

Tuesday – March 28, 2017 - 3:00 p.m.

Budget Worksession

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

**Transit Expenditures Forecast and Planning Priorities**

Assistant City Manager Cathy Ball said that Asheville’s transit system is in a transitional period as we implement changes to transit operations, update the transit master plan, and absorb reduced federal funding.

The last transit master plan occurred in 2009. The following key statistics compare today’s system to 2009:

| <b>Transit Statistics</b> | <b>2009</b> | <b>2018</b>  |
|---------------------------|-------------|--------------|
| Operating budget          | \$5,089,593 | ~\$6,700,000 |
| Number of routes          | 24          | 18           |
| Number of buses           | 20          | 22           |
| Revenue Hours             | 64,000      | 75,000       |
| Peak demand               | 16 buses    | 17 buses     |
| Ridership                 | 1.6 million | 2.2 million  |

2009 transit plan recommendations that have been accomplished include the following:

- Sunday service added to 9 routes for a total of 81 hours per week
- Improved service through fewer deviations
- Improved southbound service with the S6

2009 transit plan recommendations that did not occur include the following:

- Yearly commitment to purchase buses
- Design and construction of new Transit Center, Maintenance Facility, and Satellite Facilities
- Headway increases (to 15 min)

The Transit Committee recommendations (12/20/16) include 1) maintaining existing service, 2) expanding service until 10 p.m. on select routes, and 3) high-frequency service on major corridors.

**New transit management contract.** Looking forward, although we will not have a contract in place until Fiscal Year 2018, an independent transit operations estimate was developed that assumes a cost of \$89.38 per hour of service for a total estimate of \$6,722,359.

This budget is approximately \$1,000,000 more than Fiscal Year 2017 due to:

- increased service as a result of a new route (S6) and additional service hours started in January 2017, and
- expected additional costs associated with the new 'turn-key' contract, which may also require additional city staff for management and oversight

It is possible that total costs may decrease as the contractor will carry incentives to reduce costs under the model. The current estimate was developed in order to help staff determine the responsiveness of bids, and the new contract will be solidified by July 1, 2017.

**FTA apportionment.** At the same time that transit costs are rising, the funding formula for FTA Section 5307 will reduce Asheville's share of federal dollars as Buncombe and Haywood County now qualify for a share of the urbanized area apportionment. It is expected that Asheville's share of 5307 funding will be reduced from 82.8% to 42.6% over a three year period, a 51% reduction. This cut will primarily affect the transit budget's capital needs.

**Transit master plan.** In one month we will release an Request for Proposals for a transit master plan to review the transit system comprehensively. The plan is expected to be complete in the Spring of 2018.

Key Considerations:

- **Bus Fleet.** The bus fleet has not kept up with an adequate replacement schedule. Under current conditions, ten (10) new buses should be purchased within the next three years or we jeopardize bus service. After this replacement, we need to begin a regular bus purchase schedule of two to three vehicles per year just to maintain a balanced fleet.
- **On Time Performance.** On Time Performance (OTP) for buses was 63% in FY15, 60% in FY16, and is currently 55% for FY17. Staff have determined that poor OTP is due to both operational issues and systemic issues related to route timing and configuration. The operational issues will be addressed through the new 'turn-key' contract, and the systemic issues will be addressed with the new Transit Master Plan.
- **Transit Center and Maintenance Facility.** The Downtown Transit Center is at capacity and the interior is in poor condition. The Maintenance Facility ("Transit Garage") that houses and repairs buses was built in 1971 and is reaching the end of its 50 year useful life.

Staff recommends that near-term budget decisions prioritize funding to support an adequate bus fleet and any needs associated with the new transit management contract, including an additional city transportation staff person. Next year the transit master plan will deliver a thorough review of the transit system, which will allow us to prioritize the budget accordingly.

She provided Council with the Bus Replacement Schedule, which provides the current and proposed bus fleet projected over the next fifteen years. The expected life of buses is twelve years or 500,000 miles. The bottom of the chart highlights the number of buses that should be ordered each year in order to maintain a healthy fleet.

She also provided Council with the ART service expansion estimate (Just Economics' request). This document provided the financial impacts of expanded ART service that would occur should the transit service be expanded according to the following alternative scenarios: (1) Expansion of service to all routes to 10:00 p.m. and midnight service on major corridors; and (2) Only midnight service on major corridors.

She asked for Council's support to (1) implement the management contract change; (2) update the Transit Master Plan; and (3) begin design for the capital improvements to the transit facility.

Throughout the presentation and discussion, City Manager Jackson and various staff responded to various questions/comments from Council, and those which could not be readily responded to would be provided to Council in a memorandum format. Some questions raised include: what is the cost difference between the old management contract vs. what we expect with the new management contract; details on the FTA reduced amount to Asheville; request to have the numbers in the Transit Master Plan early in order to prepare the budget for 2018-19; need to focus on the federal legislative agenda and make sure that our representatives are aware of the impact further cuts would have on people in their districts; how will the City try to make up the reduction of Asheville's share of federal dollars; possibility of creating additional revenue when parking meters are programmed longer in the evenings; request for a breakdown of cost recovery from the following sources: ridership, grant resources, parking subsidy and General Fund subsidy; and is there transit service expansion possible without capital investment.

Councilwoman Mayfield encouraged communication with transit advocates to figure out what the high priorities should be coming out of the Transit Master Plan.

It was the consensus of Council to support implementation of the management contract change, to update the Transit Master Plan, and to begin design for the capital improvements to the transit facility.

### **Energy Innovation Task Force**

Councilwoman Mayfield presented a list of Energy Innovation Draft Recommendations to City Council, similar to what was presented to Council at the March 14, 2017, worksession.

After considerable discussion and responses from Councilwoman Mayfield and staff, the City Manager was directed to build the Fiscal Year 2017-18 budget with the following elements to come out of Fund Balance: (1) Implement education and training for city staff, building professionals, HVAC contractors, building owners and the general public - \$25,000; (2) pursue opportunities for renewable energy and storage installations on City facilities and properties - \$25,000; (3) encourage voluntary, quantifiable efficiency retrofits in privately owned commercial buildings - \$25,000; (4) promote program offerings from EITF with City employees via education, outreach and support/remove barriers - \$2,500; (5) Comprehensive Energy Audit for all City-owned facilities - \$75,000; and (6) support ongoing engagement of Rocky Mountain Institute in analysis of programs and creation of EITF 2-Year Action Plan - \$50,000. In addition, the investments in existing programs that provide low income weatherization to city homes (amount to be determined) to be reviewed by the Housing & Community Development Committee for use of Housing Trust Fund monies.

### **Master Urban Forest Plan**

Councilman Bothwell said that the Tree Commission shared information to the City Council Planning & Economic Development Committee regarding guiding Asheville toward creating and implementing a Master Urban Forest Plan. The tree canopy study is part of the master plan. Eventually, the plan may require adding an Urban Forester position to City staff.

A summary of the overview of the Master Urban Forest Plan implement activities are as follows: (1) Gap Analysis - estimated cost \$20,000 - 1 year estimated time to complete; (2) Urban Tree Canopy Analysis - estimated cost \$10,000 (\$5,000 NCFs match) - 9 months estimated time to complete; (3) Inventory of City-owned Streets & Park Trees - estimated cost \$75,000 - gap analysis plus 1 year is estimated time to complete; (4) Community Engagement - estimated cost \$20,000 - gap analysis plus 1 year is estimated time to complete; (5) Valuation

and Analysis - estimated cost \$30,000 - inventory plus 6 months is estimated time to complete; (6) Plan Preparation - estimated cost \$25,000 - valuation and analysis plus 6 months is estimated time to complete; and (7) Requisition of Application of Custom Monitoring System in Support of Management Outputs - estimated cost \$15,000 - inventory plus 6 months is estimated time to complete.

City Manager Jackson was directed to build the Fiscal Year 2017-18 budget with the \$25,000 for the Tree Canopy Study to come out of Fund Balance.

City Manager Jackson updated the Council on some of the outstanding items out of the March 14, 2017, worksession.

Mayor Manheimer announced at the April 11, 2017, worksession, the discussion will be on the capital budget and fund balance.

At 4:20 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – March 28, 2017 - 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. RECOGNITION OF DONATION OF AUDIO FREQUENCY INDUCTION LOOP SYSTEM IN COUNCIL CHAMBER**

Mayor Manheimer said that in August, 2017, Mr. Carl Chesnick of All Ears Hear Hear reached out to the City to donate an Audio Frequency Induction Loop System in the Council Chamber on behalf of the Asheville Breakfast Rotary Club. This system is a tool for people with hearing loss. The system is tied into the existing PA system and will work for hard of hearing people who have a t-coil app installed on their hearing aid device. The system has been installed for the last month and we have received positive responses from those who have used the system.

On behalf of the City Council and the citizens of Asheville, she thanked Mr. Chesnick and Mr. Danny LaSure, President of the Asheville Breakfast Rotary Club, and Mr. David Nelson, representing the Asheville Chapter of the Hearing Loss Association of America, for enabling our citizens to better hear and engage in Council meetings.

##### **B. PROCLAMATION PROCLAIMING APRIL 4, 2017, AS "NATIONAL SERVICE RECOGNITION DAY"**

Councilman Bothwell read the proclamation proclaiming April 4, 2017, as "National Service Recognition Day" in the City of Asheville. He presented the proclamation to Ms. Stacy

Friedsland, Foster Grandparent Program Manager of the Land-of-Sky Regional Council, and others, who briefed City Council on some activities taking place during the day.

