

Tuesday – January 10, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; 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: Councilman Brian D. Haynes

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING 2017 AS "LAND OF THE SKY ASSOCIATION OF REALTORS YEAR"**

Mayor Manheimer read the proclamation proclaiming 2017, as "Land of the Sky Association of REALTORS Year" in the City of Asheville. She presented the proclamation to Mr. Randall Barnett, Mr. Terry Horner, and others, who briefed City Council on some activities taking place during the year.

**B. PROCLAMATION PROCLAIMING JANUARY 14-16, 2017, AS "DR. MARTIN LUTHER KING JR. DAYS"**

Mayor Manheimer read the proclamation proclaiming January 14-16, 2017, as "Dr. Martin Luther King Jr. Days" in the City of Asheville. She presented the proclamation to Ms. Oralene Simmons who briefed City Council on some activities taking place during the days.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 13, 2016**

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

This item was adopted on its first reading on December 13, 2016.

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**C. RESOLUTION NO. 17-280 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND IF AWARDED, ACCEPT FUNDING FROM THE DUKE ENERGY WATER RESOURCES FUND**

Summary: The consideration of a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Duke Energy Water Resources Fund in the amount of \$90,000.

On December 15, 2016, City staff received an invitation from the Duke Energy Water Resources Fund -managed by the North Carolina Community Foundation- to apply for the 2017 funding cycle. Submittals are due on January 20, 2017. This invitation came because the City

submitted a successful Letter Of Intent to the program in October 2016. If awarded, \$30,000 or less of the funds would be used to offset the cost for a storm water management device on the French Broad River Greenway West Bank, a project that will be constructed as part of the TIGER VI program between 2017-2020; the remaining (\$60,000) funds would be used to hire a firm to develop a Restorative Landscape Plan for the River Arts District Transportation Project (RADTIP) area. The plan's purpose would be to increase riparian sustainability and create a riverfront landscape environment (wildlife habitat, erosion and storm water management, shade for citizens, urban garden opportunities) that greatly improves on what is currently planned. This plan would acknowledge that while the RADTIP and other City plans call for two major storm water management devices, a pollinator garden, and required street trees and landscaping, that there are gaps in addressing water quality, tree canopy, and other environmental issues in this area. The scope of work would include an inventory of existing trees and vegetation, an analysis of the current plans including tree removal and new landscape designs to be installed via RADTIP street designs, boat ramp designs, and parking lot designs; and an area wide landscaping plan that focuses on how to deliver the plan via community partnerships. RiverLink, Asheville Greenworks and Boy Scouts of America Daniel Boone Council have met with staff and expressed an interest in being partners in this project.

The Riverfront Commission adopted the following recommendations to Council for 2016, as part of the publication of their 2015 Annual Report:

- Recommendation 3: Focus on water quality. This will require coordination with local governments, the state of North Carolina, and not for profits like RiverLink and Greenworks.
- Recommendation 4: Continue and Improve on Flood mitigation and flood hazard mitigation strategies.

Staff presented the idea to the Planning and Economic Development Committee of City Council on September 20, 2016. While no official vote was called, members expressed support for staff to submit a Letter of Intent, and were told that any decision to apply for the grant would come to the full Council for consideration.

Pro:

- Helps further Council and Community goals with no impact to City budget

Con:

- Requires City staff management/use of human resources (opportunity cost).

No additional City funds are required to match this grant. If awarded, there would be a positive impact to the City's budget in the amount of \$90,000.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Duke Energy Water Resources Fund in the amount of \$90,000.

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#### **D. RESOLUTION NO. 17-281 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH AAR ROOFING & SHEET METAL OF NC FOR THE BINGHAM ROAD ROOF REPAIRS PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with AAR Roofing & Sheet Metal of NC (Contractor) for the Bingham Road Roof Repairs Project for the base bid amount of \$646,645 plus a 10% contingency in the amount of \$64,665 for a total project budget in the amount of \$711,310.

On November 14, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the Bingham Road Roof Repairs Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for replacement of approximately 51,000 Square Feet of single ply membrane roofing, tapered insulation, roof accessories, and associated flashings and trim at the new Water Maintenance / Meter Services Facility located at 200 Bingham Road in Asheville.

In response to the Advertisement for Bids, the department received four bids on December 6, 2016 as summarized below:

1. AAR Roofing & Sheet Metal of NC, Kernersville NC – base bid \$646,645
2. Benton Roofing, East Flat Rock NC – base bid \$683,589
3. Eskola, LLC, Morristown TN – base bid \$686,500
4. Frizzell Construction Company, Bristol TN – base bid \$783,000

Following a review of the bids by City Staff and the project architects, McMillan Pazdan Smith, the Contractor was selected as the lowest responsible, responsive bidder for the base bid amount of \$646,645. A contingency amount of \$64,665 has been added for a total project budget in the amount of \$711,310. A potential saving of \$207,247 may be realized if upon removal of the existing roofing material it is discovered that the roof is pitched. A pitched roof will allow tapered insulation to be removed from the project cost.

Pros:

- This project will replace the existing, leaking roof at the Water Maintenance / Meter Services Facility.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's property and infrastructure through Capital Improvement Projects, in order to provide a high quality of life.

