

Tuesday – October 25, 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; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Closed Session

Due to technical difficulties with the Public Address System, at 5:03 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.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Alison Rose Kern and the City of Asheville . The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 5:29 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 25, 2016, AS "HISPANIC RESTAURATEUR DAY"

Councilman Bothwell read the proclamation proclaiming October 25, 2016, as "Hispanic Restaurateur Day" in the City of Asheville. He presented the proclamation to Mr. Aaron Scarboro, and others, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

Mayor Manheimer said that Consent Agenda "I" has been changed to set the public hearing on December 13, 2016, to hear and act upon the request of Skyland Exchange for a Land Use Incentive Grant.

Vice-Mayor Wisler asked that Consent Agenda "J" be removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 27, 2016

B. RESOLUTION NO. 16-225 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH GENERAL PARTS COMPANY FOR WATER RESOURCES INVENTORY MANAGEMENT

Summary: The consideration of a resolution by City Council authorizing the City Manager to enter into a three year general services agreement with an option to renew for two successive one-year periods with Genuine Parts Company (GPC) for Water Resources Inventory Management for an amount not to exceed the City's approved fiscal year budget for each applicable fiscal year period.

The Water Resources Department (WRD) spends approximately \$980,000 in inventory/parts each year. These parts are mainly purchased from local suppliers and warehoused on City property. In the past, the management and distribution of parts has been performed by City staff. While this arrangement has been effective, the level of technological sophistication has been limited and has led to some inefficiency. Transactions are currently handled using paper processing, which is then entered into the City's enterprise management system. Past failures of this system have resulted in stocking shortages, which have caused delays in performing water system repairs. Additionally, the lack of a good inventory database has contributed to the accumulation of a large amount of obsolete inventory.

On February 26, 2016, the WRD issued a Request for Proposals (RFP) for Inventory Management Services. Although this RFP was issued in the spring of 2016, recent discussions with the vendor representatives have confirmed that the proposed service and terms are still valid. In response to the RFP, one vendor responded – Genuine Parts Company (GPC). The service would be provided entirely by GPC and would require that the vendor own and manage all of the WRD inventory and provide central supply distribution for other City departments. The third party provider will be required to manage the inventory using a technologically based inventory management system. GPC will also use their staff and will own the inventory which they are managing for the City.

The annual net cost of the management service is estimated to be \$46,000 per year. The net cost of this project represents an increase in the expenses associated with inventory management. The vendor will employ two staff to maintain the inventory and will charge a markup of not to exceed 10% on parts. Through the national buying power of the vendor some inventory items will be purchased a lower price than the City is able to purchase the material.

This contract will allow the City to transfer ownership and management of parts inventory to GPC. The transfer of ownership will be completed upon startup and will involve the outright purchase of all current inventory. Management and distribution of parts will be provided in a timely fashion and on a 24/7 basis. The parts operation will be housed at 200 Bingham Road, the WRD's new maintenance facility. City staff will have limited access to the inventory without the assistance from GPC staff.

Pros:

- The WRD will reduce the cost of carrying obsolete parts or parts that have a very limited usage.
- GPC will provide an advanced level of technology to support the accurate management of inventory.
- Some less specialized items can be purchased at a significant cost savings due to the national buying power of GPC.

Con:

- GPC may not get the same pricing as the City on some of the specialty water parts.

The estimated cost to the City for this service is \$174,000 annually with possible annual inflation-adjusted price increases. Over the course of the contract, the cost is not expected to exceed \$200,000. The Department is expected to pay more for inventory management on an annual basis than it currently costs to run this as an internal operation. The total additional cost is estimated to be \$46,000 per year. While this is a higher cost annually, savings will be received through the elimination of long term benefits and other employment liabilities. Additionally, the City will not carry the cost of obsolescence, loss, or low-use parts. There will also be a large initial payment to the WRD from GPC for the purchase of the inventory. It is recommended that the funds from this initial purchase be placed in a reserve account in case there is a need to terminate the contract in the future and the inventory would need to be purchased back from GPC.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a three year general services agreement with an option to renew for two successive one-year periods with Genuine Parts Company for Water Resources Inventory Management for an amount not to exceed the City's approved fiscal year budget for each applicable fiscal year period.

RESOLUTION BOOK NO. 38 - PAGE 219

C. RESOLUTION NO. 16-226 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH GILBERT ENGINEERING COMPANY FOR THE WILLIAM DEBRUHL WATER TREATMENT PLANT BULK CAUSTIC TANK REPLACEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Gilbert Engineering Company for the William DeBruhl Water Treatment Plant Bulk Caustic Tank Replacement Project for the bid amount of \$432,000 plus a 10% contingency in the amount of \$43,200 for a total project budget in the amount of \$475,200.

On September 20, 2016, the Water Resources Department issued an Advertisement for Bids for the William DeBruhl Water Treatment Plant Bulk Caustic Tank Project. This Project includes, but is not limited to: removal and replacement of an existing 9,000 gallon bulk storage tank and associated day tank, piping, secondary containment improvements, and associated electrical upgrades.

In response to the informal construction bid, the department received two bids on October 7, 2016. Companies responding were:

1. Gilbert Engineering Company (Statesville, NC) – bid \$432,000
2. JS Haren Company (Athens, TN) – bid \$490,000

The bids were reviewed by City Staff and Gilbert Engineering Company was selected as the lowest responsible, responsive bidder in the amount of \$432,000. A contingency amount of \$43,200 has been added for a total project budget in the amount of \$475,200.

Pros:

- This project will replace existing leaking, outdated infrastructure.
- The secondary containment aspect of this project is a new requirement of the Public Water Supply Section of the NC Department of Environmental Quality to ensure that the chemical will be contained in the event of a leak.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Without routine investment in upgrading and replacing water treatment infrastructure, there are greater risks of potential negative impacts on water quality.

The funding needed for the construction agreement is currently allocated within the Water Treatment Plant Improvements project in the Water Resources Capital Improvement Projects fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Gilbert Engineering Company for the William DeBruhl Water Treatment Plant Bulk Caustic Tank Replacement Project for the bid amount of \$432,000 plus a 10% contingency in the amount of \$43,200 for a total project budget in the amount of \$475,200.

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D. RESOLUTION NO. 16-227 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ASHEVILLE FORD TO PROVIDE SERVICE FOR LIGHT VEHICLE MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement with Asheville Ford to provide service to the City for light vehicle maintenance.

The City is seeking an outside service contract for the maintenance of light vehicles to supplement the in-house services provided by the City Fleet division. This contract will help to provide service in the event that there is no capacity within the shop for additional vehicle maintenance or if the service needs are beyond the capabilities of City staff or equipment.

The agreement stipulates the terms and rates under which services will be provided and establishes a set fee for the purchase of parts provided by this vendor. Labor rates are set for a period of one year at \$85 per hour and parts will be purchased at 10% over cost to the service provider.

Outside services have been used through a number of vendors without a formal agreement. This agreement, which will establish formalized rates and terms with Asheville Ford for light vehicle maintenance, will be effective for a one year period, and allows for 4 one year renewal.