**C. PROCLAMATION PROCLAIMING APRIL 6, 2017, AS "NATIONAL TARTAN DAY"**

Vice-Mayor Wisler read the proclamation proclaiming April 6, 2017, as "National Tartan Day" in the City of Asheville. She presented the proclamation to Mr. Judson Lohr, and others, who briefed City Council on some activities taking place during the day.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 14, 2017**

**B. ORDINANCE NO. 4566 - BUDGET AMENDMENT FOR THE TRANSIT MASTER PLAN STUDY**

Summary: The consideration of a budget ordinance amendment in the amount of \$120,000 from federal grant funding and a local City match from the Transit Operating Fund to set up the project budget for the update of the City of Asheville Transit Master Plan.

The City of Asheville was awarded federal Surface Transportation Program - Directly Attributable (STP-DA) funds for the update of the Transit Master Plan on October 14, 2015. The City received \$120,000, with 80% or \$96,000 funded by the grant with 20% or \$24,000 match requirement.

The City of Asheville was awarded federal Surface Transportation Program - Directly Attributable (STP-DA) funds for the update of the Transit Master Plan on October 14, 2015. The City received \$120,000, with 80% or \$96,000 funded by the grant with 20% or \$24,000 match requirement.

As the city grows the system is facing new challenges that affect performance, such as congestion, events, festivals, etc. that require a fresh look and a close analysis of the operational conditions. The update of the Transit Master Plan will reexamine operational and maintenance requirements and projected capital needs in the short, medium and long term.

The Request for Proposals will be released when this budget amendment is approved. Staff estimates that it will take 13-15 months to go through the evaluation process and project development. The update will be available for public review in about 12 months and eventual Council adoption thereafter.

Pro:

- These funds will allow the city to update the Transit Master Plan, seeking operational efficiencies and planning for future capital needs.

Con:

- Project is funded with Surface Transportation Program - Directly Attributable (STP-DA) funds in the amount of \$96,000. The city is responsible for the local match in the amount of \$24,000 that come from the Transit Operating budget.

The total financial impact for the subject projects is \$120,000, 80% funded with federal funds and 20% from the Transit Operating budget. The match will come from the existing FY 2016-17 Transit Fund budget.

Staff recommends that City Council adopt a budget ordinance amendment in the amount of \$120,000 from Federal Funds to setup the project budget for update of the Transit Master Plan.

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**C. RESOLUTION NO. 17-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT AT 172 S. CHARLOTTE STREET TO THE METROPOLITAN SEWERAGE DISTRICT FOR MAINTENANCE**

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to the Metropolitan Sewerage District of Buncombe County (MSD) to accommodate maintenance on the service lines at the White Labs site at 172 S. Charlotte Street.

The City of Asheville owns property at 172 South Charlotte Street. In 2015, the City approved an economic development agreement wherein the property was leased to White Labs, Inc. to locate a yeast manufacturing facility in this location. White Labs, Inc. is currently making improvements to the property and this includes changes to the utilities on site. The MSD sewer line that crosses the property will now terminate at a new manhole which is near the entrance on South Charlotte Street. White Labs installed the manhole and has been required by MSD to extend an easement beyond the manhole to the first cleanout of each of the existing service lines in order to allow maintenance.

MSD is requesting an easement that is 10 (ten) feet on either side of the service line for a total of 701.5 square feet of permanent easement. The City of Asheville has consulted with White Labs to insure that the easement serves their needs. City stakeholders have also been consulted and City staff finds no issues with the granting of this easement.

Pros:

- Granting of the easement will allow MSD to continue regular maintenance on sewer infrastructure that serves 172 S. Charlotte Street.
- Utility Improvements have been made that were paid for by the tenant.

Cons:

- None

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a 701.5 square foot permanent easement across City-owned property at 172 South Charlotte Street.

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**D. RESOLUTION NO. 17-55 - RESOLUTION ACCEPTING THE DOWNTOWN COMPREHENSIVE PARKING STUDY**

Summary: The consideration of a resolution to accept the Downtown Asheville Comprehensive Parking Study to be used as a resource document and to provide policy direction to staff.

Although the Parking Enterprises Fund has been and continues to be very healthy, staff continues to receive requests regarding parking needs on a regular basis. In order to address

these needs and to make the most efficient use of the overall limited funds, staff is developing a long-term parking program (LTPP).

The steps in developing a long-term parking program (LTPP) include having a consistent and ongoing revenue stream, having available resource documents (for example; the comprehensive parking study), and having a 10-year parking capital improvements program (PCIP).

The comprehensive parking study includes a background section listing general statutes and City ordinances related to parking functions, a benchmarking section providing information on public on-street and off-street parking facilities for 50 peer cities, a section on various parking strategies used throughout the United States, a section on various funding strategies used throughout the United States, and analyses regarding the possibility of a downtown shuttle that includes two phases. The first phase includes the downtown central business district and the second phase includes the downtown central business district, Biltmore Village, the River Arts District, and Haywood Road in West Asheville. In addition, a 10-year financial model has been prepared that helps staff determine when additional debt could be incurred including any fee and rate increases that would be needed to meet the anticipated capital needs. The comprehensive parking study will be a valuable resource document that complements the various parking studies that have been completed including the downtown parking study that is updated on a two-year cycle with new occupancy data for on-street and off-street parking facilities. The next update is scheduled to occur during October 2017. Staff is currently working with Buncombe County to update all of the land uses in the Central Business District.

The 10-year parking capital improvement program (PCIP) is reviewed and updated on an annual basis and appropriate adjustments are made during each budget cycle. The foundation or anchoring piece of the program is the need to make sure that the parking infra-structure, especially the four parking garages, is well maintained, up-to-date, and customer friendly. Since the Civic Center Parking Garage is 40 years old, a structural engineer has performed an assessment and has prepared an action plan to extend its service life by 30 years by investing a total of \$9,000,000 over the 30-year period. This action plan is now incorporated into the PCIP. Similar assessments are now being done for the Rankin Avenue and Wall Street parking garages.

Table 1 includes parking strategies that have been accomplished, are currently underway, and are identified within a 10-year timeframe.

Table 1

| Parking Strategy   | Status   |
|--|--|
| Prepare a parking study in the CBD including supply and demand.                                      | This strategy was accomplished in 2008 and the occupancy rates are updated on a two-year cycle. The next update is scheduled to occur during October 2017.         |
| Initiate an advertising program regarding parking in the CBD.  | This strategy has been accomplished. A yearlong contract has been executed with Asheville Radio Group for 2017.  |
| Seek the Accredited Parking Organization (APO) award from the International Parking Institute (IPI). | This strategy is in process. The application has been submitted and the site visit has occurred.   |
| Replace the existing elevator in the Civic Center Parking Garage.                                    | This strategy is in process. Construction bids have been opened and are currently being reviewed. The contract should be coming to City Council during April 2017. |
| Implement the action plan to extend the service life of the Civic Center Parking Garage to 30 years. | This strategy is in process. Appropriate steps will begin during FY 2018 (the action plan is now included in the 10-year PCIP).                                    |

|  |   |
|--|---|
| Assess the Rankin Avenue Parking Garage to prepare an action plan to be able to extend its service life by 30 years. | This strategy is in process. A structural engineer is currently assessing the parking garage and preparing the appropriate action plan.   |
| Assess the Wall Street Parking Garage to prepare an action plan to be able to extend its service life by 30 years.   | This strategy is in process. A structural engineer is currently assessing the parking garage and preparing the appropriate action plan.   |
| Replace existing on-street parking meters in the CBD with smart (credit card) parking meters.                        | This strategy is in process. A RFP has been issued and proposals are due on March 24, 2017. All the existing on-street parking meters should be replaced by June 30, 2018.                                    |
| Install new smart (credit card) parking meters in the South Slope of the CBD.  | This strategy should begin during FY 2019 (after the existing parking meters are replaced).   |
| Install new smart (credit card) parking meters in other areas of the city.   | This strategy is subject to City Council policy direction (establish new meter zones).  |
| Expand enforcement hours for on-street parking in the CBD beyond 6:00 pm.  | This strategy is subject to City Council policy direction (could begin during FY 2019 after the existing parking meters are replaced).  |
| Replace and/or update existing parking equipment including gates and associated software.                            | This strategy should begin during FY 2019.  |
| Consider a reduced parking rate for city residents.  | This strategy is subject to City Council policy direction (could be studied after the strategy to replace and/or update the existing parking equipment including gates and associated software is completed). |

The Downtown Commission reviewed the document on March 10, 2017.

The Planning and Economic Development Committee reviewed the document on February 21, 2017, and recommended that it move forward to City Council.

Pros:

- Serves as a resource document including extensive benchmarking from peer cities.
- Complements various parking studies that have been completed.

Cons:

- There are no known cons.

There is no immediate fiscal impact for the recommended action.

Staff recommends that City Council accept the Downtown Asheville Comprehensive Parking Study to be used as a resource document and to provide policy direction to staff.

At the request of Councilman Bothwell, Traffic Engineer Jeff Moore said that he would provide Council with information on how the Parking Study is being applied (since it is dated July, 2016) and how we are moving forward on some of the ideas.

