

Tuesday – December 13, 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.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized Jeff Staudinger for being awarded the Steven Whitesell Affordable Housing Professional of the Year; and Jon Fillman for being awarded the Certified Festival and Event Executive from the International Festivals & Events Association.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. RESOLUTION NO. 16-254 - RESOLUTION AGAINST DISCRIMINATION AND INTIMIDATION

Mayor Manheimer read the following resolution: "Whereas, the City of Asheville takes great pride in being a welcoming and diverse community where all citizens can live and work without fear of physical violence, threats or intimidation; and Whereas, the City of Asheville believes that promoting diversity and inclusion in public policy benefits our community and its citizens in positive ways while the opposite puts the City and its citizens at risk; and Whereas, the City of Asheville is committed to treating every citizen equally and without regard to race, color, creed, religion, national origin, gender (including pregnancy), gender identity or expression, sexual orientation, age, familial status, or disability. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT (1) This Council is dedicated to ensuring that the City of Asheville remains a welcoming and diverse community where everyone is treated equally and with respect, and to that end states that: (a) Hate crimes, threats or intimidation of a criminal nature will not be tolerated; (b) Every citizen of this great City is called upon to demonstrate that intolerance and hatred will not be accepted within our community; and (c) Any person who is a victim of a crime, has witnessed a criminal act, or has information regarding a criminal act is encouraged to contact the appropriate law enforcement agency."

At the request of Councilwoman Mayfield, Director of Communications and Public Engagement Director Dawa Hitch said that the City will make the phone number for people to report observances easily accessible on the City's website.

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

Councilman Bothwell moved for the adoption of Resolution No. 16-254. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 250

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 8, 2016**
- B. RESOLUTION NO. 16-255 - RESOLUTION CERTIFYING AND DECLARING THE RESULTS OF THE SPECIAL BOND REFERENDUM ON THE BOND ORDERS AUTHORIZING THE ISSUANCE OF \$32,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS, AUTHORIZING THE ISSUANCE OF \$25,000,000 GENERAL OBLIGATION HOUSING BONDS AND AUTHORIZING THE ISSUANCE OF \$17,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS HELD FOR THE CITY OF ASHEVILLE, NORTH CAROLINA, ON NOVEMBER 8, 2016**

Summary: The consideration of adoption of a resolution certifying and declaring the results of the November 8, 2016, Special Bond Referendum on the Bond Order authorizing the issuance of \$25,000,000 Housing Bonds, authorizing the issuance of \$32,000,000 Transportation Bonds and authorizing the issuance of \$17,000,000 Parks Improvement Bonds.

On August 9, 2016, the City Council conducted a public hearing and adopted a resolution approving the call for referendum on November 8, 2016, for \$25,000,000 general obligation housing bonds, \$32,000,000 general obligation transportation bonds and \$17,000,000 general obligation parks improvement bonds.

The referendum was conducted and the Buncombe County Board of Election has presented their Canvass of Results of the Referendum.

The results are:

33,250 in favor of the housing bonds and 13,442 opposed,
36,151 in favor of the parks improvement bonds and 10,816 opposed,
35,377 in favor of the transportation bonds and 11,289 opposed.

These results will be advertised providing a 30-day period for any action or proceeding to challenge the regularity or validity of this special bond referendum.

This action furthers the City Council's strategic themes set forth in January, 2016, by providing funding to address transportation infrastructure needs, ensuring a high quality of life to the residents of the City of Asheville and addressing the City's affordable housing challenge.

Pros:

- Provides funding for transportation, parks and housing needs as identified in City master plans and Council strategic goals.
- Ensures City's compliance with North Carolina General Statutes.

Con:

- None.

A general obligation bond commits the full faith and credit of the City of Asheville to repayment of the bonded debt. Additional tax levy may be required to fund the debt service over the life of the bonds.

Staff recommends that Council adopt the resolution to certify and declare the results of the special bond referendum.

Assistant City Manager Cathy Ball and Director of Community and Public Engagement Dawa Hitch briefly updated the Council on the General Obligation (GO) Bonds implementation guiding principles of accountability, trust, equity and teamwork. In January 2017, an interim working team will be in place, along with a Council worksession. January-June 2017 the GO bond projects will be included in the 5-year Capital Improvement Plan and Operating Budget. In April Council will hold another budget worksession, with approval of the bond as part of the budget in June.

Councilwoman Mayfield thanked all the voters in Asheville who voted for the bonds.

RESOLUTION BOOK NO. 38 - PAGE 251

C. RESOLUTION NO. 16-256 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH HARPER CORPORATION GENERAL CONTRACTORS FOR MISCELLANEOUS WATER TREATMENT PLANT UPGRADES PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Harper Corporation General Contractors for the Miscellaneous Water Treatment Plant Upgrades Project for the bid amount of \$1,539,000 plus a 10% contingency in the amount of \$153,900 for a total project budget in the amount of \$1,692,900.

On October 4, 2016, the Water Resources Department (Department) issued an Advertisement for Bids for the Miscellaneous Water Treatment Plant Upgrades Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for:

- (1) replacement of rate of flow controllers, butterfly valves and powered actuators for Filters 1-6 at the North Fork WTP;
- (2) replacement of the backwash rate of flow controller and backwash pipe leak repair at North Fork;
- (3) construction of backwash lagoon parshall flume flow meter, RTU and wireless transmitter at North Fork;
- (4) construction of backwash lagoon ultrasonic level sensor flow meter, RTU, solar panel and wireless transmitter at the Mills River WTP;
- (5) repair of leaks around pipe penetrations in the filter gallery wall at North Fork;
- (6) construction of an 8-inch high pressure water line and fire hydrant and a 2-inch water line and yard hydrants at North Fork;
- (7) architectural and structural building repairs at North Fork; and
- (8) repair to stop a leak around inlet pipe penetration in the clearwell at North Fork.

In response to the Advertisement for Bids, the Department received two bids on October 24, 2016. Pursuant to N.C.G.S. § 143-132, three competitive bids are required for formal construction projects. Upon rebidding the project on October 25, 2016, the department received two bids on November 1, 2016, in response to the second advertisement. Companies responding were:

1. Harper Corporation General Contractors, Greenville SC – bid \$1,539,000
2. M.B. Kahn Construction Company, Inc., Columbia SC – bid \$1,626,626

Following a review of the bids by City Staff and the project engineers, Brown and Caldwell, Harper Corporation was selected as the lowest responsible, responsive bidder in the amount of \$1,539,000. A contingency amount of \$153,900 has been added for a total project budget in the amount of \$1,692,900.

Pros:

- The upgrades planned for this project will ensure that the treatment plants comply with current and proposed drinking water regulations to improve the reliability of the process and to address the rehabilitation needs of aging facilities.
- This project is aligned with the City and the Department's 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. The engineer's estimate for this project was approximately \$1.5 million.

Amount Available for Construction	\$2,416,283
<u>Amount Needed for Construction Agreement</u>	<u>\$1,692,900</u>
Remaining Project Budget	\$ 723,383

The funds remaining in the Project Budget will be used to fund additional water treatment plant construction projects.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Harper Corporation General Contractors for the Miscellaneous Water Treatment Plant Upgrades Project for the bid amount of \$1,539,000 plus a 10% contingency in the amount of \$153,900 for a total project budget in the amount of \$1,692,900.

RESOLUTION BOOK NO. 38 - PAGE 256

D. RESOLUTION NO. 16-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO EXTEND THE EXISTING LEASE AGREEMENT WITH DEWINE SEEDS-SILVER DOLLAR BASEBALL FOR USE OF MCCORMICK FIELD STADIUM FACILITY AND PARKING LOT FOR THE ASHEVILLE TOURISTS BASEBALL TEAM

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to extend the existing lease agreement between DeWine Seeds-Silver Dollar Baseball (DeWine Seeds-Silver Dollar) and the City of Asheville (City) for use of McCormick Field stadium facility and parking lot for the Asheville Tourists baseball team for a period of two years.

In 2012, the City entered into a lease agreement with DeWine Seeds-Silver Dollar for the McCormick Field stadium facility and parking lot at 30 Buchanan Place (identified as PIN # 9648-47-8566-00000) for the operation of the Asheville Tourists minor league baseball team through December 2016. Staff from the Parks and Recreation Department and DeWine Seeds-Silver Dollar have discussed a two year lease extension through December 2018 which would continue the (a) annual Lease fee of \$1.00 per year; and (b) existing lease terms including the City's obligation to provide general facility maintenance.

In April 2016, a Facilities Need Assessment was completed for the McCormick Field Stadium which outlined specific capital improvements. If the extension is approved, the City and DeWine Seeds-Silver Dollar will discuss the plans for and financing of future improvements, and identify a proposed capital improvement plan and appropriate lease structure for City Council consideration.

Pros:

- DeWine Seeds Silver-Dollar is committed to minor league baseball
- Continues a beneficial use of city property with an existing tenant

Con:

- None

The amendment which extends the existing lease includes an annual lease payment of \$1.00

Staff recommends City Council adopt a resolution authorizing the City Manager to execute an extension to the lease agreement between the City and DeWine Seeds-Silver Dollar.

Mr. Tim Sadler felt this would be a good opportunity to work with DeWine Seeds-Silver Dollar regarding a parking deck in the South Slope area.

RESOLUTION BOOK NO. 38 - PAGE 258

E. RESOLUTION NO. 16-258 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR JANUARY 10, 2017, ON THE QUESTION OF VOLUNTARY ANNEXATION OF PROPERTY LOCATED AT 12 LOOP ROAD PURSUANT TO N.C. GEN. STAT. SEC. 160A-31

Summary: The consideration of a resolution fixing the date of a public hearing on January 10, 2017, for the voluntary annexation of property located at 12 Loop Road in south Asheville.

The property owner, English Oak Industrial LLC, has petitioned the City of Asheville for the annexation of 4.8 acres located at 12 Loop Rd. and identified in the Buncombe County tax records as PIN 9643-87-5405. The property is contiguous to the primary corporate limits of the City of Asheville and is subject to the standards for annexation of contiguous areas contained in North Carolina General Statutes (NCGS) 160A-31.

Pursuant to NCGS 160A-31, such petitions must be investigated by the City Clerk for sufficiency in accordance with state law. This investigation has been completed and the Certificate of Sufficiency accompanies this petition request.

The next step in this process is for the Asheville City Council to fix the date for the public hearing on this matter. Should the City Council decide to proceed with this request, the effective date for the annexation would be January 10, 2017.

Considerations:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Comprehensive Plan in that it supports the strategy of promoting voluntary annexations of developing areas.
- Allows for the subject property to be combined with property already located in the city's jurisdiction, providing frontage on a key commercial corridor.

This request includes the voluntary annexation of 4.8 acres of commercial property into the City which will provide new property tax revenue with only a very small increase to services. There is a commercial retail project proposed for this property which, if developed as currently proposed, would generate approximately \$20,000-25,000 in city property tax based on comparable commercial properties in the city.

City staff recommends that City Council adopt the resolution setting the date of January 10, 2017, for a public hearing on the annexation petition.

RESOLUTION BOOK NO. 38 - PAGE 259

F. RESOLUTION NO. 16-259 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH B. ALLEN CONSTRUCTION INC. FOR THE CONSTRUCTION IMPROVEMENTS FOR THE ASHEVILLE WILDLIFE PARK - VISITOR RECEPTION AND WELCOME PLAZA

ORDINANCE NO. 4534 - BUDGET AMENDMENT FOR THE CONSTRUCTION IMPROVEMENTS FOR THE ASHEVILLE WILDLIFE PARK - VISITOR RECEPTION AND WELCOME PLAZA

Summary: The consideration: of 1) a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc. to construct a new Visitor Reception and Welcome Plaza at the Western North Carolina Nature Center (aka Asheville Wildlife Park) in the amount of \$1,029,382.00 plus a contingency of \$87,000.00 for a total of \$1,116,382.00; 2) a budget amendment in the amount of \$80,000 from The Friends of the Western North Carolina Nature Center, Inc. to budget an additional contribution toward this project.

The entrance to the Nature Center needs improvements due to the age of the facility as well as the growing visitor attendance at this facility. A new entrance will provide more parking on the entrance level, be more accessible to the visitor and greatly improve the visitor's experience arriving and departing the Nature Center. The improvements include a new visitor center and plaza, restroom improvements, exhibit improvements, a new storage shed, a new parking lot and a network of sidewalks.

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

1. B. Allen Construction, Candler, NC (\$1,029,382.00)
2. Carolina Specialties Construction, LLC, Hendersonville, NC (\$1,208,964.00)
3. Buchanan and Sons, Inc., Whittier, NC (\$1,410,000.00)

After thorough review and evaluation, staff selected B. Allen Construction, Inc., Candler, NC, as the lowest, responsible bidder. The base bid plus alternates accepted was \$1,029,382.00.

In January 2016, City Council approved a budget amendment in the amount of \$627,000 to budget initial funding from the Friends of the Western Nature Center for this project. Approximately 50 percent of the initial contribution was funded by a grant awarded to the Friends by the Tourism Development Authority in the Tourism Product Development Fund. The remaining 50 percent of the contribution was funded by institutional and donor directed funds. The budget amendment included with this staff report will increase the Friends contribution to this project by another \$80,000, to a new total of \$707,000. The City's contribution toward the project, which totals \$461,197, will come from the Adopted FY 2016-17 Parks and Recreation Department Capital Improvement Budget.

Pros:

- Improves pedestrian and vehicular accessibility and code compliance issues
- Improves the visitor's experience entering and exiting the facility in terms of staging groups, ticketing and animal exhibits
- Provides more ample parking closer to the entrance to the Nature Center
- Provides a new iconic place-making experience entering with the visual backdrop of the barn

- Contributes towards improvements noted in the 2020 Vision Master Site Plan for the Western North Carolina Nature Center

Con:

- During improvements, some modest interruptions in viewing several of the animal exhibits can occur
- There will be an increase in maintenance and utilities for the new visitor center

The chart below summarizes the budget for this project. As noted above, the City's contribution toward the project will come from the Adopted FY 2016-17 Parks and Recreation Department Capital Improvement Budget.

Revenues:	
Friends of the Western NC Nature Center	\$707,000
City Contribution	\$461,197
Total Revenues	\$1,168,197
Expenses:	
Pre-Construction	\$51,815
Construction Contract	\$1,116,382
Total Expenses	\$1,168,197

Staff recommends that the City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc., to improve the Asheville Wildlife Park – Visitor Reception and Welcome Plaza for an amount of \$1,029,382.00 plus a contingency of \$87,000.00 for a total of \$1,116,382.00; and 2) a budget amendment in the amount of \$80,000 from The Friends of the Western North Carolina Nature Center, Inc. to budget an additional contribution toward this project.

**RESOLUTION BOOK NO. 38 - PAGE 262
ORDINANCE BOOK NO. 31 - PAGE 7**

G. RESOLUTION NO. 16-260 - RESOLUTION ADOPTING THE 2017 CITY COUNCIL MEETING SCHEDULE

Summary: The City Council Formal Meetings will be held at 5:00 p.m. on the 2nd and 4th Tuesdays of each month in the Council Chamber – 2nd Floor of City Hall Building, Asheville, N.C.

In addition, the City Council Organizational Meeting will be held at 4:00 p.m. on Tuesday, December 5, 2017, in the Council Chamber – 2nd Floor of City Hall Building, Asheville, N.C.

