

Tuesday – July 25, 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/Deputy City Clerk Sarah Terwilliger

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Mayor Manheimer announced that Items J.1 and J.2. on the Consent Agenda will be removed for discussion and an individual vote.

Mayor Manheimer announced that a budget amendment, in the amount of \$6,000, for the gap analysis for the City's Urban Forest Program, will be added to the Consent Agenda as Item Q.2.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 27, 2017**
- B. MOTION TO REQUEST THE BUNCOMBE COUNTY BOARD OF ELECTIONS TO ARRANGE FIVE ADDITIONAL EARLY VOTING SITES (ONE EACH IN CENTRAL, NORTH, SOUTH, EAST AND WEST SECTIONS OF ASHEVILLE) THE ONE WEEK (INCLUDING SATURDAY) IMMEDIATELY PRECEDING THE 2017 CITY COUNCIL GENERAL ELECTION**

Summary: The Buncombe County Board of Elections has asked if the City of Asheville will be requesting remote additional early voting sites for the General election on November 7, 2017. There are 37 normal polling places for City Council elections - during the primary and the general elections. The City must notify the Board of Elections 30-45 days prior to the election if they would like to have more remote sites, in order for them to submit a plan of implementation to the State Board of Elections for approval. The City can let the Board of Elections know what locations they would like for a remote site; however, the Board of Elections will ultimately have to find a suitable site in that area.

In 2015, City Council approved four additional early voting sites (one each in the North, South, East and West sections of Asheville, preferably at a library or community center) the one week (including Saturday) immediately preceding the City Council general election. The cost for each additional additional site is approximately \$5,000. In 2015, 3,832 people voted in the four additional early voting locations and the total cost was approximately \$20,000.

In 2015, a request was made to have a downtown location included in the early voting site since the Board of Elections moved from out of downtown. At the time the request was received, it was too late for that to be included. After checking with the Board of Elections, a downtown site would be no problem to add at this time. They will check with Pack Library but are open to other locations as well.

Staff has budgeted funds in the Fiscal Year 2018 budget for the 2017 City Council election.

Due to the deadline for submission to the State Board of Elections, this action will be presented to the Governance Committee at their July 25, 2017, meeting. If there is anything other than full support to move forward to Council, it will be noted at the Council meeting.

C. ORDINANCE NO. 4595 - ORDINANCE AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES PERTAINING TO SALE OF ALCOHOLIC BEVERAGES BEGINNING AT 10:00 A.M. ON SUNDAYS

Summary: The consideration of an amendment to Chapter 11 of the City's Code of Ordinances pertaining to sale of alcoholic beverages beginning at 10:00 a.m. on Sundays.

On June 29, 2017 the North Carolina General Assembly enacted Senate Bill 155, entitled "An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws." Section 4 of the bill authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10:00 a.m. on Sundays. Previous to the enactment of Senate Bill 155, state law prohibited the sale or consumption of alcoholic beverages on any licensed premises until noon on Sundays across the state. By enacting Senate Bill 155, North Carolina joins 47 other states in allowing alcohol service before noon on Sunday. The new law went into effect on June 30, 2017.

Pro:

- Allows the hospitality community and retail merchants to meet the needs of their customers.
- Benefits the small business community by bringing customers into business districts earlier in the day.

Con:

- None.

City staff recommends City Council consider an amendment to Chapter 11 of the City's Code of Ordinances pertaining to sale of alcoholic beverages beginning at 10:00 a.m. on Sundays.

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D. RESOLUTION NO. 17-148 - RESOLUTION AMENDING THE 2017 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE OCTOBER 10, 2017, CITY COUNCIL FORMAL MEETING

RESOLUTION BOOK NO. 39 - PAGE 37

E. RESOLUTION NO. 17-149 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEAF DOWNTOWN AVL

RESOLUTION NO. 17-150 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE OUTDOOR CINEMA

RESOLUTION NO. 17-151 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BLUE RIDGE PRIDE FESTIVAL

Summary: The consideration of resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the LEAF Downtown AVL, Asheville Outdoor Cinema, and the Blue Ridge Pride Festival.

- LEAF Community Arts has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at LEAF Downtown AVL and allow for consumption at this event.

LEAF Downtown AVL will be held on Friday, August 4 from 3:00 p.m. to 10:00 p.m. and Saturday, August 5 from 9:00 a.m. to 10:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Blue Ridge Pride has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Outdoor Cinema and allow for consumption at the event.

Asheville Outdoor Cinema will be held on Saturdays, August 26, September 2, September 9, October 7, and October 14, 2017 from 6:00 p.m. – 11:00 p.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

- Blue Ridge Pride has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Blue Ridge Pride Festival and allow for consumption at this event.

The Blue Ridge Pride Festival will be held on Saturday, September 30, 2017 from 11:00 a.m. to 7:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for LEAF Community Arts and Blue Ridge Pride

Con:

- Potential for public safety issues

Staff recommends City Council adopt resolutions authorizing the City Manager to make provisions for the possession and consumption of malt beverages and/or unfortified wine at LEAF Downtown AVL, Asheville Outdoor Cinema, and the Blue Ridge Pride Festival.

RESOLUTION NO. 17-149 - RESOLUTION BOOK NO. 39 - PAGE 38
RESOLUTION NO. 17-150 - RESOLUTION BOOK NO. 39 - PAGE 41
RESOLUTION NO. 17-151 - RESOLUTION BOOK NO. 39 - PAGE 44

F. RESOLUTION NO. 17-152 - RESOLUTION AUTHORIZING THE CITY MANAGER TO PARTICIPATE IN DUKE ENERGY PROGRESS' SMALL BUSINESS ENERGY SAVERS PROGRAM AND TO ENTER INTO A SOLE SOURCE CONTRACT FOR THE PURPOSE AND INSTALLATION OF ENERGY EFFICIENT LIGHTING IN THE CIVIC CENTER PARKING DECK

Summary: The consideration of a resolution authorizing the City Manager to participate in Duke Energy Progress' Small Business Energy Saver Program and to enter into sole source provider contract for the purchase and installation of energy efficient lighting in the Civic Center Parking Deck.

The electric utility Duke Energy Progress' Small Business Energy Saver (SBES) Program pays for energy efficiency upgrades up front, and covers up to 80% of the total project costs.

The Civic Center Parking Deck provides an opportunity to utilize the SBES program while yielding an estimated \$27,413 in annual energy savings and eliminate annual maintenance in the amount of \$8,000.00. In terms of carbon reductions, the project will yield 277 MTCO_{2e} – 1% of the annual 4% carbon reduction goal the City has adopted.

Staff has analyzed the potential and costs for the project and determined that the SBES Program is a unique opportunity to leverage a significant up front capital funding from Duke Energy Progress. The total cost to the City for the Civic Center Parking Deck upgrade would be \$264,348; however, utilizing Duke Energy Progress' utility incentive program, the project offsets the cost by 34%. The total cost of the project is \$155,663 and was recently approved by City Council via budget amendment funding from the Green Revolving Fund in the amount of \$100,000 and Parking Services Operating Fund in the amount of \$55,663. These costs include parts, labor and project management.

The SBES Program is run through a single authorized contractor, Lime Energy. In order to participate in the SBES Program, the City needs to pursue a single source provider contract with Duke Energy Progress / Lime Energy. See Exhibit A. This is allowable as per N.C.G.S. 143-129(e)(6) which states that "the governing body of a political subdivision of the state shall approve the purchase of apparatus, supplies, material or equipment without formal bidding when (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration."

The total cost of the project was recently approved by City Council via Budget Amendment Ordinance No. 4591.

Pros:

- Supports Resolution 11-77, reducing the City's municipal carbon footprint
- Improves visibility and safety within the parking deck
- Reduces external lighting impact, increasing compliance with the City's outdoor lighting standards
- Decreases lighting impact on residential occupancies
- Leverages a DEP incentive which contributes to 34% of the total project cost

Con:

- None Identified.

As noted above the total cost of the project is \$155,663, with funding utilized from the Green Revolving Fund in the amount of \$100,000 and Parking Services Operating Fund in the amount of \$55,663. Once complete, the upgrade will produce an estimated \$27,413 savings on energy per year and an \$8,000 savings on maintenance.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a sole source contract to purchase and install energy efficiency lighting as part of Duke Energy Progress' Small Business Energy Savers Program.

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- G. RESOLUTION NO. 17-153 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICE/INTERN PROGRAM FOR FISCAL YEAR 2017-18**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the apprentice/intern program for Fiscal Year (FY) 2017-18.

The NCDOT Public Transportation Apprenticeship Program gives current college seniors the opportunity to work in the field of public transportation management upon receiving their undergraduate degree. The 12-month program which started June 19, 2017, provides exposure to all aspects of a transit system and allows apprentices to gain experience in managing public transportation operations.

The City applied for this program and was granted funding. After a selection program conducted by the NCDOT, the City has hired an apprentice to work in the Transportation Planning Division of the Transportation Department. The apprentice will assist with route planning, analyzing transit-related data, helping with the upcoming Transit Master Plan, and special projects.

FY 2017-18 funding totals \$37,498. The NCDOT will provide 90% of the anticipated funding (\$33,747) and the City will provide the remaining 10% (\$3,751).

Pros:

- The subject grant supplements funding for an apprentice position for FY 2017-18.
- The subject grant enables the City of Asheville to use \$33,747 in State funds for transit planning activities.

Con:

- A 10% local match in the amount of \$3,751 is required.

The total grant funding for Fiscal Year 2017-18 is \$37,498. The City is required to provide a 10% local match in the amount of \$3,751. The anticipated grant funding and the City local match are currently budgeted in the FY 2017-18 Transit Services Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT to fund the Apprentice/Intern Program for FY 2017-18.

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H. RESOLUTION NO. 17-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PUBLIC/PRIVATE PARTNERSHIP AGREEMENT WITH THE DEVELOPER/OWNER OF 150 COXE AVENUE (CONABEER VENTURES, LLC), FOR THE PAVING OPERATION WITHIN THE PUBLIC RIGHT-OF-WAY ALONG BANKS AVENUE AND RESTORATION OF COLLIER AVENUE BOARDING 150 COXE AVENUE

ORDINANCE NO. 4596 - BUDGET AMENDMENT FOR PUBLIC/PRIVATE PARTNERSHIP WITH CONABEER VENTURES LLC

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a public/private partnership agreement with the developer/owner of 150 Coxe Avenue (Conabeer Ventures, LLC), for the paving operation within the public right of way along Banks Avenue and restoration of Collier Avenue boarding 150 Coxe Avenue; and (2) a budget amendment in the amount of \$32,660 to receive and budget the payment from the developer.

The City has plans to mill and resurface the entire length of Banks Ave and a section of Collier Avenue. As part of the construction of the development at 150 Coxe Avenue, work within the City's rights of way required the developer to resurface a section of Banks Avenue and restore Collier Avenue.

In order to have smooth transitions in the riding surface of the roadway, City staff discussed the potential partnership with the development team, a plan to perform the necessary work within public rights of way became the most cost effective and viable option in order to minimize conflicts and disruptions to the traveling public and to also provide cost savings through the partnership.

As part of the permitting for the property, the developer is required to resurface one lane of Banks Avenue fronting the property. Also, Collier Avenue is located on the west side of the property, the developer is required to restore the roadway fronting their property by re-establishing the stone base and asphalt surface. The plan would be for the City to contract the paving operations for the entire project within the public right of way, inspect the work and administer the contract, rather than the developer/owner undertaking their portion of the work separately, and the developer/owner will reimburse the City for their share of the work. The owner will be responsible for the estimated work associated with their development. The total cost to the developer will be \$32,660.

Pros:

- If approved, the City team would be able to move quickly on the work, minimizing impacts to the traveling public.
- The project will improve the riding surfaces of these roads
- This project will maximize City's funding to allow for more infrastructures to be installed through this public private partnership.

Con:

- The paving operation will be disruptive to the area during construction.

The estimate for this project is \$170,356. The developer will be responsible for \$32,660 toward this project. The remaining cost is proposed to be paid by the City through the annual resurfacing program.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to execute a public/private partnership agreement with the developer/owner of 150 Coxe Avenue (Conabeer Ventures, LLC), for the paving operation within the public right of way along Banks Avenue and restoration of Collier Avenue boarding 150 Coxe Avenue; and (2) a budget amendment in the amount of \$32,660 to receive and budget the payment from the developer.

**RESOLUTION BOOK NO. 39 - PAGE 49
ORDINANCE BOOK NO. 31 - PAGE 250**

**I. RESOLUTION NO. 17-155 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH UNC-ASHEVILLE TO
WAIVE FEES FOR ASHEVILLE'S SOLAR ECLIPSE FESTIVAL TO BE HELD
AT PACK SQUARE PARK ON AUGUST 21, 2017**

Summary: The consideration of resolution authorizing the City Manager to waive fees for Asheville's Solar Eclipse Festival.

The City of Asheville entered into a Memorandum of Understanding with UNC Asheville in October, 2013 to establish a framework by which UNC Asheville and the City of Asheville could facilitate activity in several agreed-upon collaboration areas, to the extent that they align with the strategic priorities of each party. While it is stipulated that there are no pre-existing obligations between parties, consideration of activities under the Agreement are to be undertaken pursuant to separate implementing agreements, to be agreed upon by the parties.

In March, 2017 the Lookout Observatory at the Physics Department with UNC Asheville reached out to the City of Asheville, inviting staff to participate in an event planning group, joining representatives from the Asheville Museum of Science, Buncombe County Schools and Asheville City Schools. The group was formed to consider a scope of work that would address public interest and public safety during the solar eclipse on August 21, 2017, where in Asheville the sky will darken with 99% of the sun covered by the Moon at its maximum. Staff with the Community & Economic Development Department participated in an advisory capacity.