Councilman Smith said that after the Planning & Economic Development Committee review of the document, they asked the City Manager to work on action steps that came out of that based on previous Council direction. City Manager Jackson noted that the resolution includes direction to staff as follows: (1) The City Council hereby accepts the Downtown Asheville Comprehensive Parking Study to be used as a resource document and to provide policy direction to staff; (2) The City Council accepts the recommendation for a series of rate



adjustments to fund multiple capital projects for system growth as well as enhancements; (3) The City Council accepts the recommendation to revisit the Code of Ordinances as they relate to the parking violation fines, penalties, and late fees. Additionally, the City Council accepts the recommendation to investigate expanding the hours of enforcement later in the evening; (4) The City Council accepts the recommendation to establish a "Repair and Replacement" Fund and make pre-determined annual budget allocations for this purpose; and (5) The City Council accepts the recommendation to continue investing aggressively in short and long-term "smart" parking technologies and programs. He said that he will come back with an action plan for the Parking Study.

**RESOLUTION BOOK NO. 38 - PAGE 371**

**E. RESOLUTION NO. 17-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR GRANTS OF FEDERAL TRANSPORTATION FUNDS, TO SIGN A LETTER OF COMMITMENT FOR LOCAL MATCHING FUNDS, AND IF THE APPLICATIONS ARE SUCCESSFUL, TO ACCEPT GRANTS AND SIGN THE APPROPRIATE AGREEMENTS**

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, to sign a letter of commitment for local matching funds, and if the applications are successful to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The French Broad River MPO plays a role in programming federal transportation dollars for local projects. Some of the funding is programmed through a competitive call for projects.

A call for projects is currently open until March 31, 2017 from the funding source of STBG-DA (formerly STP-DA) for fiscal years 2018 and 2019. Local governments in Buncombe, Haywood and Henderson counties and NCDOT Division offices are eligible to apply.

In the past, the City of Asheville received awards from this funding source for sidewalks on Hendersonville Road and New Leicester Highway, right of way funding for the RADTIP, and other small projects.

City staff evaluated eligible projects in the City's Capital Improvements Program, and developed an application for funds based on the following criteria:

- Alignment of the project timeline with availability of the funds in FY 18 and FY 19.
- Ability of the project to meet all federal requirements.
- Competitive project that will provide multi-modal transportation facilities.

Based on these criteria, City staff selected the Beaucatcher Greenway Project as a candidate for these funds. City staff intends to submit an application requesting funding in the amount of \$4 million, which is 80% of the projected cost of approximately \$5 million. This most recent estimate accounts for rising construction costs in the current economic climate. The cost estimate reflects a revised scope based on the main alignment for the greenway and does not include spur connections.

Staff has not identified an alternate project that meets the above criteria, specifically projects with available matching funds in the FY 18 and FY 19 budget.

The Finance Committee will review this recommendation at their March 28, 2017 meeting.

Pros:

- This funding will enable the City to deliver a multi-modal transportation project that is programmed in the CIP.
- Funding availability is aligned with the scheduled construction timeline.
- The required matching funds are already budgeted for this project.

Con:

- None

This project is currently programmed in the City's Capital Improvements Program. The amount of programmed funding already in the City's approved capital budget will provide the required match for these federal funds.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River MPO for grants of federal transportation funds, to sign a letter of commitment for local matching funds, and if the applications are successful to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

#### **RESOLUTION BOOK NO. 38 - PAGE 372**

#### **F. ORDINANCE NO. 4567 - ORDINANCE AMENDING THE DOWNTOWN COMMISSION MEMBERSHIP**

Summary: The consideration of a resolution amending the Asheville Downtown Commission ordinance relative to the Asheville Downtown Association seat on the Asheville Downtown Commission.

The Asheville Downtown Commission was established by City Council to serve as an advisory body for the sustainability and continued development of downtown. The Commission consists of 11 members, including two members appointed by the Buncombe County Board of Commissioners, one member of the City Council appointed by the City Council, seven members appointed by the City Council from the private sector of the community, and one member as a representative from the Asheville Downtown Association.

Chapter 2, Article III, Division 3 of the Asheville City Code specifies the requirements for the Asheville Downtown Association seat. In the past, the code has required that the representative in this seat be the President, a Board Member and/or a Member of the Asheville Downtown Association.

At the January 10, 2017, Downtown Commission meeting, Commissioners voted to recommend a wording amendment to the affiliation requirements for the Asheville Downtown Association seat. The wording of Section 2-76(b)(4) in Division 3 of Chapter 2 would read, "A member of the board of directors or the executive director of the Asheville Downtown Association." The wording of 2-76(c) would be amended to remove "the President of" the Asheville Downtown Association.

The proposed amendment aligns with the City Council 2036 Vision, most specifically with the goal of having a connected and engaged community. While the Asheville Downtown Commission as a whole contributes to this Vision, the wording amendment also ensures that the City is building upon its partnership with the Asheville Downtown Association to support effective engagement and enhanced communication between organizations. Specifying that the Asheville Downtown Association representative be a board member or the executive director of the organization helps ensure that the initiatives from both bodies are being communicated and coordinated, thus more effectively representing downtown interests and advising Council.

With strengthened coordination between the Asheville Downtown Association and Asheville Downtown Commission, other goals identified in City Council's 2036 Vision may be supported more effectively, such as supporting local businesses (Thriving Local Economy) and improving walkability (Transportation and Accessibility), both of which are initiatives of the Asheville Downtown Association.

This item was reviewed by the Boards & Commissions Committee on March 14, 2017, and they unanimously recommended approval and that the item be moved forward to City Council.

Pro:

- Strengthens Asheville Downtown Association representation on the Asheville Downtown Commission, supporting enhanced communication and coordination.

Con:

- Provides Asheville Downtown Association with limited flexibility on who they may appoint as their representative on the Asheville Downtown Commission.

City staff and the Downtown Commission recommend that City Council approve revisions to the wording of Ordinance 2-76(b)(4) and 2-76(c) in Article III, Division 3 of Chapter 2 in the City Code of Ordinances

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#### **G. RESOLUTION NO. 17-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH BUCKEYE BRIDGE, LLC, FOR THE NEIGHBORHOOD ENHANCEMENT PROJECT AREA 2 WATER DISTRIBUTION SYSTEMS PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Buckeye Bridge, LLC, for the NEP Area 2 Water Distribution Systems Project for the bid amount of \$2,674,820 plus a 12% contingency in the amount of \$321,000 for a total project budget in the amount of \$2,995,820.

On February 20, 2017 the Water Resources Department (WRD) issued an Advertisement for Bids for the NEP Area 2 Water Distribution Systems Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for the installation of approximately 26,100 Linear Feet of 6-inch Ductile Iron Pipe and related appurtenances located in the Tiny Farms and Mt. Carmel Acres Subdivisions located in the northwest area of the City of Asheville Water Distribution System.

In response to the Advertisement for Bids, the department received five bids on March 14, 2017. Companies responding were:

1. Buckeye Bridge, LLC; Canton, NC – Bid: \$2,674,820
2. Cooper Construction Company, Inc.; Hendersonville, NC – Bid: \$2,677,467
3. Hall Contracting Corporation; Charlotte, NC– Bid: \$3,787,920.00
4. Steppe Construction, Inc; Mill Springs, NC - Bid: \$3,473,855.00
5. T&K Utilities, Inc.; Asheville, NC– Bid: \$3,312,200.00

Following a review of the bids by City Staff and the project engineers, W.K. Dickson & Co., Inc., Buckeye Bridge, LLC, was selected as the lowest responsible, responsive bidder for the bid amount of \$2,674,820. A contingency amount of \$321,000 has been added for a total project budget in the amount of \$2,995,820.

Pros:

- This project will replace existing waterlines. The subject lines are undersized, provide inadequate fire protection, and/or have a high risk of failure.
- 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.
- Replacement of these lines will help to improve the service and reliability of the water system with an overall reduction of water loss due to the older lines being more prone to undetectable leaks and failures.

Con:

- Failure to award a construction contract would prevent the completion of the water system improvements.

The funding needed for the construction agreement is currently allocated within the Water Resources Capital Improvements Project (CIP) Fund in the 2015 NEP Area 2 Project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Buckeye Bridge, LLC, for the NEP Area 2 Water Distribution Systems Project for the bid amount of \$2,674,820 plus a 12% contingency in the amount of \$321,000 for a total project budget in the amount of \$2,995,820.

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**H. RESOLUTION NO. 17-58 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR SECTION 5310 FUNDS, AND IF AWARDED, TO SIGN ALL APPROPRIATE AGREEMENTS**

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (FBRMPO) for Section 5310 Funds, and if the application is successful, to accept the grant(s) and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

The FBRMPO has opened a call for projects to use FTA Section 5310 Funds, which are used to provide enhanced mobility to seniors and individuals with disabilities with an application deadline of March 31, 2017.

The FBRMPO expects to have about \$324,822 available from the FY 2016 FTA apportionment and the funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding in the amount of \$187,500 to help offset the annual cost of providing paratransit service. If the city is awarded the grant, the funds would be programmed in the city's operating fund for FY 2018-19.

The project is ready to move forward as funding becomes available.

This action complies with the City Council's 2036 Vision in the Transportation and Accessibility focus area by making sure that transportation options are available for everyone.

Pros:

- Enables the use of Federal funds to help provide needed assistance.
- Enables the City to offset part of the annual operating cost to provide transit service.

Con:

- City would be responsible for the local match which would be a maximum of \$37,500.

The maximum amount of the grant is \$187,500 and it includes the local match which would be \$37,500 which is 20% of the total amount. The local match would come from the transit operating budget for FY 2018-19.