Con:

- If the roof is not replaced, it will continue to leak, compromise the structural integrity of the Facility, and possibly lead to health concerns from mold.

The funding needed for the construction agreement is currently allocated within the 200 Bingham Maintenance Facility project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project was approximately \$500,000.

Amount Available for Construction	\$1,700,000
<u>Amount Needed for Construction Agreement (includes contingency)</u>	<u>\$ 711,310</u>
 Remaining Project Budget for Phase II (Customer Services move)	 \$ 988,690

The funds remaining in the Project Budget will be used to fund Phase II of the Project, the relocation of the Customer Services Division to 200 Bingham Road. Based upon project design estimates, the remaining project budget is not anticipated to support the completion of the Phase II construction of Bingham Rd. Current estimates suggest that Phase II of this project will cost \$1.8 million with a budget balance of \$988,000. Staff will continue to value engineer construction phases where possible and include capital budget revisions in the Fiscal Year 2018 budget process for City Council consideration.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with the Contractor for the Bingham Road Roof Repairs Project for the base bid amount of \$646,645 plus a 10% contingency in the amount of \$64,665 for a total project budget in the amount of \$711,310.

**E. RESOLUTION NO. 17-282 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH T&K UTILITIES INC. FOR THE VAULT AND METER RENEWALS PHASE II PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with T&K Utilities, Inc. for the Vault and Meter Renewals Phase II Project for the bid amount of \$487,350 plus a 10% contingency in the amount of \$48,735 for a total project budget in the amount of \$536,085.

On November 22, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the Vault and Meter Renewals Phase II Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for the demolition and renewal of 10 large water customer connections, including vault and meter, with all related appurtenances and materials required in order to complete the work.

In response to the Advertisement for Bids, the department received 3 bids on December 21, 2016, which are summarized below:

1. Cooper Construction, Flat Rock NC – bid \$488,241
2. T&K Utilities, Asheville NC – bid \$487,350
3. Thomas Construction, Johnson City TN – bid \$564,040

Bids were reviewed by City staff and the project engineers, Cavanaugh and Associates, P.A.. Upon completion of this review T&K Utilities, Inc. was selected as the lowest responsible, responsive bidder for the bid amount of \$487,350. A contingency amount of \$48,735 has been added for a total project budget in the amount of \$536,085.

Pros:

- This project will replace existing substandard and failing large water meters and vaults with new metering infrastructure designed and constructed in accordance with the City of Asheville standards.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's property and infrastructure through Capital Improvement Projects, in order to provide a high quality of life.

Cons:

- Not completing this work will neglect a situation which presents a safety hazard to staff who are required to enter these vaults
- A vault failure could damage water infrastructure and impede water supply to one of the businesses served by these large meters.

The funding needed for the construction agreement is currently allocated within the Meter/Vault Repair project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project is approximately \$500,000.

Amount Available for Construction	\$1,124,485
Amount Needed for Construction Agreement (includes contingency)	\$ 536,085
Remaining Project Budget	\$ 588,400

The funds remaining in the Project Budget will be used to fund future Vault and Meter Renewals.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with T&K Utilities, Inc. for the Vault and Meter Renewals Phase II Project for the bid amount of \$487,350 plus a 10% contingency in the amount of \$48,735 for a total project budget in the amount of \$536,085.

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**F. RESOLUTION NO. 17-283 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND IF AWARDED, ACCEPT FUNDING FROM THE N.C. GOVERNOR'S HIGHWAY SAFETY DWI TASK FORCE GRANT**

Summary: The consideration of a resolution authorizing the City Manager to make an application to the North Carolina Governor's Highway Safety Program (Governor's Highway Safety Program) for a one year 25% State/75% Local matching fund grant to enable continuation of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (Police Department) and Buncombe County Sheriff's Office (BCSO).

In both the City of Asheville (City) and Buncombe County (County), the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. In an effort to combat impaired driving incidents within the City and County, the Governor's Highway Safety Program granted the Police Department a four year grant in October 2013. Following the development of the Asheville Buncombe DWI Task Force in August 2014, 920 Driving While Impaired arrests have been made and 54 Drug Evaluations have been conducted on impaired drivers.

Based on the success of the program, the Governor's Highway Safety Program recommended the Police Department continue its efforts of reducing DWI related collisions and educating the public regarding the dangers of impaired driving. Since the four year grant will expire in September 2017, the Governor's Highway Safety Program has offered to continue the grant on an annual basis at a 25/75 partnership where the program would provide 25% funding and the City and County providing 75% funding. Under the grant, which operates on a federal fiscal year October 1 to September 30, the DWI Task Force would continue to conduct targeted DWI enforcement and provide educational events for the public throughout Asheville and Buncombe County. Additionally, a member of the task force serves as an active participant and Board Member for Buncombe County Sobriety Court. If approved, the funding would be support one Asheville Police Sergeant, three Asheville Police officers and two Buncombe County Deputies as follows:

Source	Percent	Amount
Governor's Highway Safety Program	25%	\$100,583
City	75% combined	\$200,493
County		\$101,255
TOTAL (October 2017 through September 2018)	100%	\$402,331

During its December 13, 2016, meeting, the Finance Committee reviewed and recommended City Council consideration and approval of this grant opportunity.