The following meetings are hereby cancelled: Tuesday, July 11, 2017; Tuesday, August 8, 2017; and Tuesday, December 26, 2017.

RESOLUTION BOOK NO. 38 - PAGE 263

H. RESOLUTION NO. 16-261- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BUCKEYE BRIDGE, LLC CONSTRUCTION GROUP, INC. FOR THE CEDAR STREET BRIDGE REPAIR PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Buckeye Bridge, LLC Construction Group, Inc. for the amount of \$295,685 for the project known as Cedar Street Bridge Repair, City of Asheville ENG-13-14-003.

The City of Asheville (City), in coordination with the N.C. Dept. of Transportation (NCDOT) performs safety inspections on City owned bridges every two years. These inspections are used to help the Public Works Department identify any defects or maintenance issues that arise. The early detection of these issues help with longevity and safe use of the bridges. The Cedar Street Bridge was recently inspected and found to have deterioration that will require immediate repairs.

The scope of this project includes structural repairs to sections of steel girders, bearing beams, and anchor plates, and sections of the concrete piers they rest upon. Preventative maintenance will also be performed, such as restoring the protective coating to steel members, and cleaning and patching the concrete driving surface. This will stop water infiltration and prevent future damage. The guard rail will be replaced and updated to the latest guardrail standard for safety if hit by a vehicle. The general maintenance issues will be performed to help maintain the longevity and usable life of the bridge.

The project was advertised on October 18, 2016, with a bid opening on November 3, 2016, but could not be awarded at that time due to unresponsive bids and formal purchasing requirements for the next highest bidder. The project was re-advertised on November 4th and opened on November 22, with the following results:

Buckeye Bridge, LLC Construction Group, Canton, NC	\$295,685
Lee construction of the Carolinas, Pineville, NC	\$331,925
NHM Constructors, LLC, Asheville, NC	\$491,108

Pros:

- Confirms Council's commitment invest in Asheville's roads and streets.
- Provides safe transportation and access to communities and attractions to maintain a vibrant city.

Con:

- Construction may cause temporary traffic congestion along this corridor.

The \$500,000 was budgeted for this project in the Capital Fund. This amount was approved by City Council and included in the Fiscal Year 2016-2017 budget. The \$200,000 difference will cover associated railroad fees (including permitting, insurance, and flaggers), and additional remediation/preventative maintenance work that the contractor may identify while working on the bridge. Of the above amount, \$34,000 is already set aside for the design engineer to provide on-site inspections of the structural work, and additional design services if needed.

City staff recommends City Council adopt a resolution awarding the contract to Buckeye Bridge, LLC Construction Group, Canton, NC and authorizing the City Manager to execute a contract in the amount of \$295,685.00 with Buckeye Bridge, LLC Construction Group. for the project known as Cedar Street Bridge Repair and further authorizing the execution of any change orders to said contract which may arise during execution of said project, up to the budgeted amount.

RESOLUTION BOOK NO. 38 - PAGE 264

- I. **ORDINANCE NO. 4535 - ORDINANCE AUTHORIZING AMENDMENTS TO THE DEPARTMENT OF WATER RESOURCES WATER POLICIES**

ORDINANCE NO. 4536 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL - WATER RESOURCES DEPARTMENT SECTION

RESOLUTION NO. 16-262 - RESOLUTION AMENDING THE WATER RESOURCES DESIGN & CONSTRUCTION MANUAL

Summary: On August 19, 2016, the North Carolina Supreme Court issued a decision invalidating certain water and sewer “impact fees,” which were being charged by the Town of Carthage. See Quality Built Homes, Inc. v. Town of Carthage, ___ N.C. ___, 789 S.E.2d 454 (2016). As a result of this decision, municipalities throughout North Carolina are reviewing their water and sewer fee policies to assure compliance with the Court’s decision. In Asheville, the City’s Water Department and Finance Department, with the assistance of the City Attorney’s Office, undertook an analysis of the current fees, which are a part of the City’s Department of Water Resources Water Policies (the “Water Policies”), the City of Asheville Fees and Charges Manual (the “Fees Manual”), and the City of Asheville Water Resources Design & Construction Manual (the “Design & Construction Manual”), in light of the Quality Built decision. In performing this analysis, it was discovered that certain parts of these documents should be amended. Some of these amendments were in response to the Quality Built case, while other amendments are considered to be advisable for clarification purposes and more efficient administration.

I. Overview of Law Relating to Water Fees and the Quality Built Case.

The furnishing of water service by municipalities, and the ability to impose fees relating to the same, is governed by the North Carolina General Statutes. In particular, N.C. Gen. Stat. § 160A-312(a) allows cities “to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of [a water system] to furnish services to the city and its citizens.” Such services, may also upon certain conditions, be provided outside a city’s corporate limits. N.C. Gen. Stat. § 160A-314(a) provides:

“A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any [water supply or distribution system].”

The North Carolina Supreme Court has long held that fees and charges which are for the use of the water system, and the services provided by a municipality’s water department are permitted. See, e.g., Town of Spring Hope v. Bissette, 305 N.C. 248, 287 S.E.2d 851 (1982). Quality Built, however, further explained the scope of what types of fees are lawful under § 160A-314(a).

The impact fees which were being collected by the Town of Carthage in Quality Built were to be used for, among other things, the “future expansion” of the Town’s water and sewer systems. The fees had to be paid at the time of subdivision approval, “regardless of whether the landowner ever connect[ed] to the system or whether Carthage ever expand[ed] the system.” Quality Built, 789 S.E.2d at 455. The impact fees were likewise in addition to regular water and sewer tap fees and monthly service charges.

In declaring the impact fees invalid, the Court found that the language of § 160A-314(a) only allows a municipality to charge for “the use of or the services furnished by any [water supply or distribution system].” This charging power is “operative in the present tense,” and, thus, limits fees to those for “the contemporaneous use of water . . . services - not to collect fees for future discretionary spending.” 789 S.E.2d at 458 (emphasis added)). The Court distinguished the power afforded to water and sewer “authorities,” which allows fees for services “to be furnished.” 789 S.E.2d at 458 (quoting N.C. Gen. Stat. § 162A-88 (emphasis added)). The words “to be” are not included in the statutory grant of power to municipalities. The ordinance at issue in Quality Built invoked “prospective charging power,” because the fees were for the future expansion of the system, which might not ever occur. The fees were likewise not paid at the time of actual

connection to the system, thus, predated an actual need. The Court did reaffirm its holding in the Bissette case, explaining that fees for “services furnished” does encompass necessary improvements to the water system, so long as these are improvements for an existing system, without which the Town could not continue to provide service.

II. Relevant City of Asheville Water Policy, Fees Manual and Design & Construction Manual Provisions.

The City’s Fees Manual contains a section which sets forth the fees charged by the Water Resources Department which are required to obtain, among other things, water connections and water service. Staff’s review of these fees indicated that one fee should be removed pursuant to the Quality Built case, and that several other amendments to the Water Policies, Fees Manual and the Design & Construction Manual are also needed to more clearly describe certain fees, explain their purpose and facilitate more effective administration.

A. Pump Station/Control Valve Installation Fee.

Section IV of the Water Policies is entitled “EXTENSION POLICY.” Subsection B.5. references a “pump station / control valve station maintenance fee,” which requires a pump station/control valve station maintenance fee to be paid for all new pumping stations and control valve installations. This fee is intended to cover the future costs of operating and maintaining the pumps and associated equipment. While this fee is paid at the time of the water tap, it appears to relate to services “to be furnished” in the future. See Quality Built. For that reason, all of this subsection should be removed from the Water Policies.

Subsection A. of Section W8 of the Design & Construction Manual, entitled “WATER BOOSTER PUMP STATIONS,” also references a “Pump Station Maintenance Fee” which is required to be paid prior to granting final plan approval. For the reason stated above, the paragraph referencing this fee should be removed from this subsection.

B. Development Fee.

Section VIII of the Water Policies is entitled “CONNECTION AND SERVICE FEES.” One of the fees that is currently charged for a new connection is called a “Development Fee.” See Water Policies Section VIII B.2., p. 53. That fee is defined as follows:

Development Fee: In addition to a new Connection fee, a non-refundable development fee in the amount set forth in Schedule I shall also be paid by a Customer for a new Connection. This fee is applied to assist toward defraying the costs associated with expansion of the Water System and water service. A development fee shall not be required if a new Connection is the same or smaller than an existing active Connection for the Premises which is in good repair.

The Water Department Staff, along with its outside accountant, engaged in an analysis to determine how the funds collected as a “Development Fee” are actually expended. That analysis revealed that, although the definition of “Development Fee” states that one of its purposes is “expansion of the Water System,” none of the Development Fees are actually applied for that purpose. Instead, these fees are used exclusively for the other purpose in the definition, i.e., “defraying the costs associated with . . . water service.” All of the Development Fees collected have been used to defray costs for the current and contemporaneous production and delivery of water and the provision of water service to customers of the City water system, so are lawful under Quality Built. Nonetheless, it is our recommendation that the fees be renamed and redefined to clarify and bring the Water Policies in line with actual practice. In addition, the last sentence of the section should be amended to clearly identify the users who are exempt from this fee. The amended provision states as follows:

System Maintenance and Capital Fee: A non-refundable System Maintenance and Capital Fee in the amount set forth in Schedule I, shall be paid by a Customer for a new Connection. This fee is used to contribute to the expenses incurred for the development and rehabilitation of water system assets, which are critical for the contemporaneous and current production and delivery of water, and provision of water services. Water system assets which are critical for the contemporaneous and current production and delivery of water and provision of water services include, but are not limited to: transmission lines, production facilities, storage reservoirs, and distribution system pump stations. These fees will also be used, in combination with other appropriate sources of revenue, to pay debt service on bonds to fund water system asset projects, which assets are likewise critical for the contemporaneous and current production and delivery of water, and provision of water services. If an existing customer requires a new Connection only to replace an existing Connection, for which a System Maintenance and Capital Fee or equivalent fee was previously paid, and the subject property does not require a larger service Connection than the existing Connection, the System Maintenance and Capital Fee shall not be required.

All other references to the term "Development Fee" in the Water Policies and the Fees Manual should also be revised to instead reference "System Maintenance and Capital Fee." References to the term "Development, Service and Other Fees" should be revised to "Development Review, Service and Other Fees." These additional references are found at page 25 of the Water Policies and at the Water Resources Department table of contents page and pages 141, 143, 147 and 149-52 of the Fees Manual.

A. Technology Fee.

One of the fees in the Fees Manual which is required for a "New Tap and Meter," and a "Drop-In Meter," is a "4% Technology Fee." See Fees Manual pp.149-150.. That fee is intended to cover the present costs associated with processing applications to obtain water service, including but not limited to administrative costs and costs for software to allow for the electronic processing of these applications. This fee, although lawful under Quality Built, is more appropriately classified as a part of "Water Engineering Fees," which is also located on page 150 of the Fees Manual. The Water Engineering Fees section also references a technology fee, but the amounts from the respective sections should be combined and located only in the Water Engineering Fees section. Therefore, the 4% Technology Fee should be removed from the "New Tap and Meter" and "Drop-In Meter" sections. A new total Technology Fee for the above-stated purposes is in the process of being calculated and will be added to the Water Engineering Fees section in the near future.

ORDINANCE NO. 4535 - ORDINANCE BOOK NO. 31 - PAGE 9
ORDINANCE NO. 4536 - ORDINANCE BOOK NO. 31 - PAGE 14
RESOLUTION NO. 16-262 - RESOLUTION BOOK NO. 38 - PAGE 265

J. RESOLUTION NO. 16-263 - RESOLUTION DONATING THE SILENT FILM ENTITLED CONQUEST OF CANAAN, CONSISTING OF FOUR REELS OF 35 MM FILM, TO THE LIBRARY OF CONGRESS

Summary: The consideration of a resolution donating 4 reels of 35mm film, titled *The Conquest of Canaan*, to the Library of Congress for adequate storage and preservation.

Released by Paramount Pictures in August of 1921, the four reels of film consist of a 35 mm black and white silent movie that was based on Booth Tarkington's novel [The Conquest of Canaan](#), which was written in 1905. The movie was filmed in and around Pack Square in downtown Asheville, and features scenes of the old courthouse building on Pack Square, First Baptist Church, and the old Swannanoa-Berkeley Hotel building.

The film was later discovered in the 1980s to be in the possession of Russian film company Sovexportfilm by WLOS producer William Banner, who created a television special featuring the film and its history.

The Historic Resources Commission was able to obtain what is thought to be the only remaining copy of the film from Sovexportfilm in 1988. Since obtaining the film, the Historic Resources Commission has overseen reproduction of the film to VHS and compact disc formats.

The historic 35 mm film has been stored at University of North Carolina at Asheville D.H. Ramsay Special Collections since 2003. Because the University of North Carolina at Asheville and the City of Asheville lack appropriate long-term storage facilities, they feel it is in the best interests of the City of Asheville to donate the four reels of film to the Library of Congress for adequate conservation and permanent storage.

Pro:

- The film will be preserved and will be available for anyone to view.

Con:

- None noted.

Invoice dating from September 15, 1988, indicate the film value at \$1,260 at the time it was acquired.

Staff recommends City Council donate 4 reels of 35mm film, titled *The Conquest of Canaan*, to the Library of Congress.

Mr. Andrew Fletcher spoke in support of this donation.

RESOLUTION BOOK NO. 38 -PAGE 267

K. ORDINANCE NO. 4537 - TECHNICAL BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR PRIOR YEAR CONTRACTS AND PURCHASE ORDERS THAT ROLLED FORWARD TO FISCAL YEAR 2016-17

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year (FY) 2016-17.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the FY 2015-16 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2016-17, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The technical budget amendment will provide authorization to officially appropriate these amounts in the FY 2016-17 budget for each of the City's annual operating funds.

Pro:

- Provides budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2016-17.

Con:

- None.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been restricted or assigned in the City's FY 2015-16 financial statements. There is no impact on unassigned/available fund balance in the City's operating funds.

City staff recommends City Council approve the technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2016-17.

ORDINANCE BOOK NO. 31 - PAGE 23

L. RESOLUTION NO. 16-264 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE IN-KIND SUPPORT FOR THE STRATEGIC EVENT PARTNERSHIP WITH THE ASHEVILLE SUSTAINABLE AGRICULTURE PROJECT - 2017, 2018 AND 2019

Summary: The consideration of a resolution authorizing the City Manager to adjust the in-kind support for the strategic event partnership with the Asheville Sustainable Agriculture Project – 2017, 2018 and 2019.

In June, 2016, City Council approved a partnership agreement with the Appalachian Sustainable Agriculture Project (ASAP), a local non-profit organization. Under this agreement, the City committed a value of \$16,747 of in-kind resources per year to assist ASAP with the costs of event production. In specific, ASAP is proposing to relocate the Asheville City Market to North Market Street, an effort designed to expand the market presence and scope. In-kind support provided to special events commonly includes permits, reserved property use, police, fire, sanitation services, traffic control equipment, and parking meter closures. However after gaining a more detailed understanding of City policy relating to fees for the closure of parking meters, ASAP asked for additional in-kind support to cover the costs.

ASAP has requested an additional in-kind benefit of \$9,360 to cover the parking meter closure fees based on the current number of parking meters within the area of street planned for use, and the City's current fee policy for daily parking meter closures. The Planning & Economic Development Committee indicated that the additional in-kind value, if authorized by City Council, would be specific to the Asheville City Market, at its desired location on North Market Street, and for the express purpose of accommodating the necessity for closure of parking meters during hours of event use.