Pros:

- The City is able to ensure that vehicles are maintained in a timely manner regardless of the capacity utilization within the City Fleet Maintenance shop.
- This agreement facilitates the use of outside services by establishing a consistent agreement with defined rates and terms.

Con:

- Asheville Ford will not be able to provide service after hours and on weekends. These are times during which the City Fleet Maintenance staff is also only available on call and/or service will be provided through another outside contract.

The City spent \$116,188 with Asheville Ford for service in the 2016 fiscal year. This amount is not expected to increase significantly as a result of this contract. This agreement will ensure that a contract is in place to lock in a price structure for all future parts and labor transactions. Funding for anticipated FY 2016-17 expenses is already included in the Adopted Budget.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a multi-year general services agreement with Asheville Ford to provide service to the City for light vehicle maintenance.

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E. RESOLUTION NO. 16-228 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GENERAL SERVICES AGREEMENT WITH CAROLINA TRACTOR & EQUIPMENT CO. INC. TO PROVIDE SERVICE FOR HEAVY VEHICLE AND EQUIPMENT MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement with Carolina Tractor & Equipment Co. Inc. (Contractor) to provide service to the City for heavy vehicle and equipment maintenance.

The City is seeking an outside service contract for the maintenance of heavy vehicles and equipment to supplement the in-house services provided by the City Fleet division. This contract will help to provide service in the event that there is no capacity within the shop for additional maintenance or if the service needs are beyond the capabilities of City staff or equipment.

The agreement stipulates the terms and rates under which services will be provided and establishes a set fee for the purchase of parts provided by this vendor. Labor rates are set for a period of one year and vary depending upon the service from \$87 per hour to \$95 per hour. There are separate charges for call out service including a call out service fee and travel charges associated with distance traveled and the mechanics time to respond to the call. Premium rates will also be charged for after hours and weekend work. The contract also establishes a rate for the purchase of parts. This rate will be 10% over cost to the service provider.

Outside services have been used through a number of vendors without a formal agreement. This agreement will establish formalized rates and terms with the Contractor for heavy vehicle and equipment maintenance, will be effective for a one year period, and allows for 4 one year renewal.

Pros:

- The City is able to ensure that vehicles are maintained in a timely manner regardless of the capacity utilization within the City Fleet Maintenance shop.
- This agreement facilitates the use of outside services by establishing a consistent agreement with defined rates and terms.

Con:

- The Contractor will be able to provide service after hours and on weekends although these services will be billed at a premium labor rate. These are times during which the City Fleet Maintenance staff is also only available on call and/or service will be provided through another outside contract.

The City spent \$79,372 with the Contractor for service in the 2016 fiscal year. In establishing this contract the City may utilize the contracted services for repairs that were previously performed with other contractors. Expanding the services provided by this contractor will increase the amount spent with the contractor in the coming fiscal years. It is anticipated that the total cost of service in the coming years will exceed \$150,000. This agreement will ensure that a contract is in place to lock in a price structure for all future parts and labor transactions. Funding for anticipated Fiscal Year 2016-17 expenses is already included in the Adopted Budget.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a multi-year general services agreement with Carolina Tractor & Equipment Co. Inc. to provide service to the City for heavy vehicle and equipment maintenance.

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F. RESOLUTION NO. 16-229 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ATLANTIC EMERGENCY SOLUTIONS INC. TO PROVIDE SERVICE FOR HEAVY FIRE EQUIPMENT MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement with Atlantic Emergency Solutions Inc. to provide service to the City for heavy fire equipment maintenance.

The City is seeking an outside service contract for the maintenance of heavy fire equipment to supplement the in-house services provided by the City Fleet division. This contract will help to provide service in the event that there is no capacity within the shop for additional vehicle maintenance or if the service needs are beyond the capabilities of City staff or equipment.

The agreement stipulates the terms and rates under which services will be provided and establishes a set fee for the purchase of parts provided by this vendor. Labor rates are set for a period of one year at \$111 per hour, a travel rate of \$78 per hour and parts will be purchased at 10% over cost to the service provider.

Outside services have been used through a number of vendors without a formal agreement. This agreement will establish formalized rates and terms with Atlantic Emergency Solutions for heavy fire equipment maintenance, will be effective for a one year period, and allows for 4 one year renewal.

Pros:

- The City is able to ensure that vehicles are maintained in a timely manner regardless of the capacity utilization within the City Fleet Maintenance shop.
- This agreement facilitates the use of outside services by establishing a consistent agreement with defined rates and terms.

Con:

- Atlantic Emergency will not be able to provide service after hours and on weekends. These are times during which the City Fleet Maintenance staff is also only available on call and/or service will be provided through another outside contract.

The City is spent \$144,986 with Atlantic Emergency Solutions for service in the 2016 fiscal year. The amount spent in future years is not expected to increase significantly as a result of this contract. This agreement will ensure that a contract is in place to lock in a price structure for all future parts and labor transactions. Funding for anticipated FY 2016-17 expenses is already included in the Adopted Budget.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a multi-year general services agreement with Atlantic Emergency Solutions Inc. to provide service to the City for heavy fire equipment maintenance.

RESOLUTION BOOK NO. 38 - PAGE 224

G. ORDINANCE NO. 4525 - BUDGET AMENDMENT FOR THE EDWARD BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION GRANT

Summary: The consideration of a budget amendment in the Special Revenue Fund from the US Dept. of Justice 2016 Edward Byrne Justice Assistance Grant – Local Solicitation in the amount of \$55,150.

During its June 28, 2016, meeting, the City Council authorized to apply and enter into an agreement with the US Dept. of Justice 2016 Edward Byrne Justice Assistance Grant (JAG) in the amount of \$55,150. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. The Asheville Police Department and Buncombe County Sheriff's Department will be allocated \$55,150 based on the award matrix, with Asheville receiving \$43,902 and Buncombe County receiving \$11,248. The distribution of funds will be approved through a signed Memorandum of Understanding.

During September 27, 2016, meeting, the Finance Committee was informed of the grant award and need to move the item to the full City Council for approval on October 25, 2016. Funds will be utilized to purchase Taser devices which will serve to enhance officer safety and potentially reduce the propensity for injury that offenders could be exposed to during altercations with officers. Effective Taser applications have demonstrated the capability to incapacitate threatening subjects by using an electrical charge to target the motor nerves that control movement. Ideally, these devices facilitate effective restraint while reducing the opportunity for injury to all involved parties, thereby potentially reducing workers' compensation claims and liability claims.

There will be an expense of \$43,902 by the APD for the purchase of approximately 30 Tasers. The Buncombe County Sheriff's Department will be awarded \$11,248 for its identified needs. This accounts for the total allocation of \$55,150 for this grant.

This is a 100% funded non-local match grant that will serve to enhance officer safety for substantially more patrol officers and potentially reduce the probability of injury for threatening offenders.

This action went before the Finance Committee on September 27, 2016, and their recommendation was support to move forward to City Council.

Pros:

- Increasing the number of Tasers for patrol officers will enhance officer safety and that of the community
- Increased accountability because of the downloadable content related to deployments
- Costs of the devices could offset the costs incurred by workers' compensation or liability claims

Cons:

- Additional burden on future operations budget for the cost of maintenance and replacement after the approximate five-year service life of the device
- Additional training costs associated with purchasing the training cartridges at an approximate cost of \$40 per year per device.