Pros:

- Receipt of grant funds used to match 25% of the costs of salary and benefits to officers participating in the DWI Task Force.
- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding of \$200,493.75 from the City's general fund in FY 2018.

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond this year.

The general fund impact to continue funding salaries and benefits for one sergeant and three officers for the DWI Task Force would be approximately \$200,493 in FY 2018. The FY 2017 City contribution is budgeted at \$133,662, so the increase for FY 2018 will be \$66,831.

FY 2018	\$200,493
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City staff recommends City Council adopt a resolution authorizing the City Manager to apply for grant funds through the North Carolina Governor's Highway Safety Program.

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

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

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

**III. PRESENTATIONS & REPORTS:**

**A. HOUSING AUTHORITY'S FAMILY SELF-SUFFICIENCY PROGRAM**

Chief Operating Officer David Nash briefed Council on the Housing Authority's Family Self-Sufficiency Program. Ms. Katelyn Mattox and Ms. Shaunda Sandford each briefed Council on a success story.

In response to Councilman Young, Mr. Nash said that 200 residents out of 1400 have enrolled in the program. He did note though that not all complete the program.

Council spoke in support of this amazing program that is changing people's lives and making a significant impact on City residents.

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS**

Councilman Bothwell moved to continue this public hearing until June 13, 2017. This motion was seconded by Councilman Young and carried unanimously.

**B. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED AT 12 LOOP ROAD**

**ORDINANCE NO. 4546 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED AT 12 LOOP ROAD**

When Mayor Manheimer asked to be recused from this item and the following conditional zoning public hearing due to the applicant being a client of her law firm, Vice-Mayor Wisler moved to recuse Mayor Manheimer from participating in this matter. This motion was seconded by Mr.

Young and carried unanimously. At this time, Mayor Manheimer handed the gavel over to Vice-Mayor Wisler to preside of the meeting and left the room.

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to extend the corporate limits of the City of Asheville to include property at 12 Loop Road. This public hearing was advertised on December 30, 2016.

The property owner, English Oak Industrial LLC, has petitioned the City of Asheville for the annexation of 4.8 acres located at 12 Loop Road and identified in the Buncombe County tax records as PIN 9643-87-5405. The property currently supports two non-residential structures. The property is contiguous to the primary corporate limits, and qualifies for annexation by petition as set forth in North Carolina General Statutes (NCGS) 160A-31 and N.C. General Assembly Session Law 2005-139.

Pursuant to NCGS 160A-31, a public hearing must be held prior to adopting an ordinance for voluntary annexation. If City Council decides 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 ordinance annexing the property at 12 Loop Road.

City Attorney Currin noted that a Certificate of Sufficiency has been prepared by the City Clerk that will be incorporated into the record.

Vice-Mayor Wisler opened the public hearing at 5:31 p.m. and when no one spoke, she closed the public hearing at 5:31 p.m.

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

Councilman Smith moved for the adoption of Ordinance No. 4546. This motion was seconded by Councilman Bothwell and carried unanimously (Mayor Manheimer recused.)

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- C. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF 12 LOOP ROAD, 352 AIRPORT ROAD AND A PORTION OF 360 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR A 7.5 ACRE COMMERCIAL RETAIL DEVELOPMENT**

**ORDINANCE NO. 4547 - ORDINANCE TO CONDITIONALLY ZONE 12 LOOP**

**ROAD, 352 AIRPORT ROAD AND A PORTION OF 360 AIRPORT ROAD  
FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS  
DISTRICT/CONDITIONAL ZONING FOR A 7.5 ACRE COMMERCIAL RETAIL  
DEVELOPMENT**

Vice-Mayor Wisler noted that Mayor Manheimer has been recused from participating in this matter.

Principal Planner Shannon Tuch said this is the consideration of an ordinance to conditionally zone 12 Loop Road, 352 Airport Road and a portion of 360 Airport Road from Highway Business District to Highway Business District/Conditional Zoning for a 7.5 acre commercial retail development. Also included in the development is a large parking field, new driveway entrances, sidewalk, landscaping and other related site improvements. This public hearing was advertised on December 30, 2016, and January 6, 2017.

Ms. Tuch said that the site is located at the intersection of Airport Rd. and Loop Rd. According to the survey submitted, the entire project area is 7.6 acres; however, the 4.8 acre parcel located at 12 Loop Rd. is located outside of the city's jurisdiction in Buncombe County and is currently zoned Employment (EMP). The property has mild to moderate topography with clear and easy access from either Airport Rd. or Loop Rd. The project area is located above 2220' in elevation, however, the average natural slope for all three properties is less than 15% and therefore not subject to the city's steep slope development standards. The PINs are 9643-87-7350, 9643-87-5114 and 9643-87-5405 and the owners are English Oak Green LLC, Southridge Assoc. LLC and English Oak Industrial LLC.

Per UDO Sec. 7-5-9(b) the overall project would be categorized as a Level II project, should all of the project be in the city's jurisdiction. However, this application is seeking a conditional zoning in order to adopt a site specific development plan that: 1) would consolidate the project onto one parcel, and into one jurisdiction and zoning designation should a voluntary annexation be approved and, 2) seek relief from sidewalk and landscape standards.

The existing structures are proposed to be demolished and removed in order to make room for a new commercial retail development with a large 72,000 s.f. building (with two tenants) and two smaller outparcels on Airport Rd. The project is described in two phases with Phase I including the large retail structure and a small 5070 s.f. retail structure located on one of the two outparcels along with the large majority of the proposed parking. The second phase shows a small, high-turnover fast food restaurant that is approximately 2000 s.f. on the second outparcel located at the intersection of Airport Rd. and Loop Rd. Overall, the project requires three large retaining walls ranging in height with maximum heights of 17', 20' and 17' respectively.

The overall project area includes a well defined entrance on Airport Rd., as well as a secondary customer entrance on Loop Rd. Two additional service entrances are located further north on Loop Rd. A traffic signal is proposed at the intersection of Loop Rd. and Airport Rd. and would provide easier (especially left turn) movements during periods of high traffic volumes. Off-street parking is located primarily in a large parking field in front of the large retail anchor and provides 266 spaces total, including 10 accessible spaces and 14 bicycle spaces (5% of total).

Sidewalks are required as part of this project and are typically required on all road frontages, including both Airport Rd. and Loop Rd. New sidewalk is shown on Airport Rd. and on Loop Rd. up to the secondary customer entrance. A modification waiving the requirement for the remaining sidewalk on Loop Rd. is being requested.

This commercial project requires a moderate amount of landscaping including: Street buffer, street trees, parking lot landscaping, building impact landscaping, and retaining wall landscaping/screening. The conditional zoning request includes relief from a number of different landscape standards in order to achieve both the proposed tenant's minimum parking needs and



to reserve opportunity for two small outparcels. See *Conditions* below for itemized list of modifications requested.

Open space is required at a rate of 15% of the total project area, which is approximately 49,423 s.f. As designed, the project provides 50,137 s.f. and satisfies this requirement.

This proposal was approved with conditions by the Technical Review Committee (TRC) on October 17, 2016 and requires review by the City Council and Final TRC prior to zoning approval.

At the Planning & Zoning Commission meeting on November 2, 2015, the Commission voted unanimously (7:0) with the condition that three additional tree islands are added to the parking lot, that permeable paving (or other accommodation for the tree's root zones) be used around the islands, and that large maturing trees are substituted for the small trees shown in the islands. The applicant/developer agreed to these changes. Additionally, one member of the public spoke requesting consideration of "net zero" construction but with no specific recommendation.

The applicant wishes to conditionally rezone the entire site, including the proposed annexation area once in the city's jurisdiction, to HB-CZ to allow site specific plan approval of a large retail center which also includes modifications from some basic development requirements.

This project includes a number of recommended conditions found in the B1-Conditions list. Special conditions that result in a modification or reduction to development standards include:

1. Reducing the number of trees located in interior islands from 38 to 21 (overall parking requirements are satisfied). *Updated site plan reduced request from 24 trees per the original plan.*
2. Waiving the requirement for a 20-foot wide interior parking island with landscaping and walkway.
3. Allowing perimeter runs of parking spaces without a tree island (one island required every 15 spaces, two islands missing)
4. Locating parking spaces further than 60-feet from a tree (17 spaces are further than 65-feet from a tree). *Updated site plan reduced request from 52 spaces per the original plan.*
5. Allowing planting island sizes to fall below 200 s.f. per island, and below an average width of 10' and a minimum width of 5'.
6. Providing a gap in street tree spacing that is greater than 65-feet (gap of approximately 100+ feet at loading dock entrance).
7. Reducing the required sidewalk requirement on Loop Rd. (approximately 670 linear feet beyond the customer entrance is required).

A separate but simultaneous application for a voluntary annexation for the upper portion of the site has been submitted. The annexation of this 4.8 acre parcel (PIN 9643-87-5405) is a proposed condition of the site plan approval of the project and must be approved prior to Council review of the conditional zoning for the entire site.

An amendment to a conditional zoning for property on Rockwood Rd. was approved in January 2015 to allow a 7-story hotel.

A zoning text amendment to require an airspace study and approval by the Federal Aviation Administration (FAA) for projects of a certain scale/height that are in proximity to the airport was approved in September 2016 and applies to this project.

The property is zoned HB and is flanked on the east and west sides by more HB zoning.

The property to the north and south are outside the city's jurisdiction and are zoned Employment (EMP) by Buncombe County. Uses along the Airport Rd. corridor include a mix of commercial retail and service uses along with light warehousing, assembly and manufacturing.

The Asheville City Development Plan 2025 highlights the importance of economic growth and the use of zoning tools to support and encourage private investment through development and redevelopment.

The development/redevelopment of the Airport Rd. project area most closely aligns with the 2036 Council vision goal of a **Thriving Local Economy** where zoning tools are utilized to support growth and development.

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.

Considerations:

- Elements of this proposal support city adopted goals and plans, however, other applicable goals may not be fully satisfied (i.e. **A Well-planned and Livable Community** or **A Clean and Healthy Environment**).
- Land uses proposed are permitted uses in the existing HB zoning district.
- Overall project scale falls within the range of a Level II and would not normally require Council approval.
- Site plan approval includes a request to modify (reduce or waive) several development standards, necessitating the CZ.
- The applicant has a choice to vest a similar development plan for the upper 4.8 acres through Buncombe County but prefers to have the property developed under one jurisdiction.
- Landscape reductions are proposed to be mitigated through the use of pervious paving or other strategies in key areas to improve plant health (*see Required Reviews above for the Planning & Zoning Commission's recommended conditions*).
- Landscape reductions could be reduced or eliminated through the removal of the outparcel development making room for parking and internal landscaping.
- The request to waive the sidewalk requirement along Loop Rd. could be eliminated by paying a fee-in-lieu of sidewalk.
- Conditional zoning request includes the voluntary annexation of 4.8 acres of commercial property.

While this proposal complies with certain aspect of the Comprehensive Plan and other adopted plans, and supports certain strategic goals including an important goal for orderly growth and development; the plan, however, falls short in other ways by failing to meet the city's minimum technical standards. Staff concurs with the Planning & Zoning Commission's recommended conditions to improve the tree canopy coverage and tree health, and feels that these conditions will help move the project closer to compliance and the intent of the landscape ordinance.

When Councilman Bothwell asked that kind of material would be used for the pervious parking lot, Ms. Tuch said that the applicant has not decided at the time the plans were submitted for Council's review.

In response to Councilwoman Mayfield, Ms. Tuch said that the applicant has requested a waiver of the required sidewalk requirement on Loop Road in addition to the fee in lieu of waiver.

When Councilwoman Mayfield asked about the traffic impact study, Ms. Tuch said that there were no issues, but it did warrant a signal at Loop Road and Airport Road. The N.C. Dept. of Transportation has already agreed.

Regarding traffic studies generally, Councilwoman Mayfield asked if the studies require the engineers to look at the traffic impact of their development only or other pending developments in the surrounding area for a cumulative impact. Ms. Tuch said that it is her understanding that the engineers do look at other developments proposed.

Councilwoman Mayfield noted that there will be accessible pedestrian signals at the traffic light. She asked for the pedestrian signals be the kind that you don't have to push to get a walk signal. Ms. Tuch said that the Transportation Department will have to address that detail.

Councilwoman Mayfield said that we have a transit line along Airport Road and suggested we add a condition for the developer to add a pad for a bus stop in the future. Ms. Tuch said that the Transportation Department will need to address that detail as well.

Mr. Greg Edney, applicant, said that he would be happy to make the space available for a bus stop pad. He also said that he would ask the traffic engineer to add the motionless pedestrian signal. He has asked for the voluntary annexation and conditional zoning of the property in order to have it in one jurisdiction.

Vice-Mayor Wisler opened the public hearing at 5:47 p.m. and when no one spoke, she closed the public hearing at 5:47 p.m.

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

Councilman Young moved to conditionally zone 12 Loop Road, 352 Airport Road and a portion of 360 Airport Road from Highway Business District to Highway Business District/Conditional Zoning to allow for the development of a commercial retail center with associated site improvements, with the following two conditions: (1) Installing a signal that does not require the pedestrian to push the button to get a walk signal; and (2) if the Transportation Department anticipates a need for a transit stop in this area that the applicant would be willing to pave out a bus pad; 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 way: 1) uses zoning tools to support economic growth along an active commercial corridor. This motion was seconded by Councilman Bothwell and carried unanimously (Mayor Manheimer recused).

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At this time, Mayor Manheimer re-entered the room and Vice-Mayor Wisler handed the gavel over to her to preside over the remainder of the meeting.

#### **D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4414) IN THE URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR CHANGES TO THE CONDITIONS FOR DEVELOPMENT OF A MIXED USE PROJECT AT THE PROPERTY LOCATED AT 146 ROBERTS STREET**

#### **ORDINANCE NO. 4548 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4414) IN THE URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR CHANGES TO THE CONDITIONS FOR DEVELOPMENT OF A MIXED USE PROJECT AT THE PROPERTY LOCATED AT 146 ROBERTS STREET**

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend a previously approved conditional zoning (Ordinance No. 4414) in the Urban Place District/Conditional Zoning for changes to the conditions for development of a mixed use project

at the property located at 146 Roberts Street. This public hearing was advertised on December 30, 2016, and January 6, 2017.

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

The project was first approved by City Council on October 22, 2013, under Ordinance no. 4241 and later modified under Ordinance 4414 on May 26, 2015.

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

	<b>Proposed Change</b>	<b>2015 Approval</b>	<b>Additional Information</b>
<i>Gross Floor Area</i>	408,400 SF	421,489 SF	3.1% decrease
<i>Residential Density</i>	235 (138 1bd, 97 2bd)	243 (146 1bd, 97 2bd)	3.3% decrease, reducing by 8 units
<i>Retail</i>	17,872 SF	19,378 SF	7.8% decrease, eliminated retail from Clingman Avenue
<i>Office</i>	None	8,789 SF	100% decrease, use eliminated
<i>Building Height on Clingman Avenue</i>	50 feet	60 feet	One-level eliminated, Roberts Street unchanged
<i>Parking</i>	394 spaces (334 garage, 20 Roberts Street lot, 8 on-street, 32 "surface")	375 spaces (343 garage, 24 Roberts Street lot, 8 on-street)	Added 19 parking spaces; 5% increase

The design and site layout is essentially unchanged from the previous approval. The project provides one large building on a base of structured parking. There are two levels of parking and four levels of retail and residential spaces but with the existing grade change on site, the overall height varies. The building is reduced to 50 feet on Clingman and remains 68 feet from Roberts Street.