City staff recommends that City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (FBRMPO) for Section 5310 Funds, and if the application is successful, to accept the grant(s) and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

**RESOLUTION BOOK NO. 38 - PAGE 374**

**I. RESOLUTION NO. 17-59 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ASHEVILLE, BELL ATLANTIC MOBILE OF ASHEVILLE INC (D/B/A VERIZON WIRELESS), AND NEW CINGULAR WIRELESS, LLC (D/B/A AT&T) FOR THE TOWER REPLACEMENT PROJECT AT 166 RESERVOIR ROAD**

**ORDINANCE NO. 4568 - BUDGET AMENDMENT REGARDING THE TOWER REPLACEMENT PROJECT AT 166 RESERVOIR ROAD**

Summary: The consideration of a resolution to authorize the City Manager to enter into an amended Memorandum of Understanding between the City, Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless), and New Cingular Wireless, LLC (dba AT&T) for the tower replacement project at 166 Reservoir Road; and a budget amendment in the amount of \$300,000 to eliminate (reduce) the project budget previously established in the City's General Capital Projects Fund for this project.

On February 14, 2017, the City Council adopted a resolution authorizing the City Manager to enter into a Memorandum of Understanding concerning the replacement of the lower telecommunications tower on City-owned property at 166 Reservoir Road. After further discussions with the primary tenant, AT&T, staff is bringing forward a revised project concept for Council's consideration.

Under the prior arrangement, AT&T had agreed to provide funding for the project with the City serving as project manager for the engineering, design and construction of the project. Last fall, the City had engaged a Raleigh-based tower engineering firm, Vertical Solutions, Inc., to provide preliminary engineering services for the tower project and the City planned to continue working with Vertical Solutions through the construction phase. A major setback occurred when this firm abruptly closed its business in late February. Although preliminary engineering work for the new tower was complete, the City faced a significant hurdle to achieve an on-time project with the loss of its primary engineering lead.

Upon sharing this information, AT&T proposed a new arrangement to essentially modify the roles for each entity in the project, with the same financial and timeline objectives as originally agreed upon. Rather than the City serve as the project and construction lead, AT&T would assume responsibility to construct the tower. At this time, the following modified terms have been discussed and agreed upon in principle as an updated project concept:

- AT&T will serve as project manager for the engineering, design, and construction of this project. AT&T will perform the construction of the new tower and demolition of the old tower.
- AT&T agrees to pay for the total construction costs of the new tower and demolition of the existing tower. The current estimate is \$275,000 and will be determined by final bids and true costs.

- In consideration of AT&T's contribution, the City would agree to rental abatement for the full construction amount. The rental abatement will be set forth in a license agreement wherein AT&T is granted a 15 year term of occupancy (structured as 3 - 5 year terms.) and rental abatement is calculated at the current fair market value (\$37,500 per year), plus a 3% escalation rate of each year. No rent is paid until construction costs are abated. Current estimates indicate that AT&T will commence paying rent sometime in year seven of the agreement at a graduated rate of approximately \$44,700 per year.
- Construction completion is expected before the end of the calendar year 2017.

As a new tenant to the tower, Verizon's agreement remains the same as before. Terms have been set forth, as follows:

- Verizon requests a 15 year term (structured as 3 - 5 year terms.)
- Verizon's rent will commence once the tower construction is complete, at the established fair market value of \$37,500 per year with annual increases of 3% per year.
- The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.
- Verizon must also execute the MOU acknowledging the construction project and process.

The City will continue to work hand in hand with AT&T to ensure a quality final product. The design, placement and other project elements that were represented in the prior report will remain unchanged. Given their experience in tower construction, AT&T has capacity to perform this project on time and on budget.

Pros:

- Capital improvements - tower construction costs - fully funded and construction managed by AT&T.
- Long term commitment from the tenants will secure revenue stream for the City.
- Dedicates a portion of the site to long term public safety communications use.
- New tenant (Verizon) contributing rent to the general fund; AT&T will commence paying rental once construction costs have been abated.

Cons:

- Future recreational use will need to accommodate public safety telecommunication towers into the design.
- Uncertain if the existing tenant, T-Mobile, will seek to relocate to the new tower or will move to a different location. T-Mobile's existing lease will end once new tower is completed.

Replacing the existing tower benefits the general fund through continued tower lease revenues and supports upkeep of the City's public safety communications infrastructure with minimal capital expenditures from the City. The Capital Projects budget will be amended to eliminate the budget previously established for the tower replacement project.

Staff recommends that the Council adopt the amended resolution authorizing the City Manager to enter into a Memorandum of Understanding between the City, Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless), and New Cingular Wireless, LLC (dba AT&T) for the tower replacement project at 166 Reservoir Road and the associated budget amendment.

**RESOLUTION BOOK NO. 38 - PAGE 375**  
**ORDINANCE BOOK NO. 31 - PAGE 155**

**J. ORDINANCE NO. 4569 - BUDGET AMENDMENT FOR BIKE SHARE FEASIBILITY STUDY**

Summary: The consideration of a budget amendment in the City's Special Revenue Fund in the amount of \$50,000 to budget \$25,000 in federal grant funds awarded through the French Broad River Metropolitan Planning Organization (MPO) along with the City's budgeted match of \$25,000 for the city's bike share feasibility study.

In July 2014 City Council authorized the City Manager to apply for and to execute agreements to accept the funding for several grants from the French Broad River MPO, including \$25,000 for a bike share feasibility study. The agreement for the study is now in place, and matching funds are in the budget, but the budget must be amended to authorize the receipt and expenditure of the grant funds.

Pros:

- allows the City to move forward a bike share feasibility study to explore the opportunity before committing significant labor and capital
- leverages \$25,000 in grant funding

Con:

- grant requires \$25,000 in local match, which is already in the budget

As noted above, the City's local match is \$25,000, and it is already included in the Transportation Department's Adopted FY 2016-17 General Fund budget.

Staff recommends City Council adopt the budget amendment in the City's Special Revenue Fund in the amount of \$50,000 to budget \$25,000 in federal grant funding awarded through the French Broad River MPO along with the City's match of \$25,000.

**ORDINANCE BOOK NO. 31 - PAGE 157**

**K. RESOLUTION NO. 17-57 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SERVICE AGREEMENT WITH BBC RESEARCH & CONSULTING FOR THE 2016 DISPARITY STUDY PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a service agreement with BBC Research & Consulting for the 2016 Disparity Study Project in the amount of \$319,948.

On December 14, 2016, the Community & Economic Development Department issued an Advertisement for Request for Proposals for consultant services to conduct the Minority Business Program Disparity Study. The project will include:

- Study of the City's contractual awards in construction, goods, services, architectural and engineering services for the period Fiscal Year 2011 through Fiscal Year 2016.
- To determine the effectiveness of the current programs and recommend modifications and adjustments, if necessary, to the City program that are in compliance with law based on the opinion of an attorney licensed in the State of North Carolina who has substantial experience in this area of law.
- To provide current legal guidance not only relative to new legislation, policies and procedures to meet any constitutional mandates, but also the programmatic needs of the constituencies of the City.

In response to the advertisement, the department received six (6) consultant proposals on January 18, 2017. Companies responding were:

| Name of Company                      | Cost Proposal Amount | Business Main Office |
|--------------------------------------|----------------------|----------------------|
| Drakeford, Scott & Associates L.L.C. | \$151,200.00         | Durham, NC           |
| BBC Research & Consulting (BBC)      | \$319,948.00         | Denver, CO           |
| MGT of America                       | \$321,496.00         | Tallahassee, FL      |
| Mason Tillman Associates, Ltd.       | \$324,144.00         | Oakland, CA          |
| Griffin & Strong P.C.                | \$345,025.00         | Atlanta, GA          |
| Miller <sup>3</sup> Consulting, Inc. | \$455,825.00         | Atlanta, GA          |

The proposals were reviewed by City Staff and BBC Research & Consulting was selected in the amount of \$319,948. Criteria for this RFP included:

- Experience and qualification of firm
- Experience and qualifications of proposed staff
- Understanding of the project (proposed project plan)
- Proposed cost
- Overall proposal and completeness
- Legal requirement that any legal opinions be provided by NC licensed attorney

This action went before the Planning and Economic Development Committee on March 21, 2017, and their recommendation was support to move forward to City Council.

Pros:

- Study will replace outdated disparity study completed in 1993.
- The project will result in an updated Minority & Women Business Plan that is up to date with all current legal requirements and best practices.

Con:

- None identified.

Funds for this consultant agreement are currently allocated within the Community & Economic Development Department budget for FY17.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a service agreement for consultant services with BBC Research & Consulting for the 2016 Disparity Study Project in the amount of \$319,948.

In response to Councilwoman Mayfield, Economic Development Specialist Brenda Mills said that the study is specifically for contracting and purchasing. City Manager Jackson noted; however, that our Equity Program is intended to look at far more than just the disparity study.

Mr. Grant Millin provided Council with a PowerPoint which addressed the Asheville and Buncombe County's Agenda for People with Disabilities and the City's Disparity Study.

### **RESOLUTION BOOK NO. 38 - PAGE 373**

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 Smith and carried unanimously.

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



**A. HAYWOOD STREET COMMUNITY VISIONING**

Councilwoman Mayfield gave a brief background of how the Haywood Street Visioning Task Force was created.

On behalf of City Council, Mayor Manheimer thanked the Asheville Design Center and the Haywood Street Visioning Task Force for the thousands of volunteer hours they devoted to this task.

Mr. Chris Joyell, Executive Director of Asheville Design Center 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. He reported that the Haywood Advisory Team (AT) has completed its assignment, having recently voted 16-1 to approve their final recommendations.

Mr. Andrew Fletcher, Chair of the Haywood Street Visioning Task Force, briefly reviewed with Council their 17-page final report, which included their vision statement, site analysis, full exploration of uses and amenities, and appendix of collected community input.