Pros:

- Allows the City to leverage resources for programming and events that serve a wider and more diverse audience
- Supports local food policy and non-profit organizations

Con:

- Lost revenue for parking fees

Associated expense and revenue impacts for the proposed increase in in-kind are accounted for under existing department budgets. As noted, the specific impact of this adjustment is the loss of \$9,360 in revenue in the Parking Services Fund.

The Planning & Economic Development Committee recommends City Council adopt a resolution authorizing the City Manager to adjust the strategic event partnership agreement with the Appalachian Sustainable Agriculture Project to include an additional \$9,360 value of in-kind support assigned specifically to fees associated with the closure of parking meters for the Asheville City Market on North Market Street for partnership years 2017, 2018 and 2019.

RESOLUTION BOOK NO. 38 - PAGE 268

M. RESOLUTION NO. 16-265 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE IN-KIND SUPPORT UP TO 10% IN THE EVENT THAT CITY FEES INCREASE OR CITY SERVICE REQUIREMENTS RESULT IN ADDITIONAL COSTS TO EVENTS CONDUCTED UNDER THE 2017-19 STRATEGIC EVENT PARTNERSHIP AGREEMENTS

Summary: The consideration of resolution authorizing the City Manager to adjust in-kind support up to 10% in the event that city fees increase or city service requirements result in additional costs to events conducted under the 2017-19 Strategic Event Partnership agreements.

In June, 2016, City Council approved partnership agreements with 8 local non-profit organizations. Under each agreement, the City committed a specific value of in-kind resources per year to assist the partner organizations produce festivals and special events designed to further City Council's 2036 vision. Staff will monitor and track the utilization of in-kind resources throughout the year for each partnership, working with the partners to manage their approved budgets.

Staff has found that the maximum in-kind amount may be insufficient to cover all City fees and charges for events planned within the year. When a financial gap exists, the partner organization is expected to identify other funding sources or make modifications to their plans. As an organizational partner, the City also works to assist where possible in that process.

It has been a City practice in other contracts to authorize a contingency, allowing for small adjustments. Such adjustments may be needed as a result of increases to City fees and requirements over the next three years, or for increases resulting from event expansion and attendance growth. A contingency reduces staff time and the need to return to City Council in the case of small overages in original budget approvals. The Planning & Economic Development Committee considered this item and voted unanimously to move forward to City Council a recommendation for a 10% contingency within the City's 2017-2019 Strategic Event Partnership Agreements, acknowledging cost increases over 10% will be invoiced to the partner.

Pros:

- Reduces staff time and the need to return to City Council for small overages in original budget approvals
- Tempers the potential that non-profit partners will need to issue reimbursement payments to the City for minor overages
- Moderates the impact of small increases in City fees or city service requirements

Con:

- Lost revenue for permits, parking fees and property use fees

In-kind support and fee discounts result in lost revenue. The impact of this action is estimated to increase lost revenue from \$151,864 per year to \$167,050 per year.

Staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution permitting 10% contingency for partnership years 2017, 2018 and 2019.

RESOLUTION BOOK NO. 38 - PAGE 269

N. ORDINANCE NO. 4538 - BUDGET AMENDMENT FOR THE ADVANCED BUILDING AND HVAC CONTROLS PROJECT AT THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment to transfer funds from the General Fund to the Civic Center Fund for the purpose of installing advanced building and HVAC controls at the U.S. Cellular Center for the bid amount of \$22,780 plus a 10% contingency in the amount of \$2,278 for a total project budget of \$25,058.

The Office of Sustainability is charged with leading the City's effort in meeting City Council's Resolution 11-77 which established a 4% annual carbon footprint reduction goal. By identifying energy saving projects and strategically funding them from the Green Revolving Fund (housed in the General Fund), the Office of Sustainability can better achieve this goal.

The current HVAC controls system at the US Cellular Center was installed in the 1980's and has surpassed its useful life. By installing an advanced, web-based controls system, USCC staff will be more able to observe the conditions and control the operations of their facility remotely. In addition to HVAC, this new system will have the ability to integrate lighting controls, door security control, and energy monitoring. The new controls system, especially when paired with upgraded HVAC equipment in the future, will enable substantial energy savings at the City's most energy intensive facility.

The winning bid for the controls upgrade from Haynes Controls, a division of MB Haynes Corporation, was \$22,780. Sustainability staff recommend transferring an additional 10% for contingency costs, bringing the total budget transfer to \$25,058.

Pro:

- Enables the US Cellular Center staff to more closely monitor and control building operations, increasing the potential for energy savings

Con:

- None can be identified

The funds needed for this project were allocated as an FY17 priority by the Office of Sustainability staff for the Green Revolving Fund.

City staff recommends City Council adopt a budget amendment to transfer funds from the General Fund to the Civic Center Fund for the purpose of installing advanced building and HVAC controls for the bid amount of \$22,780 plus a 10% contingency in the amount of \$2,278 for a total project budget of \$25,058.

ORDINANCE BOOK NO. 31 - PAGE 25

O. RESOLUTION NO. 16-266 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND SIGN A GRANT AGREEMENT WITH THE BUNCOMBE COUNTY TOURISM PRODUCT DEVELOPMENT AUTHORITY FROM THE 2015-16 TOURISM PRODUCT DEVELOPMENT FUNDS FOR THE FRENCH BROAD RIVER GREENWAY - WEST

Summary: The consideration of a resolution authorizing the City Manager to accept and execute a grant agreement with Buncombe County Tourism Development Authority (BCTDA) for \$700,000 in Tourism Product Development Funds (TPDF).

The purpose of the TPDF Grant is to provide funding assistance for construction projects that will create new and additional lodging room nights in Buncombe County. In 2015, Council approved a TPDF application for up to \$2.5 million in grant funds to help construct \$5 million worth of Riverfront Destination Development projects.

In response to the TPDF Phase II application, the BCTDA announced an award of \$1.7 million to the City of Asheville (City) in late October 2015 for the Riverfront Destination Development Project. An initial grant of \$1 million was authorized by City Council with the understanding that a grant for the additional \$700,000 was expected from the BCTDA in 2016 when additional funds were available.

The \$700,000 grant provides funding for the development of the French Broad River Greenway – West Connector. The grant agreement outlines the required construction start and end dates, the construction cost reimbursement schedule, annual reporting requirements, and other legal requirements.

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city
- The TPDF grant award is a significant funding opportunity that leverages the City's investment to move forward on these investments
- The City has shown a commitment to implementing these projects as part of the multi-year Capital Improvement Program (CIP)

Con:

- The grant is a reimbursement grant, which means that for cash flow purposes the City will need to allocate its own capital dollars first and structure its financing to cover these cash needs

Funding from grants and partnerships is an important component of the City's multi-year CIP. This \$700,000 grant will be used to provide funding for a key project in the CIP. Dedicated funding for the matching amount is included in the capital program.

City staff recommends City Council authorize the City Manager to accept and execute the grant agreement with BCTDA.

RESOLUTION BOOK NO. 38 - PAGE 270

P. RESOLUTION NO. 16-267 - RESOLUTION APPROVING AMENDMENTS TO THE HOUSING TRUST FUND POLICY

Summary: The consideration of a resolution approving amendments to the Housing Trust Fund Policy.

Housing Trust Fund policy is reviewed periodically to make it responsive to the City's residents' housing needs, the housing market and housing developer demand. The following changes are recommended to the Policy for adoption for the current application cycle.

Priorities Recommendations

Household Income: The development of units serving the lowest income households will have a higher priority.

Multi-modal access: Include access to multi-modal transportation, such as greenways, in the transit corridor priority.

Other Priorities: Remove priority for “large scale development” in light of growing interest in affordable smaller-scale, in-fill development.

Eligible Activities Recommendations

Purchase and Rehab of Existing Housing: Add “purchase” of existing multi-family housing as an eligible activity. Preservation of existing affordable housing, whether subsidized or not, is a critical component of a comprehensive affordable housing strategy.

Container homes, tiny homes, and other innovative housing structures: Add these building types as eligible for Housing Trust Funds.

Affordability Recommendations

Period of Affordability: Establish a minimum 15 year period of affordability for rental housing assisted with Housing Trust Funds.

Maximum Loan Amounts- Maintain the current maximum loan per affordable rental unit of \$20,000, but decouple the per-unit request from the maximum loan amount. Raise the maximum rental development loan amount to \$1 million.

Interest Rates- Establish a fixed 2% interest rate for all loans this year (except for “Special Term Loans”).

Special Terms- Allow for the deferral of principal for the committed term of affordability. For example, LIHTC projects, with a committed term of affordability of 30 years, would have the option of making interest only payments for a term of 30 years. The interest-only option would carry a rate of interest as described above.

Clarify the Fund policy regarding accepting subsidy Vouchers and qualifying for Special Terms: *If units pledged as part of the Special Terms financing are occupied by households without a voucher limiting their personal rent contribution, then the actual rent charged can be no more than the 60% AMI standard as established annually by the City of Asheville.*

Application Process

Third party cost analysis- Instead of at application, require third-party construction cost estimates no later than 14 days prior to loan closing.

Underwriting

Public comment on site plan and elevations- Because public comment is already incorporated into the regulatory process, remove this condition.

90 day commitment- Currently, commitments are for 90 days with staff extensions possible for up to 6 months. Increase the time frame for staff extensions to 12 months from date of loan approval. Additional extensions may be granted by the HCD Committee.

Closing and Funding

Funding land acquisition at closing- Allow funding for land acquisition at closing only if the following circumstances are met: 1) The appraised value of the land is 110% or more of the total of all funds used for acquisition; 2) The land is zoned for the proposed project without additional

permissions needed; 3) All construction financing is committed; 4) The City is in no lower than second security position; 4) a realistic construction schedule, with a start date of no later than three months from closing has been submitted, reviewed and approved by staff prior to closing.

Post-Closing

Worker interviews- Remove this provision from the policy.

The Housing and Community Development Committee reviewed these Policy amendments at their meeting on November 15, 2016, and unanimously recommended approval.

Pros:

- The proposed amendments continue to keep the Housing Trust Fund responsive to the changing needs of the affordable housing marketplace and responsive to developers seeking to create affordable housing.

Con:

- None.

Raising the maximum amount potentially available for a project to \$1 million could have an impact on the number of projects able to be funded. However, the anticipated increase in the funds available as a result of the passage of the affordable housing bond could mitigate this.

Staff recommends that Council approve the proposed amendments to the Housing Trust Fund Policy.

Assistant Director of Community & Economic Development Jeff Staudinger responded to questions raised by Council regarding the reasoning behind the minimum 15 year period of affordability.

RESOLUTION BOOK NO. 38 - PAGE 271

Q. RESOLUTION NO. 16-268 - RESOLUTION AUTHORIZING THE PRIVATE SALE OF CITY-OWNED REAL PROPERTY ON PISGAH VIEW ROAD TO ASHEVILLE AREA HABITAT FOR HUMANITY FOR AFFORDABLE HOUSING

Summary: The consideration of a resolution authorizing the private sale of City-owned property on Pisgah View Road to the Asheville Area Habitat for Humanity for affordable housing.

On June 9, 2015, City Council approved the sale of 16 acres owned by the City of Asheville in west Asheville, near the intersection of Pisgah View and Deaverview Roads, to Asheville Area Habitat for Humanity. A Purchase and Sales Agreement between the City and Habitat was executed on October 8, 2015. The approved purchase price was \$458,300, with \$300,000 to be provided in cash and the remainder to be loaned to Habitat, and subsequently transferred on a pro-rata basis as mortgages on homeowners in the development.

The agreement included two City conditions: that Habitat explore greater density than the 55 units proposed at that time, and that Habitat also explore permanent affordability of all or some of the units. The agreement allowed for Habitat to propose different terms of purchase than indicated above, in light of that investigation and other due diligence Habitat was to perform to determine the feasibility of the project.

Habitat subsequently moved forward with a design and stakeholder engagement process, coordinated by the Asheville Design Center. City staff participated in elements of that process.

As a result of that process, Habitat is now moving forward with site planning for a minimum of 101 units, including duplex and triplex townhouse style units. Andy Barnett, Habitat's Executive Director, has also agreed to participate on a steering committee to explore permanent affordability options.

Habitat has submitted a revised purchase terms proposal. Habitat proposes that the City lend to Habitat the agreed upon entire purchase price of \$458,300 at 0% interest and that the loan subsequently be transferred on a pro-rata basis as loans from the City to the new homeowners in the development.

The primary rationale for this is that Habitat estimates that a total subsidy from non-Habitat resources of approximately \$1.6 million will be needed to achieve affordability for households at 50%- 70% of median income. By providing this subsidy now in the form of 100% financing of the land, the City can assist Habitat to conserve its other resources for later use, reduce interest costs, and generally lower other subsidy for the project.

The Housing and Community Development Committee reviewed Habitat's revised request at their meeting on November 15, 2016, and unanimously recommended approval.

Pros:

- The new proposed terms of sale will support the construction of over 100 new homes affordable to low-income households;
- The terms will enable Habitat to reduce costs of borrowing, and help produce affordable housing;
- The City funds will be secured by second mortgages that will be due upon sale of the property, and therefore will not negatively affect the affordability of the homes.

Con:

- The original terms called for a cash payment of \$300,000 at the time of sale to Habitat. These funds, which were programmed for the Housing Trust Fund, will not be available as projected.

As noted above, anticipated funds to be designated to the Housing Trust Fund will not be available. However, the anticipated increase in the funds available as a result of the passage of the affordable housing bond could mitigate this.

Staff recommends the final approval of the sale of City-owned land located at Pisgah View and Deaverview Roads and acceptance of Habitat's request to finance the purchase price of the Cedar Hill property, to be used 100% for affordable housing for households with income at 80% or less of median income.

RESOLUTION BOOK NO. 38 - PAGE 281

R. RESOLUTION NO. 16-269 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A QUIT CLAIM DEED TO VINOD PATEL FOR PROPERTY LOCATED AT 1103 BREVARD ROAD AND STRADLEY MOUNTAIN ROAD

Summary: The consideration of a resolution authorizing the City Manager to convey a quit claim deed to Vinod Patel for any claim that the City has on real property located at 1103 Brevard Road and Stradley Mountain Road.

The property located at 1103 Brevard Road (PIN 9626-64-8826) is improved with one commercial building and three single family houses on 1.43 acres. At some point, a portion of the property was utilized as a water pump station. This pump station was abandoned in place in 2005 when a new station was installed at a higher elevation. On review of the title to the property

at 1103 Brevard Road, it appears that no easement or conveyance of any kind was ever granted to the City of Asheville for this pump station.

The property is being transferred to a new owner and the purchaser is seeking to remove any claim that the City may have to this abandoned pump station. The Water Department has concluded that the City no longer has any use for the abandoned station at this location and it is fully disconnected from the main water system. Without an easement or deed for the pump station, the abandoned building and historical use represent a cloud on the fee holder's title. To resolve this matter, the City Council may authorize a deed to quitclaiming all government interest in the property.

Pros:

- Resolves ownership issues.
- Removes liability issues associated with abandoned station.

Con:

- None noted.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a quit claim deed to Vinod Patel for any claim that the City has on real property located at 1103 Brevard Road and Stradley Mountain Road.