There is no local match required, however there will be maintenance and replacement costs for the equipment that needs to be included in future fiscal year budgets.

Staff recommends City Council adopt the budget amendment to accept grant funds through US Dept. of Justice Programs in the amount of \$55,150.

H. RESOLUTION NO. 16-230 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE FOR THE BALLISTIC VEST PARTNERSHIP PROGRAM

ORDINANCE NO. 4526 - BUDGET AMENDMENT FOR THE BALLISTIC VEST PARTNERSHIP PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to accept funds through US Department of Justice Ballistic Vest Partnership Program in the amount of \$21,022; and the associated budget amendment in the amount of \$42,044 in the Special Revenue Fund.

The City of Asheville has been awarded \$21,022 through the US Department of Justice Ballistic Vest Partnership Program for a grant to fund to offset departmental cost associated with purchasing ballistic vests, which requires the City to match this amount dollar-for-dollar. The budget amendment is necessary to authorize the full project budget amount of \$42,044 in this fund. The City's match of \$21,022 will come from the Police Department's adopted Fiscal Year 16-17 operating budget.

During September 27, 2016, meeting, the Finance Committee was informed of the grant award and need to move the item to the full City Council for approval on October 25, 2016. Funds will be utilized to purchase approximately 56 bulletproof vests over the next 2 years.

This action went before the Finance Committee on September 27, 2016, and their recommendation was support to move forward to City Council.

Pros:

- Reduction in cost to the City of Asheville for the purchase of ballistic vests
- Increase in officer safety by providing crucial safety equipment

Con:

- None

As noted above, this grant requires a match of \$21,022, which will come from the approved Police Department's Fiscal Year 2016/17 General Fund budget (Patrol Division – Supplies – Safety Equipment). It should be noted that by accepting this grant, the overall fiscal impact to the City of Asheville is reduced due to the fact that the APD would have to purchase these vests at full replacement costs if we did not accept award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of \$21,022; and 2) a budget amendment in the amount of \$42,044 reflecting \$21,022 from US Department of Justice BVP funds and approved Fiscal Year 2016/17 APD General Fund money (421,022) to establish a project budget for the 2016 BVP Program.

**RESOLUTION BOOK NO. 38 - PAGE 225
ORDINANCE BOOK NO. 30 - PAGE 423**

I. RESOLUTION NO. 16-231 - RESOLUTION SETTING A PUBLIC HEARING ON DECEMBER 13, 2016, FOR A LAND USE INCENTIVE GRANT FOR THE SKYLAND EXCHANGE (HATHAWAY DEVELOPMENT LLC)

Summary: The consideration of a resolution setting a public hearing on December 13, 2016, for a land use incentive grant agreement for developer of Skyland Exchange (Hathaway Development).

The developer of Skyland Exchange, Hathaway Development, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015. Hathaway Development is developing a 14.32 acre site, located on Miami Circle in South Asheville. The developer estimates a total development cost of \$32,710,837 and an improvement value of \$36,190,837. The project consists of 290 residential rental apartments, with 10% units (29 units) proposed affordable (80% AMI or less). The site is within 0.25 miles of transit and 0.5 miles of schools; the job centers in Biltmore Park, is over 1 mile.

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

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing - The proposed project will provide 290 units with 29 units (10%) being affordable to households at 80% or less of median income, and the developer has committed to the affordability period of 15 years. This project qualifies for 20 points in this category.

Superior locational efficiency - The proposed project is within 0.5 miles of a school in T.C. Roberson; the project is also within .25 mile of an existing bus-stop served but is not served by a one-half hour ART transit frequency (1.5 hour frequency), HCD Committee has recommended 5 points for the proximity to transit; the site is not within 1 mile of a job center (1.8 miles to Biltmore Park). This project qualifies for 10 points in this category.

Staff has scored the project with a total of 30 points. The project is eligible for a three (3) year Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report.

Pros:

- The proposed project will provide affordable rental housing to 29 households earning 80% or less of area median income, for a period of 15 years;
- The proposed project is in close proximity to schools and transit;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Con:

- None

The current assessed value of the two parcels is \$1,007,100 (\$244,300 and \$762,800). The developer's estimate of improvement value is \$32,710,837 with a completed estimated project taxable value of \$36,190,837. The current annual city tax, based on current assessed value, is \$4,783.73. The annual estimated city tax post completion, based on the developer's estimate of value is \$171,906.48; therefore, the estimated annual Land Use Incentive Grant would be \$167,122.75, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 3 years, the estimated Grant would be \$501,369. The subsidy per affordable unit would be \$17,289. The subsidy amount per affordable unit/year would be \$1,153.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Stormwater Plan Review Fee, and Water Service Connection Fee is \$89,344. The value of each 10% of eligible fee rebates would be \$8,934. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 30 point level, the fee rebate would be \$26,802.

The total estimated Land Use Incentive Grant benefit over 3 years is \$528,171, which equals a \$18,213 subsidy per unit, and \$1,214 subsidy per unit per year.

Staff recommends that Council set a public hearing for December 13, 2016, to hear and act upon the request of Skyland Exchange for a Land Use Incentive Grant.

RESOLUTION BOOK NO. 38 - PAGE 226

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE FREE DAY ON NOVEMBER 8, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

This item was removed from the Consent Agenda for discussion and/or an individual vote.

K. RESOLUTION NO. 16-233 - RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH HENDERSON COUNTY FOR A TRANSIT VEHICLE

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one transit vehicle.

As a result of the 2000 Census, the French Broad Metropolitan Area 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 (FTA) named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the FTA funding, including reporting, administration and procurement of goods. 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 FTA regarding the use of all FTA funds and owns all the capital items that Henderson County purchases with these funds.

As per Henderson County's request, the City of Asheville ordered a van from a State contract to serve Henderson County's paratransit system, operated by Apple Country Transit. The vehicle is paid with Section 5307 funds and match is provided by Henderson County.

In order for the County to receive the van, a lease agreement, stipulating the terms and conditions to operate this vehicle, must be signed by both parties as required by FTA.

There is no cost obligation for the City with this action other than staff time to accomplish the task.

Pros:

- The lease agreement is an administrative step required by the FTA that protects the City's interests as designated recipient of Federal funds.
- 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 for the duration of such, approximately five years.

There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one transit vehicle.

RESOLUTION BOOK NO. 38 - PAGE 228

L. ORDINANCE NO. 4527 - BUDGET AMENDMENT FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES FEDERAL GRANT, SECTION 5310

Summary: The consideration of a budget ordinance, in the amount of \$479,717, from the Federal Transit Administration to set up the project budgets for the Enhanced Mobility of Seniors and Individuals with Disabilities Federal grant, Section 5310.

The City of Asheville is the designated recipient of the Enhanced Mobility of Seniors and Individuals with Disabilities program, which is a program of the Federal Transit Administration (FTA). This is a formula grant program oriented to improve mobility for seniors and individuals with disabilities by removing barriers to transportation service and expanding transportation mobility options.