The work group efforts resulted in an application for special event permit to the City of Asheville from UNC Asheville for a solar eclipse viewing event to take place at Pack Square Park on August 21, 2017 between the hours of 12:00 p.m. – 3:00 p.m. Referencing the MOU between UNC Asheville and the City of Asheville, UNC Asheville has requested consideration for fee waivers estimated at a value of \$1,600. Fees waived by the City would include park use fees, permit fees, police and medic support, use of supplemental waste receptacles and barricades.

Pros:

- Allows the City to leverage resources to provide accommodations for a significant event of public interest that focuses on solar eclipse viewing safety and education.
- Activates intent of MOU with UNC Asheville for collaboration on areas of mutual interest and public benefit.

Cons:

- Lost revenue for City fees, equipment rentals, and overtime for Police and Fire staff
- Potential for public safety issues

Fee waivers result in lost revenue, and labor support results in increased personnel expenses.

City Council consider adopting a resolution authorizing the City Manager to enter into an agreement with UNC Asheville, authorizing an estimated value of \$1,600 in fees to be waived to support Asheville's Solar Eclipse Festival.

Mr. Brian Hart, Manager of Lookout Observatory at UNC-Asheville, thanked City Council for waiving the fees and invited the public to attend.

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J. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MCDONALD TRANSIT FOR OPERATIONS AND MAINTENANCE OF THE ASHEVILLE TRANSIT SYSTEM

BUDGET AMENDMENT TO FUND THE FISCAL YEAR 2017-18 COSTS FOR OPERATING AND MAINTAINING THE ASHEVILLE TRANSIT SYSTEM

These items were removed from the Consent Agenda for discussion and an individual vote.

K. RESOLUTION NO. 17-157 - RESOLUTION GRANTING AN ADDITIONAL PERMIT FEE WAIVER TO THE ASHEVILLE ART MUSEUM ASSOCIATED WITH CONSTRUCTION AT 2 SOUTH PACK SQUARE (CITY-OWNED FACILITY)

Summary: The consideration of a resolution granting an additional permit fee waiver to the Asheville Art Museum (AAM) associated with construction at 2 South Pack Square (City-owned facility).

The AAM, which incorporated in 1948, has occupied an important place in the City's visual arts community in various locations – Charlotte Street, BB&T Building on Biltmore, Montford, and the Civic Center. In 1992, the AAM moved into its current location on South Pack Square – supplemented by an expansion in 1999 that now occupies approximately 24,000 square feet. In early 2016, the AAM culminated over ten years of planning and a capital campaign by starting the renovation and construction of the existing facility. When complete, the renovation and construction will result in a 55,000 square foot museum. Construction work is already underway at the project site, and construction is anticipated to be completed in 2018.

On April 12, 2016, via Resolution No. 16-84, the City Council authorized a waiver of up to \$90,000 in permit fees for the construction/renovation of the AAM, which is a tenant in the City-owned facility under a lease approved in 2014. Following the submittal of plans to the permit office and the current cost of work, the projected permit fees total \$102,000, which is \$12,000 in excess of the original \$90,000 waiver amount granted. As outlined in the correspondence, AAM submitted a letter on June 8, 2017, requesting approval of a waiver for this additional of \$12,000 in permit fees.

The City's policy limits the waiver of permit fees to property owned, operated, and occupied by the City. In the instance where a property is owned, operated and occupied by the City, permits for work conducted on such properties must be obtained but no permit fees paid. In this instance, while the building at 2 South Pack Square is owned by the City, it is neither occupied nor operated by City.

The permit fee waiver reinvests funds otherwise collectible as revenue into the improvement of a publicly owned building.

Pros:

- Supports local non-profit reinvestment of funds into public infrastructure improvement.
- Enhances the improvement of a publicly-owned facility.

Cons:

- Removes an additional amount of \$12,000 from City's revenue stream collectible as a permit fee.
- Provides a permit fee waiver for a property that is owned by but not operated or occupied by the City as indicated in the permit fee waiver policy.

The fiscal impact of this request, if approved, is the removal of up to \$12,000 in additional permit fees from the City's revenue stream.

Staff recommends City Council adopt a resolution granting an additional permit fee waiver for an amount up to \$12,000 to the Asheville Art Museum associated with construction and renovation at 2 South Pack Square, a City-owned facility.

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L. RESOLUTION NO. 17-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NATIONAL RECREATION AND PARKS ASSOCIATION FOR PROGRAMMING COST OF THE HEALTHY OUT-OF-SCHOOL TIME GRANT

ORDINANCE NO. 4598 - BUDGET AMENDMENT FOR HEALTHY OUT-OF-SCHOOL TIME GRANT

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a grant from the National Parks and Recreation Association (NRPA) and the Walmart Foundation in the amount of \$25,000 for the Healthy Out-of-School Time Grant.; and (2) a budget amendment

in the amount of \$25,000 from the NRPA and Walmart Foundation grant award to establish an operating budget in the General Fund.

Earlier this year the City of Asheville (City) applied to the NRPA for the Healthy Out-of-School Time Grant for \$25,000. NRPA partners with the Walmart Foundation to support this grant program. No matching funds are required. The grant will be used in the Parks and Recreation Department to enhance the existing food service program in the summer camp and after school program to 1) increase the number of healthy meals and snacks served to children in low-income communities; 2) provide evidence based nutrition education; 3) implement the Healthy Eating and Physical Activity (HEPA) standards; and 4) reduce food waste.

Grant funds will be used to enhance the existing food service program at six after school and 11 summer camp sites. These sites serve children ages 5 to 14 where 70% to 90% receive free and reduced school lunch thereby increasing healthy foods to low income youth. In addition to healthy foods, participants will engage in a nutrition literacy program to learn the importance of healthy eating and increase their opportunities of physical activity.

The grant funds will enhance the existing after school and summer camp food service program by supporting the cost of equipment, supplies and materials, program activities, and technical support with NRPA.

The Finance Committee approved the recommendation to accept the grant at its meeting on June 27, 2017, and forwarded it to the full City Council for its consideration.

Pro:

- The grant will support program cost in the amount of \$25,000

Con:

- None

If accepted, the \$25,000 grant will be spent during FY 2017-2018. No matching funds are required. This increase is funded by the NRPA and the Walmart Foundation. There is no impact to the City's General Fund budget.

Staff recommends that the City Council adopt: 1) a resolution authorizing the City Manager to accept a grant from the NRPA and the Walmart Foundation in the amount of \$25,000 for the Healthy Out-of-School Time Grant.; and 2) a budget amendment in the amount of \$25,000 from the NRPA and Walmart Foundation grant award to establish an operating budget in the General Fund.

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ORDINANCE BOOK NO. 31 - PAGE 254**

**M. RESOLUTION NO. 17-159 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO SIGN AN AMENDMENT TO THE CONTRACT WITH
HYDROCYCLE ENGINEERING FOR ADDITIONAL SERVICES FOR THE
WATERSHED ASSESSMENT FOR THE WELLINGTON STREET DRAINAGE
AREA**

Summary: The consideration of a resolution authorizing the City Manager to sign an amendment to the contract with HydroCycle Engineering for additional services for the watershed assessment for the Wellington Street drainage area which extends the time of completion from March 13, 2017, to a total of 1 year from the notice to proceed and extends the total compensation from \$47,000 to \$49,000.

During heavy rainfall events the neighborhood located in the Wellington Street area experience flooding issues due to overland flow. Citizens of this neighborhood, expressed

concerns to council in June 2016, in which Council asked Staff to perform a watershed assessment of the area to identify possible solutions to these issues.

The City contracted with HydroCycle Engineering to provide data collection to identify the existing stormwater conveyance systems including field survey to obtain missing system data; conduct a stakeholder meeting that identified specific stormwater issues; evaluate the hydrologic and hydraulic conditions of the existing stormwater conveyance systems; develop alternative solutions that meet the City's stormwater standards and planning level costs for each of the alternative solutions; conduct a final stakeholder meeting to present the solutions; and prepare a report that summarizes the entire process and recommended solution(s).

HydroCycle Engineering has expended a great amount of time working with the property owners to understand their specific issues and discussing small remedies (if possible) to the larger more complex solutions and how these solutions are incorporated into our Capital Improvement Program. The request for the amendment is to allow HydroCycle Engineering to complete the Summary Report and for some additional services for which they were not originally contracted; the services include a presentation to the City Manager's Office and/or a sub-committee of the Council and some additional assessment considerations based on HydroCycle's findings.

Because the total compensation requested is still under \$50,000, this amendment will still meet the Exemption of the qualification based selection process.

Pros:

- The total compensation is under \$50,000.
- The additional assessment considerations include staging several components of the initial recommendations in an effort to try to address some of the ongoing stormwater issues for the community earlier than it would take to complete an entire Capital Improvement Project and;

Con:

- The additional compensation was not budgeted for this year.

The City's Stormwater Utility will be responsible for the additional \$2,000 cost for the professional services contract. The total contract for professional services will still be less than \$50,000. This amount will be absorbed within the existing FY 2017-18 Stormwater Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute an amendment to the contract with HydroCycle Engineering for the additional professional services associated with the watershed assessment for the Wellington Street area and the associated extension of time and compensation. The total cost of the extended design services for this project is \$2,000.

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N. RESOLUTION NO. 17-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH T & K UTILITIES INC. FOR THE NEIGHBORHOOD ENHANCEMENT PROJECT AREA 1 WATER DISTRIBUTION SYSTEMS PHASE 2 PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with T & K Utilities, Inc., for the NEP Area 1 Water Distribution Systems Phase 2 Project for the bid amount of \$2,383,610.00 plus a 10% contingency in the amount of \$238,361.00 for a total project budget in the amount of \$2,621,971.00.

On June 14, 2017, the Water Resources Department (WRD) issued an Advertisement for Bids for the NEP Area 1 Water Distribution Systems Phase 2 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 20,600 Linear Feet of 6-inch, 8-inch, and 12-inch Ductile Iron Pipe located along Eliada Road, Wilson Road and Enka Lake Road in the west area of the City of Asheville Water Distribution System.

In response to the Advertisement for Bids, the department received three bids on July 11, 2017. Companies responding were:

1. Buckeye Bridge, LLC; Canton, NC – Bid: \$2,694,494.46 (***Corrected for Mathematical Errors**)
2. T & K Utilities, Inc.; Hendersonville, NC – Bid: \$2,383,610.00
3. Thomas Construction Company, Inc.; Johnson City, TN – Bid: \$2,694,060.00

Following a review of the bids by City Staff and the project engineers, McGill Associates, T & K Utilities, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of \$2,383,610.00. A contingency amount of \$238,361.00 has been added for a total project budget in the amount of \$2,621,971.00.

Pros:

- This project will replace existing waterlines. The subject lines are undersized, provide inadequate fire protection, and/or have a high risk of failure. Replacement of these lines will help to improve the service and reliability of the water system.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- 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 Small Waterline Replacement Project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with T & K Utilities, Inc., for the NEP Area 1 Water Distribution Systems Phase 2 Project for the bid amount of \$2,383,610.00 plus a 10% contingency in the amount of \$238,361.00 for a total project budget in the amount of \$2,621,971.00.

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O. RESOLUTION NO. 17-161 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A LEASE AGREEMENT WITH CLIMBMAX, INC. FOR A CLIMBING WALL LOCATED AT 43 WALL STREET

Summary: The consideration of a resolution authorizing the City Manager to execute a lease agreement between the City of Asheville (City) and Climbmax, Inc. (Climbmax) for a climbing facility located at 43 Wall Street.

In 2002, the City entered into a lease agreement with Climbmax for a portion of the lower level of the property known as the Wall Street Parking Garage (identified as PIN# 9649-20-9249). The City agreed to lease both an interior and exterior space. The interior consists of 2,440 square feet which is relatively unfinished with the exception of HVAC improvements made by the tenant. A diagram of the space and its dimensions is provided as an exhibit. The exterior space subject to lease is used as an outdoor climbing wall and consists of ground area, overhead air space and a portion of the exterior wall of the Parking Garage Facility. Both the interior and exterior spaces

are used to support a recreational climbing experience that has operated downtown for over ten years.

The most recent lease between the City and Climbmax expired in 2005 and the lessee has been leasing on a "month to month" basis since that time. The owner of Climbmax has agreed to formalize a new lease with the City based on the following terms. The new lease would have a term of three years and one renewal possibility for an additional five years. The lessee has agreed to a monthly payment of \$1,215 until March 31, 2018. After that date, the rent will increase 5% every year until March 31, 2020. Should Climbmax exercise the renewal option, the rent will increase by 3% every year. The rental rate is based on an increase to the current amount being paid, with aggressive escalations each year to achieve market-based rental by 2020. This is a unique space that would require costly improvements to up-fit for a more conventional use such as an office. The tenant has an excellent track record with respect to payment history and activates an area of the parking garage that may otherwise have a highest and best use as storage. In consultation with the City's Downtown Development Specialist, Dana Frankel, the continued use of this property for a climbing facility is consistent with the goals and vision for a vibrant Wall Street.

Existing terms of the lease will continue, such as the Lessee's responsibility to maintain the HVAC system. The City has agreed make minor site improvements, including screens to prohibit pigeons from roosting in the eaves near the entrance and an outside water spigot for climbing wall maintenance. The City will continue to require the tenant to have an insurance that protects the City from any liability by climbing wall users.