RESOLUTION BOOK NO. 38 - PAGE 282

S. RESOLUTION NO. 16-270 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MATTERN AND CRAIG INC. FOR THE NEW LEICESTER HIGHWAY SIDEWALK DESIGN PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Mattern and Craig, Inc. for the amount of \$190,310.00 for the project known as New Leicester Highway Sidewalk Design, City of Asheville TR-15-16-001.

This contract will allow for the design of sidewalk alongside New Leicester Highway (US-63), from Patton Avenue to the City limit where, very little sidewalk currently exists. This sidewalk is identified as a needed linkage in the 2005 Pedestrian Plan Update, and the need for sidewalk informal paths visible on the shoulders of the road. Also, existing ART bus stops on the west side of New Leicester Highway are not currently served by sidewalk.

The scope of this project includes the development of design drawings, construction documents and bid documents. The contract provides environmental certifications and documents required by the Federal Highways Administration, and obtains all required State and City of Asheville Permits.

The City of Asheville followed a qualifications based selection process, and requested designers submit Letters of Interest for this project on April 11, 2016. Five responses were received: Davenport Engineering, Mattern and Craig, TGS Engineers, Vaughn and Melton and Wetherill Engineering. A selection team consisting of City staff determined Mattern and Craig to be the most qualified firm to handle this project.

Pros:

- Provides a design and bid documents for the construction of sidewalk in an area with a demonstrated need for safe pedestrian access.
- Designs sidewalk that will provide pedestrian connection to bus stops that are currently not served by a sidewalk.

Con:

- None.

The cost estimate for this design was \$280,000, with an additional \$42,000 (15%) for contingency, for a total of \$322,000. \$350,000 was budgeted for the design portion of the New Leicester Highway project in the Capital Fund. This amount was approved by City Council and included in the Adopted Capital Improvement Program.

The difference between the budget amount and the contract amount is \$159,690. A portion of this amount will cover the cost of additional Geotechnical and Structural Engineering services to be added after the schematic design phase. These engineering services are required to overcome topographical challenges presented in this corridor, and cannot be estimated until after the initial alignment is selected. Any remaining funds will be used for inspection services during construction.

City staff recommends City Council adopt the resolution awarding the contract to Mattern and Craig Inc. and authorizing the City Manager to execute a contract and any change orders to said contract which may arise during execution of said project up to the project budget amount of \$350,000.

RESOLUTION BOOK NO. 38 - PAGE 283

T. RESOLUTION NO. 16-271 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ESKOLA, LLC. FOR THE WILLIAM DEBRUHL WATER TREATMENT PLANT FACILITY IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Eskola, LLC for the William DeBruhl Water Treatment Plant Facility Improvements Project for the bid amount of \$171,700.00 plus a 10% contingency in the amount of \$17,170 for a total project budget in the amount of \$188,870.

On November 3, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the William DeBruhl Water Treatment Plant Facility Improvements Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for removal and replacement of the existing modified bitumen roof of the treatment building and pumping station, the repointing of various cracks and separations within the façade of the treatment facility, and pumping station building, lintel repairs, façade investigation on the treatment building, and the repair of the column support within the filter gallery.

In response to the Advertisement for Bids, the department received three bids on November 18, 2016. Companies responding were:

3. Eskola, LLC, Morristown TN – bid \$171,700
4. Rike Roofing Service, Inc., Charlotte NC – bid \$198,900
5. Gilbert Engineering Company, Statesville NC – bid \$411,000

Following a review of the bids by City Staff and the project engineers, GHD, Eskola, LLC was selected as the lowest responsible, responsive bidder in the amount of \$171,700. A contingency amount of \$17,170 has been added for a total project budget in the amount of \$188,870.

Pros:

- The upgrades planned for this project will address the rehabilitation needs of an aging facility.

- 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.

Cons:

- 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 Maintenance project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project was approximately \$200,000.

Amount Available for Construction	\$200,000
<u>Amount Needed for Construction Agreement</u>	<u>\$188,870</u>
Remaining Project Budget	\$ 11,130

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Eskola, LLC for the William DeBruhl Water Treatment Plant Facility Improvements Project for the bid amount of \$171,700 plus a 10% contingency in the amount of \$17,170 for a total project budget in the amount of \$188,870.

RESOLUTION BOOK NO. 38 - PAGE 284

U. RESOLUTION NO. 16-272 - RESOLUTION TO ACCEPT FUNDS FROM THE A MONTFORD NEIGHBORHOOD ASSOCIATION TO CONSTRUCT AND INSTALL TWO BUS SHELTERS

ORDINANCE NO. 4539 - BUDGET AMENDMENT FROM MONTFORD NEIGHBORHOOD ASSOCIATION

Summary: The consideration of a resolution to accept privately raised monies (\$12,543.12) from the Montford Neighborhood Association to partially fund the construction, and installation of two custom bus shelters; and associated budget amendment in the amount of \$25,086.25 to set up the project.

In May 2016, members of the Montford Neighborhood Association approached staff regarding the installation of two bus shelters at the three-way intersection of Montford Ave/ Cullowhee St/ Soco St. There are existing concrete bus shelter pads in these locations that were installed as part of a Traffic and Pedestrian Enhancement project that was completed in 2015. Because these pads are located in the Montford Historic District (MHD), any bus shelters must comply with Historic Resources Commission design guidelines; therefore the shelters must be custom-made as the City's current shelter designs do not comply with the MHD design guidelines.

The Montford Neighborhood Association donated design plans for the two shelters which have been approved by Transit Staff and the Historic Resources Commission, and are currently being reviewed by the Development Services Department. The Montford Neighborhood Association is also offering a donation of \$12,543.12 to cover 50% of the cost of construction and installation of the two shelters. This donation has been approved by the board of the Montford Neighborhood Association and is awaiting Asheville City Council approval to accept the funds. The total cost of the project is budgeted at \$25,086.25 with remaining funds coming from Traffic Safety funding in the amount of \$12,543.13, in the existing Transportation Department General Fund budget.

Pros:

- Improves access to transit and overall quality of service.

- Enhances the neighborhood's sense of place, by conforming to Historic Resources Commission design guidelines.
- Reduces the public cost of the improvements by using private donations to fund part of the project.
- Partnership that allows local residents to help shape the character of their neighborhood.

Con:

- None.

The fiscal impact is in the amount of \$12,543.13 from the Traffic Safety fund in the existing Transportation Department General Fund budget.

City staff recommends City Council authorize the City Manager to accept privately raised monies from the Montford Neighborhood Association to partially fund the construction, and installation of two custom bus shelters; and a budget amendment in the amount of \$25,086.25 to set up the project in the Transit Capital Projects Fund and appropriate the donations and the City contribution to the project.

Councilman Smith thanked the Montford Neighborhood Association for raising funds for this purpose.

**RESOLUTION BOOK NO. 38 - PAGE 286
ORDINANCE BOOK NO. 31 - PAGE 27**

V. RESOLUTION NO. 16-273 - RESOLUTION SUPPORTING THE EXPANDED VISION AND CONCEPT OF THE FONTA FLORA STATE TRAIL BEING EXTENDED TO ASHEVILLE VIA MORGANTON AND MARION

Summary: The consideration of a resolution supporting the expanded vision and concept of the Fonta Flora State Trail being extended to Asheville via Morganton and Marion.

In 2015, the NC State Legislature submitted and passed legislation to designate the Lake James Loop Trail in Burke County as a NC State Trail. The NC Division of Parks and Recreation recommended that the concept of the Trail be expanded to extend from Morganton to Asheville to create a regional trail and connection. The Division also suggested that the Lake James Loop Trail be renamed the Fonta Flora State Trail to administratively separate it from Lake James State Park and to reflect the linear nature of the conceptual trail.

To date, the extension of the Fonta Flora State Trail has been adopted by the Cities of Marion, Morganton, Black Mountain, Glen Alpine, and Old Fort. Burke and McDowell Counties have also adopted Resolutions of support for the Trail. Representative partners have approached the City of Asheville staff to ask if the City of Asheville would be in favor of supporting the extension of the trail to the Asheville area.

The State Parks Act (GS 113-44.9) defines the types of units in the State Parks System to include State Parks, State Natural Areas, State Recreation Areas, State Trails, State Rivers and State Lakes.

The proposed Fonta Flora would be a State Trail, not a State Park. Whereas a State Park is operated and managed by the Division of Parks and Recreation, the Fonta Flora State Trail represents a partnership among multiple agencies, landowners and local governments, working together to implement a shared vision. Part of a State Trail may be managed by the Division of Parks and Recreation, but segments of the trail that cross property controlled by others will continue to be managed by those other landowners. NC State Trail designation also gives the NC Division of Parks and Recreation the enhanced ability of the State to help coordinate and facilitate the work of the other partners.

The alignment of the trail would go from McDowell County into Buncombe via the Point Lookout Trail that terminates in Ridgecrest. It would then follow NC 70 and the Swannanoa River to the Asheville area where it could join the Wilma Dykeman Riverway.

There is no request for the implementation of this extension of the Fonta Flora Trail at this time. The trail partners are only seeking a resolution of support for the concept of the extension of the Fonta Flora State Trail to the Asheville area.

Pros:

- Funding from the Park and Recreation Trust Fund exclusively set aside for state trails and parks and the Federal Recreational Trails Grant Program could be available for costs to create, maintain, and manage this extension in city boundaries.
- Authorization of the Fonta Flora State Trail may improve our ability to receive grants.
- Tourism studies have shown that hiking and biking tourists tend to stay in lodging longer and choose to support small businesses more than tourists that arrive in automobiles.
- Asheville would be a destination terminus of a NC State Trail and the intersection of three State Trails – Fonta Flora, French Broad River, and Mountains-to-Sea.

Con:

- There are no negative impacts for this resolution to support.

There is no fiscal impact to support this resolution.

Staff recommends that City Council approve a resolution supporting the extension of the Fonta Flora State Trail to Asheville.

RESOLUTION BOOK NO. 38 - PAGE 287

W. ORDINANCE NO. 4540 - ORDINANCE GRANTING A FRANCHISE TO SLIDR, LLC FOR THE OPERATION OF A LOW SPEED VEHICLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance granting a franchise agreement for the operation of a low speed vehicle shuttle service within the City of Asheville.

Recently, City staff found out that a low speed vehicle shuttle service began operating in Asheville without a franchise agreement. City staff immediately contacted the business owner and a meeting was held on October 26, 2016 that included the business owner, his attorney, the Transportation Department, the Planning Department, and the Legal Department. It should be noted that the business owner was not trying to avoid following the City's regulations; he thought he had already covered all of the bases.

Although a main component of the company's business model is the ability to sell third-party advertising on the outside of the vehicles, the business owner acknowledges that this type of advertising is prohibited by the City's sign ordinance and he wants to proceed with the franchise agreement process. Staff has granted the business owner a temporary approval to operate the service until and if the franchise agreement is approved.

By definition (NCGS # 20-4.01(27)h), a low speed vehicle is a four-wheeled electric vehicle whose top speed is greater than 20 mph but less than 25 mph. It is **not** a golf cart! The vehicle(s) must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. In addition, the vehicle(s) must be insured, registered and licensed in North Carolina.

The business is known as Slidr, LLC and they have five vehicles designated for the Asheville market. Each vehicle has seating for the driver and five passengers and only three vehicles will be operating at the same time because the vehicles must be rotated to allow for recharging. The shuttle service will operate between the hours of 11:00 am and 11:00 pm seven days per week. The City reserves the right to change the hours of operation at its sole discretion with a 30-day notice. The shuttle service will provide **free** point-to-point transportation services (drivers receive their compensation from tips) to its passengers within the coverage area which includes the Central Business District, Biltmore Village, and the River Arts District.

Currently, two low speed vehicle franchise agreements have been approved; however, the Land of Sky Shuttle has not begun operating and the Hilton Garden Inn Shuttle is limited to their guests only.

The business owner has worked closely with the Transportation Department, the Legal Department, and the Asheville Police Department and at this time, all concerns have been addressed. He is very committed for the shuttle service to be successful and he intends to work closely with staff to make any necessary tweaks if needed.

The Public Safety Committee reviewed this franchise agreement on November 28, 2016, and they unanimously endorsed it to move forward to City Council for consideration and approval.

Pros:

- Provides a much needed point-to-point transportation service with the Central Business District, Biltmore Village, and the River Arts District.
- The shuttle service is free (drivers receive their compensation from tips).
- Relieves and/or minimizes traffic congestion.

Con:

- There are no known cons.

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

Staff recommends that City Council approve an ordinance granting a franchise agreement to Slidr, LLC for the operation of a low speed vehicle shuttle service within the City of Asheville.

Mr. Mike Trombino, owner of Slidr, said that this is a free on-demand ride service using 100% electric carts operating in a coverage area which includes the Central Business District, Biltmore Village, and the River Arts District. They now operate off a telephone number but soon they will have an app. They have one driver and five passengers and only go 26 miles per hour. Drivers work for tips and the company makes money off their advertising. Drivers are guaranteed a living wage for Buncombe County - \$10.09. However, drivers are now averaging between \$19-24/hour.

When Councilman Haynes asked if Mr. Trombino would be willing to pay the Just Economics living wage of \$13.00 without benefits, he said that if that is the living wage, then he would be happy to guarantee that amount.

Mr. Tim Sadler hoped the City can work with Slidr for an amendment to the franchise agreement to allow advertising on the outside of the vehicle with the contingency of being able to offer free rides.

ORDINANCE BOOK NO. 31 - PAGE 29

X. RESOLUTION NO. 16-274 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH 4 SEASONS SITE & DEMO INC. FOR THE RADTIP BUILDING DEMOLITION - PHASE II PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of \$138,515 with 4 Seasons Site & Demo Inc. for the project known as RADTIP Building Demolition – Phase 2, City of Asheville Project # RAD-16-17-001, and further authorizing the execution of any change orders to said contract which may arise during demolition of said buildings, up to a total amount of \$200,000.

The demolition of the buildings at 300 Riverside Drive, Asheville NC 28801 is necessary in order to complete the utility relocations for the upcoming RADTIP project. The project was advertised on November 18, 2016. Bids were opened on November 29, 2016, with the following results:

4 Seasons Site & Demo of Wilmington NC,	\$138,515
B Allen Construction of Candler NC,	\$143,132
Empire Dismantlement of Grand Island NY,	\$146,003
Patton Construction Group of Asheville NC,	\$194,920
Dore & Assoc. of Bay City MI,	\$220,075
DH Griffin of Asheville NC,	\$224,071

The work produced from this contract would demolish vacant buildings in poor condition, make room for necessary RADTIP utility relocations and make space for a future project.

Pros:

- Will demolish vacant buildings in poor condition.
- Will make room for RADTIP utility relocations
- Will create space for a future project.

Con:

- Demolition will be disruptive to adjacent residences and businesses.

The total budget for this portion of the RADTIP project is \$200,000.

City staff recommends City Council adopt the resolution awarding the contract to 4 Seasons Site & Demo Inc. for the RADTIP Building Demolition – Phase 2 project and giving the City Manager the authority to execute any change orders necessary to complete the project.

RESOLUTION BOOK NO. 38 - PAGE 288

Y. RESOLUTION NO. 16-275 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT AND CHANGE ORDER TO EXTEND A CONTRACT WITH BULLINGTON CONSTRUCTION INC. FOR THE GUARDRAIL INSTALLATION AND MAINTENANCE CONTRACT FOR FISCAL YEAR 2017

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment and change order to extend the contract between the City of Asheville and Bullington Construction, Inc. for a one year period, in the amount of \$99,952.55, and to execute any change orders to the contract which may arise during the contract term. The City Manager is also authorized to extend the contract for one additional, one year period in an amount up to \$102,951.13, contingent upon available funding and budgetary approval.