Beginning in June, 2016, the AT held eleven regular meetings, two alternate meetings (to accommodate members who could not attend the regularly scheduled meetings), and a four-hour visioning workshop on February 18, 2017. Buncombe County’s representative bowed out of the process in November, citing the demanding time commitment, leaving us with 17 voting members. Overall, AT meetings enjoyed an attendance rate of over 90%.

The AT’s recommendations include a desired “sense of place,” a site analysis, an overview of the team’s process, and preferred site uses. The AT’s vision includes a combination of active civic space and passive civic green space contained and activated on its edges by mixed-use development. The AT really wants a future that animates the site sooner than later.

The following table illustrates the various compatible and complimentary uses identified by the AT.

|  | <b>Civic</b>  | <b>Mixed</b>   | <b>Other</b>   |
|--|---|--|--|
| <b>Active</b>                                | Community Gardening<br>Farmers Market<br>Performance<br>Play Area<br>Public Art                     | Local Food<br>Local Retail<br>Business Incubator<br>Education<br>Housing | Services & Utilities<br>Offsite Public Gathering<br>Safety / Security<br>Traffic Calming |
| <b>Passive<br/>Green<br/>Civic<br/>Space</b> | Shade<br>Native Landscaping<br>Seating<br>Water Feature<br>Urban Trail Station<br>Information Kiosk | Public Rest Rooms  | Trash/Recycling<br>Lighting<br>Views<br>Neighborhood Identity                            |

When Mayor Manheimer asked if a decision was reached whether the alleyway that bisects the property has to remain open for vehicular traffic, Mr. Fletcher said that the AT didn't want to box in a single solution to that concern, so they acknowledged the issue and would let people with greater expertise to solve the problem.

At the request of Councilman Bothwell, Mr. Fletcher read the AT Sense of Place statement.

Councilman Smith thanked the Asheville Design Center and the AT for this monumental task of considering topography, site lines, history and all the viewpoints to come up with a common-sense compromise vision that honors all the different pieces. He would be hopeful to see some kind of housing at the 33-35 Page Avenue area.

Councilman Smith then moved to direct staff to design and issue a Request for Proposals for a design firm to deliver several design options using the Haywood Street visioning process outcomes. This motion was seconded by Vice-Mayor Wisler.

The following individuals spoke regarding the visioning process:

Ms. Kim Roney thanked the volunteers.

Ms. Sharon Willin asked Council to consider middle-class housing in this area.

Ms. Clare Hanrahan wanted a public plaza and public garden to honor people in the neighborhood.

Mr. Coleman Smith questioned how people not part of a professional firm can have their visions be considered.

A gentlemen felt the area should focus on the local community and artist community.

Ms. Dee Williams supported a park.

Councilman Bothwell felt that the City would do well to follow the advice of the Project for Public Spaces. Their website states that the best spaces evolve by experimenting with short-term improvements that can be tested and refined over many years. Examples include places to sit, sidewalk café, community event, garden, painted crosswalks. These are examples of lighter, quicker, cheaper changes that capitalize on the creative energy of the community. If one thing doesn't work then you can try something else. If there is a success, you can build on it. He wondered if we want to seek a design firm first, or try these lighter, quicker, cheaper things which the AT recommended to Council in December.

Mayor Manheimer noted that the motion made by Councilman Smith is for long-term and not to side-step the short-term uses. To be clear, it was the consensus of Council to support proceeding with the action plan for implementation of the interim uses for the Haywood Street property as outlined in the following report provided by Downtown Development Specialist Dana Frankel.

"At City Council's December 12, 2015 meeting, staff was directed to recommend a process to consider the future use and design of city-owned parcels located on Haywood Street and Page Avenue downtown following a long history of potential development opportunities. In March 2016, City Council approved a public visioning process for the properties, contracting with Asheville Design Center to serve as a facilitator for a Council-appointed community advisory team to develop a long-term vision for the properties, while also identifying opportunities for temporary installations to enliven the space in the short term.

The Community Advisory team began meeting in June of 2016, soliciting feedback from the public and taking steps towards developing both a long term vision and recommendations for interim uses. At the October 25, 2016, Council Meeting, the Community Advisory Team presented a list of possible temporary uses and installations for the site. With direction from City Council to narrow down the list, the Advisory Team returned to City Council's December 13, 2016, meeting and presented the following temporary uses and installations to be considered:

1. Raised garden beds
2. Interactive public art
3. Mobile food vending
4. Open vendor markets
5. Movable seating
6. Designated performance space

Following their presentation, City Council directed staff to consider feasibility and recommendations for implementation of the proposed temporary uses.

**Objectives and Overview** - The primary objective of the temporary installations is to activate the subject sites on an interim basis while permanent solutions are being planned and implemented. A secondary goal is to test particular uses and installations in order to learn more about their function, successes and impacts in this public space and in the community at large.

The recommendations that follow are intended to support flexible use of the sites, including those proposed, with a fair and consistent approach to site access and programming. Recommendations also consider efficiency in terms of staff time, administrative processes and costs.

Implementation of the uses and installations as proposed are achievable, with an estimated \$73,871 for site improvements, furnishings and management of installation, \$43,765 for the first year of operations and maintenance, and a minimum of \$78,000 for management of programming and to help fund programming itself (\$195,636 total). Additional funds may be requested annually for capital needs related to maintenance and site enhancements, as well as budget adjustments for additional operational and staffing needs.

Recommendations are presented below, beginning with site planning and analysis of needs, designation of respective parcels for each proposed use, site improvements recommended for success of those uses, and processes for implementation for those components. Site maintenance and management of programming is then considered including staff and community roles, and a timeline is included at the end of this report.

### **Site Planning and Analysis of Needs**

**Use of parcels** - The temporary uses proposed by the Community Advisory Team are not site specific. The group and City staff acknowledged together that the lots currently used for parking should remain available for parking, considering the needs for both short term and monthly parking.

Without disrupting those areas, sites available for temporary uses are the parcels on Page Avenue (Area A) and on Haywood Street (Area B). Both sites are relatively flat with gravel surfaces, and are currently vacant secured by fencing.

*Garden Beds* - Considering the unique needs for raised garden beds including open and easy access and availability of sun, Area A is recommended for use. Accessible from the sidewalk and self-contained from the other proposed uses, the site is well-positioned for maximum community benefit. Staff is proceeding to include Area A in the City's Community Garden Program, an Asheville Edibles initiative being managed by the Office of Sustainability. A request for applications (including design, management and public art) is expected to be released in April, 2017.

*Interactive Public Art* - Public art will be included in both Area A and B.

Area A: requested for incorporation in Area A as part of the Community Garden program being coordinated by the Office of Sustainability.

Area B: For implementation of "interactive public art" recommended by the Advisory Team, an RFP can be released for the design and installation of an artistic intervention or semi-transparent covering to be placed on the fence on Haywood Street. Through specification in the RFP, the artist would include interactive elements in the design and/or incorporated into the installation. The City's Public Art and budget may be able to contribute up to \$10,000.

In addition, a “free expression wall” could be considered in Area B as part of an initiative underway by the City’s Public Works Department.

Other interactive public art such as music, projection art, movies and performances would be encouraged in Area B. Informal, non-permitted performances such as busking would be allowed and encouraged in Area B during times when permitted events are not occurring.

*Mobile Food Vending, Vendor Markets, Movable Seating, Performance Space*  
Implementation of the other proposed uses is recommended for Area B.

**Site Improvements** - Site planning and improvements would support flexible uses, including those proposed. Investments in site improvements are intended to support temporary uses and activities for 1-3 years, while planning and implementation of long-term uses is underway.

Staff recommends contracting with an external entity through a competitive process to manage design-build services for site planning, material purchasing and physical installations of required/recommended infrastructure, furnishings and amenities. A total budget could be outlined in a RFQ (*estimated \$73,871*). Applicants would be encouraged to identify supplemental sources of funding for completing the work required, and would be asked to use creatively produced/ sourced materials and furnishings including reused and recycled. By contracting with an external party, the timeline for implementing the improvements can be expedited, expertise on site-design is enabled, and staff capacity can be conserved while participation and community buy-in can be garnered. A team of staff including representatives from Parks and Recreation, Capital Projects, Planning and Urban Design, Community and Economic Development, Development Services and Public Works would participate in the RFQ review process.

Possible site improvements are outlined below. Expanded details on each component are available but not included for the purposes of this memo.

1. **Electrical Access – required by UDO (Area B)**
2. **Trash cans – required (Area B)**
3. **Furnishings, landscaping and placemaking – required but flexible (Area B)**  
To include movable seating and designated performance space. Items may be sourced/built and could include re-purposed materials. Other furnishings are recommended in order to create a safe, inviting, interesting and comfortable experience for passive and active uses.
3. **Surface treatment – recommended (Area B)**  
Uses permitted as outdoor special events can be legally accommodated on gravel lots/uneven surfaces, however, the Community Advisory Team and staff recommends accommodating access for all citizens, including those with limited mobility and those in wheelchairs. A non-slip surface can be installed in areas adjacent to the primary uses/amenities.
4. **Water Access - recommended (Area A)**  
Installation of a water spigot is recommended in Area A to support the feasibility and success of the community garden program.
5. **Informational signage - recommended (Area A and Area B)**  
Signage may be designed and installed for the purpose of posting rules/ordinance regulations, hours of access, background information on the initiative, programming schedules and to display community partners and sponsors.
6. **Restrooms - optional**  
Existing public restrooms are available nearby. Event organizers may be responsible for providing on-site restrooms to meet the needs of their events. Temporary restroom facilities including toilets and portable sinks could be added to the site and are included in cost estimates.