Pros:

- Lessee has agreed to an escalation rate that will insure that the rental payment that meets market rates.
- Lessee continues to be responsible for most internal maintenance such as the care of the HVAC system.
- The City is able to lease a unique space that it currently does not need without costly upgrades.

Con:

- None

In that this property was constructed as part of the Wall Street Parking Facility, the proceeds of this lease will be deposited into the Parking Services Enterprise Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a lease agreement with Climbmax to continue its operation at this downtown site.

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P. RESOLUTION NO. 17-162 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE NEIGHBORHOOD ENHANCEMENT PROJECT AREA 4 WATER DISTRIBUTION SYSTEMS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Cooper Construction Company, Inc., for the NEP Area 4 Water Distribution Systems Project for the bid amount of \$4,566,286.02 plus a 10% contingency in the amount of \$456,629.00 for a total project budget in the amount of \$5,022,915.00.

On June 5, 2017, the Water Resources Department (WRD) issued an Advertisement for Bids for the NEP Area 4 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 24,000 Linear Feet (LF) of 6-inch and 8-inch Ductile Iron Pipe and approximately 550 LF of 2-inch High Density Polyethylene (HDPE) in various areas of the City of Asheville Water Distribution System located near Warren Wilson Road, Hanover Street, Waynesville Avenue, North Street, Dogwood Court, Willis Way, Piney Mountain Church Road, and Conestee Street.

In response to the Advertisement for Bids, the department received three bids on June 29, 2017. Companies responding were:

1. Buckeye Bridge, LLC; Canton, NC – Bid: \$5,081,768.55
2. Cooper Construction Company, Inc.; Hendersonville, NC – Bid: \$4,566,286.02
3. T&K Utilities; Asheville, NC – Bid: \$5,270,741.63

Following a review of the bids by City Staff and the project engineers, Kimley-Horn and Associates, Cooper Construction Company, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of \$4,566,286.02. A contingency amount of \$456,629.00 for a total project budget in the amount of \$5,022,915.00.

Pros:

- This project will replace existing waterlines. The subject lines are undersized, provide inadequate fire protection, and/or have a high risk of failure. Replacement of these lines will help to improve the service and reliability of the water system.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- 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 Small Waterline Replacement Project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Cooper Construction Company, Inc., for the NEP Area 4 Water Distribution Systems Project for the bid amount of \$4,566,286.02 plus a 10% contingency in the amount of \$456,629.00 for a total project budget in the amount of \$5,022,915.00.

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- Q. RESOLUTION NO. 17-163 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT FROM THE N.C. DEPT. OF AGRICULTURE AND CONSUMER SERVICES TO ASSIST IN PERFORMING A GAP ANALYSIS FOR THE CITY'S URBAN FOREST PROGRAM, AND IF AWARDED, ENTER INTO SAID GRANT AGREEMENT**

ORDINANCE NO. 4601 - BUDGET AMENDMENT FOR GAP ANALYSIS FOR THE CITY'S URBAN FOREST PROGRAM

Summary: The consideration of a resolution allowing the City Manager to apply for and accept a grant from the North Carolina Department of Agriculture and Consumer Services through the North Carolina Forest Service, Urban & Community Forestry Program to assist in performing a gap analysis for the City's Urban Forest program; and the associated budget amendment, in the amount of \$6,000.

The City is seeking to continually improve the urban tree program within the City. Trees provide value to our citizens by providing a sense of well-being, security, providing stormwater values, and promotes aesthetics for our community.

The City's Tree Commission is actively working toward promoting the efforts city staff provide, a necessary component for the City to continue to move forward with an Urban Forestry Plan is to perform an Urban Forest Gap Analysis of current programs and policies. This gap analysis will be the building block for the Urban Forest Plan that will be the next step in the City's effort.

City staff is seeking assistance from the North Carolina Department of Agriculture and Consumer Services through the North Carolina Forest Service, Urban & Community Forestry Program for funding for this analysis. City Council, through the budget process, provided funds to move forward with this effort. The grant will allow City funds to be maximized. The grant will total \$6,000.

Pros:

- Approval of this action will allow the City to move forward with the Urban Forest Gap Analysis
- The analysis will provide guidance to City Staff on areas to improve regarding the urban forest program
- This project will be the building block for the Urban Forest Plan

Con:

- The remaining funding for the analysis will be funded from the general fund.

By obtaining this grant, the City's funds will be maximized to allow for completion of the analysis.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for and accept a grant from the North Carolina Department of Agriculture and Consumer Services through the North Carolina Forest Service, Urban & Community Forestry Program to assist in performing a gap analysis for the City's Urban Forest program, and the associated budget amendment, in the amount of \$6,000.

**RESOLUTION BOOK NO. 39 - PAGE 58
ORDINANCE BOOK NO. 31 - PAGE 267**

**R. RESOLUTION NO. 17-164 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO SIGN AN AMENDMENT TO AN EXISTING LEASE
AGREEMENT WITH SKYLAND VOLUNTEER FIRE DEPARTMENT INC. FOR
SPACE TO BE LEASED AT 11 POND ROAD**

Summary: The consideration of a resolution authorizing the City Manager to sign an amendment to an existing ground lease agreement that will change the premises being leased by Asheville Police Department (APD) to a new building owned by the Skyland Volunteer Fire Department South Asheville.

In 1995, the Skyland Volunteer Fire Department (Skyland VFD) signed a 99 year ground lease with the City of Asheville (as tenant) to allow the Asheville Fire Department (AFD) to lease space in the building at 9 Miller Road in South Asheville. In 1999, the City determined that it was in the public interest to establish a police substation in the same space and the original lease was amended to allow for that use. The amendment allowed for a five year lease with one five-year renewal. That lease that governs APD's use will expire in 2020.

In May of 2016, the Skyland VFD purchased an adjacent building that fronts Pond Street. It was formerly operated as a daycare center. Skyland VFD has been up-fitting the space for use by administrative staff and they have requested that the Asheville Police Department relocate and occupy space in the new building. The Asheville Fire Department will continue to occupy space in the structure at 9 Miller Road. APD will have exclusive use of three rooms within the Pond Street building for a total of 1,385.5 square feet of usable space. They will also be able to utilize the following common areas: exercise room, wash room, kitchen and break room. They will also have access to ten non-exclusive parking spaces adjacent to the building at 1 Pond Street. They would be allowed to continue parked vehicles south and east of 9 Miller Road. An additional exhibit shows the layout within the Pond Street facility.

Pros:

- APD will be able to move in and begin using the premises.
- APD will have access to more space with better facilities.
- The current rental rates will not change.

Con:

- None.

There is no fiscal impact in that the City will continue to pay the \$5,000 per year that they currently pay to lease the facility.

Staff recommends City Council adopt a resolution authorizing the City Manager to sign this Ground Lease Agreement Amendment to include the new facility.

RESOLUTION BOOK NO. 39 - PAGE 59

S. RESOLUTION NO. 17-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDING FROM THE FEDERAL TRANSIT ADMINISTRATION SECTION 5339, BUSES AND BUS FACILITIES GRANTS PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to accept funding from the Federal Transit Administration (FTA) Section 5339; Buses and Bus Facilities Grants Program.

The Section 5339 grants program provides funding through formula allocations and competitive grants. The City of Asheville receives an annual allocation from the formula program that averages about \$245,000. The funds can be used to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities.

Transportation Department staff has identified a much needed project to completely renovate the Transit Center which is located between Asheland Avenue and Coxe Avenue in the Central Business District. This project, which is identified as the "Transit Station Renovation", has a total of \$750,000 in City Funds committed to it and staff would like to add the Federal Fiscal Year 2014 Section 5339 formula allocation of \$213,911 in order to establish a total project budget in the amount of \$963,911.

Previously, staff would just move forward and set up projects using these funds but a new Grants Policy with an effective date of May 15, 2017 has changed that action. In order to provide consistency and a good audit trail throughout all of the City's departments, it is important that City Council officially accept all funds that the City receives.

Pros:

- The renovated Transit Center would provide a more comfortable and modern setting for transit customers.

- The renovated Transit Center would likely increase ridership.
- The renovated Transit Center would meet current ADA compliance requirements.

Con:

- Local match in the amount of \$53,477.

The total project budget equals \$963,911 including Federal Fiscal Year 2014 Section 5339 formula funds in the amount of \$213,911 and City Funds in the amount of \$750,000. The required Local match of \$53,477 is included in the City's commitment. The appropriate budget amendment will come to City Council for review and approval before the project begins.

Staff recommends that City Council approve a resolution authorizing the City Manager to accept the Federal Fiscal Year 2014 Section 5339 formula funds in the amount of \$213,911 to be used for the "Transit Station Renovation" project.

RESOLUTION BOOK NO. 39 - PAGE 60

T. RESOLUTION NO. 17-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PUBLIC/PRIVATE PARTNERSHIP AGREEMENT WITH THE DEVELOPER/OWNER OF 10 BROADWAY (MHG TOWER, LLC) FOR THE PAVING OPERATIONS WITHIN THE PUBLIC RIGHT-OF-WAY ALONG COLLEGE STREET

ORDINANCE NO. 4599 - BUDGET AMENDMENT FOR PUBLIC/PRIVATE PARTNERSHIP WITH MHG TOWER, LLC

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a public/private partnership agreement with the developer/owner of 10 Broadway (MHG Tower, LLC), for the paving operation within the public right of way along College Street; and (2) a budget amendment in the amount of \$14,304 to receive and budget the payment from the developer.

The City has plans to mill and resurface College Street from Spruce Street to Broadway. As part of the construction of the development at 10 Broadway, work within the City's rights of way required the developer to mill and resurface a section of College Street.

In order to have smooth transitions in the riding surface of the roadway, City staff discussed the potential partnership with the development team, a plan to perform the necessary work within public rights of way became the most cost effective and viable option in order to minimize conflicts and disruptions to the traveling public and to also provide cost savings through the partnership.

As part of the permitting for the property, the developer is required to mill and resurface one lane of College Street. The plan would be for the City to contract the paving operations for the entire project within the public right of way, inspect the work and administer the contract, rather than the developer/owner undertaking their portion of the work separately; and the developer/ owner will reimburse the City for their share of the cost of the work. The owner will be responsible for the estimated work associated with their development, and the total cost to the developer will be \$14,304. The coordination of the work will be critical as this is a very heavily used section of our City.

Pros:

- If approved, the City team would be able to move quickly on the work, minimizing impacts to the traveling public.
- The project will improve the riding surfaces of these roads

- This project will maximize City's funding to allow for more infrastructures to be installed through this public private partnership.

Cons:

- The paving operation will be disruptive to the area during construction.

The estimate for this project is \$64,563. The developer will be responsible for \$14,304 toward this project. The remaining cost is proposed to be paid by the City through the annual resurfacing program.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to execute a public/private partnership agreement with the developer/owner of 10 Broadway (MHG Tower, LLC), for the paving operation within the public right of way along College Street; and (2) a budget amendment in the amount of \$14,304 to receive and budget the payment from the developer.

**RESOLUTION BOOK NO. 39 - PAGE 61
ORDINANCE BOOK NO. 31 - PAGE 256**

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.

Councilwoman Mayfield moved for the adoption of the Consent Agenda, minus Consent Agenda Items J1. And J2, and with the addition of Item Q2. This motion was seconded by Councilman Bothwell and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

J. RESOLUTION NO. 17-156 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MCDONALD TRANSIT FOR OPERATIONS AND MAINTENANCE OF THE ASHEVILLE TRANSIT SYSTEM

ORDINANCE NO. 4597 - BUDGET AMENDMENT TO FUND THE FISCAL YEAR 2017-18 COSTS FOR OPERATING AND MAINTAINING THE ASHEVILLE TRANSIT SYSTEM

Assistant City Manager Cathy Ball, along with Transit Coordinator Ely Mathis said that this is the consideration of: 1) a resolution authorizing the City Manager to enter into an agreement with McDonald Transit for operations and maintenance of the Asheville transit system (ART); and 2) a budget amendment in the amount of \$441,000 in both the General Fund and the Transit Services Fund utilizing General Fund unassigned fund balance to fully fund the FY 2017-18 costs for operating and maintaining the Asheville transit system.

On August 23, 2016, the Finance Committee directed staff to move forward with an RFP that would transition the transit system from the current Management Company model to a 'Turn-Key' Operations and Maintenance Contract (O&M) model. The O&M contracting method is new to the City of Asheville, which currently operates its transit service under a transit management contract with operations and maintenance personnel employed by Transit Management of Asheville. Under the new O&M Contract, all of the elements necessary to provide the transit service will be the responsibility of the contractor, with City oversight, and the contractor will be responsible for providing all the specified scope of services for a fixed price. The O&M contract places the performance responsibility and cost risk associated with the transit service on the contractor, rather than the City. The new contract includes higher performance standards and penalties which can be imposed if performance standards are not met.

Because of the complexities of the new management model, the RFP process and draft O&M Contract were developed with a consulting team managed by the City's Transit Coordinator. The team included NWC Partners of California who specialize in organizational and optimization strategies to public transportation agencies, and Kent Woodman of the Thompson Coburn law firm in Washington, D.C. who specializes in FTA procurement policies and transit labor agreements.

The RFP was issued on February 20, 2017, with proposals due May 2, 2017. Seven companies attended the pre-bid conference and three companies submitted proposals; a higher level of interest than the previous management company RFP which only received two proposals. The Evaluation Committee that was selected to review the proposals was composed of: the Transit Projects Coordinator, the Transportation Planning Manager, one Transit Committee member, one representative from the Transit Union, and one transit rider who is a former bus driver and former member of the Transit Committee. The evaluation included two sections, each with a different weight for scoring: Technical Qualifications (60%) and Price (40%). The evaluation process also included an interview of each firm's management team as well as an opportunity for each firm to submit a Best and Final Offer based on feedback received during their interviews. After scoring all proposals based on both price and technical qualifications, the Evaluation Committee selected McDonald Transit as the highest ranked firm.