The access is unchanged from the previous proposal - there are two access points into the site, one two-way driveway from Roberts Street and the other two-way driveway from Clingman Avenue. The parking lot has two single-access driveways off Roberts Street. New sidewalks are shown along both sides of Roberts Street (6.5 feet along surface parking and 10 feet along building side) as well as the project frontage on Clingman Avenue and widths range from 7.5 to 12 feet. Additionally, the project has been designed to incorporate areas of pedestrian amenities both at the corner of Clingman and Roberts.

This project incorporates parking in several locations; there is a 334-space parking structure within the development (*previously 343 spaces*) with an additional 32 in an exposed surface lot accessed from the lower level in the garage; the separate parcel across Roberts Street to the south is shown as a standalone parking lot with 20 spaces (2 HC accessible) and approximately 8 on-street spaces will be delineated through streetscape enhancements (*for a total of 394 spaces*). Bike parking is also included throughout the site.

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

Urban Place zoning includes specifics for building design and includes well-defined operable entrances at regular intervals, fenestration requirements for the ground and upper levels and treatments to break up long façades. The previous approval included two variances related to distance between entrances and amount of fenestration; these variance approvals remain in place with this amendment.

The current proposal includes the following conditions that will need to be approved by City Council. *The only new or modified conditions relate to density and retaining wall screening.* All others are unchanged but still carry over to this approval.

1. **Density** - The maximum density allowed by right in Urban Place is 64 units per acre, or 209 units for this site. The applicant is requesting an additional 26 units (a 12% increase - up to approximately 72 units per acre). Five percent of the units will be designated as affordable by the City's standards. *\*\*This condition is slightly changed from the 2015 approval due to the reduction in residential units.*
2. **Building Size** – For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000. The proposed footprint of the building is 82,531 SF and the gross floor area is 408,400 SF. This condition is a result of building upon a base of structured parking. *\*\*This condition is similar to the 2015 approval.*
3. **Sidewalks** - Sidewalks in the Urban Place District are required to be a minimum of 10' in width. Sidewalks are shown down to 6.5 feet along Roberts Street adjacent to the surface lot but a minimum of 10 feet along the building side and between 7.5 -12 feet along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue which will remain. *\*\*This condition is the same as in the 2015 approval.*
4. **Landscaping** – The applicant is requesting to greatly reduce parking deck landscaping requirements based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting. *\*\*This condition is the same as in the 2015 approval.*
5. **Setback** on Roberts Street - The maximum front setback is 15' and there is an area along Roberts Street that exceeds this standard. *\*\*This condition is the same as in the 2015 approval.*
6. **Retaining Wall Screening** - The amendment includes a wall of approximately 25 feet in height at the northern edge of the interior parking area. Vegetative screening requirements apply to walls over 20 feet but due to the location and configuration of the parking and site; the applicant is requesting to include a creative aesthetic screening treatment.

The Urban Place zoning district was created to foster “higher density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the City...to enhance the streetscape and offer a wide range of complementary land uses and employment opportunities...[and] intended in areas where the appearance of the built environment is important to the vitality of the area.” Additionally, the zoning district was created with areas along the French Broad River in mind. The proposed amendments are in line with the Urban Place zoning district.

This amendment was approved with conditions by the Technical Review Committee on December 5, 2016, and received unanimous support by the Planning & Zoning Commission at their meeting on December 7, 2016. Approval by City Council and Final TRC review is required prior to issuance of a zoning permit

Staff has received comment from adjacent property owners and businesses concerned about access to their properties throughout the construction process as well as maintaining as much on-street parking along Clingman Avenue Extension as possible.

The compatibility for this development was evaluated in detail with the previous approvals; the proposed amendment modifying details of the development can be considered minor and does not impact the high level of compatibility as previously reviewed.

This proposal is aligned with numerous aspects of the *City Development Plan 2025* as previously reviewed and the amendment as proposed does not impact the compliance with adopted plans.

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community*; (2) *Transportation and Accessibility*; and (3) *Quality Affordable Housing*.

Considerations:

- The amendment eliminates an entire use previously included in the proposal.
- City goals support mixed-use, infill development, especially providing residential uses in a walkable location proximate to transit and the Central Business District.
- Streetscape improvements will enhance the pedestrian experience along Roberts Street and Clingman Avenue Extension.
- All previous conditions as noted in the B.1 list still apply as well as variances previously approved.

Staff recommends approval of the amendment to the previously approved project for the construction of a mixed-use development, including the conditions as proposed by the applicant as detailed above. While the office component is eliminated with this amendment, the amount of office space included the previous plan was minor and the various other modifications with this amendment are not significant and do not greatly alter the look or use of the project site.

Councilman Young wondered since there is a reduction on the number of units, will there be a reduction in affordable housing units. Ms. Bernstein explained that the developer is still committing to 5% affordable units - 12.

In response to Councilwoman Mayfield, Ms. Bernstein explained some of the creative treatments to mitigate the visual impact on the wall, noting that it will not be seen from the outside.