## **Site Operations, Maintenance and Management**

In Area A, the designated community garden contact (as specified in the program) will be primarily responsible for managing maintenance.

For maintenance and on-going management of Area B, staff recommends that it be managed as a “temporary park” by the City’s Parks and Recreation Department, with secured access open to the public during standard hours (dawn until dusk) and used as flexible, programmable space with curated events managed by an external entity.

*Maintenance, Access and Security* - The City’s Parks and Recreation department would oversee maintenance of Area B’s amenities, as well as access to the site, though the expansion of existing maintenance and security contracts. Maintenance will include amenity cleaning, litter control, trash removal, leaf removal, debris removal, horticultural maintenance and pest control as needed. Security services include opening and closing of the gate at specified times in Area B. There may be other requests for budget adjustments from the Parks and Recreation Department due to increased staff necessary to support maintenance and security management.

The Asheville Police Department would extend downtown coverage to monitor and respond to issues in Areas A and B. The current \$1M budget request for additional downtown unit staffing would support coverage of this site. If the budget request is not approved, there may be other requests for budget adjustments due to increased staff necessary to support patrol and response of these areas. The hiring of a full time Park Warden may be considered for the site.

The City’s Public Works department would add Areas A and B to their service routes for trash collection, litter pick-up and graffiti removal. The Public Works department may submit budget adjustments due to increased staff necessary to support additional coverage of these services.

*Programming and Permitting* - Staff recommends that an RFP be released to contract with an external entity to manage programming of the site and promotion of that programming, following specified guidelines on the type and frequency of activities and engagement that should take place.

The City’s Community and Economic Development would coordinate the application and review processes for both the site improvements and for programming. The department would provide assistance to both management entities, helping to coordinate department review processes. A budget adjustment would be submitted for a part-time position required to assist with increased special event permitting and overall coordination.

The minimum estimated budget to pay for event management is \$78,000 for one year, based on a rate of \$1,500 per week (or \$500 per event if programmed three times per week). The fee would include management and a modest budget for programming and promotion, with requirements specified (i.e. 80% of the funding used towards programming). The management entity or would follow the existing outdoor special event permitting process, which enables all departments to participate in review.

The management entity would be responsible for management of the space during programming, carrying appropriate liability coverage and returning the site to its original condition following events. Existing guidelines in the City’s Outdoor Special Event Guide would be followed, as well as the City’s fees and charges that may be applicable. Supplemental services required in the Outdoor Special Event Guide or requested by the City would be paid for by the management entity.

*Role of Community* - The Community Advisory Team's designated temporary use sub-committee would be expected to assist the event management company to identify possible programming partners and help garner participation, as well as to assist with promotional efforts. Staff including Dana Frankel (downtown development specialist) will support and advise the sub-committee and event management company in these efforts.

The sub-committee may also help with fundraising efforts led by the event management company, which may include opportunities for sponsorship and crowdfunding.

### **Timeline**

#### **Target Start Date: QUARTER 2, 2017**

|                 |  |
|-----------------|--|
| <b>Q2, 2017</b> | Develop and issue RFQ for site design and installation services<br>Release application requests for community garden in Area A<br>Develop and issue an RFP for public art  |
| <b>Q3, 2017</b> | Develop and issue RFQ/RFP for management of programming<br>Review RFQ/RFP responses for site design and installation; execute contracts<br>Review proposals for public art; install<br>Design and install of site features |
| <b>Q4, 2017</b> | Review RFQ/RFP for management of programming; execute contracts<br>Programming on Haywood Street site begins   |
| <b>2018</b>     | On-going programming, evaluation and adjustment"   |

Councilman Bothwell also felt we need to make a front-end piece of that consideration of vehicular traffic.

Councilwoman Mayfield asked that there be a significant public involvement piece as part of this Request for Proposals process.

The motion made by Councilman Smith and seconded by Vice-Mayor Wisler carried unanimously.

### **IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 236 CHARLOTTE STREET AND 336 HILLSIDE STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH RESIDENTIAL DENSITY DISTRICT AND COMMUNITY BUSINESS I DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION OF AN EXISTING COMMUNITY CENTER AND CHILD DAY CARE FACILITY**

**ORDINANCE NO. 4570 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 236 CHARLOTTE STREET AND 336 HILLSIDE STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH RESIDENTIAL DENSITY DISTRICT AND COMMUNITY BUSINESS I DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION OF AN EXISTING COMMUNITY CENTER AND CHILD DAY CARE FACILITY**

Mayor Manheimer disclosed that she is a member of the Jewish Community Center; however, she has no conflict of interest.

Urban Planner Jessica Bernstein that this is the consideration of an ordinance to conditionally zone property located on 236 Charlotte Street and 336 Hillside Street from RM-16

Residential Multi-Family High Residential District and Community Business I District to Community Business II District/Conditional Zoning for the expansion of an existing community center and child day care facility. This public hearing was advertised on March 17 and 24, 2017.

The project site consists of two separate parcels, located at 236 Charlotte Street and 336 Hillside Street. There is an overall project area of 1.57 acres. The community center lot (Charlotte Street) is split-zoned RM-16 and CBI and the daycare parcel on Hillside Street is zoned RM-16.

Surrounding parcels are zoned RM-16, CBI and RS8 (across Charlotte Street). Additionally, portions of this site fall within the Charlotte Street Transition Overlay District (7-9-10).

Uses in the vicinity include both single and multi-family residential to the north, west and south as well as retail, office and commercial to the north and south along Charlotte Street. The sites contain existing buildings and surface parking and have multiple street frontages for each parcel.

The proposal for 236 Charlotte Street is to demolish the existing pool area (which will be relocated to 40 Clyde) and expand the existing building in that location. The existing structure is two-stories and 18,397 square feet and the project proposes a 7,588 square foot, one-story expansion resulting in a total gross floor area of approximately 25,985 square feet.

The application also includes 336 Hillside Street, Hilde's House, which is a 1,020 square foot existing child day care use that does not comply with the specific special requirements (USSR) for this use in the underlying zoning district. The plans would keep the use and site operating as-is.

An additional component of the overall project is the construction of the new pool facility, open space areas and associated parking at 40 Clyde Street, which has been reviewed and approved under a Level II permit (16-12163PZ) and is not included under the conditional zoning application.

Access to the site(s) and parking is proposed to remain in the current configuration with all vehicular traffic entering from Lennox Court. The driveway onto Hillside Street will remain exit-only. The existing parking area for the community center is located to the west of the building and plans show 27 spaces in the lot. There are two staff spaces in the driveway at Hilde's House, resulting in 29 actual parking spaces provided on-site for this project. Taking into account the 20% reduction allowed in the CBII zoning district, the uses in the building(s) (day care facility and community cultural center) requires a minimum of 43 parking spaces.

Additional parking for users of the community center is provided in the pool parking lot at 40 Clyde Street, *although the lot location exceeds the maximum distance allowable by-right for remote parking and this will be addressed in a condition specific to the project.*

There are either existing or proposed sidewalks along all street frontages, ranging in width from approximately five to ten feet. Existing sidewalks along Charlotte Street do not meet the City's standard and are proposed to remain where the rock wall and vegetation are proposed to be preserved. Staff recommends widening sidewalks along the remainder of Charlotte Street and along Hillside adjacent to the parking area to a minimum of ten feet where possible. The applicant will be eliminating the existing loading area and curb cut on Hillside close to Charlotte Street and proposes to replace with sidewalk matching the existing width in this section.

Landscaping is required for this project and includes a property line buffer along four areas adjacent to or facing residential zoning (Lennox Court, interior property line, Murdock Avenue and a portion of Hillside Street), a street buffer in three locations (Lennox Court, Hillside and Murdock), street trees along all five street frontages, parking lot landscaping and building

impact landscaping. The applicant is requesting specific conditions relating to landscaping as detailed below. Open space is adequately provided in the playground areas on both sites and through the active and passive recreational uses at 40 Clyde Street.

The majority of the Charlotte Street parcel falls under the Charlotte Street Transition Overlay which applies architectural standards to new development and restricts gross floor area. See requested conditions below.

Due to the reuse of the majority of the site layout and the practical challenges from including an addition onto the existing site, there are a number of site-specific conditions detailed below as well as in the Exhibit B.1 list.

1. Setbacks

- Front setback Charlotte Street (overlay) - maximum 20 feet / minimum 5 feet (request to 35 foot maximum for existing building and 80 foot maximum for new addition on Charlotte Street)
- Second front Lennox Court (overlay) - maximum 20 feet (request maximum 25 feet)
- Corner side setback Lennox Street (overlay) -10 feet (request to reduce to eight feet for new building along Lennox Street)
- Corner side setback Murdock - minimum 15 feet (request to allow encroachment of existing shed into property line)

2. Landscaping

- Property line buffer for 236 Charlotte Street (eliminate type A buffer requirement along internal property line, Lennox Court, Murdock and Hillside due to existing condition to maintain parking lot and placement of new building addition)
- Property line buffer for Hilde's House (reduce type A buffer requirement along internal property lines to maintain existing conditions)

3. Parking

- Number of spaces (minimum required 43 spaces, 27 provided in parking lot on-site and 2 at Hilde's House for a total of 29 actual spaces)
- Distance to remote parking (maximum distance per UDO is 500 feet, additional parking provided at 40 Clyde Street, 620 feet away)
- Parking within setback (existing parking area encroaches into setback along Hillside Street)

4. Sidewalks

- Existing sidewalks along Charlotte Street do not meet the City's standard and are proposed to remain where the rock wall and vegetation are proposed to be preserved. Staff recommends widening sidewalks to ten feet along the remainder of Charlotte Street and along Hillside to the driveway at a minimum.