This is a program of the Moving Ahead for Progress (MAP) 21 transportation bill passed by Congress in 2012 that consolidated the Elderly and Disabled program that distributed funds to the states and the New Freedom program that was a formula program in which the City was the region's designated recipient.

To be eligible, the program requires an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization (MPO), Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals.

The plan was approved on March 29, 2012, by the French Broad River MPO's governing body (the Board), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the region's priorities and identifies needs; the projects were selected on January 28th, 2016 through a competitive process led by the MPO.

The projects below were selected as city's sub-recipients for the 5310 program. The projects are listed as follows:

Sub-Recipient	Project	Amount funded	Sub-Recipient's match
Jewish Family Service	Transportation for Elder Club	\$26,414	\$6,603
Council on Aging	Volunteer Driving Program and Travel Training	\$22,815	\$22,815
Buncombe County	Supplemental elderly and disabled assistance	\$86,166	\$86,166
City of Asheville	ADA paratransit	\$90,000	\$22,500
City of Asheville	ADA improvements to the transit station	\$67,000	\$16,750
City of Asheville	Program Administration	\$32,488	N/A

The city needs to set up project budgets in order to pass through the funds and will seek reimbursement directly from the FTA. The sub-recipients will be responsible for the match.

The City will be responsible for the Program Management and, as designated recipient, to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use \$32,488 for administration purposes, which will cover the program management expenses for approximately one year.

Pros:

- Project funding is provided by the FTA, 50% for operating projects and 80% of capital projects. The sub-recipients are responsible for the local match.
- The city can use \$32,488 for administration purposes.

Con:

- The project cost is \$479,717, of those \$324,883 are federal funds and the city will seek reimbursement from FTA.

The total financial impact for the subject projects is \$479,717 and it will be funded with Federal Funds. \$32,488 will be reimbursed to the city for administrative costs.

Staff recommends that City Council adopt a budget amendment in the amount of \$479,717 from Federal Funds to setup the project budget for the 5310 projects funded, including the administrative costs.

ORDINANCE BOOK NO. 30 - PAGE 425

M. RESOLUTION NO. 16-234 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE FIRE DEPARTMENT TO APPLY FOR A GRANT FROM THE U.S.

**DEPT. OF HOMELAND SECURITY TO OBTAIN FUNDING FOR
STRUCTURAL FIREFIGHTING PERSONAL PROTECTIVE EQUIPMENT, AND
TO ACCEPT GRANT FUNDING IF AWARDED**

Summary: The consideration of a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant in the amount of \$500,000 from the US Dept. of Homeland Security to obtain funding for Structural Firefighting Personal Protective Equipment, and to accept grant funding if awarded.

The Department of Homeland Security has recently issued guidance for the Fiscal Year (FY) 2016 Assistance to Firefighters Grant (AFG) program. This is a grant opportunity for fire departments to purchase needed equipment to enhance firefighter safety, service delivery, and effectively train personnel. Towards that end, if the grant request is approved, the Fire Department would purchase Structural Firefighting Personal Protective Equipment to replace equipment that is currently reaching its end of service life. The Structural Firefighting Personal Protective Equipment is one of a firefighter's most critical tools for personal protection and regular replacement ensures that our personnel have the most up-to-date equipment available. The grant program requires communities of greater than 20,000 populations to match Federal grant funds equal to 10 percent of the total project cost, or \$50,000.

Staff recommends participation in the AFG Program for the following reasons:

- The grant program was developed to assist in the purchase of critical firefighting equipment and tools to provide greater safety for firefighters.
- If awarded, the City would be able to utilize grant funds for the purchase of required equipment.

This action was unanimously recommended by the Finance Committee to move forward to City Council on September 27, 2016.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- This grant will enable AFD to accelerate our procurement of this equipment.

Cons:

- 10% matching amount of purchase required \$50,000

This grant will not increase the Fire Department's budget request as these funds are already programmed into the budget.

City staff recommends that City Council authorize the fire department to apply for a grant in the amount of \$500,000 from the US Department of Homeland Security to obtain funding for Structural Firefighting Personal Protective Equipment, and to accept the grant funding if awarded.

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**N. RESOLUTION NO. 16-235 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO CONVEY AN EASEMENT ON MARTIN LUTHER KING JR.
PARK TO BELL SOUTH TELECOMMUNICATIONS, LLC, D/B/A AT&T FOR
UTILITY PURPOSES**

Summary: The consideration of a resolution authorizing the City Manager to convey an easement on Martin Luther King Jr. Park to BellSouth Telecommunications, LLC dba AT&T for utility purposes.

BellSouth Telecommunications (AT&T) has approached the City of Asheville with a request to locate a utility box on city property at Martin Luther King Jr. Park. AT&T plans to increase internet service offerings in the neighborhood and needs to install additional infrastructure. AT&T has requested a 10'x10' easement to locate a utility cabinet at the corner of the park property. Parks staff met with AT&T onsite and concluded that there is no conflict with the use of the park and the installation/location of the utility box.

AT&T has offered to pay \$1000 for the easement, which is in alignment with per square foot easement and land values in the surrounding neighborhood. City staff reviewed recent property transactions in the area, and found a range of values between \$5 per square foot and \$12 per square foot of land (or approximately \$25,000 to \$60,000 for a 0.11 acre / 5,000 square foot lot.) The offered amount is consistent with this range of values. AT&T will also pay the established transaction fee of \$280 per the City's adopted fee structure for these types of requests.

Pro:

- Easement does not interfere with City's land use at the park.
- Granting these easements will provide AT&T the needed property rights to improve utility services in the area.

Con:

- Utility easements limit the use of property.

The fiscal impact is unbudgeted revenue of \$1000 plus fee of \$280 to benefit the General Fund.

City staff recommends City Council approve a resolution authorizing the City Manager to convey an easement on Martin Luther King Jr. Park to BellSouth Telecommunications, LLC dba AT&T for utility purposes.

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O. RESOLUTION NO. 16-236 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND RECEIVE FUNDS FROM THE N.C. DEPT. OF TRANSPORTATION 2017 BICYCLE AND PEDESTRIAN PLANNING GRANT PROGRAM TO CONDUCT A GREENWAY CORRIDOR STUDY NAMED THE "SWANNANOA RIVER GREENWAY CORRIDOR - PHASE TWO"

Summary: The consideration of a resolution authorizing the City Manager to apply for and receive funds from the N.C. Dept. of Transportation 2017 Bicycle and Pedestrian Planning Grant Program to conduct a greenway corridor study named the "Swannanoa River Greenway Corridor - Phase Two".

The N.C. Dept. of Transportation (NCDOT) Bicycle and Pedestrian Planning grants are small grants to assist with corridor studies for bike and pedestrian projects to encourage bike and pedestrian comprehensive planning. These funds will assist in up to \$36,000 for a corridor study, requires a 40% match and has a November 10, 2016 due date. If awarded, the City of Asheville would receive the funds in early March. We would like to request \$36,000 with a \$24,000 match requirement from the City.

The grant would be for a segment of the Swannanoa River Greenway, a 1.25 mile long project that parallels Swannanoa River Rd and the Swannanoa River from the intersection of Biltmore Ave. to S. Tunnel Rd. If awarded the funds, we will conduct this study simultaneously

with the first phase, the “East Asheville Greenway” segment of the Swannanoa River Greenway that is proposed to be implemented in the bond referendum.

This study area is a key segment of the City’s Greenway Master Plan. It is also identified as a priority area in the AIM Plan and is a crucial segment of the Wilma Dykeman Plan. This request of acceptance is supported by the Asheville Multimodal Transportation Commission and the Greenway Committee.

The City’s match will either be funds that have been raised by local non-profits who are dedicated to the implementation of the Swannanoa River Greenway or from the City’s general funds. The decision depends on the success of the bond referendum. If the bond referendum is successful, the raised funds can be taken from the first study that starts at S. Tunnel Rd. and heads east to Azalea Park. If the bond referendum is not successful, we will need to use funds from the general funds.

Once finished, this feasibility study will poise this project for engineering and final design work.

Pros:

- This will be an adjoining greenway study to “East Asheville Greenway”, otherwise known as the Swannanoa River Greenway Phase One.
- A completed feasibility study will provide guidance for future development in this rapidly growing area.

Con:

- Other than the requirement to pay matching funds, there are no foreseen negative impacts.

City will be required to provide a \$24,000 match for the study. Matching funds would come from the existing Fiscal Year 2016-17 Adopted General Fund budget.

City staff recommends City Council approve a resolution authorizing the City Manager to apply for and receive funds from the NC DOT to conduct the greenway corridor study named the “Swannanoa River Greenway Corridor - Phase Two”.

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P. ORDINANCE NO. 4528 - BUDGET AMENDMENT ACCEPTING A DONATION FOR THE LEXINGTON AVENUE PUBLIC ART PIECE

Summary: The consideration of a budget amendment in the amount of \$40,000 from private donations for the Lexington Avenue Public Art Project.

The Asheville Downtown Association Foundation (ADAF) engaged city staff and the Public Art & Cultural Commission members in discussions regarding a commemorative art project that would recognize the vision of many local leaders whose foresight made Lexington Avenue [*One of America’s Great Places*](#) (American Planning Association 2015). This honor was bestowed on Lexington Avenue because it “is a funky, creative, and delightfully unexpected home to a bustling music and arts scene that plays a crucial role in supporting Asheville’s economy.”

The ADAF requested use of the area at 65 N. Lexington Avenue which includes two bump outs and a motorcycle parking area. All appropriate city staff have reviewed the area and approved its use for this purpose.

The Public Art & Cultural Commission (PACC) at their regular meeting of January 22, 2015, heard details of the proposed public art project and fundraising goal by the ADAF and recommended approval of the project.

The Asheville Downtown Association Foundation is a 501(c)(3) nonprofit association organized to support and promote activities, projects and programs that support the livability, arts and cultural, economy, safety and infrastructure of downtown Asheville.

Pros:

- The project will allow the acquisition of more public art downtown.
- The cost of the project is fully funded by the Asheville Downtown Association Foundation funding.
- The use of the area will not have any negative impacts to that area for pedestrians or businesses.

Con:

- None noted.

All funding for this project including associated administrative fees are included in this \$40,000 donation for the project. City will convey the use of the area noted in this staff's report for the permanent artwork.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Asheville Downtown Association Foundation in the amount of \$40,000 from private donations for the Lexington Avenue Public Art Project.

Councilman Smith thanked the Asheville Downtown Association Foundation for working with the community on donations and making this project happen.

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

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

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Item "J". This motion was seconded by Councilman Smith and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

J. RESOLUTION NO. 16-232 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE FREE DAY ON NOVEMBER 8, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

Summary: The consideration of implementing a fare-free day on November 8, 2016, General Election Day.

At the City Council meeting on January 12, 2016, a proclamation was presented proclaiming January 2016 as "Senior Suffrage Month". During that process, a request was made for staff to consider a fare-free day on Election Day. The Multi-Modal Transportation Commission reviewed and discussed this request at their regularly scheduled meeting on February 24, 2016. They were concerned about financial implications and the overall effectiveness of having a fare-free day. After much discussion, the Commission recommended that the Transit Committee and staff conduct additional research including making sure that outreach efforts are made to communicate the promotion to the public. The Transit Committee reviewed and discussed this request at their regularly scheduled meeting on March 1, 2016, and took no action pending consideration by City Council at their March 8, 2016, meeting. The Transit Committee did agree

that fare-free days would be a good topic of discussion at their annual retreat which is scheduled for October 21, 2016.

Resolution No. 16-51, which was approved by City Council on March 8, 2016, authorized the City Manager to implement a fare-free day on March 15, 2016, in order to increase opportunities for voters on Election Day.

Currently, there is a longstanding fare-free day on Veteran's Day that enables veterans to ride for free when they show an appropriate identification card. In addition, there is a reduced fare of \$0.25 per ride during "Strive Not to Drive Week" and "Earth Day".

Pros:

- Fare-free days include para-transit services.
- Reduces a transportation barrier to voting.

Con:

- Anticipated loss in daily revenue of about \$2,000.

A fare-free day would probably result in an anticipated loss in daily revenue of about \$2,000.

City staff recommends that City Council approve a resolution authorizing the City Manager to implement a fare-free day on November 8, 2016, in order to reduce barriers to voting.

Vice-Mayor Wisler said that in March when City Council authorized a fare-free day for the primaries, Council had agreed to look at the effectiveness of whether a fare-free day actually increased voters. Even though the City has no way to determine out, ridership was down that day. Also, the Multimodal Transportation Commission did not recommend this noting that it would be a revenue loss. While she agreed with the objective, she did not feel that it is a barrier to voting. She could support a fare-free day for para-transit services; however, was opposed to making it across the board. She proposed staff and the Multimodal Transportation Commission come up with an alternative that is more effective than a fare-free day.

Councilwoman Mayfield said that the Transit Committee supported this request.

Councilman Smith hoped that the City would consider fare-free days on election days in the City in the future. That would reduce the marketing for it each time and perhaps more people would use the buses because they would automatically know it was a fare-free day. He would be open to hearing the results of the staff and Multimodal Transportation Commission.

Ms. Kim Roney, member of the Transit Committee, supported a policy that would make election days fare-free days.

Councilman Young supported making all election days fare-free days.

Councilwoman Mayfield suggested that proposal be brought to the Finance Committee when other similar proposals are presented.

Councilman Smith moved for the adoption of Resolution No. 16-232. This motion was seconded by Councilman Young and carried on a 6-1 vote, with Vice-Mayor Wisler voting "no".

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III. PRESENTATIONS & REPORTS:

A. HAYWOOD STREET COMMUNITY VISIONING PROCESS UPDATE

Mr. Chris Joyell, Executive Director of the Asheville Design Center, provided Council an update from the Asheville Design Center (ADC) regarding the community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in Downtown Asheville.

