMI.

- **Transportation and accessibility** – new road and sidewalk infrastructure will be rebuilt and extended as part of the project in addition to other pedestrian connections within the community.
- **Connected and engaged community** – the final design for the project is the result of a long and engaged visioning process with the residents and other community members to understand the needs and wants of current and future residents. The redevelopment also involves various partners from the private, non-profit and government sectors.

Considerations:

- Will temporarily displace existing residents.
- Does not fully meet the design and operational standards for window fenestration.
- Does not fully meet the technical standards for sidewalk widths, maximum setbacks and street trees.
- Doubles the existing density while preserving the number of affordable units.
- While density is increased, the project is well below the allowable density of 64 units/acre (742 units).
- New construction successfully employs some principles of smart growth (denser, more urban form).
- Adds almost 11,000 square feet of non-residential community or commercial space.
- Creates significant outdoor recreation, open and gathering spaces.
- Preserves existing wooded buffer areas.
- Provides improved transportation connections and internal pedestrian connections.

Based on policies stated in the Comprehensive Plan and other plans staff finds this request to be reasonable, and within the best public interest, and recommends support of the proposed conditional zoning amendment as proposed.

Mayor Manheimer opened the public hearing at 6:39 p.m.

Mr. Alan Ditmore said that there will not be enough affordable housing to justify the demolition of the existing structures. He also felt that the units should be much smaller.

Mr. Gene Bell, Executive Director of the Housing Authority of the City of Asheville, said that this redevelopment will change people's lives. Their first objective was to give their residents an opportunity to live in updated, modern housing. Secondly, this has been a very inclusive process and they have made every effort to engage the community.

A resident at Lee Walker Heights said that the Housing Authority listened and worked with the residents to address any of their concerns.

Sir Charles Gardner, President of the Resident Council of the Housing Authority, felt that this is not a mixed community since all 96 deeply affordable are located in one area. Mr. David Nash, Chief Executive Officer of the Housing Authority, explained that due to HUD requirements all 96 units must be replaced in the first phase of the construction. After all buildings are built, they intend to go back to HUD to request that the units be evenly spread through the buildings.

A resident at Lee Walker Heights spoke in support of this project and that the children need space to play.

Mayor Manheimer closed the public hearing at 6:54 p.m.

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

Councilman Smith moved to approve the Urban Place Conditional Zoning (UP-CZ) request to allow for the redevelopment and expansion of an existing housing development for 199 new residential units and 10,975 square feet of nonresidential/commercial space, to be constructed in two phases for a total of seven buildings along with the submitted conditions, site plan and elevations, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: 1) expands affordable and workforce housing choices in the city; 2) supports smart growth by increasing density and improving transportation and pedestrian infrastructure; and 3) promotes community involvement and strategic partnerships. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

## **ORDINANCE BOOK NO. 30 - PAGE 280**

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

#### **A. LEE WALKER HEIGHTS**

##### **RESOLUTION NO. 16-97 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH DUKE ENERGY PROGRESS FOR THE PURCHASE OF PROPERTY AT 319 BILTMORE AVENUE FOR THE PURPOSE OF PROVIDING MIXED USE DEVELOPMENT WITH SIGNIFICANT MIXED INCOME HOUSING**

Assistant City Attorney Jannice Ashley said that this is the consideration of a resolution authorizing the City Manager to enter into a Memorandum of Understanding (“MOU”) with Duke Energy Progress (Duke Energy) for the purchase of property at 319 Biltmore Avenue, known as the Matthews Ford property, (“the Biltmore Ave. Property”) for the purpose of providing mixed use development with significant mixed income housing.

Our community is facing an affordable housing crisis as identified in the 2015 Housing Assessment and Market Study identified a significant need for affordable housing in our community. The needs have continued to grow.

The City of Asheville has been working with the Housing Authority of the City of Asheville (HACA) to redevelop Lee Walker Heights, adjacent to the Biltmore Ave. Property, into a mixed income transformational community. The vision is to create an opportunity for citizens at all income levels to be a part of a thriving community where all members are valued equally.