City Manager Jackson said that there is a possibility that the land use incentive grant may have to come back for Council for ratification. Assistant City Attorney Jannice Ashley explained the standards used for the land use incentive grant and that the Community Development Division will review grant and standards to see if it will have to come back to Council for ratification of if any changes can be handled administratively.

When Councilman Smith asked if the developer agreed to siting a grocery use in the retail portion, Ms. Bernstein said that it is something they have talked about but it was not written in as a condition. He said that part of the City's Food Action Plan is to be able to promote grocery uses in food deserts.

Mayor Manheimer opened the public hearing at 6:02 p.m. and when no one spoke, she closed the public hearing at 6:02 p.m.

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

Councilman Bothwell moved to recommend approval of the conditional zoning amendment request for RAD Lofts, LLC for property located at 146 Roberts Street from Urban Place Conditional Zone (UP-CZ) to Urban Place Conditional Zone (UP-CZ) including the requested conditions and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal supports the strategies found in the City's comprehensive plan on encouraging mixed-use development, especially in areas walkable to downtown and proximate to transit; (2) The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; and (3) The design and uses create a pedestrian-oriented streetscape along Roberts Street and part of Clingman Avenue Extension. This motion was seconded by Councilman Young and carried unanimously.

#### **ORDINANCE BOOK NO. 31 – PAGE 59**

#### **E. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 192 HAYWOOD STREET**

Due to Councilman Haynes absence, Councilman Young moved to continue this public hearing to January 24, 2017. This motion was seconded by Councilman Bothwell and carried unanimously.

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

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

#### **A. DISCUSSION ON WHETHER TO HAVE STAFF DEVELOP AN OUTREACH PLAN TO DETERMINE THE LEVEL OF INTEREST OF THE COMMUNITY ON POTENTIAL CITY RE-DISTRICTING**

Mayor Manheimer said that in June then-Senator Tom Apodaca pushed forward legislation to mandate Asheville split into six districts. That bill failed. However, she felt it was appropriate to look at the issue. Cities can initiate a re-districting process and make the decision on a Council level or put it out for a referendum. She said that this discussion will be about whether or not to initiate an outreach program to gauge the interest level in our community for districts. In conjunction with that outreach program, she asked that if the community is interested, they be asked whether they would prefer a Council decision or take the issue to the voters. Personally she didn't see a downside asking staff to look into the issue.

Councilwoman Mayfield agreed to look into the issue.

Councilman Bothwell could support a community discussion; however, he remained convinced that Asheville is too small a city to break into districts. He felt our principal interests are in common across the 85,000-90,000 people in Asheville and he didn't think we have treated different areas of the City differently when appropriating sidewalk money, parks, etc.

Vice-Mayor Wisler felt it was a good idea to gauge the community's interest on this topic.

Councilman Smith was interested in making sure the process can accurately gauge the community's interest. He wanted to be confident of the will of the voters. He felt this would be

helpful to the legislature to know that the City has considered this option so if they decided to deliberate it again we can provide them with more information.

When Councilwoman Mayfield suggested we do official polling similar to the bonds, Councilman Smith felt the education piece that was inherent in the bond polling is more difficult to do with this because of the variety of options and prospectives on the pros and cons.

It was the consensus of Council to direct staff to develop an outreach plan as soon as possible to determine the level of interest of the community on potential City re-districting.

Councilman Young felt that individual Council member's preferences need to be separately distinguished from the process to make sure that it is completely unbiased.

City Attorney Currin said that her office will work with the Community & Public Engagement Division to simplify as much as possible what the potential options are.

## **B. BOARDS & COMMISSIONS**

Vice-Mayor Wisler said that the Asheville City Board of Education will be selecting a new superintendent and they are putting together a community advisory team to help with the selection process. They have asked that there be a representative of City Council on that team. She said that she would be happy to take on that responsibility and it was the consensus of Council to appoint her to that seat.

Regarding the Board of Electrical Examiners, since there were no applicants for the seat of a licensed engineer, it was the consensus of re-advertise for the vacancy.

Regarding the Asheville-Buncombe Historic Resources Commission, the following individuals applied for the vacancy: Christopher Cobb, Leslie Humphrey, Kevin Saum, Wayne Wheeler, Gerry Leonard and Ed Flowers. It was the consensus of Council to interview Gerry Leonard, Wayne Wheeler and Ed Flowers.

Regarding the Asheville Area Riverfront Redevelopment Commission, the following individuals applied for a vacancy: Steve Winter, Nick Hinton, Gerry Leonard, Catherine Rosjford, Darren Green, Shelley Schenker, Jeffrey Horner, Janet Lynn Whitworth, Jerry Sternberg and Viola Spells. Councilman Smith moved to (1) reappoint Cindy Weeks and Carleton Collins; and (2) appoint Darren Green. This motion was seconded by Councilman Young and carried on a 6-1 vote, with Councilman Bothwell voting "no." After a brief discussion, Councilman Smith withdrew his motion. It was then the consensus of Council to interview Darren Green and Jerry Sternberg. Councilman Bothwell moved to reappoint Cindy Weeks and Carleton Collins. This motion was seconded by Councilwoman Mayfield and carried unanimously.

## **RESOLUTION NO. 17-5 – RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Board of Adjustment.

The terms of Douglas Hattaway (Regular), Pratik Bhakta (Alternate), Mac Swicegood (Alternate) and David Brown (Regular) as members on the Board of Adjustment expire January 21, 2017.