Regarding public input, the ADC has been collecting public input re: the Haywood & Page properties since May, focusing on what activities people would prefer to do in the space. They have constructed a database to capture all of this input verbatim. ADC is working with a Lenoir-Rhyne graduate class (Visions for Sustainable Communities) to code this input, documenting the uses & amenities, specific design elements, and community benefits identified by the public. This database will be shared with the Advisory Team, and it will ultimately inform their recommendations to Council. In the spirit of full transparency they'd like to make the database public, as well.

To date they have collected public input from the following events and activities, totaling over 1,000 comments, thus far:

- May 19th Project for Public Spaces (PPS) presentation,
- June Open House at 1 Pack Square West,
- July LEAF Downtown event,
- Focus group meetings with Vanderbilt, Battery Park, DARN, & Grove Arcade residents and merchants (we're planning one for Basilica parishioners).
- An internal survey of DARN members,
- On-site intercept surveys,
- Emails sent to directly ADC,
- Open City Hall - Activity Preference Survey.

In addition, Mr. Tom Gallaher has conducted over 100 confidential one-on-one interviews with stakeholders. He has produced two reports—one focused on preferred uses, the other addressing site considerations—which they've provided to Advisory Team members to serve as background information. They have also set up the Haywood/Page physical model at Pack Square library, with PPS's Place Game available to the public. They are encouraging participants to take the Place Game, visit the site, and share their assessment of current conditions and future opportunities.

Regarding the Advisory Team, they have met five times—once a month beginning in June. They have also elected to split into two subcommittees: one focusing on Uses, the other studying the physical constraints and opportunities on the Site. Each subcommittee has met twice. The process has been dynamic, and at each stage ADC seeks input from the team to guide our next steps.

Mr. Andrew Fletcher, Chair of the Haywood Street Advisory Team, explained that adhering to the design principle that "form follows function," the Advisory Team set out to understand first how the public would like to use the space. From there they will begin exploring how those uses can coexist while conforming to the site. As the team began to refine their vision, they anticipated creating a Visual Preference Survey that reflects the team's desired uses and benefits. This gave the public another opportunity to weigh in on more tangible examples of preferred outcomes.

Regarding next steps, the Advisory Team sees their work stretching through the winter, producing a final deliverable in early spring. Prior to producing the final deliverable, they plan to hold a public meeting to present the team's vision (or alternate visions) and receive one last round of feedback. They anticipate that the team's final product would contain a list of preferred

uses and amenities, along with a bubble diagram outlining how those uses and amenities could share the site. They also hope that a series of temporary installations can help inform future designs for the site, and successes and failures of those temporary uses will be seen. Their goal is to try to accommodate as many uses as possible, while reflecting the values and benefits identified by the Advisory Team. He provided Council with over 60 potential temporary uses for the site, noting they are not prioritized, but are in the categories of site amenities, art, food, exercise, performance, revenue producing, seasonal and other. They also range from practical to whimsical. He then provided Council with an example of multiple uses can work together to activate the space. He hoped that Council will review the uses and ask the Advisory Committee to help implement them. They are excited about putting the community back in charge of the space.

On behalf of City Council, Mayor Manheimer thanked the Advisory Committee for their hard work on this major task. She was also excited to see younger people rise in the leadership role. She asked that the Advisory Committee narrow down their recommendations to possibly a consensus of 3-4 items and bring those back to Council for consideration. Narrowing them down will be more manageable for staff to evaluate each recommendation and vet the issues.

Because of the number of uses that could be grouped together, Councilman Bothwell suggested possibly 12 recommendations. Councilwoman Mayfield felt like the more uses on the site will require more management to oversee the activities.

Councilman Young supported uses that are not invasive and uses that don't require a lot of oversight.

B. EFFECTIVE COMMUNICATION OF CITY PROJECTS AND PROGRAMS, GEORGE WASHINGTON CARVER EDIBLE PARK UPDATE

Director of Communication and Public Engagement Dawa Hitch reviewed with Council the communication plan of City projects and programs. She explained that they will continue to grow and improve a diverse communication portfolio, encourage a culture of engagement in the organization and effectively manage engagement in the community. She explained their circle of service, along with the spectrum of public participation. In community communication, they will continue to (1) consider who will be impacted by the project/program (both internal and external); (2) consider a diverse set of tools when choosing the communication medium; and (3) communicate the level of participation in which the City is engaging. They will use a plan to maximize timely communications and minimize misunderstandings.

Director of Parks and Recreation Roderick Simmons briefly explained how the incident regarding the removal of some trees and vegetation in the right-of-way happened, which he noted was a miscommunication of staff. He explained that they are now reviewing all City policies to make sure of adequate communication between all important stakeholders and the neighborhoods prior to taking any action. In addition, they will post notices on the property prior to any work taking place.

Councilwoman Mayfield asked that we make a commitment to build and foster strong relationships within the community in advance of any actions taking place.

The following individuals commented about the need for clarification and revision of the City's communication policies and procedures: the need to understand and protect our edible tree resources; and funding for edible park and planting maintenance and community engagement:

Ms. Kiera Bulan, Coordinator for the Asheville-Buncombe County Food Policy Council
Ms. Darcel Eddins, Executive Director of Bountiful Cities
Ms. C. Nichole Hinebaugh, with Bountiful Cities
Ms. Vicki Meath, Director of Just Economics

Mayor Manheimer said that this issue is being addressed internally.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER LAND USE INCENTIVE GRANTS FOR SIMPSON STREET (BEAUCATCHER COMMONS LLC)

RESOLUTION NO. 16-237 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR SIMPSON STREET (BEAUCATCHER COMMONS LLC)

Assistant Community & Economic Development Director Jeff Staudinger said that this is a public hearing to consider approving a land use incentive grant for Simpson Street (Beaucatcher Commons LLC). This public hearing was advertised on October 14, 2016.

Mr. Staudinger said that the developer of "Simpson Street," Beaucatcher Commons LLC, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015.

Beaucatcher Commons LLC, represented by Kirk Booth, seeks to develop a 1.63 acre site, located at 43 Simpson Street and including two additional adjacent parcels. The developer estimates a total development cost of \$3.3 million. The LUIG application proposed a project that would consist of 60 one-bedroom units, in six buildings with ten units in each building. The project scale has now been increased by 10 units to 70 units, with an estimated cost of \$4 million. This increased scale was approved as a CUP by City Council on September 6. Mr. Booth intends to make all 70 units affordable.

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

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing

The proposed project will provide 70 units affordable to households at 60% or less of median income, and the developer has committed to the affordability period of 15 years. The project qualifies for 100 points.

Long term affordability

The proposed project will be committed to serving households at the designated rental rates for a period of 20 years. This qualifies the project for 10 points.

Staff has scored the project with 110 points, which qualifies the project for Eleven Years (11) of Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report, with the exception of the additional 10 units, which were not part of the project plan at that time.