It is important to have the built environment constructed in a manner that facilitates this vision. Some examples of this include having multiple access locations to the community, providing opportunity for various income housing dispersed among the community, etc. The Biltmore Ave. property when connected both physically and visually to Lee Walker Heights provides that opportunity. The Matthews Ford site is approximately 5.5 acres and could be developed to include an additional 200 to 300 units of residential housing.

The MOU includes the following proposed terms:

- Purchase Price: \$5.3 Million
- Additional Consideration: The City will provide all necessary easements and right-of-ways on and across City-owned property to Duke Energy, for Duke’s electrical infrastructure (lines and facilities) planned to be completed in the next 8 years located in the City of Asheville corporate limits.
- Option Period for the City of Asheville to purchase the referenced property: 8 years. The City’s ability to exercise the Option will be contingent on Duke being reasonably satisfied with the City of Asheville’s regulations governing substation location in effect at the time the City or assignee desires to exercise the Option.

- Right to Assign: The Option would be assignable.
- Access Easement: Upon execution of the Option Agreement, Duke Energy also agrees to grant to the City a non-exclusive, permanent access easement through the Biltmore Avenue property for purposes of allowing ingress and egress from adjacent Lee Walker Heights property to Biltmore Avenue. The exact location of the easement will be mutually determined by the parties but will be of sufficient width to accommodate the building of a public street to include bike, pedestrian and transit facilities. Additionally, Duke Energy will allow an easement for temporary grading on the site that is mutually determined by the parties.
- Zoning Approval: Upon execution of the Option Agreement, Duke Energy working in coordination with the City agrees to submit a rezoning application for the Property to be rezoned from its current zoning of Highway Business (HB) to Urban Place Conditional Zoning (UP-CZ).

Pros:

- The MOU will provide an opportunity to improve the redevelopment potential of Lee Walker Heights, a public housing project that has limited connectivity into a transformational mixed use/mixed income development.
- The MOU will provide an additional multimodal transportation connection to Lee Walker Heights.
- The MOU will provide a mechanism to allow the Biltmore Ave. property site to be graded in a way that future development will be integrated into the Lee Walker redevelopment.
- The acquisition and rezoning of the property will allow for the future development of a significant number of affordable housing units.
- The Option is transferable.
- The price of the property is the price that Duke Energy paid for it when they purchased it in 2014.

Con:

- HACA is in the process of applying for state tax credits. HACA will not be able to move forward on the redevelopment of Lee Walker Heights without the financial assistance these tax credits provide. However, since the City is entering into an Option to Purchase only, it is not obligated to purchase the Biltmore Ave. Property if it is no longer needed as part of larger redevelopment plan.

The cost of the property is \$5.3 million. The City may choose to assign the option to HACA or another developer. If that occurs, that party would be responsible for paying for the property. If the City of Asheville purchases the property funding would need to be identified in the budget year the property is purchased.

Staff recommends City Council adopt the resolution authorizing the City Manager to enter into a MOU with Duke Energy for the purchase of property at 319 Biltmore Avenue, known as the Matthews Ford property, for the purpose of providing mixed use development with significant mixed income housing and to execute any other documents necessary for this transaction.

In response to Vice-Mayor Wisler, Ms. Ashley explained that the easement will be attached to the property immediately and permanently.

A lady spoke about her concern of the welfare of the vulnerable population at Lee Walker Heights. She suggested that the residents be afforded provisions under the Uniform Relocation Act rather than the Housing Choice Voucher Program. She provided suggestions to Council to help landlords contribute to the affordable housing crisis. Mr. Nash explained that the residents are covered under the Uniform Relocation Act and the Housing Authority's relocation plan, noting that anyone living in the development when the project begins will have the right to return.

Mr. Timothy Sadler suggested Council look at solar options for this development. Mr. Nash responded that the buildings will be solar ready and they would be happy to receive estimates from solar companies.

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

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-97. This motion was seconded by Councilman Haynes and carried unanimously.

## **RESOLUTION BOOK NO. 38 – PAGE 15**

### **RESOLUTION NO. 16-98 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF COMMITMENT TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE FOR THE PURPOSES OF REDEVELOPING LEE WALKER HEIGHTS INTO A MIXED INCOME DEVELOPMENT**

Assistant Community & Economic Development Director Jeff Staudinger said that this is the consideration of a funding request from the Asheville Housing Authority for the redevelopment of Lee Walker Heights.

The Asheville Housing Authority and their co-developer Mountain Housing Opportunities is seeking Council approval of a funding commitment of \$4.2 million to support the redevelopment of Lee Walker Heights. The proposed project will demolish existing buildings on the 11 acre site, install new public infrastructure, and construct 212 units of housing affordable to households earning 60% or less of the area median income. The project would be accomplished in two phases. Phase 1 would include the demolition, infrastructure and the construction of 120 units of housing (of which 96 units would be replacement units for those now there). Phase 2 would construct an additional 92 units of affordable housing.

The project also envisions the eventual construction of a mixed use commercial-residential property on the 4.1 acre former Matthews Ford site, with frontage on Biltmore Avenue. This property is currently owned by Duke Energy, which has agreed to grant the City an option to purchase the property. This option also provides a conditional approval for an easement to the Lee Walker Heights property, which could be exercised during the Phase 1 construction period, and which would therefore provide direct pedestrian and vehicular access to the Lee Walker Heights site from Biltmore Avenue.

Lee Walker Heights is the oldest public housing community in the City of Asheville with 96 units constructed in 1949-1950 and is severely physically distressed. The buildings are antiquated barracks style row houses, and are cramped and inaccessible to people with disabilities. Although proximate to Mission Hospital and other employment opportunities, the development is isolated by large roads and commercial development from the both the commercial Biltmore Avenue corridor and the nearest residential neighborhood. It has one way in and out, and a narrow one-way street through the development.

Efforts to develop a plan for revitalization of this community have been underway for some years. HUD Choice Neighborhood grant applications were submitted in 2011 and 2013, but federal budget cuts severely curtailed this successor to the HOPE VI program, and Asheville's efforts were not successful. A successful application by the Housing Authority to the pilot HUD Rental Assistance Demonstration program opened a new pathway for the Housing Authority to pursue revitalization. In 2014, after a well-subscribed Request for Proposals process, the Housing Authority chose Mountain Housing Opportunities as their co-developer, and began a resident engagement and master planning process for the redevelopment.

The result of the master planning process is the proposed 212-unit redevelopment plan. The Housing Authority determined that the federal Low Income Housing Tax Credit (LIHTC) program, administered by the NC Housing Finance Agency, provides the most feasible financing vehicle to achieve that plan. If successful, the LIHTC program will provide approximately 50% of the project cost in the form of equity. Successful applicants must raise the remainder of the funds needed for development from other sources. The challenge is that rents must be able to be affordable to households earning 60% or less of median income. This requirement constrains the amount of debt the project can support. The application process is underway, with a complete application deadline of May 13, 2016. Tax credits for 120 units- the maximum that can be requested- will be applied for then.

Therefore, the Housing Authority is seeking the direct support of the City of Asheville in helping to bridge the gap between funding available through tax credits and debt, and the project cost. In summary, the project proposed sources and uses is as follows:

<b>Funding Sources</b>			(per unit)
Private Equity (LIHTC)	16,828,400	52%	79,400
Mortgage	8,660,000	27%	40,800
Other and Local Owner	6,080,000	19%	28,700
	986,700	3%	4,700
	<u>32,555,100</u>		<u>153,600</u>
<b>Development Costs</b>			
Construction/Related Financing	26,805,900	82%	126,400
Legal/Compliance	1,333,800	4%	6,300
Other Soft Costs	591,300	2%	2,800
Reserves	2,814,000	9%	13,300
	1,010,100	3%	4,800
	<u>32,555,100</u>		<u>153,600</u>

The Asheville Housing Authority is seeking \$4.2 million in gap financing from the City of Asheville, or \$20,000 per unit for the proposed build-out of 212 units. The funds, if granted, would be devoted to the construction of on-site infrastructure, including earth moving, and the construction of water, sewer, storm water, roadway and sidewalks. The Housing Authority has indicated that it will seek the remainder of the other local/other funds from non-City sources.