McDonald Transit is the bus services division of RATP Dev North America and operates in 32 communities in the United States, including the Mountain Mobility paratransit service provided by Buncombe County. Some of the areas where McDonald Transit stood out from the competition are: a highly experienced General Manager and Management Team, a significantly high level of driver training, a focus on bicycle and pedestrian safety within their proposed Safety Plan, high standards for equipment and facility maintenance, and a commitment to community outreach and partnerships.

Staff are confident in the results of the RFP process and the final selection made by the Evaluation Committee. Staff believe McDonald Transit is offering a higher quality of service for a price that is consistent with findings in the Independent Cost Estimates provided by our consultant team.

The new contract will include additional requirements which aim to significantly improve overall performance of the transit system and transfer liability to the Contractor. These changes include:

- Three new managerial positions: Director of Operations, Director of Maintenance, and Director of Safety and Security.
- One new Route Supervisor position, bringing the total number of Route Supervisors to four.
- Higher on-time performance standards, with penalties and bonuses to incentivize and ensure compliance.
- A uniformed security officer on duty whenever the Downtown ART Station is open.
- Higher vehicle and facility maintenance standards which will reduce delays and missed trips associated with mechanical issues.
- New support vehicles, which will be owned and operated by the Contractor, removing this liability from the City.
- New IT and office equipment, provided by the Contractor.
- A new Customer Complaint System. All complaints will be taken by City Staff, logged, and provided to ART Staff to follow up. City Staff will be able to monitor the Contractor's response to complaints and assess penalties if issues are not resolved in a timely manner.

In order to fully fund the contract with McDonald Transit for operations and maintenance of the Asheville transit system in FY 2017-18, staff is requesting a budget amendment in the amount of \$441,000 from General Fund unassigned fund balance. The Adopted FY 2017-18 General Fund budget included a \$1,181,000 appropriation from General Fund unassigned fund balance, which left fund balance levels at the 15.0% City policy target. With this additional \$441,000 appropriation, unassigned fund balance would decrease to approximately 14.6% of the FY 2017-18 General Fund budget, slightly below the policy target.

It should be noted that the FY 2017-18 fund balance appropriation will only provide a one-year funding source for this agreement, an ongoing revenue source will need to be identified during the FY 2018-19 budget process.

Staff recommends City Council adopt: 1) a resolution authorizing the City Manager to enter into an agreement with McDonald Transit for operations and maintenance of the Asheville transit system; and 2) a budget amendment in the amount of \$441,000 in both the General Fund and the Transit Services Fund utilizing General Fund unassigned fund balance to fully fund the FY 2017-18 costs for operating and maintaining the Asheville transit system.

Mr. Mathis responded to some questions raised by the Finance Committee as follows: (1) according to Federal Transit Administration regulations, modifications leading to price changes is prohibited (would require a new RFP); (2) fuel is retained by the City as it is cheaper through City operations; and (3) a delay in execution would result in a month-to-month basis with the current contractor.

Ms. Ball, Mr. Mathis and Chief Finance Officer Barbara Whitehorn then responded to various questions/comments from Council, some being, but are not limited to: who is responsible for what if a bus breaks down; if we went to fare free, would that speed up the loading for the buses to be on-time; detailed information on the estimated budgeted amount in the Fiscal Year 2017-18 budget and the additional budget amendment request of \$441,000 today; why didn't Council see the contract before today; and at what time can we bring up an issue and what would be the procedure for doing that.

Councilwoman Mayfield noted that this is just about maintaining the contract; and it just puts the point on the conversation we have agreed to have about finding some sort of dedicated source of funding for transit.

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

Councilwoman Mayfield moved for the adoption of Resolution No. 17-156. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 51

Councilwoman Mayfield moved to adopt Ordinance No. 4597. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 31 - PAGE 252

III. PRESENTATIONS & REPORTS:

A. COUNCIL STRATEGIC PRIORITIES UPDATE

Assistant City Manager Cathy Ball provided Council with a brief update of their VISION 2036. Although there are numerous accomplishments, she highlighted some of the following:

- A Diverse Community - (1) Equity and Inclusion Manager hired; and (2) Disparity Study underway.
- A Well Planned and Livable Community - (1) Comprehensive Plan process ongoing; (2) Food Action Plan progressing; (3) August consideration of Haywood Street interim uses; and (4) Neighborhood planning process ongoing.
- A Clean and Healthy Environment - (1) Compost Pilot Program at Thomas Wolfe; (2) Recycling extended to Pisgah View; (3) LED lighting upgrades at U.S. Cellular Center Parking Deck; (4) Workplace Challenge recognitions awarded; and (5) Energy Innovative Task Force action items budgeted
- Affordable Housing - (1) Development agreement reached for Hilliard; (2) RFQ issued for study of City-owned land; (3) supporting Lee Walker Heights Tax Credit Application; and (4) Eagle-Market Street Project progressing
- Transportation and Accessibility - (1) new Transit Management Contract recommended; (2) extended transit service budgeted; (3) Parking Study recommendations adopted; and (4) parking garage video call center activated.
- Thriving Local Economy - (1) Buncombe County Capital Loan Program stalled; (2) Minority Business Program outreach; (3) County/City housing and economic development partnerships to be explored; and (4) small business support ongoing.
- Connected and Engaged Community - (1) tracking reports on diversity on boards and commissions ongoing; (2) initial rounds of boards and commissions training completed; (3) survey of boards and commissions complete; report to Governance pending; and (4) NC DOT/I-26 Working Group collaborating

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 175 LYMAN STREET FROM RIVER DISTRICT TO MIXED USE EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 133 RESIDENTIAL UNITS, COMMERCIAL SPACE, RESTAURANT IN 5 BUILDINGS AND A PARKING STRUCTURE

At the request of the applicant, Councilman Smith moved to continue this meeting until August 22, 2017. This motion was seconded by Councilman Young and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 39 GERBER ROAD FROM COMMERCIAL BUSINESS II DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE PURPOSE OF CONSTRUCTING A THREE STORY, 85,000 SQUARE FOOT SELF STORAGE FACILITY

ORDINANCE NO. 4600 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 39 GERBER ROAD FROM COMMERCIAL BUSINESS II DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE PURPOSE OF CONSTRUCTING A THREE STORY, 85,000 SQUARE FOOT SELF STORAGE FACILITY

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to conditionally zone property located at 39 Gerber Road from Commercial Business District II to Highway Business District/Conditional Zoning for the purpose of constructing a three story, 85,000 square foot self storage facility. This public hearing was advertised on July 14 and 21, 2017.

The project site consists of a single moderately sized parcel of approximately 4.24 acres with frontage on Gerber Rd. A significant portion of the property, approximately 1.74 acres, is covered by road right-of-way and not considered part of the project area which is approximately

2.5 acres. The property is currently zoned CBII and is vacant, undeveloped property. The PIN for the property is 9655-26-2216 and the property owner is Asheville Gerber LLC.

The applicant is proposing to develop a large, three-story, 85,000 square foot commercial building that contains 675 storage units and a small 900 square foot office that supports the facility. Also included in the proposal is the creation of 25 off-street parking spaces, sidewalk, an internal pedestrian connection to the property to the south, and a 16,335 square foot green space to be made available to the community as a passive park.

Vehicular access to the property will be from Gerber Rd. at two separate driveway entrances located at either end of the proposed building, while pedestrian access is provided with new sidewalk to be constructed along the property frontage and along entrances to the building.

The majority of the off-street parking is located on the western side of the building nearest the office. Three additional groupings of two spaces each are located adjacent to the primary loading areas found around the perimeter of the building. Three handicap accessible parking spaces are provided, along with two bicycle parking spaces.

A significant portion (1.74 acres or 41%) of the subject property falls within the Gerber Rd. right-of-way and is excluded when calculating open space requirements. The portion of the property outside of the right-of-way is approximately 2.5 acres requiring a minimum open space requirement of .375 acres (16,335 square feet). The open space is also proposed to be designed and made available to the community as a small pocket park with walkways, a rain garden water feature, pollinator meadow, trees, shrubs, and park benches.

Landscaping is required on the site and includes street trees along the road frontage; building impact, and parking lot landscaping on the site; and dumpster screening around all dumpster locations.

This conditional zoning was approved by the Technical Review Committee (TRC) on May 1, 2017, and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning permits being issued.

The Planning & Zoning Commission reviewed this request at their meeting on June 7, 2017, and voted 5-0 in support of the proposed request. Nine members of the public commented on the proposed project. Seven of the nine supported the project for various reasons including:

- A preference for low traffic, low impact uses (*challenges with traffic were cited including a suggestion to look at adding a lane to Gerber Rd.*).
- The value/benefit of a community park
- Convenience to residents in the area
- Improved connectivity with new sidewalk connections
- The developer's willingness to revise the proposal based on community input

One individual opposed the project stating the overabundance of storage facilities in south Asheville, and another member of the public was neutral but requested consideration for a crosswalk across Gerber Rd.

The applicant is seeking to conditionally rezone the property to Highway Business-CZ for the purpose of expanding the uses permitted to allow for the self storage facility not normally allowed under the current CBII zoning district. The Highway Business district is intended to support commercial, automobile oriented businesses along major commercial thoroughfares. Gerber Rd. is not classified as a major thoroughfare.

Conditions – A condition that reduces the front setback from 35 feet to 20 feet has been requested by the applicant.

The Planning & Zoning Commission also added the following conditions, as agreed to by the applicant:

- 1) Widen the sidewalk along Gerber Rd. to a minimum 6 feet
- 2) Add an awning to the door on Gerber Rd. or otherwise enhance the entrance
- 3) Limit internally illuminated signs to the west side of the project facing Gerber Rd.
- 4) Replace false windows with real windows where possible (not hitting the floor plate)
- 5) Limit free-standing business signage to no more than 50 square feet and 12 feet in height
- 6) Work with the community to redefine the park as an open space amenity area

The subject property was rezoned from Urban Village (UV) to Community Business II (CBII) in 2012. Some of the remaining undeveloped UV zoned property received Conditional Zoning approval in 2012 for a large senior affordable housing project (Givens Gerber Park Apartments) which was subsequently amended in 2015 for a slight increase in density and minor site plan changes. The Palisades apartment development received a Conditional Use Permit in 2013 for its Level III apartment development located to the east/southeast of the subject property.

The subject property is bordered to the north by Community Business II (Gerber Village) and Highway Business-CZ (Givens Gerber Apartments). Directly west and south of the property is Commercial Industrial zoning supporting a mix of retail and service uses including the Earth Fare grocery. Lastly, to the east/southeast of the property is more Commercial Industrial property (Palisades Apartments).

Following a smart growth development policy, the subject property was originally part of the Gerber Urban Village proposal approved in 2001 that originally included 16 acres. Approximately 7.5 acres was developed under the plan, however, the balance of the property went undeveloped and the subject property was eventually rezoned to Community Business II in 2012. As stated in the 2012 staff report, the CBII zoning was chosen, *“to provide areas for medium to high density commercial uses serving several residential neighborhoods. The district requires parking to be placed to the side or rear of the building which is a pedestrian oriented building standard to encourage pedestrian access and movement through the district. The location for CB II zoned areas is appropriately located on major thoroughfare streets to ensure adequate access. The list of allowed uses is extensive in anticipation of the wide range of commercial uses needed to serve as a community base”*.

The zoning in this area represents a transition from a history of commercial and light industrial uses to one of a mix of residential, service, employment and community based businesses. The Highway Business zoning has been restricted to the west side of Hendersonville Rd. where suburban highway oriented development is expected. Self service storage facilities are typically utilized by individuals outside the neighborhood and do not directly support the immediate community and has not been regarded as a use that is community based. The small green space proposed, however, does help support the community.

The Asheville City Development Plan 2025 highlights the importance of smart growth and very specifically identifies the need for, and value of compatible infill housing and quality employment opportunities. The proposed storage facility does not achieve any of these goals and fails to contribute to an inclusive, multi-modal, mixed use, urban community identified on the Future Land Use and Transportation Plan map.

Additionally, while not yet adopted, the draft comprehensive plan continues to identify the same area as a mixed-use, “transit supportive node” illustrating a continuity of community interest for infill development that supports larger community goals.

The proposed development most closely aligns with the goal of a Connected and Engaged Community where, on April 24, 2017, the developer and their design team met with a

group of South Asheville residents to explore options for the property that would be desirable from the standpoint of the south Asheville residential community. The developer responded by retaining (and slightly expanding) the lowest traffic generating piece of the proposal (self storage), while adding a passive park and green space that took the place of 6000 square feet of future service/retail space. The revised proposal also removed a small amount of on-street parking at the request of the residents.

While supporting the goal of a Connected and Engaged Community, the current proposal is contrary to other goals stated in the Plan especially in the areas of housing, diversity, and economic development and fails to meet the community vision for a vibrant, mixed-use, multi-modal community reflected in this and other plans.