Pros:

- The proposed project will provide affordable rental housing to 70 households earning 60% or less of area median income, for a period of at least 20 years;
- The proposed project addresses the pressing need for affordable one-bedroom apartments;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Cons:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

Estimated value of Land Use Incentive. The current assessed value of the property is \$240,000. The developer's estimate of completed project taxable value is \$5,000,000. The current annual city tax, based on current assessed value, is \$1,140. The annual estimated city tax post completion, based on the developer's estimate of value is \$23,750. Therefore, the estimated annual Land Use Incentive Grant would be \$22,610, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 11 years, the estimated Grant would be \$248,710. The subsidy per affordable unit would be \$3,553. The subsidy amount per affordable unit/year would be \$178.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is \$125,000. The value of each 10% of the fee rebate would be \$12,500. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 110 point level, the fee rebate would be \$125,000, \$1,786 per unit.

The total estimated Land Use Incentive Grant, if approved, would be \$373,710.

Staff and the HCD Committee recommends that Council approve the request of Beaucatcher Commons LLC for a Land Use Incentive Grant for an 11 year period.

Mayor Manheimer opened the public hearing at 6:45 p.m.

Ms. Amy Kemp asked for information on the matrix of scoring, which was provided to her by Mr. Staudinger.

Mayor Manheimer closed the public hearing at 6:47 p.m.

Councilman Bothwell said that often times the City has to struggle to get developers to provide affordable units, and these 70 units will make a real dent in the goal to provide affordable housing.

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. 16-237. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE THE SIGNAGE PLAN APPLICATION PROCESS

ORDINANCE NO. 4529 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE THE SIGNAGE PLAN APPLICATION PROCESS

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend Chapter 7 of the Code of Ordinances to remove the signage plan application process. This public hearing was advertised on October 14 and 21, 2016.

State and federal courts have recently rendered decisions related to signage regulation and the city's decision-making process for land use applications. This amendment proposes to bring a portion of the Unified Development Ordinance (UDO) into alignment with these decisions by removing the option for a Signage Plan.

The amendment proposes to clarify that properties seeking relief from the sign code may apply for a Board of Adjustment Variance as outlined in UDO Sec. 7-13-9. Variances. This clarification comes as a result of removing UDO Sec. 7-13-10. Signage Plan. which had proposed a nonquasi-judicial, legislative process for projects meeting specified criteria, as an alternative to a Board of Adjustment variance.

This proposal was reviewed and approved unanimously (5:0) by the Planning and Zoning Commission at their October 5, 2016, meeting. All wording amendments receive final review by City Council.

The nature of this wording amendment is to bring the city's development code into alignment with sound land use practices and is not directly addressed in the *Asheville City Development Plan 2025*, although the need for flexible and effective development standards is mentioned throughout.

The nature of this wording amendment is to provide clarification and is not contemplated in the 2036 Council vision. Nevertheless, having a sound development review process and standards of evaluation indirectly supports numerous vision goals.

This proposal supports the goals outlined in the Comprehensive Plan and City Council 2036 Vision, and staff recommends approval of the wording amendment as proposed.

Upon inquiry of Councilman Bothwell, Ms. Tuch said that all variances to the sign ordinance will now be brought before the Board of Adjustment through the quasi-judicial process.

City Attorney Currin responded to Councilman Bothwell when he asked if there was a way for City Council to retain control of sign ordinance variances and still be in compliance with the law.

Mayor Manheimer opened the public hearing at 6:54 p.m., and when no one spoke, she 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.

Vice-Mayor Wisler moved to approve the wording amendment removing the application and review process for Signage Plans, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that the amendment will result in sign variance applications being directed to the Asheville Board of Adjustment where such reviews are standard and will be determined pursuant to a quasi-judicial process. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Haynes voting "no."

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. ORDINANCE NO. 4530 - ORDINANCE AMENDING THE SELLING, ENTERTAINING AND DINING ORDINANCE RELATED TO STREET PERFORMANCES

Assistant City Manager Paul Fetherston said that the purpose of this agenda item is to present the City Council with an update on the Downtown Public Space Management initiative as it relates to street performances relative to the High Impact Area proposal as recommended by the Public Safety Committee (Committee). City Council action is requested on ordinance revisions to enable the High Impact Area Program.

Over the past several years, the Committee has worked with staff and community stakeholders to develop a multi-faceted approach intended to address the management of public space within the Downtown. One of the initiatives undertaken was the development of a Downtown Enhancement Plan by the Asheville Police Department which has been in place since July 2014.

Another initiative was a review and analysis of: 1) public safety concerns in areas where street performances take place and 2) illegal sidewalk vending and how these activities act as components of the overall Downtown public space management. The Committee considered research, analysis and recommendations on this issue during meetings in September 2014, April 2015 and August 2015, respectively. Following a presentation of information in April 2015, staff was directed to continue to research options and make recommendations regarding these components of the overall public space management in the Downtown. After considering options and recommendations presented by staff in August 2015, the Committee asked staff to work with stakeholders within the Downtown regarding proposals to enhance the City's Downtown Public Space Management efforts.

Since August 2015, staff has worked with a group of stakeholders with representatives from the following areas: businesses, residents, Asheville Busking Collective, and Asheville Downtown Association. Stakeholder meetings were held in September and December of 2015 and April 2016 for purposes of receiving input, reviewing proposals, and engaging in dialogue about options, considerations and next steps. Staff also met with the stakeholders group in August and September following the June 22 Committee forum and special meeting described below. While there are a diversity of interests and perspectives represented through the stakeholder group, the engagement process has fostered a venue through which ideas are exchanged in a meaningful and respectful manner.

On June 22, 2016, the Committee hosted a forum with representatives of the Downtown Commission, Public Art and Cultural Commission, Recreation Board, Planning and Economic Development Committee, and the community stakeholders referenced herein. The forum focused on a number of components of the Downtown Public Space Management initiative including place making, placement of street furniture in the area of Biltmore/ Patton Avenue, management of vending cart permits within the Downtown, street performance management and

the temporary closure of Wall Street on limited occasions to vehicular traffic for street market purposes. Following the June 22 forum, the Committee held a special meeting during which time the following direction was provided to staff: (a) authorized removal of benches in the right of way at Biltmore/ Patton Avenues with a reconfiguration of seating options; (b) supported stakeholder engagement to consider the possibility of temporary closures of Wall Street to vehicular traffic on limited occasions for street market purposes; and (c) development of a High Impact Program for street performances in the downtown prior to the end of the current season.

A status update on the process and recommendations was provided to the Committee on August 22, with a final presentation of a recommendation for the parameters of a high impact area proposal made to the Committee during its September 26 regular meeting. At that time, the Committee voted unanimously to support a program for designated high impact street performance areas within the Downtown that encompass the following:

1. Locations: Woolworth Walk sidewalk in the vicinity of the intersection of Haywood Street and Battery Park Avenue; and the sidewalk adjacent to the Flat Iron Sculpture at the intersection of Wall Street and Battery Park Avenue
2. Distance Requirements: Only one audible performance could be located between the marked center point and a 120 foot radius
3. Ordinance Revisions: The existing ordinances relative to street performances should be amended in a manner to enable enforcement of the pilot program. The ordinances would be written in a manner that does not sunset, but which could be revisited at any time. The ordinances would place some responsibility on street performers to assist in keeping the minimum sidewalk area clear for pedestrian traffic and to remind pedestrians not to gather or walk in the street due to the street performance.
4. Quarterly Check-ins: Staff would provide the Committee with updates on the high impact pilot program on a quarterly basis, at a minimum. The updates would include feedback from the various representatives of the stakeholders group (business, residents, street performers, police, etc.)