The City of Asheville has a yearly contract for guardrail installation and maintenance. In Fiscal Year (FY) 15-16, the contract amount was for \$95,585.00 and did not require going to

Council. That contract had an option to extend the contract for two additional one year periods. The City of Asheville and Bullington Construction, Inc. wish to extend the contract. This adds \$99,952.55 to the contract in FY16-17 and \$102,951.13 to FY17-18 (a 3% increase per year per the contract) necessitating Council approval. The results of the original bid were as follows:

Bullington Construction, Inc. of Oakboro, NC	\$95,585.00
Reynolds Fence and Guardrail, Inc. of Indian Trail, NC	\$107,607.50

The work produced from this contract would install new guardrail where needed and repair guardrail that has been damaged.

Pros:

- Will install new guardrail where it is needed and repair guardrail that has been damaged.
- Will make Asheville's roadways safer.

Con:

- Construction may temporarily impede traffic.

The total budget for FY 16-17 is \$99,952.55. Funding is included in the Adopted FY16-17 Public Works Budget.

City staff recommends City Council adopt the resolution authorizing the City Manager to execute a contract amendment and change order to extend the contract with Bullington Construction, Inc. for the project known as Guardrail Installation and Maintenance, Project # ST-16-17-002 and further authorizing the City Manager to extend said contract one additional, one year period, contingent upon available funding and budgetary approval.

RESOLUTION BOOK NO. 38 - PAGE 289

Z. ORDINANCE NO. 4541 - BUDGET AMENDMENT FROM U.S. DEPT. OF HOMELAND SECURITY FOR FIRE PREVENTION AND LIFE SAFETY PROGRAM

Summary: The consideration of a budget amendment in the amount of \$96,480 to establish a project budget in the Special Revenue Fund funded by a grant from the US Department of Homeland Security and a City match from the Fire Department's General Fund budget.

At its March 22, 2016, meeting City Council approved a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant from the US Department of Homeland Security to obtain funding for fire prevention and life safety programs, and to accept grant funding if awarded. Homeland Security accepted and reviewed our application and awarded the Fire Department a grant amount \$91,886 for equipment and supplies necessary for a comprehensive home fire safety program, fire extinguisher training props, and an inflatable fire safety house. All successful applicants seeking a FP&S Grant shall agree to make available non-federal funds to carry out such activity in an amount equal to and not less than five (5) percent of the grant awarded, or \$4,594.

Staff recommends City Council approve a budget amendment in the amount of \$96,480 to establish a project budget in the Special Revenue Fund for the grant award (\$91,886) plus the City match (\$4,594). Staff recommends approval for the following reasons:

- Assist in decreasing the risk of death in home fires and provide greater safety for firefighters.
- The City would be able to utilize grant funds for the purchase of equipment.
- The City would be able to directly improve fire safety in the City of Asheville.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- Decrease the occupant alerting and fire department response times for fires and carbon monoxide incidents in 400 homes by installation of smoke alarms, carbon monoxide alarms, street address identification and stove top fire extinguishing agent.
- Provide fire extinguisher classes to a greater number citizens as well as businesses in our community.
- Enhance the fire safety of our high risk communities which include our children under 6 years of age, persons with disabilities, as well as our older citizens.

Con:

- 5% cost share amount of the total purchase cost required of \$4,594.00.

The City match of \$4,594 will come from The Fire Department's existing General Fund.

City staff recommends that City Council authorize a budget amendment in the amount of \$96,480 to establish a project budget in the Special Revenue Fund funded by a grant from the US Department of Homeland Security and a City match from the Fire Department's General Fund budget.

ORDINANCE BOOK NO. 31 - PAGE 34

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

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

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

III. PRESENTATIONS & REPORTS:

A. AUDIT PRESENTATION

Chief Financial Officer and Director of Finance and Management Services Barbara Whitehorn said that this is the consideration of a motion to accept the Fiscal Year (FY) 2016 Comprehensive Annual Financial Report (CAFR) and the results of the FY 2016 annual external audit of the City's financial statements.

Cherry Bekaert has provided the City with an unmodified, or "clean," opinion that the financial statements are fairly presented in conformity with generally accepted accounting principles. This opinion is the highest form of opinion that the external auditors can express on the presentation of the City's financial statements.

The independent audit firm also conducts an analysis of the City's compliance with various federal and state laws, regulations, contracts and grant agreements and reviews the City's accounting and administrative controls

Cherry Bekaert found no instances of deficiencies in internal control that they would consider material weaknesses and no material weaknesses or significant deficiencies in internal control over compliance with federal and major state programs.

Pro:

- City received an unmodified opinion on financial statements and no findings on *internal control, stewardship, accountability and program compliance with federal and state awards*.

Con:

- None noted.

Mr. Eddie Burke, CPA, Audit Partner with Cherry Bekaert LLP, reviewed with Council the Fiscal Year 2016-17 audit which consisted of reviewing the City's major assets, liabilities and other areas within the financial statements issued by management for accuracy and consistency with General Acceptable Accounting Principles. He then reported on the role of the external auditor, the key highlights, internal controls, significant audit areas and financial results. In summary, (1) clean opinions (2) No Adjusted Journal Entries and three Proposed Adjusting Journal Entry; (3) good internal controls; (4) no management letter comments; and (5) full cooperation with management.

It was the consensus of Council to accept the 2016 Comprehensive Annual Financial Report.

B. UPDATE ON WNC FIRES

Fire Chief Scott Burnett briefly updated City Council on the WNC fires. He said that this has been an unprecedented firefighter season. In Western North Carolina there were approximately 65,000 acres burned in November 2016. That compares to hundreds of acres that typically burn during our fall wildfire season. There were over 12 Code Red air quality days in Asheville. Even though Asheville did not have a significant wildfire event (thanks to the efforts of our firefighters), we were impacted and able to assist our neighbors. We had a number of Asheville firefighters that assisted in 20 fires outside of our area during November, 2016 (roughly 20,000 hours combined in and outside City). He said there is only one fire in Clay County which is 95% contained.

C. STRATEGIC PRIORITIES OF CITY COUNCIL UPDATE

The update for the Strategic Priorities of City Council were provided to the Council and the public on the website.

D. FINANCE UPDATE

The financial information in this report reflects the City's overall financial position for fiscal year through September, 2016.

"Amendments. There were no budget amendments in the General Fund during the first quarter.

Revenues. Through September 30, 2016, the City has collected \$9.0 million in General Fund revenue, which represents approximately 8% of the total General Fund revenue budget. As noted during this year's budget process, the City recently switched to a 90-day accrual period for sales tax and state utility tax revenue to be consistent with other comparable-sized cities in North Carolina. As a result, the September payments from the State of North Carolina for both of these revenue sources, which used to be included in first quarter revenue reports, were accrued back to last fiscal year. Therefore, first quarter General Fund revenues are lower than in prior reports. In addition, staff has less current year trend data in which to make year-end projections, so current year estimates for sales taxes and state utility taxes are based primarily on FY 2015-16 year end revenue collections. With this limited data, Budget staff is currently projecting that FY 2016-17 General Fund revenue will finish the year very close to budget, at \$110.25 million.

Expenditures. General Fund expenditures through September 30, 2016 totaled \$24.3 million or 21% of budget, which is typical for this point in the fiscal year. In addition to the actual expenses above, departments have another \$4.1 million in purchase orders and contracts encumbered against the revised budget. Factoring in these encumbrances along with the actuals expenses, approximately 24% of the expenditure budget is committed at the end of the first quarter. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. It should be noted that even though overall personnel expenses are on budget, expenses in the Fire Department are running approximately \$700,000 ahead of budget at the end of the first quarter. Overall, staff is projecting that FY 2016-17 expenditures (including actual expenses and encumbrances) will finish the year at \$110.67 million.

Fund Balance. The City began FY 2016-17 with unassigned fund balance of \$18.0 million, after subtracting out the \$960,000 fund balance appropriation included in the adopted budget. Based on current revenue and expenditure projections for FY 2016-17, staff estimates that unassigned fund balance at June 30, 2017 will increase slightly to \$18.1 million or 16.4% of estimated expenditures."

E. HAYWOOD STREET COMMUNITY VISIONING PROCESS

Mr. Andrew Fletcher, Chair of the Haywood Street Advisory Team, provided a brief update from the Asheville Design Center regarding the community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in Downtown Asheville.

In October, the Advisory Team presented Council with an extensive list of potential temporary installations to activate the Haywood & Page properties. At Council's request, the team has refined their list, proposing the following unanimous recommendations for temporary installations and amenities at the Haywood & Page properties:

- Open markets;
- Mobile food vending;
- Interactive public art;
- Performance space compatible with the surrounding neighborhood;
- Moveable seating;
- Raised garden beds.

The Advisory Team has expressed a willingness to work with City staff to help identify partner organizations that would make these installations more feasible.

The Advisory Team has agreed to a schedule that will result in presenting their final vision to Council at their meeting scheduled for March 28, 2017. Prior to producing the final deliverable, they plan to hold a public meeting at the US Cellular Center to present the team's vision (or alternate visions) and provide the public a final opportunity for feedback. The Asheville Design Center anticipates organizing that public meeting towards the end of February or beginning of March.

After Council thanked the Task Force and the Asheville Design Center for their time and energy, it was the consensus of Council to have the Task Force work expeditiously with City staff to help identify partner organizations that would make these installations more feasible; implementation plans; etc, after which Council can give direction to the City Manager on the funding and management of the area aspects of the area.

F. HOMESTAY PERMITTING UPDATE - TWELVE MONTH REVIEW

Site Planning & Development Division Manager Chris Collins said that this report is an update on the Homestay Permitting Process enacted via a wording amendment that was adopted on November 17, 2015. The data in this report spans a time frame from November 18, 2015, to November 28, 2016.

Due to strong demand for homestay lodging, City Council passed a text amendment to Section 7-16-1(c)(9) to modify the requirements for a Homestay. Staff from the Development Services Department (DSD) has been charged with providing quarterly updates of Homestay permit activity and Short Term Rental enforcement. To date DSD has provided two updates to Council. The first update was March 22, 2016 and the second update was July 26, 2016. Due to the high level of interest generated around short-term vacation rentals the City Manager requested DSD provide updates in the form of a memo on a monthly basis. The last memo was provided on October 18, 2016.

In July of this year, Council allocated additional resources to the Development Services Department to facilitate the permitting of homestays and the enforcement of illegal short-term rentals.

The City hired one full-time staff member whose primary focus was to manage the Homestay permit process and to actively regulate and enforce illegal short-term vacation rentals. On October 26, 2015 the City hired a Development Review Specialist (DRS) to undertake this effort. The direct costs associated with this position include:

	FY16-FY17 YTD*	FY17 Est
Personnel (Dev. Review Specialist)	67,319	72,632
Operating (Vehicle)	809	2,000
TOTAL	\$68,218	\$74,632

**This represents November 2015-October 2015*

It's worth noting that in addition to the DRS numerous other City staff have committed valuable time and resources to managing Homestays and the enforcement of illegal short-term vacation rentals. This includes:

1. City Attorney (2)
2. Planning and Urban Design (1)
3. Development Services (2.5)

The time and resources spent on this effort by the additional staff listed above is variable and as such it is not possible to accurately estimate what the additional costs are but I do believe the costs have been significant this past year given the amount of time spent on tasks such as:

- Ordinance changes
- Records request
- Lawsuits
- Staff reports

On November 10, 2016 city staff began using a database provided by Host Compliance, a third party service engaged in identifying the addresses of properties advertising short term rentals on websites such VRBO, AirBnb and Homeaway. The use of a third party vendor also has a significant cost savings to the city as compared to hiring another FTE. It is worth noting that DSD has hired one part-time Administrative Associate to assist with the growing records

management component associated with this process. The table below shows the updated costs associated with managing the program moving forward:

Resources	Costs
Personnel: 1. DRS 2. Admin Assistant (0.5 FTE)	72,632 20,000
Operating: 1. Host Compliance Contract 2. Vehicle	26,370 2,000
TOTAL	\$121,002

A year contract with Host Compliance would cost \$26,370 compared to a \$74,632/yr. for one additional DRS which amounts to an annual savings of approximately \$50,000/yr.

The DSD began receiving applications for Homestay permits under the new provisions on November 18, 2015. Through November 28, 2016, there have been 164 applications submitted for the Homestay permits. The properties subject to these applications have been primarily focused within a few neighborhoods. However, it can be noted that the geographic distribution of homestay permits has been somewhat more widespread than originally reported.

When the July update was made, it was noted that homestay permit locations were trending into areas east and west of downtown Asheville as well as north. The above map shows this trend toward a more geographically even distribution of homestay permits continuing. The table below (figure two) contains further information related to changes Homestay permitting thus far.

Number of Applications Submitted	164 ↑
Number of Permits Issued	148 ↑
Homestays Providing Off-Street Parking	72% ↓

Enforcement - In addition to the one full-time Development Review Specialist position employed by the City for permitting Homestays and enforcing illegal short-term rental activity, the City has added a part-time Administrative Assistant position and partnered with a third party software service for assistance in identifying the addresses of violating properties advertising on web sites such as AirBnB and Homeaway.

In July of this year, staff reported a total of 68 total enforcement cases. As of November 28, 2016, that number has risen to 143 total enforcement cases representing a 47% increase in enforcement cases over a four (4) month period. Of those 143 enforcement cases, 52% have been proactively initiated by City Staff. Because City Staff has been successful helping those who can resolve violations by coming into compliance with regulation, only 11 citations have been issued. The table below highlights a selection of detailed results of enforcement cases:

Resolution of Case	Percentage of Cases
Homestay Permit Issued	7%
Violation Corrected (change of use in an allowed zoning district, change to 30 day minimum rental, etc)	10%

Invalid Complaint	10%
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As previously mentioned On November 10, 2016, city staff began using a database provided by Host Compliance, a third party service engaged in identifying the addresses of properties advertising short term rentals on websites such VRBO, AirBnb and Homeaway. In its early stages, this tool has identified 915 properties advertising as short term rentals within the Asheville City Limits. Host Compliance has successfully identified physical addresses for 66% of these listings (approximately 604). While results must still be curated and verified by city staff, the use of this service has allowed staff to issue over 15 NOV's to violating properties during the 9 business days between activation of the software and November 28, 2016. The acquisition of this software service has enabled staff to overcome one of the previously listed concerns which was the "adaptation of rental listing website by actions such as the removal of all location identification information from advertisements".

Additionally, a part-time Administrative Assistant position has been added to assist the Development Review Specialist with filing, communications and paperwork associated with homestay permits and violation enforcement. The position was filled on November 28, 2016. This additional staff resource should aid in the expedient processing of both permit applications and notices of violation.

Staff Concerns - Through the administration of the revised permitting program, staff has encountered many different scenarios through homestay applications and enforcement. Included among these concerns are:

- Possible false representation of residency;
- Floorplans not representing legally permitted building work;
- Accurately identifying livable space and unit separation; and
- Continuing press and recognition of the value of the short-term rental market in Asheville.

Next Steps - With further resources in place in the form of additional staff and third party address identification services, a substantial increase in enforcement activity is expected to occur (as can be seen by the increase in the number of NOV's issued in November). Many of these enforcement actions may be eligible to gain compliance through homestay permitting which will, in turn, create an expected substantial increase in homestay permits applied for an issued.