5. Charlotte Street Transition Overlay Requirements

- Gross floor area - maximum 12,000 square feet allowed (addition is 7,588 square feet, existing building is 18,397 square feet GFA; resulting total is approximately 25,985 square feet).
- Orientation of building - required to interact with Charlotte Street (building is oriented towards Lennox Court and away from Charlotte Street due to the nature



- and programming of the use as described in the narrative)
- Number of stories - required to have two-stories at Charlotte Street (addition is for a one-story expansion, however existing building to remain is two-stories)
- Facade variation - required to break up facade every 35 feet (while there is one long roof line from both Charlotte Street and Lennox Court, the building is articulated under the roof along classroom divisions and provide recesses)
- Fenestration - required 40% on ground level (request to reduce to 20% due to the use and orientation towards Lennox Court rather than Charlotte Street)

This proposal was evaluated by the Technical Review Committee on February 20, 2017, and approved with conditions. The proposal requires review by the City Council and Final TRC prior to zoning approval.

The Planning & Zoning Commission reviewed this request at their meeting on March 1, 2017, and voted 6-0 in support of the proposed request. A member of the public was present and spoke about the need for wider sidewalks in this area, especially along Hillside Street.

The day care and community center uses are permitted in the underlying and proposed zoning; however there are aspects where the proposal does not comply with standards due to the continuation of the existing site layout and the programming of the existing use in the new building area, thus resulting in the need for the conditional zoning application.

There is a conditional zoning currently under review several blocks south at 95 Charlotte Street. The Level II was approved for 40 Clyde Street, as noted above, on January 24, 2017.

The expansion of the existing child care facility and community center in this location fits with the mix of uses along the Charlotte Street corridor. The use was established in this location around 1990 when the existing building and parking area were constructed. The Charlotte Street Transition Overlay and Community Business II districts both anticipate medium intensity, community-based businesses and uses in this location. While the request includes eliminating buffers, modifying setbacks and orienting the addition away from Charlotte Street, the plan utilizes an existing layout that has become a part of the fabric of the area. The most intense part of the Community Center use, the outdoor pool and parking demands associated with the recreational facility, has been moved to Clyde Street. This should greatly reduce the impact that the surrounding residential neighbors on Murdock, Lennox Street and Lennox Court have experienced in the past and should increase compatibility despite the reductions in buffers and parking.

The expansion of an existing community-based use in this location supports elements of the Comprehensive Plan in that the development along a corridor surrounded by residential neighbors is accessible by walking or transit and is a use in an established location complementary to the mix of residential, office and commercial activities in the general vicinity. There are aspects of the project that do not align with recommendations found in the plan with regards to activation and urban development along a corridor as this proposal orients the front of the building away from Charlotte Street.

The Charlotte Street Corridor Plan (1999) notes the community center as a positive part of the mix of uses along the corridor and includes recommendations to maintain mature vegetation and existing site features such as rock walls (both of which are proposed to remain along the existing frontage) but also includes recommendations related to the overlay for buildings to activate Charlotte Street.

The proposal aligns with the 2036 Council vision in the following areas: (1) "A Well-Planned and Livable Community" in that the infill expansion is located on a major corridor along complementary uses. The community center, associated green space and recreational uses are

walkable to multiple neighborhoods in the area and provides elements for all ages of the community; and (2) "Transportation and Accessibility" in that this is an ideal location for the use and plans incorporate a transit shelter, sidewalks on all frontages and bicycle spaces.

Considerations:

- Expands an existing community-supported use in the existing location
- The most intense part of the use, the pool and recreation facility, is relocated to a location with sufficient parking, alleviating some of the parking demand and residual impact from the primary site
- Building addition consolidates child care component under one roof rather than in multiple locations as currently provided (with the exception of the infant care at Hilde's House)
- Parking and lobby/drop-off are interior to the site (from Lennox Court)
- Streetscape improvements are proposed along multiple frontages, resulting in some new or upgraded sidewalks, but additional width should be provided to maintain and improve pedestrian safety and accessibility
- Existing mature vegetation and rock wall will be preserved along Charlotte Street; however the building does not activate the corridor and the placement of the rock wall means the sidewalk would not be widened in this location

Based on policies stated in the Comprehensive Plan and other plans, staff does find this request to be reasonable and within the best public interest and does recommend support of the proposed conditional zoning as proposed with the conditions as noted in Exhibit B.1. Staff suggests widening of the sidewalk along most of Charlotte Street and Hillside; however, the applicant does not agree to this condition.

Ms. Dorothea Schultz, architect representing Clark Nexsen, showed various pictures and explained the overall Master Plan and the addition in particular.

Mr. Chris Day, representing Civil Design Concepts, did explain that the rezoning necessitated a lot of conditions since this is an established use. He asked that Number 3 in the Exhibit B.1 Conditions be amended to allow them to explore Lennox Court to be a 2-way access (with no loss of their parking area) with the Transportation Department reviewing it with final TRC approval. In looking at this briefly, they do have the ability to widen the access and still maintain the parking spaces. Due to the rising construction costs, they asked that not be required to widen the sidewalks to ten feet along the remainder of Charlotte Street and along Hillside Street. And finally, he requested Number 17 in the Exhibit B.1 Conditions be amended that the fenestration along Charlotte Street on the new addition be reduced to 20% for a more solid wall for security.

City Attorney Currin and Mr. Day agreed to revising (1) Condition No. 3 to read "Access to the sites will remain as currently used with vehicles entering the surface parking area from Lennox Court and the driveway onto Hillside Street," again noting that there would be no parking reduction; and (2) Condition No. 17 to read "Fenestration along Charlotte Street on the new addition is 20% due to the nature of the use as child care and the interior orientation."

Mayor Manheimer opened the public hearing at 6:36 p.m.

Ms. Lael Gray, Executive Director of the Jewish Community Center, spoke in support of the conditional zoning, noting that they wish to explore Lennox Court as a 2-way access for security purposes. They want the ability to look at ways to reconfigure the entry and exit to their parking lot.

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

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

Vice-Mayor Wisler moved to approve the conditional zoning request from Residential Multi-Family High Density (RM-16) and Community Business I (CBI) districts to Community Business II Conditional Zone (CBII-CZ) with the requested conditions as noted in the Exhibit B.1 list (with the amendments to Condition 3 and 17 as noted above) 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 project expands an existing community-supported use in the existing location; (2) The most intense aspect of the use, the pool and recreation facility, is relocated to a location with sufficient parking, alleviating some of the parking demand and residual impact from the primary site; (3) Streetscape improvements are proposed along multiple frontages and vehicular access is interior to the site; and (4) Existing mature vegetation and rock wall will be preserved along Charlotte Street. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 31 - PAGE 159**

**B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 95 CHARLOTTE STREET FROM OFFICE DISTRICT/CONDITIONAL ZONING TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING TO ALLOW LODGING AND OFFICE USES**

At the request of Councilman Smith, Councilman Bothwell moved to recuse Councilman Smith from participating in this matter due to a developing reciprocal referral relationship with the applicant. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

Urban Planner Jessica Bernstein that this is the consideration of an ordinance to conditionally zone property located at 95 Charlotte Street from Office District/Conditional Zoning to Community Business II District/Conditional Zoning to allow lodging and office uses. The site was previously reviewed and approved as a conditional zoning in 2015 (Ordinance No. 4454). This public hearing was advertised on March 17 and 24, 2017.

The project site consists of a single parcel, 1.23 acres in size, owned by Siemens Real Estate Holdings, LLC (PIN 9649-63-1039). The parcel is located at 95 Charlotte Street on the southeast corner of East Chestnut Street and is zoned Office Conditional Zone (rezoned in 2015).

The site is the location of the historic Patton Parker House - built in 1868-9 and a designated local historic landmark as well as a contributing resource within the Chestnut Hill National Register Historic District. There is a two-story, two-unit residential building currently under construction on the parcel as shown on approved plans from 2015.

Adjacent zoning includes CBII (vacant) and RM-16 (vacant and multi-family apartments) with Office, CBI and CBII (retail, restaurant) zoning in the immediate area. The Charlotte Street corridor is largely commercial in this vicinity with some residential to the north and there is a residential neighborhood to the east, immediately adjacent.

The 2015 approval permitted use of the main historic house for offices and for the construction of two new residential units on the rear of the site, all under Office conditional zoning. Plans also included site improvements including parking in both the front and rear and landscaping. The applicant is not proposing any deviation from those approved site plans but is requesting to change the zoning to CB-II so that additional uses would be allowed: two short-term lodging units using the newly constructed structure at the rear of the site and occasional special events.

Access, sidewalks and parking for the site are proposed to remain in the existing

locations, both from Charlotte Street and East Chestnut Street. The approved plans from 2015 remain for this proposal with a total of 18 parking spaces on the site.

The site is proposed to remain according to plans reviewed and approved by the Historic Resources Commission in accordance with the Local Landmark designation and the Secretary of the Interior's Standards for Rehabilitation.

The Historic Resources Commission has reviewed and approved the various aspects of building and site design for this project.

As there are no changes to the site plan approved in 2015, the conditions related to landscaping and parking location from ordinance 4454 will carry over.

This proposal was not required to be reviewed by the Technical Review Committee as they had already issued final approval on the site plan in 2015. No communication has been received from the public as of the writing of this report.