Staff has analyzed the request, and determined that the allocation of local government funds of \$20,000 per unit is within the range of funds committed by other governments to similar projects, and also in line with prior City support for affordable housing developments in the City of Asheville.

The requested funding can be generated through using multiple funding resources. These resources could include City Fund Balance, CIP and Housing Trust Funds, HUD HOME and CDBG Funds, and HUD Section 108 funds.

The HOME and CDBG funds have been recommended for the project as part of the 2016-2017 Annual Action Plan. Staff discussed the HUD Section 108 loan with HUD officials, who confirmed the eligibility of the project and availability of the amount. Assuming the award of tax credits, staff will work at that time to develop a specific funding package that will provide the best mix of funding to most effectively use the resources available to the City and project goals.

Pros:



- The proposed project will transform the City's most economically and physically distressed public housing community;
- The project will allow all households in residence at the time of relocation to return to the newly developed community;
- The redevelopment will provide significantly improved access to public transportation, and medical and downtown job and service centers;
- The project will provide affordable rental housing over 200 households earning 60% or less of area median income;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.
- The proposed project will create a locational-efficient residential development that will be affordable for at least 30 years.
- The Housing Authority has indicated its commitment to request no additional funds from the City of Asheville for the completion of the proposed 212 units.

Cons:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development;
- While the project will create mixed income housing relative to its current public housing demographic, it does not currently include housing for households with incomes above 60% of median income;
- If annual CDBG allocations are used for the repayment of the HUD Section 108, funding available for other CDBG-eligible activities in Asheville will be reduced.
- The viability of the project depends on the competitive award of LIHTC funds.

As noted above, City staff has identified the funding resources currently available to meet the requested amount of \$4.2 million. The city's commitment would be conditional on the award of tax credits. HOME and Section 108 funds must be loaned to the Housing Authority, which will in turn loan the funds to the project on a 0% deferred payment basis for a term of 40 years. Other funds may be granted or loaned to the Housing Authority. The Housing Authority requests that the other funds be granted to them. The City funding would be used for infrastructure construction, and payouts would be based upon a negotiated schedule of performance.

Staff recommends that Council authorize the City Manager to provide a letter of commitment of \$4.2 million to the Asheville Housing Authority for the purpose of supporting the construction of 212 units of affordable housing on the current Lee Walker Heights public housing site. This commitment is conditional on the award of 9% Low Income Housing Tax Credits to the project by the North Carolina Housing Finance Agency in the 2016 LIHTC competition, with award announcements expected in August 2016.

In response to Vice-Mayor Wisler, Mr. Staudinger explained the timing of the expenditures.

Mr. Staudinger responded to Councilman Bothwell regarding the elevation difference between the Matthews Ford property and the Lee Walker Heights property, explaining that fill from the Lee Walker Heights grading will be used to equalize the difference for accessible access to the Biltmore Avenue property.

Councilman Young moved to adopt the resolution, but was concerned about using funds earmarked for affordable housing projects. Councilman Smith seconded the motion.

Mayor Manheimer clarified that the City has excess funds from this year to direct towards the \$4.2 Million, which will allow us to avoid using the Capital Improvement Plan funds earmarked for affordable housing. This is about affordable housing and it addresses the need of a

community that is under-served. The people who are living in Lee Walker Heights are participating in what their future will look like and the City is here to help in that community vision.

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

Councilman Young moved for the adoption of Resolution No. 16-98. This motion was seconded by Councilman Smith and carried unanimously.

## **RESOLUTION BOOK NO. 38 – PAGE 16**

### **Closed Session**

At 7:28 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:04 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

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

#### **A. HORSE DRAWN CARRIAGES**

##### **ORDINANCE NO. 4497 - ORDINANCE TO REPEAL THE ORDINANCE PERMITTING AND REGULATING THE GENERAL OPERATION OF HORSE-DRAWN CARRIAGES ON THE CITY STREETS**

Assistant City Attorney Jannice Ashley said that this is the consideration of the repeal of the Horse Drawn Carriage Ordinance (City Code, Ch. 18, Article IV).

In 1990, the City of Asheville adopted standards permitting and regulating Horse Drawn Carriage operations (Ordinance No. 1840) and in 1993, readopted this ordinance in full via Ordinance No. 2032. These standards are a subsection of Chapter 18, Taxicabs and Vehicles for Hire and comprise the entirety of Article IV of this Chapter. There were several minor amendments to this article in 1994, 1995, and 1996 although the body of the ordinance appears to have remained unchanged from when it was first adopted.

Shortly after adoption in 1993, at least two separate businesses began operating. Not much is known about these pioneering businesses but it is believed that one closed not long after it started, while the other persisted for some time but also eventually closed up a season or two later (there may have been one other short-lived operation within the last 10 years but any specific record is lacking). Staff has been told that the standards were drafted with the benefit of input from a stakeholder group that represented a number of different perspectives but with a specific focus on animal safety & health, as well as public safety.

While the elements of a horse-drawn carriage operation have changed little in the last 20 years, the Asheville downtown has changed dramatically. The level of activity, both on and off the street is significantly higher and Asheville is now in the position of having to reconcile a number of competing concerns and interests as it relates to the downtown area. At present, there

is one horse-drawn carriage business operating in downtown Asheville (Asheville Horse & Carriage Tours, LLC) which has been operating since August 2013. Just prior to the start of this business, in May 2013, a concerned citizen sent an email to City Council asking that horse-drawn carriages be banned from the downtown area because of concerns for the safety of the horses and the public. Since horse-drawn carriages were permitted by ordinance, and the City did not have any documented negative history in regard to such operations, Asheville Horse & Carriage was permitted to operate after working closely with City Staff to ensure that all of the requirements of the ordinance were followed.

Updates on the horse-drawn carriage operation were provided to the Public Safety Committee on June 24, 2013, by Shannon Tuch, the interim Development Services Director and then again on October 28, 2013, by Ken Putnam, the Transportation Director. The latter report concluded that neither the Transportation Department nor the Asheville Police Department (the department responsible for administering the taxi, vehicle for-hire, and horse-drawn carriage ordinance) were aware of any public safety issues, from a traffic perspective, that were being caused by the horse-drawn carriage operation. Since that time, according to APD records, there have been no reported accidents in the last three years that have involved a horse-drawn carriage, no serious complaints and it appears that Asheville Horse & Carriage Tours, LLC has been operating successfully and in compliance with all requirements throughout its tenure.

Nonetheless, several citizens have continued to raise concerns about the operation of horse-drawn carriages related to animal health and safety as well as public safety, particularly given the increased activity in the City's CBD. In response to these concerns, the Governance Committee met twice, on December 8, 2015, and March 8, 2016, to consider the matter. During the December meeting, the Committee heard concerns from Asheville Voice for Animals and requested that Staff provide information on reported accidents/complaints concerning the operation of the horse-drawn carriage. At the March meeting, the Committee received the requested information from the Staff who reported that there had been no accidents or complaints regarding the operation. The Committee also heard from representatives of Voices for Animals regarding general concerns about the operation of horse-drawn carriages in Asheville and also heard from Catherine Hunter, the owner of Asheville Horse & Carriage Tours, LLC, who spoke in support of her business. The Committee then directed Staff to eliminate the current ordinance permitting the general operation of horse-drawn carriages and to draft a franchise agreement ordinance which would allow Ms. Hunter to continue with her horse-drawn carriage business.

Staff recommends that City Council repeal the City's Horse Drawn Carriage Ordinance (City Code, Ch. 18, Article IV), effective May 30, 2016.

Councilman Bothwell was uncomfortable with horses on streets with vehicles. He didn't see motorized vehicles and horses together in an urban setting.

Mr. Christopher Chiaromonte did not support eliminating the ordinance as the owner is making a living with his business.

Ms. Catherine Hunter, owner of Asheville Horse and Carriage Tours, explained how passionate she is about the health and welfare of her horses, noting she has rescued and rehabilitated a lot of horses. She felt those against her business are well intentioned, but misinformed. She also felt the majority of the people downtown like having a horse drawn carriage. She provided Council with her credentials, along with a brochure of the 12 most common myths about carriage horses debunked.

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

Vice-Mayor Wisler moved for the adoption of Ordinance No. 4497. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE NO. 4498 - FIRST READING OF AN ORDINANCE GRANTING A FRANCHISE AGREEMENT WITH ASHEVILLE HORSE AND CARRIAGE TOURS, LLC, FOR THE OPERATION OF A HORSE DRAWN CARRIAGE BUSINESS WITHIN THE CITY OF ASHEVILLE**

Assistant City Attorney Jannice Ashley said that this is the consideration of an ordinance granting a franchise agreement for the operation of a horse-drawn carriage business within the City of Asheville.

Asheville Horse and Carriage Tours, LLC has been operating a horse-drawn carriage business in the City since August of 2013. At that time, the City Code allowed the operation of horse-drawn carriages pursuant to Ordinance 1840 adopted in 1990 and Ordinance No. 2032 which was adopted in 1993. On April 26, 2016, City Council voted to repeal both of these ordinances, but directed City staff to work with Asheville Horse and Carriage owner, Catherine Hunter, on a Franchise Agreement that would enable her to continue her business which has been operated successfully and in compliance with city regulations throughout its tenure. The terms of the franchise agreement in terms of hours of operation, carriage equipment and conditions, and care of the horses are substantially the same as they were under the City Code. The horse-drawn carriages will operate in the downtown Central Business District (CBD) on city-maintained and state-maintained streets that have a posted speed limit less than 35 mph. Hours of operation will be between the hours of 9:00 AM and Midnight, Monday through Friday, with some exceptions for the busiest hours of the weekday, and between the hours of 9:00 AM and Midnight, Saturday, Sunday and Holidays. The City reserves the right to change the hours of operation at its sole discretion with a 30-day notice. Other significant conditions of the Franchise Agreement include provisions for the health and safety of the horses such as quarterly certifications by a licensed veterinarian certifying each animal has been examined and is in good health and able to draw the horse-drawn carriage, limitations on the number of hours and days a horse may work and in what weather conditions, and annual inspections of stable facilities by both a veterinarian and the Transportation Director; provisions regarding the qualifications of drivers/operators, such a requirement for specific training in the operation of horse-drawn carriages; provisions regarding the condition and safety of the carriages, such as requirements to have signals and lights or lanterns and for the carriages to be inspected every six months; and the ability of the City to terminate the franchise agreement for non-compliance or, upon notice, for other reasons it deems necessary.

She has written the franchise agreement term to be indefinite because it was the sense of the Governance Committee to allow Ms. Hunter to allow her business. However, the City always has the option to terminate the franchise agreement if there is any violations of the agreement, or for any reason upon 180 days notice to Ms. Hunter.

The operation of Asheville Horse and Carriage Tours, LLC's business has been reviewed in the past by the Council's Public Safety Committee on June 24, 2013, and October 28, 2013. Those reports concluded that the business had demonstrated compliance with all City requirements and stated that neither the Asheville Police Department nor the Transportation Department were aware of any public safety issues related to the business. The Governance Committee considered the repeal of the horse-drawn carriage ordinance but the issuance of a franchise agreement to Asheville Horse and Carriage, the one existing horse-drawn carriage business, at both its December 8, 2015, and March 8, 2016, meetings and recommended repeal of the ordinance but the granting of the franchise agreement to Asheville Horse and Carriage at the March 8<sup>th</sup> meeting.

**Pros:**

- Allows an existing, successful and compliant horse-drawn carriage business to continue despite the repeal of the City's general horse-drawn carriage ordinance.

- Enhances the visitor experience to downtown Asheville.
- No direct fiscal impact to the City.

Con:

- Animal advocacy groups have expressed concern about allowing the operation of any horse-drawn carriages in the City.

There is no known fiscal impact for the subject franchise agreement.

Staff recommends that City Council approve an ordinance granting a franchise agreement to Asheville Horse and Carriage Tours, LLC for the operation of a horse-drawn carriage business within the City of Asheville. This ordinance will require a second reading, which will take place on May 10, 2016.

In response to Councilman Bothwell, Ms. Ashley said that the franchise agreement is not assignable, except to another entity owned by Asheville Horse and Carriage Tours with written agreement from the City.

Councilman Haynes moved to grant the franchise agreement but limit the term of the franchise agreement to one year. This motion was seconded by Councilman Bothwell.

Councilman Young said that since there has been no documentation about the mistreatment of the horses and because this is Ms. Hunter's only income, he recommended a e-year term on the franchise agreement. He stressed that he too has compassion for animals, but he has compassion for people too to earn a living.

In response to Councilman Young, Ms. Hunter said she hoped to transition out of this business in three years. She will be publishing a book this year about horses and with the sale of her book and teaching seminars, she feels that will be her next income. However, in the meantime, she needs to pay the rent, buy feed, etc. Taking care of the horses is not cheap.

Councilman Young offered a friendly amendment that the franchise agreement not be transferrable and that the franchise agreement be extended for a total of three years. Councilman Haynes did not accept the friendly amendment.

Councilman Young then moved to amend the main motion to grant the franchise agreement but that the agreement not be transferrable and that the agreement be extended for a total of two years. This amendment was seconded by Councilman Smith and carried on a 4-2 vote, with Councilman Haynes and Councilman Bothwell voting "no."

Mr. Christopher Chiaronmonte supported granting the franchise agreement.

Representatives from Asheville Voice for Animals, along with other animal rights activists spoke in opposition of the franchise agreement for several reasons, but mainly due to the health and safety of the horses and public safety. They urged Council to eliminate horse drawn carriages from our streets.

Ms. Catherine Hunter, owner of Asheville Horse and Carriage Tours, asked for Council to consider granting her a franchise with an indefinite term and that it be transferrable.

Council then voted on the amended main motion to grant the franchise agreement with the agreement not being transferrable and with a term of two years. Said motion carried unanimously.

Ms. Ashley reminded Council that the ordinance will require a second reading, which will take place on May 10, 2016.

**C. RESOLUTION NO. 16-99 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SKIDMORE OWINGS AND MERRILL, PLLC, FOR THE PURPOSE OF DEVELOPING THE CITY OF ASHEVILLE COMPREHENSIVE 2025 PLAN UPDATE**

Planning & Urban Design Director Todd Okolichany said that this is the consideration of a resolution authorizing the City Manager to enter into an contract with Skidmore Owings and Merrill, PLLC, for the purpose of developing the City of Asheville Comprehensive Plan Update.

The purpose of the comprehensive plan is to set forth goals and policies for sustainable growth and development over the next 10-20 years and beyond. The plan will establish a vision for Asheville and include policy guidance, reflecting the community's vision for the location and form of future development, while ensuring sufficient infrastructure, parks and other community services.

The City's current comprehensive plan, titled "Asheville City Development Plan 2025" was adopted in 2003. The plan focused on:

- Continued investment and redevelopment in areas with sufficient infrastructure
- Strategies to encourage mixed-use development
- Introduction of multi-modal transportation planning and implementation
- Strategies to confront a lack of affordable housing
- Fostering economic growth in key sectors of the community: high-tech, manufacturing, medical and entrepreneurship
- Continued revitalization efforts to support downtown Asheville and other special districts

Overall the comprehensive plan has been a success. It has focused our conversations as a community and has helped the city maintain a high quality of life and a robust local economy. Since 2003:

- The population has increased by 16,000 to an estimated 89,000 people
- The city has attracted investment by a number of dynamic modern employers
- Revitalization efforts have expanded to include the downtown area, Biltmore Village, the River Arts District and Haywood Road, resulting in new investment and sustainable growth
- The city is advancing plans for multi-modal transportation improvements, including greenways, sidewalks and transit

Challenges remain and need additional focus and solutions provided through the comprehensive planning process. Some of these challenges include the following:

- Service sector expansion is raising concerns about growth in lower wage paying job sectors
- Affordable housing continues to be a major challenge for residents of Asheville
- There is an ongoing dialogue focused on developing a more resilient economy
- There is a growing need to identify strategies for climate change adaptation
- Continued need to align land use decision with multimodal transportation planning to meet common goals

Staff released a Request for Proposals (RFP) to solicit planning consultant services to assist the City in updating its comprehensive plan, with a focus on the following six principles, considered as industry standards for creating sustainable places.