Considerations:

- A self-storage facility does not provide housing, a needed community service, or employment opportunities.
- The self-storage facility does not activate the street or engage the pedestrian with a single door entrance, blank walls and false windows.
- A self-storage facility is a low traffic generator.
- Proposal includes 16,335 s.f. green space to be made accessible to the community but will be privately maintained.
- The building is designed to accommodate future adaptive reuse.
- There have been eight applications for self storage facilities received in the last 24 months including:
 - 890 Hendersonville Rd. (CZ denied at Council)
 - 1292 Hendersonville Rd. (Level II)
 - 2130 Hendersonville Rd. (Level II)
 - 3175 Hendersonville Rd. (Level II)
 - 39 Gerber Rd. (CZ)
 - 311 Sardis Rd. (Level II)
 - 165 Glenn Bridge Rd. (Level II)
 - 701 Bleachery Boulevard. (Level II)
- There are approximately 19 storage facilities (not including the eight applications noted above) located in the Asheville area.

Based on policies stated in the Comprehensive Plan and other plans staff finds this request is not reasonable, and is not within the best public interest, and recommends denial of the proposed conditional zoning as proposed.

Mr. W. Louis Bissette, attorney representing the Gerber Road Self-Storage Facility, briefed Council on the the history of Gerber Village. He said there are approximately 1200 apartments in a one mile radius of the proposed project that are built or are in the process of being built. Since many homes are getting smaller, there is not a lot of room for on-site storage. Also in the area there are many businesses, small service oriented offices and professionals that don't have available storage. The storage facility will be able to fee up office space by storing items workers don't use regularly, will provide a space for extra furniture and equipment until the business needs it, allows a business to save money by buying office supplies in bulk and storing them for future use, etc. He felt that this location will provide a convenient storage area for businesses and residents, will reduce travel miles (and thus reduce traffic congestion) for those that have to travel to other storage locations. He provided a letter dated July 24, 2017, from Chief Executive Officer of Givens Kenneth Partin, that states "Givens supports the proposed Gerber self-storage project by Pulliam Properties. We feel that the use and the look of the project is a good fit for the community and will be a useful amenity to Gerber residents. We recommend that the Council approve of this project." This project will have no impact on services or utilities. Due to the zoning designations around this project, this use is allowed, but just not on this property.

He said the building will fit in the topography of the site and the exterior will be consistent with other uses in the area. He urged the Commission to approve this conditional zoning request.

Mr. Bissette said that they are agreeable to a condition that the developer install a crosswalk as shown on the revised site plan.

Mr. Chris Day, from Civil Design Concepts, provided the Commission with a brief update on the site design. He said that the project will include a sidewalk from Gerber Road all the way up to the railroad tracks. There will be a 5-foot planting strip with a 5-foot sidewalk. After their two neighborhood meetings and TRC, they changed their project to remove the retail and create a pocket park available to the residents and community. He noted that the crosswalk actually exists but it doesn't lead anywhere. They have coordinated their site plans so the crosswalk aligns with the front of their building and ties in with the connectivity onto the Earth Fare Shopping Center. Now it is a high visibility crosswalk painted on the pavement and they will add signage to yield to pedestrians in accordance with the City's Transportation staff.

Mr. Hobert Orton, applicant, briefly explained their neighborhood meetings and asked Council for their support.

In response to Councilman Bothwell, Mr. Day explained the rain garden feature.

Mayor Manheimer opened the public hearing at 6:02 p.m.

Ms. Pat Deck, representing the Sweeten Creek Association of Neighborhoods (SCAN), said that they support the proposed self-storage facility. At their neighborhood meeting, they made two suggestions, both of which have been incorporated into their plan.

Mayor Manheimer closed the public hearing at 6:06 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 Community Business II (CBII) to Highway Business Conditional Zone (HB-CZ) to allow for the construction and operation of a self-storage facility at 39 Gerber Rd., with the condition (being added to the B.1 conditions) that the developer install a crosswalk from the front of their building to the Earth Fare Shopping Center, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) supports moderately scaled commercial development near a commercial highway corridor, and (2) engages community partners in the design for the site. This motion was seconded by Councilman Bothwell and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ADOPT THE RIVER ARTS DISTRICT FORM BASED CODE FOR THE GREATER RIVER ARTS DISTRICT AREA AND THE ASSOCIATED PROPERTY REZONING

Project Manager for the River Arts District Form Based Code Sasha Vrtunski said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to adopt the River Arts District Form-Based Code for the greater River Arts District area and the associated property rezoning. This public hearing was advertised on July 14 and 21, 2017.

Over the last two years, the city has been engaged with the River Arts District on new zoning districts for the area. The code calls for the creation of seven new zoning districts that are

tailored to the area. Form-Based Codes are a newer zoning tool that focuses on the form and placement of new structures on parcels instead of relying on a list of permitted uses. By emphasizing the building form, the character of the area is enhanced and protected because the buildings - with their defining features and their placement in relation to the street and sidewalk - create a strong neighborhood context.

For each district in the area, the focus is on the placement of buildings in relation to the public realm - or rather the street and sidewalk. The districts also define different allowable heights, setbacks, uses, and building frontage. This code divides the district into seven zoning types based on their location, topography, road widths and potential for a mix of development.

District Name	Primary Uses	Notes
RAD – Residential	Residential – some small in-home commercial/studios	Relatively small area of the district is in this zoning category.
RAD – Neighborhood Transition RAD – Shopfront RAD – Lyman Hollow RAD – River	Mixed Use, various heights depending on location Includes light industrial and in some districts, industrial.	Maximum heights vary between 3 and 7 stories. Scale is sensitive to adjacent neighborhoods. Height bonus for affordable housing in the RIV and SHP districts.
RAD – Industrial	Industrial uses, some secondary commercial allowed	Currently only on New Belgium location, but other property owners could request it
RAD - Open Space/Public Facilities	Park land, open space, trails, public facilities including community centers, playgrounds, fire stations, etc.	Allows for a small amount of commercial uses in support of recreation, such as bike rentals, snack bar, etc.

In addition to the above areas, there are a small number of parcels on the outside edge of the district where rezoning is being proposed to ensure that zoning is in line with community goals. Two of these parcels have remnants of older commercial zoning, but would not be able to be developed commercially because of size, topography and streets. All three parcels in this case will be rezoned or partially zoned to RM-8, which is harmony with the surrounding parcels. These areas are noted on the map with a purple hatch symbol.

Changes to the Draft Code

Since the release of the previous draft code (on 12/12/16) the following changes have been made to the current proposal:

- Buildings that are adjacent to neighborhoods are limited to 3 stories on Roberts Street and the side streets near Craven Street.
- More flexible building placement requirements for areas north of the I-240 bridge. These properties have the railroad line in the front of the properties, and the river on the rear, so development may be more oriented to the river.
- Affordable housing bonus in the RAD-RIV district was increased to 2 stories for 20% of units

being affordable as defined by the city. Through input, staff gathered that the 1 story bonus would not be enough to incent the affordable units.

- A section of City-owned land on Ralph Street (behind the Green's gas station) has been added to the residential zoning area. This land could accommodate a small amount of units that could help activate this part of the street. This property is not a part of future park development planning.
- Some reductions in requirements, such as strict floor heights for ground floors, reduction in transparency for the Residential district from 30% to 20%, live/work unit size limit.
- Murray Hill Park was originally included in the form-based code project area and was proposed to be re-zoned from RM-16 to Open Space/Public Facilities district and the RAD-RES district. After conversations with the community, the area was taken out of the proposed rezoning area. This site is still to be considered for potential future housing as part of the city's strategy to repurpose city-owned land for that use, but both staff and community members agreed that a more in depth process for this site would result in a tailored solution for this property. Current zoning already allows for multifamily housing.

Short-Term Rentals

As with other mixed use districts in the city, short-term rentals (up to 20 rooms) would be allowed as-of-right under the proposed form-based code with the exception of the RAD-RES, RAD-IND and RAD-OSP districts (a short-term rental with 21 or more rooms would fall into a rezoning application via conditional zoning). Short-term rentals are considered as "lodging facilities" in the Permitted Use Table. Lodging facilities also include hotels and motels (short-term rentals are not a separate use from hotels). Under the current zoning in the River Arts District, lodging facilities (up to 20 rooms) are a permitted use in the Commercial Industrial (CI) and River (RIV) districts. Bed and breakfast inns, which are defined as having between 4 and 20 guest rooms and have an onsite manager who provides supervision throughout the day/night, are a separate use from lodging facilities.

There are some properties along Craven Street and Roberts Street that are currently zoned RM-8, and one zoned RM-16CZ, that are not allowed to have lodging facilities. There has been general agreement in the community over the past two years that the areas around Craven Street and other areas on the east side of the river are appropriate for mixed use development. Concerns about lodging uses in the form of short-term rentals, have only arisen in the last two months.

Some residents of East West Asheville have raised concerns that Craven Street would become mostly devoted to short-term rentals across from New Belgium Brewing. Staff is aware of several property owners interested in pursuing development of short-term units on Craven Street.

Staff provides the following options for City Council consideration:

1. Allow lodging facilities (up to 20 rooms) throughout the River Arts District Form-Based Code area with the exception of the RAD-RES, RAD-IND and RAD-OSP districts (as the proposed code is currently written);
2. Allow lodging facilities (up to 20 rooms) where they are currently allowed - this would require an overlay district to be created since the new zoning district boundaries do not align with the existing zoning districts;
3. Remove lodging facilities (up to 20 rooms) from the RAD-NT district, which includes Craven Street, and across the river: Roberts Street, parts of Clingman Avenue and Haywood Road; or,
4. Eliminate short-term rentals throughout the entire form code area by removing lodging facilities (up to 20 rooms) as a permitted use in the Permitted Use Table. Any lodging

facilities would then have to apply for conditional zoning. Bed and breakfast inns could remain in the Permitted Use Table as an allowed use.

Public Participation and Outreach

The final version of the code was developed after an extensive two year process:

- An advisory committee of property owners, business owners and artists was formed and this group met approximately 10 times throughout the process.
- A kickoff meeting was held in June 2015 to introduce the process and encourage participation in the charette.
- A five day charette was held at 372 Depot Street in July 2015. This included a public workshop, stakeholder meetings, individual interviews and a closing public meeting.
- The first draft was released in March 2016, followed by a large community meeting and smaller meetings with stakeholders in April.
- An Open City Hall survey was posted on the city's website along with the draft code.
- Based on public and staff comments, revisions were made to the code and a second draft was released in December, 2016. Another public meeting followed the release of that draft.
- In January 2017, a joint work session of the Planning and Zoning Commission and the Asheville Area River Redevelopment Commission (AARRC) was held to discuss the code in depth with Lee Einsweiler, the lead consultant.
- Throughout the process, staff has worked and met with property owners, the RAD Business Association (RADBA) and neighbors of the area.
- Letters were mailed to all property owners whose property was under consideration for a zoning change when the initial draft was released in 2015, and again when the April 2017 draft was released in advance of the AARRC meeting in May.

Recent Notification

- Legal advertisement in the newspaper listing all property parcel identification numbers.
- Approximately 463 letters sent to owners affected by the proposed zoning changes and to neighboring property owners within 200 feet of those properties (for both Planning and Zoning and City Council hearings).
- Posting of 'Z' signs with date of the meeting in the district area.
- Updates to the City website, blog and social media notification.
- Updates to the River Arts District Business Association and River Arts District Artists Association.
- Email to an on-going list of interested residents and property owners

There were about 8 citizen inquiries before the Planning & Zoning Commission meeting to staff via email or phone calls to understand the zoning changes, and most of these were from neighbors, not owners within the district.

The draft code was reviewed by the Advisory Committee in late March and members felt that it had improved significantly from the first draft and felt comfortable with it moving forward in the approval process. In May, the Recreation Board reviewed the rezoning of Murray Hill Park and the Dr. Wesley Grant Sr. Southside Center property to the RAD-OSP district and the proposal to rezone parts of these parks for future housing. The Board voted to support the plan with a 7-0 vote, with a strong recommendation that if any city park land is used for housing that it be limited to affordable housing.

On May 11, the Asheville Area Riverfront Redevelopment Commission (AARRC) reviewed the code and voted 8-5 in support of it. There were several members who thought the rezoning of the areas along the French Broad River that are currently zoned River District should

wait until the RADTIP improvements are complete, but did not offer any suggestions of how the code could be changed to make it more acceptable.

On June 7, the Planning and Zoning Commission reviewed the code and held a public hearing on it. The Commission voted 5-0 in support of the code. There were 12 citizens who spoke during the public comment time. These comments can be grouped into several categories, which she addressed separately: concern about short-term rentals along Craven Street; concern about height allowed on Lyman Street in the Lyman Hollow area noting that the existing height allowed is 80 feet and with the proposed code the height is reduced to 65 feet (or 5 stories) plus a 20-foot planted buffer; concern about housing being placed on Murray Hill Park; and, one speaker preferred to remove a large portion of the rezoning area (between the river and the railroad tracks) from the proposed form code.

The Comprehensive Plan encourages denser sustainable infill development along existing corridors in the city. Changes to the UDO that further these goals is encouraged. Form codes are a newer innovative tool that focus on community goals developed through public processes highlighting input and involvement and this is encouraged in the Comprehensive Plan. This plan created with extensive community input provides a vision for the future of the River Arts District that includes mixed-use development and multimodal transportation along with a number of other community identified goals such as historic preservation, flexibility for property owners and economic health. The details of the form code proposal provide specific requirements that mesh with the community vision and furthers the objectives of the Comprehensive Plan.

Additionally, The Wilma Dykeman Riverway Master Plan envisions reuse and redevelopment of property and buildings in the River Arts District. The form-based code provides a predictable framework for that redevelopment to happen over time.

The River Arts District Form-Based Code fits within City Council's vision for A Well-Planned and Livable Community and A Thriving Local Economy. The code takes the community vision developed during the charette process and numerous input sessions and brings it together in the zoning. The code provides a greater level of clarity and predictability for the community, property owners and developers. Given the large investment that the city is making in the district with new multimodal transportation infrastructure, the form-based code will complement those improvements. When the city has made investments in walkable urban realms, private investment has quickly followed as evidenced in the downtown. Lastly, the process used to develop the code also aligns with Council's goal of a Connected and Engaged Community, through the high level of engagement with stakeholders.

Staff recommends the adoption of the River Arts District Form-Based Code and believes that the form code and rezoning proposal are reasonable, are in the public interest and are consistent with the Comprehensive Plan by laying the framework for mixed-use development, future job growth and housing. Moreover, the rezoning aligns with the River Arts District Transportation Improvement Project (RADTIP) and The Wilma Dykeman Riverway Master Plan in that it will help create a walkable, vibrant public realm and mixed-use district. After 12-18 months, staff will review and evaluate the code and address changes if needed.

Ms. Vrtunski responded to various questions/comments from Council, some being, but are not limited to: what options are available if a new business wants to orient toward the railroad track and not place their building against the sidewalk; what kind of requirements are placed on owners if they are currently an existing use but what to add or change their building; what is the threshold to where the owner would have to comply with the new Code if they are rebuilding a structure which suffered catastrophic damage; further explanation on areas where short term rentals are currently allowed on Roberts Street and Craven Street; what is the rationale for changing the area above New Belgium from RM-16/CZ; and is the East-West Neighborhood Association taken a position on this proposed Code.

Mayor Manheimer opened the public hearing at 6:43 p.m.

The following individuals expressed concerns regarding the Form Based Code for various reasons, some being, but are not limited to: potential loss of industrial zoning along the river; remove the area between the railroad tracks and the river until such time as the traffic pattern is completed; possible conflict in different provisions regarding recycling plants; request that RAD-Lyman Hollow be limited to 3 stories (not 5 stories) as it adjoins a residential neighborhood; possibility of rezoning out industrial uses with will affect the livelihood of people who work there now; short-term rentals should be allowed in the RAD Neighborhood Transition District if the owner of the residence lives in the home as an Asheville citizen and if the owner is home a certain percent of the year; and if any changes are made to this proposed code that it be re-advertised for additional public comment:

Mac Swicegood
George Morosani
Albert Sneed, representing Asheville Waste Paper
Michael Caldwell, resident on Vernell Avenue (presented petition)
R.L. Bailey
Scott Welch, owner of Consolidated Waste Services
Hannah Choueke, member of the Craven Street Property Owners Association
Business owner in the RAD
Marion Patton
Mike Figura, property owner on Craven Street
Jerry Sternberg, President of the River Rats
Jonathan Wainscott, resident off Craven Street
John Mason, Co-trustee of two trusts in the RAD
Eddy Dewey

Mayor Manheimer closed the public hearing at 7:20 p.m.

Councilman Bothwell agreed with removing the portion between the railroad tracks and the river because the uses will remain the same and we should wait to see what will happen when the traffic pattern is completed. He would support tabling this matter and reconsidering it at a later date.

In response to Councilman Smith, City Attorney Currin said that for property owners who suffer a catastrophe (e.g., fire, 500-year flood), they would need to apply for a variance through the Board of Adjustment, or they might be able to apply for a conditional zoning - but it's really depending on the circumstances on a case by case basis.

After hearing public comments, Ms. Vrtunski responded to the various questions raised by the public, along with the Council. Some questions/comments being, are not limited to: do any of the businesses in the area between the railroad and the river make use of the railroad; and confirmation that this proposal reduces the height limit in the RAD Lyman Hollow District.

Councilman Smith felt that there will be a massive influx of development in that area. We need to look at how we want this area to develop for the community and not the tourists. He felt we need to exclude lodging from the allowable uses throughout this zoning district. He noted applicants can go through the conditional zoning process if they wish to place a short-term rental in an area, but it won't be by right allowed in the district.

Councilman Smith moved to approve the River Arts District Form-Based Code but eliminating short term rentals throughout the entire Form-Based Code area through (or by) removing lodging facilities up to 20 rooms as a permitted use in the permitted use table. Any lodging facilities would then have to apply for conditional zoning. Bed and breakfast inns could remain in the permitted use table as an allowed use; and find that the request is reasonable, is in

the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the code will encourage infill development and facilitate vibrant mixed-use neighborhoods; (2) the rezoning will complement the future RADTIP road realignment and infrastructure improvements; and (3) the proposal was developed with a robust input process that included input from property owners, businesses and stakeholders. This motion was seconded by Councilwoman Mayfield.

Councilman Smith noted that the homestay allowance remains.

Councilwoman Mayfield said that this Form Based Code is about us as a community and about how we will grow and what we want that growth to look like.

Councilman Haynes agreed that the area between the railroad and the river should be removed from consideration. He did not support taking out lodging facilities in a commercial zone when that is something allowed in other commercial zones in the City.

Councilman Smith said that he would initiate a review of lodging facilities in commercial zones throughout the City with the Planning & Economic Development Committee.

When Councilman Haynes disclosed that he owns two properties on Roberts Street, Ms. Vrtunski said that at this time, Councilman Haynes' properties are not included in this Form Based Code.

Because of the change in the proposal regarding short-term rents, City Attorney Currin said that this action will need to be remanded to the Planning & Zoning Commission for their consideration, which will require a public hearing and recommendation.

City Attorney Currin said that Council can give specific direction to the Planning & Zoning Commission on what Council wants them to look at, e.g., the area between the railroad and the river, or whether or not to include Councilman Haynes' properties or not. That way, the scope of the Planning & Zoning Commission review (and then Council review) will be limited to those changes.

Councilman Young is pleased with the growth in the RAD and supported the Form Based Code; however, he was not comfortable moving it forward at this time. He was also not comfortable with the way we are approaching short-term rentals piece-meal throughout the City. He felt the individuals who want the area removed from between the railroad and the river have not had the opportunity to adequately state their cases. Remanding this back to the Planning & Zoning Commission will give them that opportunity.

Vice-Mayor Wisler said that the idea of the Form Based Code is to look ahead to the future. She clearly believed that having short-term rentals in any residential is inconsistent with our vision for the RAD and inconsistent with the Comprehensive Plan.

Mayor Manheimer said that a major question we receive from the community is what is Council doing about growth for the people who live here. Since our toolbox is fairly limited, this is a tool we can use to shape our growth and help guide it. If we don't move forward with adopting this Code, it will be a missed opportunity to ensure that the future of the RAD reflects what the people want.

Councilman Bothwell supported remanding this matter back to the Planning & Zoning Commission.

The motion made by Councilman Smith and seconded by Councilwoman Mayfield carried on a 4-3 vote, with Councilmen Bothwell, Hayes and Young voting "no".

City Attorney Currin said that because the action did not pass by a 5-2 vote, a second reading will be required in order to adopt the ordinance.

City Attorney Currin restated that this action will need to be remanded to the Planning & Zoning Commission for their consideration, which will require a public hearing and recommendation. It will then be brought back to Council for another public hearing (limited to the change) and Council consideration.

D. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE RIVER PARKING REDUCTION AREA IN ITS ENTIRETY

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to remove River Parking Reduction Area in its entirety. This public hearing was advertised on July 14 and 21, 2017.

In March 2011, the City of Asheville adopted reduced parking standards for the River Arts District (RAD) to support the redevelopment of buildings in the area. The current section 7-11-2(c)(5) is provided as follows:

- (5) *Parking requirements for the River Parking Reduction Area.* All properties located within the River Parking Reduction Area (see map: Planning and Development Department) will be eligible for reductions based on the following:
- a. Projects with a base requirement of 30 spaces or less may receive a 50% reduction
 - b. Projects with a base requirement of 31-50 spaces may receive a 30% reduction
 - c. Projects with a base requirement of 51-75 spaces may receive a 20% reduction

These reductions may not be combined with other reductions offered through individual zoning districts.

Since that time, a number of new businesses have opened in the area, New Belgium has opened, and a new greenway on the west side of the river has been completed. All of which have resulted in a higher number of visitors to the RAD and parking has become generally scarce during peak times. If the new form code is approved, there will be new parking standards for this area which are slightly lower than the Unified Development Ordinance (UDO) standards for most other districts. Property and business owners have indicated to staff that more parking is needed in the area. Since the new Form Based Code has a new parking table, this existing section needs to be removed so there is no conflict in the Code. This wording amendment is staff initiated to respond to changing circumstances and respond to community needs.

This wording amendment was reviewed by the Planning and Zoning Commission on June 22, 2017, and was approved 5-0. Staff has received no public comment on the amendment.

This wording amendment complies with City's Comprehensive Plan as it relates to exploring zoning tools that align with current trends and needs to encourage redevelopment and new investment.

The wording amendment aligns with the 2036 Council vision in the area of a Well-Planned and Livable Community. This amendment ensures that future development will provide adequate parking for those uses.

This proposal supports the goals outlined in the Comprehensive Plan and City Council 2036 Vision, the draft RAD form-code and staff recommends approval of the wording amendment.

Councilwoman Mayfield understood that the property owners in the RAD want parking. But, mandatory parking requirements do not create the kind of walkable community we are trying to create with this Form Based Code. We are trying to generate a walkable, pedestrian oriented place and having parking in front of every building and every studio does not do that. She encouraged the property owners in that area to explore more creative and better solutions around parking. Artists get traffic by people walking by their studios.

Mayor Manheimer opened the public hearing at 8:02 p.m. and when no one spoke, she closed the public hearing at 8:02 p.m.

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

Vice-Mayor Wisler moved to approve the wording amendment removing the River Parking Reduction Area from Section 7-11-2(c)(5) in its entirety and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) Provides a consistent parking standard to support the viability of local businesses; and, (2) Ensures that the zoning code can adapt to the changing needs of the River Arts District as it continues to grow. This motion was seconded by Councilman Smith.

City Attorney Currin said that Council may wish to withdraw the motion pending a decision on the Form Based Code.

Vice-Mayor Wisler moved to reconsider her motion and replace it with a motion to remand this wording amendment back to the Planning & Zoning Commission, along with the RAD Form Based Code, and to consider those in conjunction with each other. This motion was seconded by Councilman Smith and carried unanimously.

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4548) IN THE URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR CHANGES TO THE CONDITIONS FOR DEVELOPMENT OF A MIXED USE PROJECT AT THE PROPERTY LOCATED AT 146 ROBERTS STREET

ORDINANCE NO. 4602 - ORDINANCE AMENDING A PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4548) IN THE URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR CHANGES TO THE CONDITIONS FOR DEVELOPMENT OF A MIXED USE PROJECT AT THE PROPERTY LOCATED AT 146 ROBERTS STREET

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend a previously approved conditional zoning Ordinance (Ordinance No. 4548) in the Urban Place District/Conditional Zoning for changes to the conditions for development of a mixed use project at the property located at 146 Roberts Street. This public hearing was advertised on July 14 and 21, 2017.

The project site consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue Extension and Park Avenue (north) in the River Arts District. The parcels were conditionally rezoned to Urban Place by City Council in 2013.

The project was first approved by City Council on October 22, 2013, under Ordinance no. 4241 and later modified under Ordinance 4414 on May 26, 2015 and amended again with Ordinance 4548 on January 10, 2017. Each time components of the building mix of uses have

changed or design and scale of the building have been modified.

Summary of Changes - The applicant is proposing an AMENDMENT to the previous approval.

	Proposed Change	2016/17 Approval	2015 Approval	Additional Information
<i>Gross Floor Area</i>	412,294 SF	408,400 SF	421,489 SF	<1% increase
<i>Footprint</i>	+/-85,985 SF	82,531 SF	82,531 SF	+/-4% increase
<i>Residential Density</i>	No change	235 (138 1bd, 97 2bd)	243 (146 1bd, 97 2bd)	No change
<i>Retail</i>	16,304 SF	17,872 SF	19,378 SF	8.7% decrease
<i>Office</i>	No change	None	8,789 SF	None provided
<i>Building Height on Clingman Avenue</i>	No change	50 feet	60 feet	No change
<i>Parking</i>	386 spaces (358 garage, 20 Roberts Street lot, 8 on-street, interior "surface" lot omitted)	394 spaces (334 garage, 20 Roberts Street lot, 8 on-street, 32 "surface")	375 spaces (343 garage, 24 Roberts Street lot, 8 on-street)	Loss of 8 spaces overall, 2% decrease

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

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

This project incorporates parking in several locations; there is a 386-space parking structure within the development (*previously 334 spaces*) and the 32 in an exposed surface lot accessed from the lower level in the garage has been omitted; the separate parcel across Roberts Street to the south is shown as a standalone parking lot with 20 spaces (2 HC accessible) and approximately 8 on-street spaces will be delineated through streetscape enhancements (*for a total of 386 spaces*). Bike parking is also included throughout the site.

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

Urban Place zoning includes specifics for building design and includes well-defined

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

Conditions - The current proposal includes the following conditions that will need to be approved by City Council. **The only new or modified conditions relate to parking and building size.** All others are unchanged but still carry over to this approval.

1. **Density** - The maximum density allowed by right in Urban Place is 64 units per acre, or 209 units for this site. The applicant is requesting an additional 26 units (a 12% increase - up to approximately 72 units per acre). Five percent of the units will be designated as affordable by the City's standards. ***This condition is the same as the January 2017 approval.*
2. **Building Size** – For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000. The proposed footprint of the building is increased to 85,985 square feet (from the previous condition of 82,531 SF) and the gross floor area is increased to 408,400 square feet (from the previous condition of 408,400 SF). This condition is a result of building upon a base of structured parking and the loss of the interior surface parking lot. ***This condition is changed from the previous approval.*
3. **Sidewalks** - Sidewalks in the Urban Place District are required to be a minimum of 10' in width. Sidewalks are shown down to 6.5 feet along Roberts Street adjacent to the surface lot but a minimum of 10 feet along the building side and between 7.5 -12 feet along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue which will remain. ***This condition is the same as the January 2017 approval.*
4. **Landscaping** – The applicant is requesting to greatly reduce parking deck landscaping requirements based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting. ***This condition is the same as the January 2017 approval.*
5. **Setback** on Roberts Street - The maximum front setback is 15' and there is an area along Roberts Street that exceeds this standard. ***This condition is the same as the January 2017 approval.*
6. **Retaining Wall Screening** - The amendment includes a wall of approximately 25 feet in height at the northern edge of the interior parking area. Vegetative screening requirements apply to walls over 20 feet but due to the location and configuration of the parking and site; the applicant is requesting to include a creative aesthetic screening treatment.

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

The amendment was recommended for approval by the Planning & Zoning Commission by a unanimous vote (4-0) at their meeting on June 22, 2017. One member of the public was present and expressed concerns related to the impact of the construction process on the neighboring studios.

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

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

Considerations:

- The amendment further reduces the mixed-use aspect of the project.
- City goals support mixed-use, infill development, especially providing residential uses in a walkable location proximate to transit and the Central Business District.
- All previous conditions as noted in the B.1 list still apply as well as variances previously approved.

Staff recommends approval of the amendment to the previously approved project for the construction of a mixed-use development, including the conditions as proposed by the applicant as detailed above. Staff has some concerns that the retail component has been reduced. Staff is recommending that the proposal approval include a range for many of the specific components of the proposal. With a project of this scale, having an allowance for smaller scale changes is both practical and addresses minor amendments as specific building details and funding are resolved. The overall impact of the development is still considered at the high end and for the low end of the approved range.

Planning & Zoning Commission recommended for approval by a unanimous vote.

Mayor Manheimer opened the public hearing at 8:08 p.m. and when no one spoke, she closed the public hearing at 8:08 p.m.

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

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

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Closed Session

At 8:09 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including,

but not limited to: Kron vs. City of Asheville; Siemens Real Estate Holdings, LLC and Jim Siemens, Individually vs. City of Asheville; City of Asheville vs. Anne Marie Doherty; and Sidney M. Bach and Chris Peterson vs. City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To establish, or to instruct the City's staff concerning the position to be taken by or behalf of the City in negotiating the price or other material terms of a contract or proposed contract related to real property. The statutory authorization is contained in N.C. Gen. Stat. sec. 143-318.11(a)(5). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:56 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

F. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 1500 TUNNEL ROAD FROM HIGHWAY BUSINESS DISTRICT TO LODGING EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 5-STORY HOTEL WITH 86 ROOMS AND A TOTAL SQUARE FOOTAGE OF 42,200 SQUARE FEET

ORDINANCE NO. 4604 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 1500 TUNNEL ROAD FROM HIGHWAY BUSINESS DISTRICT TO LODGING EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 5-STORY HOTEL WITH 86 ROOMS AND A TOTAL SQUARE FOOTAGE OF 42,200 SQUARE FEET

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 1500 Tunnel Road from Highway Business District to Lodging Expansion District/Conditional Zoning for the development of a 5-story hotel with 86 rooms and a total square footage of 42,200 square feet. This public hearing was advertised on July 14 and 21, 2017.

The project site is 1.8 acres at the eastern end of the City corporate limits on Tunnel Road/US 70. Properties to the north and east are not in the city and are zoned R-2, which is similar to a RM district in the city. The property has frontage along Tunnel Road and Briggs Road; both are state maintained roads.

Surrounding zoning is HB to the east. North and west of the parcel is Residential District (R-2) zoning, a Buncombe County zoning district which allows multifamily development and would be considered a Residential Multi-Family (RM) district in the city.

The applicant proposes to build an 86-room hotel. A portion of the parcel (.72 acre) on the east side has been left vacant for future development. This parcel will not be a part of the conditional zoning, and will be subdivided from the parent tract.

Access to the site is provided by a shared access driveway on the adjoining lot from Tunnel Road that is approximately 85 feet wide, with a 20 foot island. Staff has identified that this will need to be narrowed. There is a second access from Briggs Road, which is approximately 24 feet wide. There are a total of 90 spaces, including four ADA spaces, shown on the plans. Four bicycle spaces will be added at the building entrance. The hotel is an approximately three minute walk from the last stop of the E2 line of Asheville Redefines Transit (ART).

Plans show landscaping being provided for Property Line Buffer, Vehicular Usage Area, street trees and retaining wall screening. Open space is required for this project for 15% of the lot area. Plans indicate that this standard will be met.

The new Lodging Expansion District has several design standards in Section 7-8-45. As proposed, the project complies with most of the standards. The new standards require that within

100 feet of residentially zoned land, height is limited to that of the residential district. The hotel building is set 100 feet away from the residentially zoned property to the east and north, as the height of the building is 62 feet. Fenestration requirements are set at 50% of the front facade, which this building meets.

The one design standard that the project does not meet is the building placement. The district requirements direct buildings to be placed at the corner of corner lots. The design team for the project worked with several different layouts for the hotel, attempting to bring it closer to the street, and to be located outside of the 100 foot zone buffering residentially zoned lots, which is the project achieves. The final proposal has the building placed approximately 280 feet from the front property line. The main constraint is the topography of the site and an existing retaining wall that separates the site from the future development site to the west.

Conditions - The applicant is requesting a number of conditions including but not limited to:

1. A greater setback than set forth in the Lodging Expansion District.
2. A five foot sidewalk is provided along the full frontage of the parcel on Tunnel Road with a five foot planting strip.
3. Operator will run a shuttle to downtown and other destinations in Asheville. Bus passes offered to employees who request them for traveling to work.
4. Recharging stations for electric vehicles.

This project was approved with conditions by the Technical Review Committee (TRC) on June 4, 2017. On June 22nd, the Planning and Zoning Commission reviewed the proposal and recommended approval with a 5-0 vote. The majority of the discussion during the Planning and Zoning Commission meeting centered on sidewalks and connectivity. The applicant was proposing a 10 foot sidewalk along Tunnel Road, as required by zoning, and a five foot sidewalk from Tunnel Road to the entrance on Briggs Road. There was no sidewalk along Briggs north of the driveway to the end of the property. At the Planning and Zoning Commission the applicant agreed to provide a five foot sidewalk for the entire frontage along Briggs, and that the sidewalk along Tunnel Road would be a five foot sidewalk with a five foot planting strip instead of a ten foot sidewalk. There are approximately 18-20 homes at the top of Briggs Road. The City's Traffic Engineer looked at the average daily traffic counts for the hotel and the residents on Briggs Road does exceed 300 cars a day which is another trigger for sidewalks.

Public comment was very limited at the Planning and Zoning Commission. One resident from the neighborhood to the north commented that a sidewalk along Briggs was not necessary and that she and her neighbors did not want outsiders walking in their neighborhood. Staff received a phone call from a neighboring hotelier saying that traffic is dangerous on this section of Tunnel Road already, and they would like to see safety improvements.

If the proposal is approved by City Council it will go through a Final TRC review.

The change in zoning to the expansion district is required because the project reaches the Level III threshold of 21 or more lodging rooms.

In June, 2016, City Council approved the ABCCM Veterans Housing Project located at 1401 Tunnel Road. This was a Conditional Use Permit (CUP) for an 88-unit, six story multifamily building. No other rezoning actions have been noted in the nearby area.

The proposed project, though somewhat taller than most buildings in the area, should be compatible with the surrounding context. Parcels to the west are zoned Highway Business and there are also a four-story Holiday Inn and Quality Inn and Suites. Residential properties are located above the hotel site to the north, approximately 23 feet above the ground level of the hotel, and will have a 30 foot buffer in addition to the 100 foot building setback from the rear

property line. This is similar for the property to the east (currently a wooded site), where the hotel will be lower than the adjacent residential parcels.

The redevelopment of this parcel aligns with the *City Development Plan 2025* in that it supports infill development where infrastructure is already present. However, the proposal does not align with the plan's strategy for more intense mixed-use development at commercial nodes as the surrounding area already contains several other hotels at this gateway area into the city.

The proposal aligns with the 2036 Council vision in the area of *A Well-Planned and Livable Community* – The project is located on a previous hotel site, which is now vacant, and will re-use the land for the proposed hotel use. The subject site is also located near a highway exit and the ART E2 bus line.

Considerations:

- Project reuses a previous hotel site that is now currently vacant.
- A five foot sidewalk with a five foot planting strip will be provided along Tunnel Road.
- A sidewalk is being provided for the lower section of Briggs Road, but not the section north of the driveway.

Staff recommends approval of the proposal based on policies stated in the Comprehensive Plan and *City Council's 2036 Vision Considerations*. The Department is recommending that the owner/developer complete the sidewalk along Briggs Road, but the applicant has not agreed to this condition. Staff finds this request to be reasonable and within the public interest and recommends support of the proposed conditional zoning as proposed.

Ms. Vrtunski said that in addition to the B.1 conditions, the following are revised conditions agreed to by the City and the developer:

1. The developer will contribute \$10,000 into a fund maintained by the City to be used for the construction of a sidewalk along Tunnel Rd. east from Burleson Rd.
2. With respect to any of the items listed ... the City may elect to require the developer to pay an amount equal to the estimated cost of said item ... into a fund maintained by the City to be used to complete said item at such time as the City designates. This election must be made within 60 days of the date following the date of approval of the Conditional Zoning for the Subject Property.
3. The developer will include an allowance in the project budget of up to \$10,000 for works of local art in the public areas of the building, including a sculpture to be placed near the eastern point of the property, in an area visible to traffic on Tunnel Rd., signifying the entrance into the City. Proof of a binding contract(s) for this work must be provided prior to the issuance of a certificate of occupancy.
4. The hotel owner/operator will provide passes for Asheville's bus system for those employees who request them in order to travel to and from work at the hotel.

Mr. W. Louis Bisette, attorney representing the applicant, gave a brief history of the property, noting that it was formerly the site of the Days Inn with an out of state owner. The applicant, H.P. Patel, bought the property in 2009 with the intent to build a hotel, but due to the economic downturn he could not obtain financing. Mr. Patel currently operates the Days Inn hotel across the street. This will be a small 86-room hotel targeted at customers looking for modern, affordable accommodations at a mid-range price point of \$90-100 a night. The last hotel built in this area over 25 years ago. The hotel will basically serve the travelling public and a number of facilities in east Asheville. Regarding the sidewalk on Briggs Road, there are few houses at the

top of Briggs road and there is a lot of topographical challenges along the upper portion of Briggs Road. They will lose the vegetation on the east side of the property due to grading. They have heard from a number of residents on Briggs Road and they would prefer a sidewalk not be built. As an alternative to building a sidewalk on Briggs Road, the applicant proposes (1) build no sidewalk along Briggs Road; however, to extend the sidewalk along Tunnel Road to the eastern edge of Burleson Road; (2) build a pedestrian access across his property from the lower end of Briggs Road to Tunnel Road; (3) install and maintain landscaping on that corner, which is the eastern gateway to the City; (4) install local art in his hotel and on his property at the gateway - possibly a sculpture; and (5) to contribute \$10,000 into a fund maintained by the City to be used for the construction of a sidewalk east of Burleson Road. He will comply with the "Green Lodging Profile" promulgated by the American Hotel and Lodging Association. Mr. Patel and his family have lived in this area and operated hotels in this area for decades. This hotel will employ approximately 25 people in full and part-time positions. His employees are treated well and paid fairly and there is little turnover. Mr. Patel runs a good small business. He urged Council to support this request.

Mr. Marvin Mercer, civil engineer on the project, gave some specifics on the site plan. He said there are no additional curb cuts.

Mr. H.P. Patel, applicant, showed Council a rendering of the hotel. He briefly went over some of the points Mr. Bissette brought forward. They would like their property to be welcoming to the people coming in from the eastern gateway. He plans to make the property environmentally sustainable and outlined some of the green initiative to be implemented. They have a family environment at the hotel. He is a local small business owner and would like to expand his business. He asked Council to support his conditional zoning request.

Mayor Manheimer opened the public hearing at 9:30 p.m.

Ms. Linda Brooks, resident on Briggs Road, was opposed to the sidewalk being built on Briggs Road and questioned if the patrons of the hotel or the residents on Briggs Road would have the stop sign on the access road between the hotel and Briggs Road (near Tunnel Road).

Ms. Sue Wagner, General Manager of the Days Inn, spoke in support of Mr. Patel and his practices at the Days Inn.

Mr. Drew Crawford, adjacent property owner and resident on Burleson Road, is in general support of this; however, he asked that the applicant (1) follow the Dark Sky Policies and not allow lighting to spill onto the adjoining properties; (2) install a fence between the two properties because he has livestock on his property; and (3) provide a right-of-way on Burleson Road so that in the future the road could be widened and improved.

Mayor Manheimer closed the public hearing at 9:40 p.m.

Mr. Mercer said that the stop sign on the access road will be on the hotel's property. The residents on Briggs Road will have the right-of-way. Regarding lighting, the applicant will follow the City's lighting requirements. Regarding the installation of a fence, Mr. Patel would be agreeable to adding it between the hotel property and Mr. Caldwell's property. And, regarding the right-of-way, there is an in between parcel between the hotel lot and Burleson Road so they would not be able to give a right-of-way.