Staff will continue to work with the Host Compliance software service while diligently verifying supplied data to identify properties that are possibly in violation and those which may have the opportunity to gain compliance through Homestay permitting or other means.

When Vice-Mayor Wisler asked when people are contacted about a violation do they understand it's a non-permitted use, Mr. Collins said that they come across people who are unaware that it's illegal or unaware that it can be obtained legally, or just someone who is aware of the law but are continuing to do it because there is a lot of income involved.

Mayor Manheimer said that the City can charge an administrative fee for the permitting that covers the cost for the staffing to administer the program, but if there are any fines received for violations, under the North Carolina Constitution, those fines must be remitted to the North Carolina School System.

Councilwoman Mayfield asked that the total amount collected (broken down by the amount forwarded to the School System and the administrative portion) be included in the reports to Council.

Councilman Bothwell noted that the permitting fees on homestays do not cover the enforcement of short term rentals.

It was the consensus of Council to have an update on homestay permitting every six months.

G. ACCESSORY DWELLING UNIT TASK FORCE REPORT

Mr. Ed Manning, Task Force Facilitator and Executive Director of Leadership Asheville, said that the Accessory Dwelling Unit (ADU) Task Force was charged with developing recommendations for City Council on whether or not to use accessory dwelling units as short term rentals in our community and if so, under what conditions and/or restrictions. He then described the process used to facilitate group discussion and development of the task force recommendations. While the task force did not reach a unanimous decision, it did accomplish some key results (1) collaborative recommendations; (2) a list of concerns; and (3) the list of stakeholders identified. Of note, the task force did not assign any weight to stakeholder concerns prior to evaluating the ideas. It is the opinion of the facilitator, that City Council members should assign a weight to each stakeholder's concern based on their knowledge of the strategic direction of the City and use that weighted list of concerns to evaluate which idea best meets the needs of our community at large.

Mr. Carter Webb presented the super majority idea - Core Idea 1, as follows:

"Our Task Force recommendation ("Core Idea 1") was designed to address the concerns of the following stakeholders: Accessory Dwelling Unit ("ADU") owners, tourists, neighborhoods, City staff, City Council, renters, potential home-buyers, homeless, hotels, bed and breakfast operators, property managers and investors, homeowners, and businesses – current and those seeking to relocate to Asheville.

It is imperative to the local economy for the residents of Asheville to be able to have an affordable place to live. Moreover, we felt that it was equally important for the neighborhoods of Asheville be able to maintain the unique character and charm that so many currently have. Our Task Force strongly feels that allowing an ADU to be considered 'Homestay' operation (as the term is defined in Chapter 7, Article II, Section 7-2-5 of the Code of Ordinances of the City of Asheville) negatively affects the community. Under this Core Idea 1, ADU owners still have the ability to have a steady income stream even without being able to rent the ADU short-term. We believe that the Core Idea 1 is the best option for the City of Asheville to meet the majority of the concerns of the stakeholders listed above.

The purpose of Core Idea 1 is to increase the supply of affordable housing for all Asheville residents through existing programs. These existing programs support the creation and preservation of affordable housing, to include an 'Accessory Dwelling Unit' – as the term is defined in Chapter 7, Article II, Section 7-2-5 of the Code of Ordinances of the City of Asheville – for Asheville citizens of all income levels and will expand other programs to meet the growing need for stable, affordable and long-term housing in the city for its residents. These existing programs will do the following:

1. Inform the citizens of Asheville about the current affordable housing situation within the City of Asheville;
2. Educate the citizens of Asheville regarding the city's role and the support the city has provided to create affordable housing for its citizens;
3. Distribute information to the public about existing and new opportunities within the city that will add affordable housing and will help build financial security for current and prospective property owners; and
4. Offer appropriate resources to individuals to assist them with effective ways to search for safe and affordable housing.

These programs will prioritize and balance economic opportunity and growth with neighborhood stability, harmony and character, but will not undermine the character of Asheville's neighborhoods by permitting short-term lodging.

It is the Task Force's suggestion that City Council consider the following proposals to give the community the ability to continue to provide safe, equitable, diverse and affordable housing opportunities to city residents:

1. Prohibit the use of an ADU as part of a 'Homestay' operation by doing each the following:
 - i. Proactively enforcing violations by increasing fines for violations; and
 - ii. Educating the public that an ADU use as a Homestay is illegal in residentially zoned areas.
2. Develop a public relations campaign, city-wide, with the purpose of informing the public about Asheville's housing situation and why City Council voted to prohibit the use of an ADU as part of a Homestay Operation with the listed reasons and supporting data:
 - i. Provide details regarding the need for more affordable housing, including specifics about the upcoming ballot on the 2016 Bond Referendum for \$25 million in housing affordability bonds that would provide support for the Housing Trust Fund (the "HTF") and would enable the city of Asheville to repurpose city-owned land for development that supports housing affordability;
 - ii. Provide specific information about how an ADU used as part of a Homestay operation removes that ADU from the rental housing market thereby providing less affordable housing to residents of the city; and
 - iii. Show detailed information about how tax dollars are being allocated for affordable housing.
3. Provide incentives to residents to develop an ADU for the sole purpose to rent long term by some of the following:
 - i. Use the HTF to encourage residents to upgrade or create ADUs to be used as long term rentals;
 - ii. Provide low interest construction loans to residents to build an ADU on their property to be used as a long term rental;
 - iii. Award subsidies to residents who offer affordable ADU units to tenants;
 - iv. Waive city permit fees to create an ADU unit to be used as a long-term rental or in the alternative, reduce the amount of the fees it takes to obtain such city building permits; and
 - v. Provide an approval process by the city to allow more off-street parking for residents of an ADU.
4. Facilitate city-wide programs or seminars to grow the housing economy from the "bottom up" such as the following:
 - i. Schedule seminars to be taught by trained professionals on city ordinances to teach residents how to follow the law as a landlord and allow for some form of certification process; such seminars are a requirement for any the HTF loan recipient;
 - ii. Educate and inform residents about the benefits of using an ADU as a long term rental option;
 - iii. Partner with local non-profit organizations to develop an on-going

- iv. support system for landlords to foster successful outcomes;
 - Design an ADU road-map similar to the City of Asheville Restaurant Startup Guide with the purpose to help residents maneuver through the development and approval process and provide links to appropriate resources; and
 - v. Partner with local non-profit organizations to provide educational programs for ADU tenants to inform them of their responsibilities and rights.
- 5. Educate citizens on legal short term rental options including the following:
 - i. Homestay program pursuant to Chapter 7 of the Code of Ordinances of the City of Asheville; and
 - ii. Change of use permits in commercial districts where lodging is permitted.
- 6. Encourage Neighborhoods to discuss and plan for ADU development similar to the 'Plan on a Page' process currently in place. Ask neighborhood associations to discuss how ADUs would fit on individual homeowner's properties and within the context of their neighborhood.
- 7. Develop a "Create an ADU" presentation by doing the following:
 - i. Use national and international examples of well-designed, well-planned, and well-built ADUs (both free-standing as well as part of existing homes) for a "road show" to take to target residents in the city – such as homeowners, neighborhood associations, and trade associations;
 - ii. Recruit and train ADU supporters to assist the City of Asheville to develop and implement presentations; and
 - iii. Educate the community about the benefits of creating ADUs."

Mr. Jackson Tierney presented the minority idea - Core Idea 2, as follows:

"The inclusion of ADUs in Homestay rules seeks to expand an economic opportunity to Asheville residents that allows them to benefit from, and support, the existing tourism industry. The greatest benefit of ADUs is their flexibility of use as the needs of the property owners evolve over time. The more use options there are for ADUs, the greater the incentive is for property owners to undertake the investment in and building of ADUs, which will add to the diversity of housing stock and provide for greater neighborhood resiliency.

The integrity of neighborhoods will be preserved by limiting the number of ADU homestay permits and by ensuring they are operated safely and in accordance with applicable building codes. Permit holders will be present during operation and held to strict adherence to homestay rules. Permit will be revoked if found to be in noncompliance.

In concert with these revised homestay rules, the city will advance programs to support the creation of ADUs and promote long-term rental options. These programs will educate and inform citizens about: the current state of housing in Asheville, existing and new opportunities that add housing and build financial security for current and prospective property owners, and provide training resources on how to manage successful long-term rental units.

Allow ADUs as STR homestays with the following conditions:

- 1. Limit the number of ADU homestay permits.
 - o Cap on total number of ADU homestays by Census Tract
 - o Cap on total number of ADU homestays city-wide

- Distance separation
 - Permits must be renewed yearly, but cannot exceed X consecutive years by the same ADU location
 - Permits not eligible for persons owning an ADU less than X years, or having built an ADU and possessing its C.O. for less than X years
 - Provide neighborhood overlays to opt out of ADU homestays
2. ADU homestays will be operated safely, in compliance with building codes and equitably as compared to other lodging options:
 - A. The ADU homestay owner or operator shall maintain liability insurance on the property, which covers the ADU homestay use and ADU homestay guests.
 - B. The ADU homestay owner or operator must pay any applicable taxes, including occupancy and sales taxes, to the appropriate governmental entity.
 - C. The ADU homestay shall comply with all current and applicable building codes.
 - D. The ADU homestay must be reviewed annually and inspected for compliance with this subsection.
 - E. Permit revocation after three verified violations.
 3. The homestay operation shall be managed and carried on by a person who: 1) is a full-time resident of the property; and 2) is present during the homestay term for the entire time lodgers are staying at the property. To be a "full time resident," the person must reside on the property on a permanent basis, and it must be the person's primary home. For purposes of this homestay ordinance, a person can only have one primary, full time residence, and the homestay must be operated from that primary, full time residence. In order to be "present during the homestay term," the full time resident shall be at the property overnight and not away on vacation, visiting friends or family, travelling out of town for business or personal reasons, etc. during the homestay term. The host may be subject to a fine should an issue arise and they are not on the premises or cannot be within a reasonable time. However, the full-time resident may be temporarily absent from the property for purposes related to normal residential activities such as shopping, working, attending class, etc. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents. Only one homestay shall be permitted per lot/parcel. Homestay permits shall be limited to one per person, at any given time. A picture of the valid homestay permit shall be included on all public advertising pages.
 4. All ADU homestays shall require off street parking, including ADUs within one mile of the CBD.
 5. Develop program of education and incentives to encourage ADU owners to rent their units long-term (greater than 30 days):
 - A. Use city Housing Trust Fund (HTF) to upgrade existing "in-law apartments" to create ADUs with legal provision so they are used as long-term rentals for set period.
 - B. Incentivize ADUs to be constructed by reducing city fees with legal provision so they are used as long-term rentals for set period.
 - C. Offer landlord classes focused on long-term rentals for small sized structures."

Councilman Bothwell said that in the voting method Mr. Manning wanted to find people who could live with and support one or the other core ideas. He has heard from one member of the Task Force that although he said he could live with the idea, he could not support Core 1. Mr. Manning said the question to the members was "could you live with and support" and all those who could live with and support to raise their hands. He then simply counted the hands raised.

When Vice-Mayor Wisler asked if there was any discussion on what the potential numbers might be in the "X" conditions in Core 2, Mr. Jackson said that they did not spend a lot of time on that. They did throw out some numbers for the feel or sense of what they were talking about.

In response to Councilwoman Mayfield, Mr. Jackson explained the policy objective behind the cooling off period for new homeowners with existing ADUs or homeowners who build new ADUs.

Ms. Kelly Prime, Task Force member, said that the focus lately on the vote itself is a little bit of a red herring. The Task Force decided to submit to Council both Core Idea 1 and Core Idea 2. Focusing on the vote and decision-making between those two is side-tracking. She felt Council should focus on the hard work of the Task Force.

Mr. John Farquhar, Task Force member but speaking as an individual representing himself and other private citizens, talked about the Portland experience and an alternative compromise to move forward: (1) set up 18 month pilot program; (2) keep room homestays; (3) add ADU homestays; (4) reaffirm ban on whole house short term rentals (STR); (5) permit ADU homestays in accordance with existing homestay rules; (6) do not add any additional restrictions; (7) work with Airbnb to insert permit facsimile and report non-compliance (8) allow up to 150 ADU homestay permits on a first-come first-service basis; (9) at end of pilot period, analyze - number, type and source of neighborhood complaints; (10) GIS location of permits; (11) rental market conditions in Metro Asheville; (12) survey results of ADU owners and neighbors; and (13) based on information collected, expand, contractor sunset ADU homestays (data driven decision making). He felt the benefits would be to (1) accelerate Council initiative to encourage ADU construction and increase housing density; (2) provides a data-rich framework for future decision-making; (3) reduces enforcement cost; (4) keeps more tourist dollars - and multiplied spending - in Asheville; and (5) blunt future whole-house STR actions (ADU hosts were significant movers/contributors to the STR lawsuit).

The following individuals voiced their various opinions regarding the issue of ADUs as homestays, along the process used for decision-making and voting by the Task Force.

Dan Rogers, representing the Asheville Bed & Breakfast Association
Rob Neufeld
Casey Campfield, downtown business owner
Tim Sadler
Michael Smith
Individual that runs a homestay
Individual representing more than 100 full-time Asheville residents and active voters
Brandee Boggs
North Carolina Green Party Co-Chair but individual representing himself
Wendy Dean, member on the Task Force, but speaking as an individual
David Rodgers, member of the Task Force
Greta Bush, member of the Task Force
Jane Mathews, member of the Task Force

Councilman Bothwell appreciated the effort made by members of the Task Force; however, he felt the process was deeply flawed for a number of reasons including the methodology, the exclusion of participants, misinformation and a lack of content. He then read

the following statement: "First and most obvious is the reported vote from the Task Force. On Council we can't vote yeah and nay on the same question. Participants were permitted to vote twice, both for legalization and for maintaining the ban on Short Term Rental of Accessory Dwelling Units. Some participants don't seem to understand the vote or the voting method and the lack of transparency is troubling. The results presented were made to appear objective but the interpretation appears to be entirely subjective. At least one participant felt he was misled in the process.

"Secondly, the most critical affected parties were excluded from the discussion. We created a \$500 per day fine, boosted enforcement with an extra \$120,000, and then asked STR operators to come in and discuss their business. As a practical matter that means they had to quit renting or risk prosecution. Nor could they solicit letters of support from neighbors who were perfectly happy with the STR next door.

"The whole debate has been conducted in the shadow of the Bowen Report which indicated a 2014 rental vacancy rate of 1 percent. But that information was already dated when Mr. Bowen delivered it in January 2015. It has become less and less accurate every month since. Mr. Bowen said a 4-6 percent vacancy rate is normal in a healthy market. In the third quarter of this year one industry analysis shows a 6.8 percent vacancy rate. As measured by Mr. Bowen's yardstick we now have an excess of rental units. Elimination of a few dozen Short Term Rentals had nothing to do with that change.

"Finally this task force did not consider the context of their deliberations. A major driver of the debate is concern expressed by those who say that STRs are a threat to neighborhoods. If that is the issue, then we on Council need to decide how we can best address threats to neighborhoods with the resources we have available. If identifying the most urgent neighborhood problems had been the function of the task force it might have identified barking dogs or gas powered leaf blowers, noise from the stump grinder on Riverside, or parking problems or the need for a new leaf vacuum truck, or any number of things.