1. Ensure a livable built environment by integrating multimodal transportation with housing goals to ensure connectivity and mobility while enhancing community character and place making.
2. Live in harmony with nature and mitigate the effects of climate change by reducing the city's reliance on traditional energy sources while living in balance with the natural systems around us.
3. Maintain a resilient and diversified economy so that our economy will be better protected from fluctuations in the market, and residents will have access to employment and other entrepreneurial opportunities.
4. Promote community equity and housing that meets the needs of current and future residents of the community by ensuring access to safe and affordable housing, community wellness and economic mobility.
5. Encourage healthy communities by maintaining a healthy lifestyle and access to recreational and outdoor activities community-wide.
6. Enhance partnerships and further responsible regionalism by participating in dialogues with other communities on regional issues and participating in partnerships with local and regional agencies and communities for the good of the region.

The City received nine proposals in response to the RFP. A committee consisting of the following participants was formed to review the proposals and select a consultant team: Todd Okolichany, Director of Planning and Urban Design; Alan Glines Assistant Director of Planning and Urban Design; Stacy Merten, Project Manager; Amber Weaver, Chief Sustainability Officer; Mariate Echeverry, Transportation Manager; Al Kopf, Parks and Recreation Manager; Jeremy Goldstein, Chair, Planning and Zoning Commission; and Kristy Carter, Vice Chair, Planning and Zoning Commission. Skidmore Owings and Merrill, PLLC, was selected by the committee, following an interview process with the four top ranking firms.

Skidmore, Owings and Merrill (SOM) has organized a diverse group of highly creative individuals who bring together a deep understanding of comprehensive planning with national expertise in strategic thinking, urban design, engineering and placemaking. The project will be managed by SOM staff. The consultant team also includes Design Workshop, a locally-based firm specializing in landscape architecture, design and placemaking; Chipley Consulting, a certified Disadvantaged Business Enterprise and Small Professional Services Firm that specializes in community engagement and is based in Asheville; Development Strategies, an economic development consultant; and Vanasse Hangen Brustlin (VHB), transportation professionals.

SOM proposes a 15 month planning process, including extensive public engagement that is designed to establish a new vision for Asheville through the Comprehensive Plan Update. Specifically, the plan will include strategies related to land use, transportation, economic development, infrastructure, housing, livability, place-making, open space, streetscapes, climate change, sustainability and resiliency.

The Comprehensive Plan Update will ensure that Asheville continues to be forward thinking and plan ahead in order to remain a diverse, livable, clean and healthy community that provides economic opportunities, transportation alternatives and affordable housing for everyone as specified in the Asheville City Council 2036 Vision.

The contract with SOM would have a financial impact of \$264,345 to the city. The base fee for the contract is \$204,845. Enhancements to the base fee include \$7,500 each for 1) additional public engagement; 2) high performance design strategies; and, 3) environmental

guidelines, for a total of \$22,500 in additional services. The contract also includes a fee not to exceed \$37,000, for reimbursable expenses related to the project.

The Fiscal Year 2016 budget included \$200,000 for this project. Staff has identified an additional \$64,345 to cover the cost of the contract utilizing savings elsewhere in the General Fund budget, primarily from fuel.

City staff resources would also be required to manage the project, coordinate with the consultant team, participate in the public engagement and visioning process, provide relevant information and data on existing plans, maps, utility and roadway information, etc., coordinate press releases and updates on the city's website, and coordinate/provide potential meeting locations for the public. Additionally, the City will form a Technical Advisory Team. Staff resources are anticipated from the following departments: Planning and Urban Design, Development Services, Parks and Recreation, Office of Sustainability, Community and Public Engagement, Transportation, Community and Economic Development, Public Works and Legal Services.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with Skidmore Owings and Merrill, PLLC, for the purposes of developing the City of Asheville Comprehensive Plan Update.

Councilman Bothwell felt that Asheville has local expertise for some services in the plan.

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

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

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-99. This motion was seconded by Councilman Smith and carried unanimously.

**RESOLUTION BOOK NO. 38 – PAGE 17**

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

Mr. Christopher Chiaromonte spoke to Council about his ethnic heritage.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 9:15 p.m.

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CITY CLERK

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MAYOR