There was discussion regarding building a sidewalk on Briggs Road (and the cost) vs. the developer contributing \$10,000 for the City to use for construction of a sidewalk along Tunnel Road east from Burleson Road. After clarification by City Attorney Currin on the fee in lieu of option, it was the consensus of the Council and the applicant agreed that the \$10,000 contributed by the applicant will be used to improve the bus infrastructure on Tunnel Road in the vicinity of

the hotel (instead of the City constructing a sidewalk along Tunnel Road east from Burleson Road).

The applicant also agreed to build a fence along the common property line between the hotel property and Mr. Crawford's property (PIN 9678-06-9000).

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

Councilman Bothwell moved to approve the conditional zoning request from Highway Business District to Lodging Expansion Conditional zone for the Hotel Krish project with the revised B.1 conditions, along with the additional/revised conditions (1) that the \$10,000 contributed by the applicant be used to improve the bus infrastructure on Tunnel Road in the vicinity of the hotel (instead of the City constructing a sidewalk along Tunnel Road east from Burleson Road); and (2) the applicant will install a fence along the common property line between the hotel and the property with PIN No. 9678-06-9000; 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 redevelops a blighted property; (2) the pedestrian realm will be improved along Tunnel Road in this location; and, (3) the development of a hotel in this location fits with the existing surrounding development. This motion was seconded by Councilwoman Mayfield and carried on a 6-1 vote, with Vice-Mayor Wisler voting "no".

ORDINANCE BOOK NO. 31 - PAGE 284

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4603 - ORDINANCE AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE FOR SIX SINGLE-MEMBER ELECTORAL DISTRICTS GOVERNING THE NOMINATION AND ELECTION OF CITY COUNCIL MEMBERS

RESOLUTION NO. 17-167 - RESOLUTION CALLING FOR A SPECIAL REFERENDUM FOR THE PURPOSE OF SUBMITTING TO A VOTE THE ORDINANCE AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE FOR SIX SINGLE-MEMBER ELECTORAL DISTRICTS GOVERNING THE NOMINATION AND ELECTION OF CITY COUNCIL MEMBERS

Assistant City Attorney Catherine Hofmann, said that the City of Asheville Charter provides for the composition of the City Council, as well as the method used for electing Councilmembers and the Mayor. Currently, the Charter provides that the Council is comprised of six (6) Councilmembers and a Mayor. All Councilmembers and the Mayor are elected by all qualified voters of the City (commonly referred to as an "at-large" method of election). N.C. Gen. Stat. §160A-102 allows the City Council to change the mode of election by ordinance, and also allows Council to provide that such an ordinance will only become effective "if approved by a vote of the people."

The North Carolina General Assembly passed a bill ("SB 285"), which provides that the City, by November 1, 2017, must amend the City Charter to create six (6), single-member electoral districts, to govern the nomination and election of Councilmembers. SB 285 requires that the qualified voters of each electoral district shall nominate and elect City Council candidates who reside in the district for the seat apportioned to that district. The Mayor would still be elected at-large. The bill also requires that the electoral districts be used beginning with the 2019 municipal election and, provides that, if the City fails to create electoral districts within the time set forth in the bill, the General Assembly in 2018 will establish electoral districts for the City.

The General Statutes set forth a statutory process that cities must follow when enacting Charter amendments, and submitting the same to a vote of the people by referendum. Below is a summary of these steps and the action Council has taken thus far.

First Council Meeting (Completed at June 13, 2017 Council Meeting)	Adopted a resolution of intent to consider an ordinance amending the Charter and called a public hearing on June 27, 2017 on the proposed Charter amendments.
Second Council Meeting (Completed at June 27, 2017 meeting)	Held a public hearing on the proposed Charter amendments.
Third Council Meeting (July 25, 2017)	Adopt an ordinance amending the Charter. If Council chooses to make that ordinance effective only upon a vote by the people, at the same meeting, adopt a resolution calling for an election on the referendum.

The action taken at the July 25 Council meeting will be the final Council step in the statutory process.

The recommendation is to 1) Adopt an ordinance amending the City of Asheville's Charter to provide for six electoral districts, governing the nomination and election of City Council members; 2) Adopt a resolution calling a special election for the purpose of submitting to a vote the ordinance amending the City of Asheville Charter to provide for six single member electoral districts governing the nomination and election of City Council members.

Mayor Manheimer said that this is not an indication of any support of this by City Council, but only we want to ask the voters of Asheville if they want districts rather than simply having our legislators impose districts upon us without us having any say in the matter.

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

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

Councilman Bothwell moved to adopt the proposed ordinance amending the City of Asheville Charter to provide for six single-member electoral districts governing the nomination and election of City Council members and providing that such amendments be effective only upon approval by a vote of the people. This motion was seconded by Councilwoman Mayfield and carried unanimously.

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Councilman Bothwell moved to adopt the proposed resolution calling a special election on Tuesday, November 7, 2017, for the purpose of submitting to a vote an ordinance amending the City of Asheville Charter to provide for six single-member electoral districts governing the nomination and election of City Council members. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 62

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO CREATE A PROGRAM OF WORK FOR THE AFFORDABLE HOUSING ACTIVITIES AND ALLOCATION FOR THE USE OF \$10 MILLION IN AFFORDABLE HOUSING BOND FUNDS FOR DIRECT PROJECT INVESTMENT

Mayor Manheimer announced that this action will be considered at the August 22, 2017, meeting. Councilman Smith, Chair of the Housing & Community Development Committee, said that the Committee discussed holding some community meetings in regard to the policy recommendations and hoped that those could happen before August 22.

VI. NEW BUSINESS:

A. RESOLUTION SUPPORTING THE BUNCOMBE COUNTY AGE-FRIENDLY COMMUNITY INITIATIVE

Mayor Manheimer said that consideration of this resolution has been removed from the agenda at this time. City Manager Jackson said that staff will provide additional information for the Finance Committee.

B. BOARDS & COMMISSIONS

Regarding the Sustainability Advisory Committee on Energy & the Environment, the following individuals have applied for a vacancy: Michael Whitmire, Kenneth Dierks, Travis Smith, Gerry Leonard, Andrew Malone, Lateef Cannon, Zephyr Jost, Larry Haas, David Penrose, Renee Mazurek, Anna Priest, Catherine Rosfjord, Red Moonsong, Patrick Ciccotoo, Rick Freeman, Frank Wolf, Bob Roepnack, E. Benjamin Edwards, Kelly Gloger, Lin Orndorf and Ursula Jorch. It was the consensus of Council to interview Anna Priest and Ursula Jorch.

RESOLUTION NO. 17-170 - RESOLUTION APPOINTING A MEMBER TO THE AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of DeWayne Barton, as a member on the African American Heritage Commission, expires July 1, 2017.

The following individuals have applied for a vacancy: Michael Zuckerman, Debra Barnes and Samantha Singer.

The Boards & Commission Committee recommended reappointing Mr. Barton.

Vice-Mayor Wisler moved to reappoint DeWayne Barton to serve a three-year term, term to expire July 1, 2020, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 66

MOTION APPOINTING MEMBERS TO THE BLUE RIBBON COMMITTEE ON HUMAN RELATIONS COMMISSION

Vice-Mayor Wisler said that on June 13, 2017, Council approved the following charge of the Blue Ribbon Committee on Human Relations Commission: "The purpose of the Blue Ribbon Committee on a Human Relations Commission will be to serve in an advisory capacity to define a mission and scope concerning a newly created Human Relations Commission. The Committee will hold one initial orientation meeting at which time the Chair, Vice-Chair and subcommittees will be formed. The Committee shall hold at least three broad community meetings. The Committee will meet at least one time a month. The City Manager's Office, with Legal Department support, will be responsible for providing support to the Committee. The Committee will select its own Chair and self-facilitate. The Committee and all subcommittees shall adhere to the City of Asheville Rules on Boards and Commissions and North Carolina Open Meeting Laws and all other applicable laws and regulations. The Committee is expected to achieve the following goals: define and provide recommendations of the mission, scope and duties of the Human Relations

Commission. After the Committee's first meeting, the Chair and Vice-Chair shall present at the next regular Boards & Commissions Committee meeting the operation and process strategy of the Committee. The Committee must submit final recommendations to City Council by November 6, 2017. The Committee shall be composed of no more than 15 members. Appointments to the Committee shall be made in accordance with the Rules of Procedure for City Council. All recommendations for appointments to the Blue Ribbon Committee will be made by the Boards and Commissions Committee and voted on by Council in an open meeting. Decisions of the Committee are reached by a simple majority vote of the members unless otherwise required by law. All voting will be conducted in open meetings with a quorum present. When the Committee has completed its function, as determined by City Council, the Committee shall be dissolved and the members of the committee shall be informed of the termination by e-mail from the City Clerk's office. City Council will consider, but not be bound by, the Committee's recommendations or concerns."

Also on June 13, 2017, City Council appointed Mr. Patrick Conant, Dr. Dwight B. Mullen, Dr. Darin J. Waters, Mr. Joseph Hackett and Ms. Marta Alcala-Williams to serve on the Blue Ribbon Committee for the Human Relations Commission.

The following individuals applied for the vacancies: Priscilla Ndiaye, Dewanna Little, Carol Hallstrom, Lucia Daugherty, Alfred Whitesides, Steven Lawrence, Joseph Gibson, Tracy Elliott, Ashley Cooper, Andrew Monroe, Andrew Fletcher, Susan Bean and Matthew Bacoate.

At the suggestion of the Boards & Commissions Committee, Vice-Mayor Wisler moved to appoint Priscilla Ndiaye, Dewana Little, Lucia Daugherty, Alfred Whitesides and Matthew Bacoate Jr. to the Blue Ribbon Committee on Human Relations Council; and to also appoint Cliff Joslin as the Citizens-Police Advisory Committee representative. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION NO. 17-171 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ADJUSTMENT

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Richard Carpenter, has resigned from the Board of Adjustment as a regular member, thus leaving an unexpired term until January 21, 2020.

The following individuals have applied for a vacancy: Carter Webb and John Kledis. Current interested alternate members include Paul Wilczynski and Daniel Summerlin.

The Boards & Commission Committee recommended appointing Daniel Summerlin (currently serving as an Alternate) to the Regular member seat and appointing John Kledis to serve the unexpired term of Mr. Summerlin's alternate seat, term to expire

Vice-Mayor Wisler moved to (1) appoint Daniel Summerlin to serve the unexpired term of Mr. Carpenter as a Regular member, term to expire January 21, 2020, or until his successor has been appointed; and (2) appoint John Kledis to serve the unexpired term of Mr. Summerlin as an Alternate member, term to expire January 21, 2018, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 67

RESOLUTION NO. 17-172 - RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Corey Atkins, as a member on the Civic Center Commission, expired on June 30, 2017.

The following individual has applied for a vacancy: Larry Layton.

The Boards & Commission Committee recommended reappointing Mr. Atkins.

Vice-Mayor Wisler moved to reappoint Corey Atkins to serve a three-year term, term to expire June 30, 2020, or until his successors has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 68

RESOLUTION NO. 17-173 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Brendan Ross and Richard Fast, as members of the Asheville-Buncombe Historic Resources Commission, expire on July 1, 2017.

The following individuals have applied for a vacancy: Leslie Humphrey, Kevin Saum, Wayne Wheeler, Gerry Leonard, Janet Whitworth, Emily Spreng and Rick Freeman.

The Boards & Commission Committee recommended appointing Janet Whitworth and Emily Spreng.

Vice-Mayor Wisler moved to appoint Janet Whitworth and Emily Spreng to each serve a three-year term respectively, terms to expire July 1, 2020, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 69

RESOLUTION NO. 17-168 - RESOLUTION APPOINTING MEMBERS TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Rich Lee, John Stuart Ridout and Till Dohse, at-large members on the Multimodal Transportation Commission, expire on July 1, 2017.

The following individuals have applied for a vacancy: Helen Hyatt, Han Winogron, Keaton Edwards, Carson Dellinger, Tina Wexler, Scott Dickens, Andrew Stephen Kirby and Randy Warren.

The Boards & Commission Committee, at the request of the Multimodal Transportation Commission, recommended reappointing Mr. Lee and Mr. Ridout. It was the consensus of Council to interview Han Winogron and Randy Warren to the other open seat.

Vice-Mayor Wisler moved to (1) reappoint Rich Lee and John Stuart Ridout to each serve a three-year term respectively, terms to expire July 1, 2020, or until their successors have been appointed; and (2) to interview Han Winogron and Randy Warren This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 39 – PAGE 64

RESOLUTION NO. 17-169 – RESOLUTION APPOINTING MEMBERS TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Elaine Poovey (at-large member) expired on July 1, 2017. In addition, Greta Bush (at-large member) resigned, thus leaving an unexpired term until July 1, 2018.

The following individuals applied for a vacancy: Fred Caudle, Gerry Leonard, Kristin Baldwin, Carter Webb, Jackson Tierney and Mike Wasmer.

It was the consensus of City Council to interview Carter Webb, Mike Wasmer and Jackson Tierney.

After Council spoke highly of all candidates, Carter Webb received 3 votes, Mike Wasmer received 4 votes and Jackson Tierney received 5 votes. Therefore, Jackson Tierney (at large member) was appointed to serve a three-year term, term to expire July 1, 2020, or until his successor has been appointed; and (2) appoint Mike Wasmer (at-large member) to serve the unexpired term of Ms. Bush, term to expire July 1, 2018, or until his successor is appointed. (Mayor Manheimer was not in the room when the vote was taken.)

RESOLUTION BOOK NO. 39- PAGE 65

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Edward Peters and Ms. Kelli Early both spoke in support of an independent commission to draw the districts.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 10:18 p.m.

CITY CLERK

MAYOR