"As Chair of the Public Safety Committee I would say the most serious neighborhood problem in Asheville is the fact that we led the state in pedestrian deaths. We have been reminded of that with two cyclists hit in recent weeks and the tragic death of two children crossing a road which has no marked crossings. Judging by the signs around town that urge drivers to slow down, I'd say concern about speeding is widespread. A pedestrian struck by a car going 20 mph has a 95 percent chance of survival. At 40 mph the survival rate goes down to 10 percent. Why do I mention that? Not far from where I live, Barnard Avenue is a cut through between W.T. Weaver Boulevard and Edgewood Road. As more people discovered it, a lot of outsiders began to use it at alarming speeds. Recently the City installed 8 speed bumps and traffic has calmed remarkably in just a few weeks. Most cars are now traveling at the posted speed of 20 mph. Transportation Director Ken Putnam tells me that each speed bump cost is \$2,500, so that a \$20,000 improvement for that neighborhood.

"The additional STR enforcement money, \$120,000, would cover 8 speed bumps in 6 more neighborhoods. We can't afford to put sidewalks on every street like Barnard, but we can afford some traffic calming there. It would be great to give Ken Putnam the resources he needs to address a long list of other streets that need calming.

"So as a Council member who needs to make the best choices for our City, I ask myself, is a neighbor who hosts well-behaved short term guests in an Accessory Dwelling Unit the bigger threat to a neighborhood? Or is it strangers racing through at breakneck speed? We could put down speed bumps in six more neighborhoods each year instead of chasing down your next door neighbor who rents some rooms. Or we could direct that money to sidewalks on Lakeshore or Haw Creek, or install pedestrian crossings on Fairview Road where those two children died. I am clear on the choice I would make for my own neighborhood.

"Here's where I come down. The reported Task Force vote was questionable and contradicted by participants. It did not include substantive input from the most affected parties. It operated under the misapprehension that the 2014 rental housing crisis is ongoing. And in consideration of a purported negative impact on neighborhoods it did not consider the big picture of how the City ought to apportion limited resources to address the most serious problems in the community. Finally I note that when the City ran a survey on our website, 77 percent of respondents favored adding Accessory Dwelling Units to the Homestay program, and in testimony before Council a majority of speakers agreed.

"It is time for this Council to make a decision that should have been made a year ago and I believe something like the Portland solution is the best path forward.

"Therefore," Councilman Bothwell moved to instruct staff to prepare the regulatory changes needed to make Short Term Rental of Accessory Dwelling Units legal in the City of Asheville. This motion was seconded by Councilman Haynes.

When Councilwoman Mayfield asked how many ADUs have been built since November, 2015, City Manager Jackson said that he would provide that information to Council.

In response to Councilwoman Mayfield, City Attorney Currin said that she has reached out numerous times to New Orleans regarding their Airbnb enforcement; however, to date she has not had a response.

In response to Mayor Manheimer, City Attorney Currin said that the suggestion to have the Airbnbs give Asheville \$1 per night for the affordable housing trust fund would be something she would have to research, as it might be viewed as a tax.

Councilwoman Mayfield said that Council has been provided with a lot of information that will need to be considered; therefore, she was not prepared to vote on a motion at this time.

Councilman Smith respected all of the voices coming forward to deal with this situation across the nation. We are deep in a housing crisis. For those people behind Core 1, there are ideas around incentivizing ADUs for long-term rentals are very appealing. Some of that work has started at the City Council Housing & Community Development Committee already and they have provided some excellent ideas that they will pursue. He said that we are getting an update on the Bowen Report this month. Long term renters are being evicted from ADUs to make room for tourists. He felt that if we proceed with Councilman Bothwell's motion, there would be enforcement at all. The idea of an 18-month pilot program is good, but he felt that we should start with an 18-month pilot program for incentives for long-term rentals for ADUs in our neighborhoods. He felt we need to start addressing our housing crisis for the residents of the City of Asheville before we start talking about how we make sure tourists have a place to stay in our neighborhoods.

Vice-Mayor Wisler said that Council intentionally set up the Task Force with a balance of voices. Until we get to a program that feels closer to the balance of all stakeholders, she was not willing to take away enforcement of the regulations because it will be difficult to begin the enforcement again. She was though, willing to continue to look at the various alternatives to better balance the stakeholders.

Councilman Bothwell said that the point of creating a license system is that we can recover the cost, so we would replace the \$120,000 with the fees paid by people who get licenses. Also, he agreed we are not at the point of taking away the regulations, but if we agree to move toward making them legal, we can then embrace the ideas from different cities and find the best answers. As long as they remain illegal he didn't think we will make any progress.

Councilman Haynes felt that Councilman Bothwell's motion is not to end enforcement, but it's moving forward in supporting ADUs as short term rentals.

On behalf of Council, Mayor Manheimer thanked the Task Force for their work and commitment to this process. In terms of process she liked the idea of a Task Force because it allows a group of balanced thinkers to dissect a complicated issue. Because of that, she felt it was important for Council to support the Task Force recommendation. One of her concerns is that there would be so much disruption on what process was used so as to invalidate the Task Force recommendation but most of the Task Force spoke at this meeting. She felt there was a slim majority of those that want to maintain prohibiting ADUs from becoming homestays. She liked the recommendation about teaching people how to do ADUs and that is something the City can certainly do. To her, this is a fluid and evolving issue. Her vote in support of the Task Force recommendation is not closing the door forever on this discussion. She is deeply concerned about people being able to afford to live in their homes and using this as a way to do that, balanced with people who are needing a home and looking to an ADU as their affordable home. She would be willing to revisit this issue because it is quickly evolving.

Councilman Young didn't think Councilman Bothwell's motion invalidates the recommendation of the Task Force. Because it is just a recommendation, he felt it was Council's responsibility to make the tough decisions and choose to follow those recommendations or go in a different direction.

Councilwoman Mayfield agreed that Council needs to focus less on the vote and the process (even though transparency and a good solid process is key) but more on the work of the Task Force.

At the suggestion of Councilman Smith, Mr. Randall Barnett said that it was his understanding that all Task Force members voted twice on a sliding scale. He voted to support Core Idea 2 and could he live with Core Idea 1.

At 8:00 p.m., Vice-Mayor Wisler called the question.

The motion made by Councilman Bothwell and seconded by Councilman Haynes failed on a 3-4 vote, with Mayor Manheimer, Vice-Mayor Wisler, Councilwoman Mayfield and Councilman Smith voting "no."

Councilwoman Mayfield moved to continue this conversation in the realm of the City Council Housing & Community Development Committee.

At the suggestion of Mayor Manheimer, it was the consensus of Council to place this item on the January 10, 2017, agenda and that Council be prepared to recommend further steps.

Councilwoman Mayfield then withdrew her motion.

Closed Session

At 8:05 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 (a) (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: City of Asheville vs. The State of North Carolina. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To consider the qualifications, competence, performance, character, fitness, or conditions of

appointment of an individual public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to N.C. Gen. Stat. § 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:40 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR THE SKYLAND EXCHANGE DEVELOPMENT

RESOLUTION NO. 16-276 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR THE SKYLAND EXCHANGE DEVELOPMENT

Community Development Analyst Chris Hnatin said that this is a public hearing to consider approving a land use incentive grant for the Skyland Exchange (Hathaway Development). This public hearing was advertised on December 2, 2016.

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, meets 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 earning 80% or less of the average 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 points for the proximity to transit despite the 1.5 hour route frequency; the site is not within 1 mile of a job center (1.8 miles to Biltmore Park). The project scores 5 points in this category.

The Housing and Community Development Committee reviewed the application at their meeting on September 16, 2016. The HCD Committee recommended an additional 5 points for transit access, and recommends approval of the project with a total of 30 points. This would make the project eligible for a three-year Land Use Incentive Grant.

At the October 18, 2016 HCD meeting, Chairman Smith noted that he would like to change his previous vote on the LUIG application for Skyland Exchange Project, which had been considered at the September 16, 2016 HCD meeting, and received a unanimous vote to recommend to City Council 30 points for the LUIG application. As per the minutes of the October 18, 2016 HCD meeting, "It is noted that Gordon Smith would like to change his vote on the LUIG application for Skyland Exchange during the last meeting. The initial vote was to add points for transit, but {he} would like to change vote to remain within policy. This would change the 30 points awarded to 25 points." There was no formal reconsideration of the previous vote by the full committee; however, the October minutes reflect Councilman Smith's comments.

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.

Cons:

- The project has been approved for Conditional Zoning, with 10% of the units to be built pledged as affordable. Staff notes that successful affordable housing agreements often combine financial incentives with regulatory agreements.

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 of affordability 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 (30%), the fee rebate would be \$26,802.

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

Staff recommends that Council approve the request of Skyland Exchange for a Land Use Incentive Grant.

In response to Vice-Mayor Wisler, Assistant Community & Economic Development Director Jeff Staudinger said that the City regularly combines incentives of various natures in order to create an incentive for affordable housing development in the private sector. He said that she saw no problem in moving the conditional zoning process and requests for land use incentive grants process concurrently through the Council process.

Mayor Manheimer opened the public hearing at 8:52 p.m.

Mr. Chris Day, with Civil Design Concepts, explained their request for the grant and asked City Council for their support.

It was noted that Mr. ViJay Kapoor provided written comments since he was unable to attend the meeting. Briefly, he said "The possibility that tax breaks were available never came up during discussions with the St. Barnabas parishioners, at the Planning & Zoning Board or at City Council. As a taxpayer, it outrages me that my tax dollars might subsidize a project that displaced poor, vulnerable families with young children – the same families that the City's affordable housing programs are trying to help."

Mayor Manheimer closed the public hearing at 8:58 p.m.

Councilman Smith said that he could only support the 25 point level because it goes outside of Council's policy regarding transit routes.

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. 16-276 at the 30 point level. This motion was seconded by Vice-Mayor Wisler and carried on a 6-1 vote, with Councilman Smith voting "no".

RESOLUTION BOOK NO. 38 – PAGE 290

B. PUBLIC HEARING TO CONSIDER REZONING 90 ASHELAND AVENUE AND 202 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; 206 ASHELAND AVENUE, 216 ASHELAND AVENUE, 222 ASHELAND AVENUE AND 90 SOUTHSIDE FROM OFFICE BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; AND A PORTION OF 88 SOUTHSIDE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT; AND AN AMENDMENT TO THE OFFICIALLY ADOPTED HEIGHT ZONE MAP

ORDINANCE NO. 4542 - ORDINANCE TO REZONE 90 ASHELAND AVENUE AND 202 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; 206 ASHELAND AVENUE, 216 ASHELAND AVENUE, 222 ASHELAND AVENUE AND 90 SOUTHSIDE FROM OFFICE BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; AND A PORTION OF 88 SOUTHSIDE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4543 - ORDINANCE AMENDING THE OFFICIALLY ADOPTED HEIGHT ZONE MAP

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to rezone 90 Asheland Avenue and 202 Asheland Avenue from Regional Business District to Central Business District; 206 Asheland Avenue, 216 Asheland Avenue, 222 Asheland Avenue and 90 Southside from Office Business District to Central Business District; and a portion of 88

Southside from RM-16 Residential Multi-Family High Density District to Central Business District; and an amendment to the officially adopted Height Zone Map. This public hearing was advertised on December 2 and 9, 2016.

The City of Asheville is initiating the review of a rezoning for multiple parcels along the east side of Asheland Avenue from Office Business (OB), Regional Business (RB) and Residential Multi-Family High Density (RM-16) to Central Business District (CBD). This review includes an amendment to the height zone map to apply the intermediate height limit to all properties included in the rezoning.

The area proposed for rezoning consists of ten separate PINs on seven parcels along the east side of Asheland Avenue. The lots are developed with a variety of commercial and office uses and range in size from 0.37 acres to 1.57 acres in size.

The parcels are zoned Office Business, Regional Business and one is a portion of a split-zoned area zoned RM-16. There is CBD zoning to the east and north. The west side of Asheland Avenue (not under consideration for rezoning at this time) has Office Business and Regional Business zoning and Office Business continues to the south.

As described in the sections on plan compliance and recent zoning actions below, staff has been anticipating an expansion of the CBD zoning in this area and was originally pursuing rezoning both sides of Asheland Avenue. However, after meetings with the Downtown Commission, Design Review Committee and community representatives from the South French Broad Neighborhood group, the west side of the corridor is not proposed for any zoning change at this time. From the discussions with the aforementioned groups, as well as staff analysis of the limitations to development potential on these parcels, and the potential impacts on the surrounding single-family neighborhood, it was agreed that more time is needed to evaluate the possible expansion of the CBD in this area and whether or not the current CBD regulations are appropriate. Additionally, this corridor is included in the upcoming South Slope Visioning Study Area and more input on appropriate zoning, development or uses directly adjacent to the residential neighborhood may be gleaned from that process.

Along the eastern side of Asheland Avenue, the properties all abut CBD zoning; the concerns relating to rezoning the west side of the corridor are not applicable to these parcels.

Most recently, the property at 200 Asheland was rezoned from RB to CBD in 2015. Multiple other parcels in the vicinity have been similarly rezoned in 2013 and 2014. There have been several Level II projects approved in the vicinity for residential development (88 Southside, 2016; 185 Coxe Avenue, 2015).

Approval of the rezoning proposal requires an amendment to the Downtown Height Zones map and these parcels would be placed within the Intermediate Height Zone. Asheland Avenue is already considered a Key Pedestrian Street. Extension of the context transition edge is not applicable along the majority of the area as there is no adjacent residential zoning (with the exception of 88 Southside Avenue). Any future development would be required to comply with Central Business District design requirements and review standards.

The Downtown Commission (DTC) has discussed this proposal over multiple meetings and unanimously supported the request to rezone these parcels along the east side of Asheland Avenue and apply the intermediate height zone at their meeting on October 14, 2016.

Staff and members of the DTC held a meeting with Asheland Avenue property owners in January 2014 and met with community residents in July and September 2016.

At their meeting on November 2, 2016, the Planning & Zoning Commission voted unanimously in support of this effort. At the meeting, one property owner included in the rezoning

spoke in support. No other communication has been received as of the writing of this report.

Zoning in this area includes CBD to the north and east, OB to the south, and OB and RB to the west. The area is developed with a mix of uses including medical and other offices, residential and some manufacturing and distributive businesses. Uses currently on these sites are allowed in the CBD and considered compatible with the surrounding area.

Design standards mandated by the city's Unified Development Ordinance (UDO) would require that any future development be pulled up towards and activated with the street rather than set back with parking in the front. The maximum height permitted (145 feet) would be significantly greater than current zoning (60 to 80 feet) but is less than the properties adjacent to the west along Coxe Avenue, which are within the tallest height zone.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating development in downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

The Land Use & Transportation section contains a specific goal to “continue to look for opportunities to expand the boundaries of the CBD to areas appropriate for that type of development”.

The *Downtown Master Plan* recommends strategies for the continued vitality of the downtown and specifically included this section of Asheland Avenue as an area for expansion of the CBD due to its proximity to the CBD, wide right-of-way and potential for urban growth. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having that potential to grow and improve following an urban development pattern.