The following individuals applied for the vacancies: Paul Wilczynski, Jonathan Tokay, Richard Carpenter and Misty Miller. Mr. Bhakta (currently an Alternate) was interested in serving as a Regular member.



From the recommendation of the Boards & Commissions Committee, Councilman Smith moved to (1) appoint Pratik Bhakta from an Alternate seat to a Regular seat, to serve a three-year term, term to expire January 21, 2020; (2) appoint Paul Wilczynski (Alternate) to serve a three-year term, term to expire January 21, 2020; (3) appoint Misty Miller (Alternate) to serve a three-year term, term to expire January 21, 2020; and (3) appoint Richard Carpenter (Regular) to serve a three-year term, term to expire January 21, 2020. All appointments are until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 38- PAGE 302**

**RESOLUTION NO. 17-6 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Firemen's Relief Fund.

The term of Barbara Whitehorn expired on January 1, 2017.

No individuals applied for the vacancy.

From the recommendation of the Boards & Commissions Committee, Councilman Smith moved to reappoint Barbara Whitehorn to serve an additional two-year term, term to expire January 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 38- PAGE 303**

**RESOLUTION NO. 17-7 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Metropolitan Sewerage District Board.

The term of Esther Manheimer will expire on January 19, 2017.

The following individuals have applied for the vacancy: John Brigham and Jim Torpey.

From the recommendation of the Boards & Commissions Committee, Councilman Bothwell moved to reappoint Esther Manheimer to serve an additional three-year term, term to expire January 19, 2020, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**RESOLUTION BOOK NO. 38- PAGE 304**

**RESOLUTION NO. 17-8 - RESOLUTION APPOINTING MEMBERS TO THE SOIL EROSION/STORMWATER REVIEW COMMITTEE**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Pete Hildebrand and Ter Mc Spinner as members on the Soil Erosion/Stormwater Review Committee, expire on November 1, 2016.

The following individuals applied for a vacancy: Jim Torpey, Catherine Rosjford and Rusty Bryant.

On November 8, 2016, Vice-Mayor Wisler moved to reappoint Pete Hildebrand to serve an additional three-year term, term to expire November 1, 2019, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

From the recommendation of the Boards & Commissions Committee, Councilwoman Mayfield moved to appoint Catherine Rosjford to serve a three-year term, term to expire November 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

The Boards & Commissions Committee suggested revisiting the stormwater ordinance to see exactly what the scope of the Soil Erosion/Stormwater Review Committee's scope of work entails. Councilwoman Mayfield said she talked to the Chair of the Sustainability Advisory Committee on Energy and the Environment (SACEE), which is prepared to have the broad issue of stormwater referred to them. If, however, the Soil Erosion/Stormwater Review Committee's mandate is expanded to consider stormwater policy, then SACEE would be happy to turn that issue over to it. Councilwoman Mayfield suggested consideration an ordinance amendment to expand the scope of Soil Erosion/Stormwater review Committee and its members. She would like to move on that quickly

Vice-Mayor Wisler invited Councilwoman Mayfield to the next Boards & Commissions meeting and discuss it at that level to determine how to move forward.

#### **RESOLUTION BOOK NO. 38- PAGE 305**

##### **RESOLUTION NO. 17-9 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Sustainability Advisory Committee on Energy & the Environment (SACEE).

The terms of Mindy Fisher, Duncan McPherson and Sonia Marcus (expertise in field of energy management) expired on December 31, 2016.

The following individuals have applied for the vacancy: April Brown, Emily Boyd, Amanda Fairley, Michael Whitmire, Kenneth Dierks, Anne Keller, Travis Smith, Gerry Leonard, Catherine Rosjford, Andrew Mayronne, Lateef Cannon, Zephyr Jost, Maggie Gulick, Larry Haas and Usula Jorch.

From the recommendation of the Boards & Commissions Committee, Councilwoman Mayfield moved to (1) reappoint Sonia Marcus (expertise in field of energy management) to serve an additional three-year term, term to expire December 31, 2019, or until her successor has been appointed; and appoint Maggie Gulick and Anne Keller to each serve a three-year term respectively, terms to expire December 31, 2019, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 38- PAGE 306**

##### **RESOLUTION NO. 17-10 – RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Tree Commission.

The terms of Debbie Emmons and Mike Keaton expired on December 31, 2016.

The following individuals applied for the vacancies: Shawn Swartz, Ed Macie and Susan Sertain.

From the recommendation of the Boards & Commissions Committee, Councilwoman Mayfield moved to appoint Ed Macie and Shawn Swartz to each serve a three-year term, terms to expire December 31, 2019, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

**RESOLUTION BOOK NO. 38 – PAGE**

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

Mr. Timothy Sadler urged Council to track and stop using spray foam insulation in City buildings due to its flammability. He also congratulated the City on the N.C. Supreme Court's ruling allowing the City to retain their water system.

Mayor Manheimer congratulated our legal team on their long, hard fight to retain the water system. She also thanked the NC League of Municipalities and other cities who stood by the City on the water issue.

**Closed Session**

At 6:28 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10 (a) (3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Alison Rose Kern vs. the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 6:35 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 6:35 p.m.

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CITY CLERK

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MAYOR