Downtown Asheville High Impact Area Street Performance Program

In accordance with the action of the Committee, the following High Impact Area Street Performance Program is proposed for implementation in Downtown Asheville:

Implement a Public Space Management Program for two specifically designated high impact areas relative to street performances within those areas. Within the specific area, street performances will be allowed as designated by artistic symbols. Within 120 feet of the marked center point of each location, other audible street performances would not be allowed. The minimum distance would be marked on the sidewalk for ease of compliance and enforcement. Only street performances within the two designated areas would be impacted. Street performances in other areas of the Downtown would not be regulated other than through current ordinances. The existing minimum 6 feet of area for pedestrian passage from the curb to the performance currently required by ordinance would be marked in each of the two designated areas.

Staff has worked with a local artist to develop a symbol which will designate each areas center point and minimum distance in which no other audible performances may occur.

The following locations are proposed as a part of the Downtown Public Space Management Pilot Program for High Impact Areas.

Haywood Street in front of Woolworth Walk

The center point for performances would be marked with the artistic symbol on the sidewalk. The 120 ft. space requirement still allows for performances in nearby spots favored by performers. While performances will not be required to fit within a specific designated space,

performances will be required to keep the minimum 6 feet of space between the curb and performance area clear for pedestrian passage.

Flat Iron at Battery Park Avenue and Wall Street

On the flat side of the Flat Iron sculpture, the center point for performances would be marked with the artistic symbol on the sidewalk. While performances will not be required to fit within a specific designated space, performances will be required to keep the minimum 6 feet of space between the curb and performance area clear for pedestrian passage. No other audible performances would be allowed within 120 feet of the marked center point. This distance would eliminate any other audible performances to occur on the opposite corner of Wall Street/ Battery Park Avenue – and would not eliminate non-audible performances on that corner.

- ***Ordinance Revisions***

While ordinance revisions would be required in order to enable enforcement within both the high impact and incentive areas, respectively, all other regulations applicable to street performances and sidewalk vending would remain in effect. The recommended ordinance changes are proposed in a manner that do not expire on a date certain. Instead, staff would monitor the implementation and impacts (intended and unintended) and return to the Committee and Council with information and recommended next steps. Depending on the data secured through the first year of the program, the areas could be expanded or adjusted. City Council would be in the position to amend the applicable ordinances as warranted.

The fiscal impact of implementing the proposed high impact area program is covered within the approved budget.

- ***Update on other Downtown Public Space Management initiatives:***

Information of other initiatives underway to maximize Downtown Public Space Management are listed below. This is provided to Council for informational purposes only and is not presented for consideration or action at this time.

Vending/ Pushcart Permit Management: The City's Code of Ordinances §16-144 currently permits vending/ pushcarts only within the Downtown/ Central Business District and Biltmore Village. Currently, approximately 30 pushcart/ vending locations are currently offered within the Downtown/ Central Business District area. During a review of current conditions impacting both the safety and place making within the Downtown, a number of current pushcart locations were identified in areas that conflict with a high volume of pedestrian traffic, crosswalks, streetscape improvements and utility poles. As a result, two current push cart locations are being eliminated and relocated to other permitted locations within their respective areas. As a part of the Downtown Master Plan update, pushcart locations and guidelines will be analyzed for purposes of ensuring considerations such as public safety and place making are considered in the identification and management of current and future locations.

Monitoring of Kiosk Locations: Based on feedback from stakeholders regarding challenges to the flow of pedestrian traffic due to the current location of the kiosk located near the intersection of Patton/ Biltmore Avenues, staff is working with the Asheville Tourism Development Authority (TDA) to monitor changes made by the city in the vicinity to determine if the kiosk can be removed or relocated. Staff will continue to work with the TDA to maximize the benefits and safety of the locations of such kiosks.

Relocation of benches currently located in public space in the area of Patton/ Biltmore: Based on feedback regarding the challenges created by the current location of benches, the high traffic volume and other uses in the area, staff will work to relocate these benches. The relocation will

enhance the flow of pedestrian traffic in the area. Future public space and place making improvements will be considered as a part of the Downtown Master Plan update.

Temporary Closure of Wall Street on Select Weekends for Public Street Market: Staff has engaged in a process with stakeholders to identify a select number of weekend days during which Wall Street would be closed to traffic in order to create a pedestrian market environment that would include street performances and programming led by Wall Street merchants. Business owners on Wall Street do not support a vendor market with competitive merchandise sales.

Downtown Master Plan Update: With the assistance of the City's Planning and Urban Design Department, staff will engage in a process that updates the public space management and place making components of the Downtown Master Plan. The update process, projected to take approximately 12 months, is tentatively anticipated to begin in the spring of 2017. The scope will encompass the following:

- community concerns regarding management of public spaces,
- enhancement of community character and neighborhoods, and
- expand place making options considered at a range of scales from the entire downtown to the neighborhood level in the Central Business District.

The effort will be focused on downtown issues in the public realm such as

- overcrowded sidewalks,
- pedestrian crowding in roadways,
- motorist safety,
- blocked crosswalks,
- handicap access,
- the availability and programming of parks,
- sidewalk dining and other encroachments,
- vending permit locations,
- overall functionality of existing public spaces and areas within the right-of-way, and
- noise.

The process is expected to result in an update that focuses on the public realm – including streetscapes – instead of an overall update to the entire Downtown Master Plan.

Next Steps

If the Council approves the recommendations of the Public Safety Committee as outlined herein, (1) center points in traffic areas and 120' boundaries will be marked; (2) educational materials will be developed, distributed, and available through the City's website; (3) quarterly check-ins/updates to the Public Safety Committee based on metrics and feedback; (4) performance metrics will be developed, implemented and monitored; and (5) the High Impact Area Program will be ready for implementation within two weeks (by November 8).

Staff recommends City Council adopt the ordinance revisions necessary for implementation of the high impact area program.

When Councilwoman Mayfield asked about how the 40' distance was determined, City Attorney John Maddux said that it is the same restriction for other performances.

Mr. Andrew Fletcher, representing the Asheville Buskers Coalition, looked forward to this change and hoped that other cities will look to Asheville as being leaders on this

On behalf of City Council, Mayor Manheimer thanked staff, the Public Safety Committee and members of the community who participated in the this portion of management of public space within the downtown.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Young moved for the adoption of Ordinance No. 4530. This motion was seconded by Councilwoman Mayfield and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Dawn Nelson hoped that City staff would provide more attention to personal access instead of process.

Councilman Bothwell (1) sadly announced that a frequent City advocate Fred English has died; and (2) announced that a university in Virginia is willing to help with the costs of a tree canopy study of Asheville.

Vice-Mayor Wisler urged everyone to vote and that enrollment for insurance starts November 1.

Councilman Smith (1) congratulated those responsible for keeping the Southern Conference Tournament in Asheville in March; and (2) reported on some of the legislative advocacy goals from the N.C. League of Municipalities meeting he recently attended.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:19 p.m.

CITY CLERK

MAYOR