The proposal aligns with the 2036 Council visions in the following areas: (1) *A Well-Planned and Livable Community* - through the enhanced design standards that accompany development with the CBD zoning designation; (2) *Transportation and Accessibility* – due to the requirements for wider sidewalks, pedestrian-friendly design and urban streetscape possibilities; and (3) *Thriving Local Economy* - from the wider mix of uses and opportunities for more intense development (including a higher residential density)

Considerations:

- Expansion of the CBD is generally recommended in the *2025 Development Plan* and specifically recommended along Asheland Avenue in the *Downtown Master Plan*
- Five similar requests have been approved in this immediate location since 2013, leading to staff and the Downtown Commission pursuing a multi-parcel rezoning effort
- While staff was originally pursuing rezoning both sides of Asheland Avenue to CBD, discussions and analysis have shown that the western side may need a new or separate zoning designation to better balance the goals of the City and development potential with limiting negative impact to adjacent residential neighbors

Staff recommends approval (1) of the proposed rezonings, finding that the proposal to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area as well as following similar rezoning actions in the immediate vicinity; and (2) the amendment to the officially adopted map pertaining to the Central Business District - Height Zone Map.

Mayor Manheimer opened the public hearing at 9:03 p.m. on the rezoning and the amendment to the height zone map; and when no one spoke, she closed the public hearing at 9:03 p.m.

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

Councilman Smith moved to approve the zoning map amendment to rezone 90 Asheland Avenue and 202 Asheland Avenue from Regional Business District to Central Business District; 206 Asheland Avenue, 216 Asheland Avenue, 222 Asheland Avenue and 90 Southside from Office Business District to Central Business District; and a portion of 88 Southside from RM-16 Residential Multi-Family High Density District to Central Business District; and an amendment to the officially adopted Height Zone Map 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) multiple adopted plans support expansion of urban zoning and development in this location; and (2) properties along the block have been rezoned in a piecemeal fashion and this effort creates a consistent and contiguous expansion of the CBD. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE NO. 4542 - ORDINANCE BOOK NO. 31 - PAGE 36
ORDINANCE NO. 4543 - ORDINANCE BOOK NO. 31 - PAGE 40

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PINNACLE LANDSCAPES, LLC, FOR THE CONSTRUCTION OF PRITCHARD PARK IMPROVEMENTS

BUDGET AMENDMENT FOR PRITCHARD PARK IMPROVEMENTS

Director of Parks and Recreation Roderick Simmons said that this is the consideration of: 1) a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville in the amount of \$194,349.00 plus a contingency of \$38,000.00 for a total of \$232,349.00; and 2) a budget amendment in the amount of \$232,349.00 from the Parks and Recreation Department General Fund park maintenance budget to establish a capital project in the General Capital Projects Fund.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received 2 bids plus alternates but one bid was deemed non-responsive.

1. Pinnacle Landscapes, LLC, Asheville, NC (\$194,349.00)

After thorough review and evaluation, staff selected Pinnacle Landscapes, LLC, Asheville, NC, as the lowest, responsible bidder. The base bid plus alternates accepted was \$194,349.00.

Recognizing Pritchard Park is a highly utilized park and an integral part of downtown Asheville's vibrancy, communication efforts have been diverse. Information regarding the scope of the project and potential impacts on park use was shared with key stakeholders to include City Council's Downtown Commission, Asheville Downtown Association and Downtown Asheville Residential Neighbors (DARN). Stakeholder feedback will be used to minimize impacts once

project work begins. Information has also been shared through the City's news site and social media with regular updates scheduled through the completion of the project.

The Parks and Recreation Department's Adopted FY 2016-17 General Fund included \$650,000 for maintenance projects. Funding for the Pritchard Park improvements will come from that budget. Due to the size of the project, Finance staff is recommending that a separate project be established in the City's General Capital Project Fund. The budget amendment will establish this project by moving budget from the General Fund to the General Capital Projects Fund. This includes \$232,349.00 to be applied for the cost of the Pritchard Park Improvements for a total base bid with alternates of \$194,349.00 plus a contingency of \$38,000.00.

Pros:

- Improves security in this urban park via lighting and appropriate plantings
- Improves the conditions and provides protection for the health of the existing trees
- Improves the appearance and place making qualities of this prominent park

Cons:

- While portions of the park will remain open to the public during the construction of the park, it will be necessary to close some areas of the park periodically
- There will be a modest increase in maintenance relative to the existing conditions which is currently being contracted annually with a landscape contractor

The \$194,349.00 plus a contingency of \$38,000.00 to support Pinnacle Landscapes, LLC contract for the Pritchard Park Improvements is budgeted in the Parks and Recreation Department operating budget as part of the maintenance budget. Due to the nature and size of the project, Finance staff recommends the project be budgeted in the General Capital Projects Fund rather than the General Fund. A budget amendment is required to create a budget in the General Capital Projects Fund.

Mr. Steven Lee Johnson, from Sitework Studios, said Pritchard Park is a heavily used urban park and the landscape of Pritchard Park has gradually declined over the last 15 years since it was initially constructed. There is a need to address security by providing additional lighting, more regulation signs and a landscape that increases visibility. The health of the existing trees and landscape beds have declined and will be improved via air spading the compacted soils, providing master arborist care for all of the existing trees, installation of an irrigation system and an ornamental fence to protect the landscape. The appearance of the park will be improved with attractive landscape plantings, additional ornamental boulders for seating, stone pavers, decorative tiles for the columns and a new drinking fountain and benches. There will only be modest repairs to the existing park concrete sidewalks and brick walls. Portions of the park will remain open to the public during the construction of the park but will be necessary to close some areas of the park periodically. He said that they anticipated construction early next year with final completion in May. He did note that sections will be closed as needed; and said the community can look forward to a lush, urban park that everyone can enjoy.

Staff recommends that the City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville in the amount of \$194,349.00 plus a contingency of \$38,000.00 for a total of \$232,349.00; and 2) a budget amendment in the amount of \$232,349.00 from the Parks and Recreation Department General Fund park maintenance budget to establish a capital project in the General Capital Projects Fund.

There was a brief discussion, initiated by Councilman Bothwell, about the fence limiting people from getting into the shade in the Park, and the need to be sensitive to the homeless population who utilize the public space.

Councilman Smith then moved to approve the resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville, with an additional "Whereas" to the resolution to read as follows: "Whereas, the City promotes inclusion and diversity of its citizenry;". This motion was seconded by Councilman Bothwell.

After reviewing the rendering of the fenced areas, Councilman Smith withdrew his motion as he felt we should open up a little more of the space and not fence the entire grassed areas.

Mayor Manheimer questioned how we can make sure our parks are healthy, but accessible.

In response to Councilwoman Mayfield, Mr. Johnson said that he was not aware of any homeless advocates showing up at any of the commission meetings where this project was discussed.

It was the consensus of Council continue this matter until the January 24, 2017, meeting so that (1) the matter can be reviewed by the Homeless Initiative Advisory Committee; (2) staff look at bringing the fencing closer around the trees; and (3) additional renderings from the ground level be provided of various vantage points.

B. RESOLUTION NO. 16-277 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PARTNERSHIP AGREEMENT WITH ASHEVILLE BUNCOMBE PRESCHOOL PLANNING COLLABORATIVE

ORDINANCE NO. 4544 - BUDGET AMENDMENT FOR THE PARTNERSHIP AGREEMENT WITH ASHEVILLE BUNCOMBE PRESCHOOL PLANNING COLLABORATIVE

Councilman Smith moved to recuse Vice-Mayor Wisler from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Gordon Smith said that he invited Jennie Eblen and Melissa Baker from the Asheville Buncombe Preschool Planning Collaborative (ABPPC) to present to the Housing and Community Development Committee at their November 15, 2016, meeting. The Collaborative requested \$4,000 of City funds to assist their efforts.

The service contract with ABPPC is an unbudgeted expense. If Council supports the \$4,000 agreement, action to be taken would include a budget amendment and an appropriation from fund balance, in addition to authorizing the City Manager to enter into the partnership agreement.

The Housing and Community Development Committee recommended 2-1 to request City Council to enter into a partnership agreement with ABPPC.

Councilman Smith explained that their request of \$4,000 of City funds is to assist their efforts to create a collective plan for ensuring that every 3- and 4-year old in Asheville and Buncombe County has access to affordable, high quality preschool. Their estimated budget for the planning process is \$43,240 and their Steering Committee requests that each of the organizations currently engaged in the planning effort consider making a contribution to help support the planning process. By supporting this exciting new initiative we will be making a smart investment in our children and our community.

In response to Councilman Young, Ms. Jennie Eblen, Co-Chair of the Steering Committee, said that they have not yet discussed about how the partnership relates to the

funding aspect. She said that there is not really a formal partnership. The partnership is those organizations at the table that are trying to create the plan to increase access for early education. There is not a correlation between the funding and being a partner. The partner is more of those at the table. Being a partner does not require the funding. They do have another ongoing planning phase that they have not sought funding for. This particular funding will go to support a consultant and administrative support. It might be a potential that they would ask their partners again to support a next phase. Implementation, several years from now, will be large amounts of money and that will not be asked to be furnished by the partners at this time.

Councilwoman Mayfield said that we have been receiving requests outside of our strategic partnership process. She suggested that in our budgeting for next year that we consider reserving some of our strategic partnership funds so that we have money that is available for requests like this that come in not on our regular schedule.

Councilman Smith agreed with Councilwoman Mayfield and felt that the City's once a year allocation calendar doesn't match up with the realities of organizations with their own timetables.

It was the consensus of Council to start this review of process at the Governance Committee.

Councilman Smith moved for the adoption of Resolution No. 16-277 for allocating \$4,000 from the general fund. This motion was seconded by Councilman Young.

Councilman Young felt this is an important step toward making sure everyone has some sort of access to early childhood education and specifically pre-k for 3 and 4 year olds. He believed there is a \$6,000 gap so he would like to ask for a friendly amendment to provide the amount of \$6,200.

Ms. Eblen said that is the gap in this planning phase. She said that they have also made a request to the County and all their partner organizations. Most of the non-profits have not been within their calendar year budget. She said that this phase ends in May of 2017, and there is another very significant phase which is going out to the community and we don't have the funding for that. Any monies that we receive that we did not receive in this phase will go into the next phase.

Councilman Smith moved to amend his motion to \$6,200.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 16-277 for allocating \$6,200 from the general fund. This motion was seconded by Councilman Young and carried unanimously on a 6-0 vote (with Vice-Mayor Wisler being recused).

RESOLUTION BOOK NO. 38 – PAGE 291

Councilman Smith moved for the adoption of Ordinance No. 4544 for allocating \$6,200 from the general fund. This motion was seconded by Councilman Young and carried unanimously on a 6-0 vote (with Vice-Mayor Wisler being recused).

ORDINANCE BOOK NO. 31 – PAGE 43

C. RESOLUTION NO. 16-278 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SOLICIT QUALIFICATIONS FROM PROFESSIONALS TO

EVALUATE AND ADVISE CITY COUNCIL ON THE DESIGN OF THE I-26 CONNECTOR PROJECT

Mayor Manheimer said that the NCDOT Merger Team has selected Alternative 4B as the preferred alternative for the I-26 Connector Project. In the coming months, the city will continue work with the NCDOT to review possible design enhancements that would minimize the overall footprint of the project and its impact on the City of Asheville, its residents, and economy. To insure the current plan is ultimately acceptable to the City of Asheville and its residents, it is vital that the broad range of environmental and community impacts of the I-26 Connector project be identified, explained to the public, and fully understood by the council to guide the City in its work with NCDOT.

Additional technical expertise is now needed to advise the council and city staff on policy recommendations, as the scope and complexity of the project, is beyond the routine transportation planning that occurs in a City of the size of Asheville.

Council is requesting retention of a consulting firm or firms with the multi-disciplinary skills and technical expertise to evaluate the design of the I-26 project to determine if the City's goal of minimizing the footprint and impacts of Alternative 4B can be accomplished, taking into account federal and state highway design parameters and exceptions. Additionally, the consulting firm will be expected to advise the City on other suggestions and options that should/could be considered feasible, and the various trade-offs involved in each identified suggestion or option.

Multi-disciplinary expertise would include but not be limited to: review and analysis of roadway design and engineering; review and analysis of noise studies and mitigation; review and analysis of traffic forecasts and simulations; review and analysis of NCDOT's construction plans and inherent assumptions (inherent assumptions include roadway design, lane closures, blasting, retaining walls, construction-related impacts, etc.); pedestrian and bike connectivity and accessibility; greenway planning and connectivity; and stormwater mitigation.

If approved, staff would develop a request for qualifications and process for selecting the most qualified consulting firm or firms to perform these services. Staff would anticipate completing the selection process in March 2017.

The authorization for a not-to-exceed contract along with a budget amendment would be on Council's agenda for approval no later than April 2017.

When Mayor Manheimer asked for public comment, no one spoke.

Councilwoman Mayfield moved to for the adoption of Resolution No. 16-278. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 292

D. ORDINANCE NO. 4545 - BUDGET AMENDMENT TO ACCEPT FUNDS BY BUNCOMBE COUNTY FOR THE AFRICAN AMERICAN HERITAGE COMMISSION

Mayor Manheimer said that at its meeting on November 15, 2016, the Buncombe County Commissioners approved funding in the amount of \$10,000 to support the African American Heritage Commission's efforts to commemorate the contributions of the African American community in Buncombe County and Asheville. The African American Heritage Commission has made a similar request of the City of Asheville in the amount of \$10,000. The total amount will be used to fund a facilitated planning and visioning process to develop a project that will commemorate African American heritage in Asheville and Buncombe County.

This action complies with the City Council's vision of a Diverse Community and aligns with the strategic goal to; "In partnership with others, participate in community dialogue and potential strategies to honor history and contributions of the African American community in Asheville, beginning with a community led effort to install a monument to African American heritage"

If City Council supports accepting the \$10,000 from the Buncombe County Commissioners and the City's match of \$10,000, action to be taken would include a budget amendment to accept the County funds and direction from Council on the City's funding sources for the match.

City Manager Jackson said that actions by Council to support this matter will be to accept the County's \$10,000 support along with the City's match of \$10,000 from fund balance as a budget amendment.

African American Heritage Commission Chair Sasha Mitchell thanked City Council for their support.

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Bothwell moved to for the adoption of Ordinance Book No. 4545. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ORDINANCE BOOK NO. 31 - PAGE 45

E. RESOLUTION NO. 16-279 – RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Scott Rogers, David Nash and Hilliard Carlisle as members on the Homeless Initiative Advisory Committee, expire on November 1, 2016. In addition, there currently exists a vacancy left by Amy Upham until November 1, 2018.

The following individuals applied for a vacancy: Dale Davidson, Sarah Lancaster, Emily Whitmire, John Sterling, John Klockner, R. Scott Owen, Kari Korp, Derek Towle, John Rakes, Gene Bell, Jill Moffitt, Beth Russo, Kevin Forner, Kerry Keihn, Gerry Leonard and Val Ball.

At the recommendation of the Homeless Initiative Advisory Committee (HIAC), it was the consensus of the Boards & Commissions Committee to appoint Gene Bell, John Rakes and Dale Davidson to the HIAC. It was also their recommendation to re-advertise for the homeless/formerly homeless seat.

Vice-Mayor Wisler moved (1) to appoint Gene Bell and John Rakes to serve as members of the Homeless Initiative Advisory Committee, terms to expire November 1, 2019, or until their successors have been appointed; (2) to appoint Dale Davidson to serve the unexpired term of Ms. Upham, term to expire November 11, 2018, or until his successor has been appointed; and (3) to re-advertise for the homeless/formerly homeless seat. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 293

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:45 p.m.

CITY CLERK

MAYOR