The Planning & Zoning Commission reviewed this request at their meeting on March 1, 2017, and voted 5-1 in support of the proposed request. Commissioners noted that the existing zoning along the corridor already allows for lodging while also discussing the need to preserve and maintain residential options.

The change in zoning is being requested to allow for uses allowed in CB-II, notably lodging.

There is a conditional zoning currently under review several blocks north at the Jewish Community Center.

The mix of office and residential originally approved for the parcel in 2015 is consistent with other uses along the Charlotte Street corridor and provides a transition to the residential zoning adjacent to the east. Community Business II (CB-II) zoning is adjacent to the south on the large vacant parcel, which could be developed with any uses allowed in that district, including lodging. As per Section 7-8-13 of the UDO, the CB-II District is "...Established to provide areas for medium-to-high-density business and service uses serving several residential neighborhoods. This community business center may serve as a workplace for many residents in the surrounding neighborhoods and should be sensitive to a significant pedestrian population, but also provide for adequate and safe vehicular access. The Community Business II District is designed to be located primarily along minor and major thoroughfare streets which serve multiple residential neighborhoods". Because of this, allowing lodging on this site is not entirely incompatible. Also, this block along East Chestnut Street has another lodging use already, the historic Princess Anne Hotel.

However, the site plan was approved with a reduced property line buffer between the new building and the residential zoning to the east. Both the existing Office and proposed CB-II zoning districts would require a 20 foot wide landscaped buffer along the property line adjacent to RM-16 to the east. Typically, less incidences of negative impacts (noise, trash, etc) are expected from a long-term residential use rather than a short-term lodging use and the reduced buffer would not have been as supported by staff for a commercial use in the structure.

The adaptive reuse of the historic structure for office uses and incorporation of residential on the site is aligned with multiple aspects of the Comprehensive Plan, including strategies supporting historic preservation and infill development. The Plan also notes that quality tourism is a key component of Asheville's economic development; however in that same section, the lack of and the high cost of housing is highlighted as a top weaknesses for the City.

The proposal both aligns and conflicts with the 2036 Council vision in the following areas: (1) “A Well-Planned and Livable Community” through the mix of uses and adaptive reuse provided for with this project, but maintaining residential choices is also highlighted in this strategy; (2) “Transportation and Accessibility” in that this is an ideal location for residential uses, on a transit line and walkable to urban amenities; and (3) “Quality Affordable Housing” in that while this project does not provide “affordable” housing units but the strategy on housing also notes that the City should have “innovative and historic housing options”.

Considerations:

- Adjacent zoning to the north and south permits lodging
- Allowing short-term lodging uses does not preclude long-term residential in the future
- Housing, especially close to downtown, urban amenities and transit, continues to be in high demand
- The reduced property line buffer in this location was based on a long-term residential use and not a commercial lodging activity

Based on policies stated in the Comprehensive Plan and other plans related to the need to maintain and preserve existing residential opportunities and protect existing residential neighborhoods, staff does not find this request to be reasonable and within the best public interest and does not recommend support of the proposed conditional zoning as proposed.

In response to Vice-Mayor Wisler, Ms. Bernstein said that lodging facilities, which definition includes short-term rentals, is allowed in Community Business I District and Community Business II District, but not allowed in Office District.

Mayor Manheimer asked why the rezoning request is not a straight rezoning request to Community Business II District. Ms. Bernstein responded that the site is conditionally zoned and has particulars that go along with it. It was RM-16 to Office District/Conditional Zoning. Given the nature of the historic landmark for the building as well as the site, the landmark designation went to the landscaping, use of the yard, to artifacts that may be on the site, etc. Staff wanted to give more particular careful consideration to what happens on this site than just a straight rezoning. Also, with a straight rezoning, the applicant could do any use allowed in the Community Business II District. In addition, when the applicant came to staff, he wanted the ability to use the two residential units for long-term rental or have the ability to use them on a shorter-term basis. He was not interested in doing any real commercial activity on the site. When the request originally came in to rezone it to Office District/Conditional Zoning, the landscape requirement in the rear was 20-foot wide property line buffer between Office District and Community Business II District. Staff supported that slight buffer reduction because it had RM-16 on one side and this would be a similar long-term residential use. If that request came in for a lodging use (expected to be more intense), staff would have wanted that 20-foot wide buffer protection in place for the long-term residents on the RM-16 parcel.

Mayor Manheimer was uncomfortable about allowing short-term rentals in this location because it seems like it's a case by case scenario where people come and ask their property to be rezoned for a short-term rental. But, when she looks at the property embedded in the Community Business II District corridor, her initial thought is why isn't this being rezoned to Community Business II District where lodging is allowed. She is not inclined to support this request because she doesn't want to start a precedence where Council allows short-term rentals on a case by case process.

In response to Councilwoman Mayfield, Ms. Bernstein said that staff talked to the applicant about the Office District/Conditional Zoning vs. Community Business II District/Conditional Zoning but because the primary use of the property was for an office and not for a commercial use, the zoning chosen was Office District.

When Councilwoman Mayfield asked if the zoning were changed to Community Business II District/Conditional Zoning would any changes be allowed to the main house, Ms. Bernstein replied that the only changes would be for the two residential units in the back. He would have the ability to use those as short-term rentals.

In response to Councilman Haynes, Mr. Jim Siemens, applicant, said that the buffer was reduced to preserve a tree. He has spoken with neighbors and they have no objection to this request.

In response to Mayor Manheimer, Mr. Siemens said that the buffer cannot be increased because of the property line and building; however, he can build a fence but now there is a bamboo thicket that is very thick.

Mr. Siemens felt this is not a precedent-setting case because this is the only property like it in Asheville with the landmark status that has a combination of uses and a degree of restriction that he has gladly accepted. He has to comply with numerous federal, state and local regulations on this property and has a legal obligation to preserve the property. The conditions approved when his offer on the Patton-Parker House was accepted included conditions included rezoning to Community Business I or II District. He recalled that Stacy Merten, the Executive Director of the Historic Resources Commission, suggested the Office District/Conditional Zoning. It was his mistaken in not looking at the Unified Development Ordinance to see that lodging was not a use in the Office District. He said that he was not planning to do lodging but he didn't want to rule it out in the conditional zoning in August of 2015. In August 2015 he advised his architect to design the new building to make sure that they design it to R-1, which is the lodging code, which is more expensive. He felt this would be the only short-term rental in Asheville that is actually built to a lodging code. He read a portion of the 2010 Plan regarding the Charlotte Street corridor that provided a history of the development of Charlotte Street. He carefully prepared the Patton-Parker House to be a law office by day and it can also be available to the community and people interested in the history by night. He asked for Council's support.

Mayor Manheimer opened the public hearing at 7:02 p.m.

The following individuals spoke in support of the conditional zoning request, for various reasons, some being, but are not limited to: relatively minor change of the two units and will fit into the pattern of the surrounding neighborhood; there is existing lodging in the neighborhood; the applicant has demonstrated an excellent track record in the area; fit into the vision on Charlotte Street; and businesses may not want to come to Charlotte Street because this may been seen as not pro-business area:

Mr. David Nutter

A gentlemen who was the closest full-time resident to the property

Mr. Patrick O'Cain, restaurant owner on Charlotte Street

Mr. James Parker, great grandson of Thomas Patton

The following individuals spoke in opposition of the conditional zoning request, for various reasons, some being, but are not limited to: this will take away long-term housing at a location were they are sidewalks and buses; short-term rental and occasional special events will increase the traffic and noise on the property, along with an increase in commercial activity immediately adjacent to a residential area; possible precedent to lower buffer areas between residential and commercial areas; what will be done about parking for the special events; need for long-term housing units; applicant has other tenants in house to receive additional income; applicant currently receives various tax credits; and applicant didn't have to build to lodging code:

Ms. Grace Curry, resident on Edgemont

Mr. David Rodgers

Mr. Mike Lewis, north Asheville resident

Mayor Manheimer closed the public hearing at 7:21 p.m.

Councilman Bothwell recognized the concerns expressed about spot zoning for short-term rentals; however, he felt this is a different situation because it has commercial properties on both sides, along with the Princess Ann hotel on the same block.

Councilman Bothwell moved to approve the conditional zoning request from Office conditional zone to Community Business II conditional zone with the requested conditions to include lodging as a use on this site, subject to limiting the short-term rental use to the smaller accessory structure and not to the main house, 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) Adjacent zoning to the north and south permits lodging; and, (2) allowing short-term lodging uses does not preclude long-term residential in the future. This motion was seconded by Councilman Haynes.

Councilwoman Mayfield said that the short-term rental aspect does not bother her because she agrees that the area is largely commercial; however, she felt this is a property owner coming to Council to spot-zone specifically for a short-term rental. Whether we are intending to set precedence, she felt we might see more of these.

Vice-Mayor Wisler didn't hear any reason to change the zoning other than the applicant wanting to make more money and that isn't a valid reason to change it.

The motion made by Councilman Bothwell and seconded by Councilman Haynes failed on a 3-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Young voting "yes" and Mayor Manheimer, Councilwoman Mayfield and Vice-Mayor Wisler voting "no." Councilman Smith was recused from participating in the discussion and vote.

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

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

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

Mr. Richard Fireman urged Council to put more energy into creating Asheville as a solar city.

Ms. Bridget Herring encouraged support for the Energy Innovation Task Force recommendations.

#### **Closed Session**

At 7:30 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 - PHG Asheville, LLC vs. City of Asheville; and Kron vs. 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 7:59 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:59 p.m.

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR